

The Health Information Protection Regulations, 2023

Questions and Answers

Q1. Why are the regulations being amended?

A1. The regulations are being amended to help strengthen Saskatchewan’s health information legislation, which will benefit residents of Saskatchewan as well as stakeholders. The proposed amendments will modernize the existing regulations, address identified gaps as well as respond to previous health information incidents and recommendations from stakeholders

Q2. What specific sections of the regulations were changed or are new?

A2. The following list outlines changes and additions that were made:

Section 2 (Interpretation):

“employee” was updated to be similar to the definition contained in *The Freedom of Information and Protection of Privacy Act* as well as narrowed the scope of the definition.

“Health services” is new and aligns with the term included in *The Provincial Health Authority Act*.

“research” is new and reflects the Canadian Standard definition set out in the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans – TCPS 2(2018) used by research ethics boards and the Saskatchewan Health Authority.

The term “Cancer Agency” was moved to section 14 of the amended regulations.

The term “eHealth Saskatchewan” was removed as it is defined in *The Health Information Protection Act*.

Section 3 (Genetic Information)

This section is new and defines the term “Genetic Information” for the purpose of these regulations.

Section 5 (Duty to protect personal health information)

This section is new. It requires trustees to provide orientation and ongoing training for its employees about the trustee’s policies and procedures respecting the protection of personal health information and ensure that each of its employees signs a pledge of confidentiality as outlined in the amended regulations.

Section 6 (Retention and destruction of personal health information)

This section is new. It requires trustees to have a written policy concerning the retention and destruction of personal health information.

The Health Information Protection Regulations, 2023

Questions and Answers

Section 9 (Use of personal health information by trustees)

This section is new. It outlines additional purposes for trustees to use personal health information without the consent of the subject individual. Purposes include, educating employees of the trustee to provide health services, if it is not reasonably practicable for the consent of the subject individual to be obtained. As well as, the purpose of risk management, error management or for the purpose of activities to improve or maintain the quality of care or to improve or maintain the quality of related programs or services of the trustee.

Section 11 (Disclosure to police officers)

This is an existing section (formerly numbered as section 5.1) that was amended to address concerns from stakeholders. This section has been updated to allow a trustee to disclose limited information to the police if the trustee reasonably suspects that a criminal offence has taken place, or is taking place, in the trustee's facility or in relation to a program of the trustee.

Section 13 (Disclosure of personal health information by trustees)

This is an existing section (formerly numbered as section 5.3) that was amended to expand the ability for trustees to disclose personal health information for the purpose of clause 27(4)(p) of *The Health Information Protection Act*.

Section 15 (Collection, use and disclosure by a health professional body of certain personal health information)

This is an existing section (formerly numbered as section 6.1). The associated terms within the section have been updated and the ability for a "health professional body" to disclose certain personal health information to out of province professional bodies has been added.

Section 16 (Disclosure by a health professional body of personal health information obtained from another health professional body)

This is a new section and has been added to limit how applicable personal health information may be shared between health professional bodies.

Note: Sections that were not included have been re-numbered as necessary and may have received minor housekeeping updates to modernize language and improve clarity.

Q4. Why do sections of the *Health Information Protection Act* need to be proclaimed?

A4. Sections 17(1), 18(2) and 18(4) of *The Health Information Protection Act* need to be proclaimed to enable provisions of the regulations that outline specific duties on trustees to have record retention and destruction policies as well as to have written agreements with Information Management Service Providers (IMSP) in place.

The Health Information Protection Regulations, 2023

Questions and Answers

Q5. The minimum period for retained info is 10 years, is there a maximum period before destruction is required?

A5. No. There is no maximum. Personal health information should be destroyed as soon as reasonably possible after there is no longer any legal justification to retain it.

Q6. Why is Saskatchewan prescribing a retention and destruction schedule if none of the other Canadian jurisdictions have one?

A6. The intent of having a prescribed retention schedule is to provide greater certainty to trustees as well as the public at large. This will also allow for a more consistent approach to be applied by trustees throughout the province.

Q7. When will the regulations come into force?

A7. The proposed regulations would come into force on August 1, 2023. However, if these regulations are filed with the Registrar of Regulations after August 1, 2023, these regulations come into force on the day on which they are filed with the Registrar of Regulations. It is also worth noting that the corresponding sections of the Act would be proclaimed and in force on the same date as the proposed regulations.