

FEES for ACCESSING PERSONAL HEALTH INFORMATION

Preamble

The Nova Scotia College of Physiotherapists regulates the practice of physiotherapy¹ in Nova Scotia through the administration of the *Physiotherapy Act* and regulations.

The Nova Scotia College of Physiotherapists considers the *Personal Health Information Act* (PHIA) binding on physiotherapists in Nova Scotia. The Personal Health Information Act was proclaimed on December 4, 2012 and will come into force on June 1, 2013.

The Minister of Health is responsible for the Personal Health Information Act. Complaints relating to Fees for Accessing Personal Health Information Records are directed to a Review Officer.

Legislative Authority

Under section 91 of the Personal Health Information Act, where

- (a) an individual believes that a custodian has contravened this Act or the regulations; or
- (b) a custodian has refused an individual access to a record of the individual's personal health information or has refused to make a correction to a record of the individual's personal health information,

the individual may ask the Review Officer to conduct a review pursuant to clause 92(2)(a) or (3)(a).

"Review Officer" means the Privacy Review Officer under the Privacy Review Officer Act (per s.3(z)).

The *Personal Health Information Act* governs the collection, use, disclosure, retention disposal and destruction of personal health information in a manner that recognizes both the right of individuals to protect their personal health information and the need of custodians to collect, use, and disclose personal health information to provide, support and manage health care.

Section 3(f) of the *Personal Health Information Act* defines "custodian" as an individual or organization who has custody or control of personal health information as a result of or in connection with performing the person's or organization's duties.

¹ The terms physical therapist, physiotherapist, physiotherapy, physiothérapie, physiothérapeute, PT and pht are official marks used with permission. The terms physical therapist and physical therapy are synonyms for physiotherapist and physiotherapy respectively.

Section 3(f)(i) of the *Personal Health Information Act* defines “custodian” as a regulated health professional or a person who operates a group practice of regulated health professionals.

Section 7 of the *Personal Health Information Act* states that where there is any conflict between the *PHIA* and another *Act* the *Personal Health Information Act* shall prevail unless the other *Act* more completely protects the privacy of the personal health information.

Regulations under the *Personal Health Information Act* are also effective June 1, 2013.

The *Personal Health Information Regulations* set out, among other things: Fees for Accessing Personal Health Information Records.

Sections 12-17 of the *Personal Health Information Regulations* are reproduced below:

Fees for Accessing Personal Health Information (PHIA., Sec 12-17)

12. The fees prescribed in these regulations do not apply to any of the following:
- (a) a request made by a solicitor representing a legal aid client;
 - (b) a request from an individual for the purposes of appearing before the Review Board under Section 68 of the *Involuntary Psychiatric Treatment Act*;
 - (c) a search warrant presented by a police officer under section 487 of the *Criminal Code* (Canada) or a production order presented by a police officer under section 278.7 of the *Criminal Code* (Canada);
 - (d) a request by a police officer or probation officer who is entitled to personal health information in accordance with clause 11(a) of the Act under a consent given by the individual whose personal health information is the subject of the request;
 - (e) a request from a regulated health-profession body that is permitted to access personal health information under clause 38(1)(c) of the Act and that is using the information for the purpose of regulating the health profession;
 - (f) a request from a regulated health profession who is entitled to personal health information in accordance with clause 11(a) of the Act under a consent given by the individual whose personal health information is the subject of the request.

Fees prescribed do not include applicable tax

13. The fees prescribed in these regulations do not include any applicable tax.

General fee for access to record

14. A custodian who makes a record, or part of a record, of personal health information available to an individual or provides a copy of it to an individual may charge a general fee, not to exceed \$30.00 per request, as compensation for all of the following:

- (a) Receiving and clarifying the request;
- (b) Locating and retrieving the record, including any record held electronically;
- (c) Providing an estimate of the access fee to the requester as required by subsection 82(1) of the Act;
- (d) Review of the record for no longer than 15 minutes by the custodian or an agent of the custodian to determine whether the record contains personal health information to which access may be refused under subsection 72(1) of the Act;
- (e) Severing of the record if access to part of the record is refused under subsection 72(1) of the Act;
- (f) Preparing the record for photocopying, printing or electronic transmission for no longer than 30 minutes;
- (g) Preparing a response letter to the requester;
- (h) Supervising an individual's examination of original records for no longer than 30 minutes;
- (i) The cost of mailing a record by regular mail to an address in Canada;

Specific fees

15. In addition to the general fee provided for in Section 14 and any direct costs provided for in Section 16,a custodian may charge up to the maximum fee set out in the following table for the activity period specified:

Activity	Maximum Fee
Making photocopies of a record	\$.20 per page
Preparing a record for photocopying, printing or electronic transmission	\$12.00 for every 30 minutes after the initial 30 minutes covered by the general fee under clause 14(f)
Faxing a record	\$.20 per page
Making a compact disk containing a copy of a record stored in electronic form	\$10.00 per request
Making a microfiche copy of a record from microfilm or microfiche	\$.50 per page

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Making a copy of an audio cassette recording	\$5.00 per cassette
Making and providing a copy of a ¼", ½" or 8 mm video cassette recording that is - 1 hours long or less - more than 1 hour long	- \$20.00 - \$25.00
Making and providing a copy of a ¾" video cassette recording that is - 1 hours long or less - more than 1 hour long	- \$18.00 - \$23.00
Producing a record stored on a medical film, including x-ray, CT and MRI films	\$5.00 per film
Printing a photograph from a negative or from a photograph stored in electronic form, - Per 4"x6" print - Per 5"x7" print - Per 8"x10" print - Per 11"x14" print - Per 18"x20" print	- \$10.00 - \$13.00 - \$19.00 - \$26.00 - \$32.00
Review of the record by a custodian or agent of the custodian to determine whether the record contains personal health information to which access may be refused under subsection 72(1) of the Act	\$25.00 for every 15 minutes after the first 15 minutes covered by the general fee under clause 14(d)
Supervising an individual's examination of original records	\$6.00 for every 30 minutes after the first 30 minutes covered by the general fee under clause 14(h)

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Direct Costs

16 In addition to the general fee provided for in Section 14 and the specific fees provided for in Section 15, a custodian may charge for the following direct costs incurred by the custodian, including any applicable tax:

- (a) charges to retrieve a record from and return a record to off-site storage, if an individual requests expedited access to a record for which additional retrieval costs are charged to the custodian;
- (b) courier costs, if courier delivery is requested by the individual;
- (c) the cost of mailing a record to an address outside Canada;

- (d) taxes payable on the services provided.

Visit History

- 17 (1) In this Section, “visit history” means a record that
- (a) can be reproduced by a custodian’s administrative staff from the custodian’s health records; and
 - (b) consists of a computerized printout of an individuals’ visits.
- (2) If a custodian has the ability to produce a visit history for an individual, the custodian may provide a copy of the visit history to the individual at the individual’s request.
- (3) A custodian may charge a fee of no more than \$10.00 to produce a visit history and may not charge the general fee provided for in Section 14 or a specific fee provided for in Section 15 to an individual who requests only a visit history.

ISSUED: Draft 1 March 2013

REPLACES: Administrative Fee for Retrieval and Photocopying of Charts 2004 on June 1, 2013
