NOVA SCOTIA

Health and Wellness

Policy:	*Personal Health Information Act:* Complaints Policy
Originating Branch:	Privacy and Access
Original Approval Date:	***Effective Date:*** June 1, 2013
Approved By:	**Kevin McNamara, Deputy Minister Health and Wellness**
Version #:	**1**

1. POLICY STATEMENT

1.1. The Department of Health and Wellness (the Department) is committed to transparency and fairness when investigating and responding to external complaints regarding adherence to the privacy provisions of the *Personal Health Information Act* (*PHIA*)

1.2. An individual may make a complaint about any aspect of the Department's conduct in relation to the privacy provisions of *PHIA*.

2. DEFINITIONS

2.1. **Agent**: in relation to a custodian, means a person who, with the authorization of the custodian, acts for or on behalf of the custodian in respect of personal health information for the purposes of the custodian, and not the agent's purposes, whether or not the agent has the authority to bind the custodian, is paid by the custodian or is being remunerated by the custodian, and includes, but is not limited to, an employee of a custodian or a volunteer who deals with personal health information, a custodian's insurer, a lawyer retained by the custodian's insurer or a liability protection provider;

2.2. **Complaint**: any written expression of dissatisfaction from or on behalf of an individual about the Department's management of the individual's personal health information.

2.3. **Custodian:** means an individual or organization described below who has custody or control of personal health information as a result of or in connection with performing the person's or organization's powers or duties:

2.3.1. a regulated health professional or a person who operates a group practice of regulated health professionals,

2.3.2. the Minister of Health and Wellness,

2.3.3. a district health authority under the Health Authorities Act,

2.3.4. the Izaak Walton Killam Health Centre,

2.3.5. the Review Board under the Involuntary Psychiatric Treatment Act

2.3.6. a pharmacy licensed under the Pharmacy Act,

2.3.7. a continuing-care facility licensed by the Minister under the Homes for Special Care Act or a continuing-care facility approved by the Minister,

2.3.8. Canadian Blood Services,

2.3.9. any other individual or organization or class of individual or class of organization as prescribed by regulation as a custodian;

2.4. **Department**: the Department of Health and Wellness and all its agents, programs and services.

2.5. **Information Practices**: policies of the Department for actions in relation to when, how and the purpose for the collection, use, disclosure, retention, de-identification, destruction or disposition of personal health information as well as the administrative, technical and physical safeguards of the custodian.

2.6. PHIA: *Nova Scotia's Personal Health Information Act*

2.7. Personal health information: "personal health information" means identifying information about an individual, whether living or deceased, and in both recorded and unrecorded forms, if the information

2.7.1. relates to the physical or mental health of the individual, including information that consists of the health history of the individual's family,

2.7.2. relates to the application, assessment, eligibility and provision of health care to the individual, including the identification of a person as a provider of health care to the individual,

2.7.3. relates to payments or eligibility for health care in respect of the individual,

2.7.4. relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance,

2.7.5. is the individual's registration information, including the individual's health-card number, or

2.7.6. identifies an individual's substitute decision-maker;

2.8. **Privacy breach:** intentional or unintentional unauthorized access, use, disclosure, copying or modification of personal health information, or other unauthorized activities that may result in the loss of custody or control over personal health information

3. POLICY OBJECTIVES

3.1. To be accountable to the public regarding their rights with respect to the management of their personal health information in order to build and maintain public trust

3.2. To ensure that the Department's agents are supported in their work and have a clear understanding with respect to their responsibilities regarding the Privacy Complaints Policy and its process.

4. APPLICATION

4.1. This policy applies to:

4.1.1. all complaints regarding the management of personal health information subject to the PHIA privacy provisions (s.11 to 70); and

4.1.2. all agents of the Department regardless of program or service (see definition of agent).

5. POLICY DIRECTIVES

5.1. Any privacy complaint received by any agent, program or service of the Department must be forwarded to the Privacy & Access Office within 24 hours of receiving it.(see Appendix A for Complaints Form)

5.2. If the privacy complaint is received during a holiday it must be referred to the Privacy & Access Office at the earliest possible day that is not a Saturday or a holiday.

5.3. The Privacy & Access Office will manage the complaint as per the established process and will consult with the relevant programs or service to resolve it.

5.4. When processing and investigating the complaint the Privacy & Access Office will rely on the consent provided by the individual submitting the complaint.

5.5. If the consent provided by the individual submitting the complaint is not sufficient to conduct an investigation, the Privacy & Access Office will contact the individual to seek further consent.

5.6. This policy and its appendices will be placed on the Department's intranet website.

5.7. The public will be informed, via internet or other means, of their rights and responsibilities as well as the process for submitting a privacy complaint.

6. POLICY GUIDELINES

N/A

7. ACCOUNTABILITY

7.1. The Deputy Minister is accountable for protecting the personal health information in the custody and control of the Department.

7.2. The Privacy and Access office is responsible for adequately disseminating this policy and for training and educating the Department's agents in their privacy obligations.

7.3. Managers and supervisors are responsible for promoting and enforcing this policy and applicable protocols and guidelines within their respective areas of responsibility

7.4. All agents of the Department are responsible for complying with this policy and all related protocols and guidelines.

8. MONITORING / OUTCOME MEASUREMENT

8.1. The Director, Privacy and Access is responsible for administering and monitoring compliance with this policy

8.2. This policy will be reviewed and updated every two years.

9. REPORTS

N/A

10. REFERENCES

10.1. *NS Personal Health Information Act and Regulation*
10.2. *Privacy Review Officer Act*
10.3. NS Government Privacy Policy
10.4. DHW Access and Privacy Manual
10.5. Internal Complaints Process

11. APPENDICES

11.1. Complaint Form

12. INQUIRIES

12.1. Inquiries regarding this policy, protocols and guidelines should be directed to:

Director, Privacy and Access
Privacy and Access Office
Nova Scotia Department of Health and Wellness
Tel: (902) 424-5419
Fax: (902) 428-2267
phia@gov.ns.ca

13. VERSION CONTROL

13.1. Complaints Policy

Version Control:	Complaints Policy V.1