



# College of Pharmacists of Manitoba

200 Tache Avenue, Winnipeg, Manitoba R2H 1A7

Phone (204) 233-1411 | Fax: (204) 237-3468

E-mail: [info@cphm.ca](mailto:info@cphm.ca) | Website: [www.cphm.ca](http://www.cphm.ca)

## PHIA Questions and Answers

Updated Sept 25, 2018

***Q. If a person (relative, neighbour, friend) picks up a prescription for the patient, can the pharmacist counsel the agent on the prescription?***

A. It is obviously preferable to counsel a patient directly. However, when that is not possible, the agent may be counseled on behalf of the patient. This is based on Section 22 (1)(b) of the Act which states: “Except as permitted by subsection (2), a trustee may disclose personal health information only if the individual the information is about has consented to the disclosure”. By sending a person into a pharmacy for their prescription, the individual is giving that consent, but only for information concerning that prescription. The Ombudsman stated common sense must be used and pharmacists should continue to counsel as in the past, however, professional judgment should prevail, and if the pharmacist feels uncomfortable about counseling the agent then no action would be taken against the pharmacist for not counseling in that circumstance. The pharmacist then must follow the standard for delivered prescriptions, which requires the provision of printed information about the drug in question and contact with the patient by phone. On the other hand, if a person is seeking health information concerning another person, including relatives, the pharmacist must have permission of the person whose information is being sought. Although the permission may be verbal, the Association recommends that it be in writing and signed by the person whose information is being sought. If any doubt exists, the pharmacist should contact the person whose information is being sought. If any doubt exists, the pharmacist should contact the person before releasing the information. This does not apply to persons seeking information without the patient’s permission in accordance with Section 22(2) of the Personal Health Information Act.

***Q. When destroying old hard copies of prescriptions, does the pharmacist have to keep a record of every prescription destroyed?***

A. No. The numbers of the prescriptions destroyed must be kept (e.g. - #800540 to #826650) and the time period of the prescriptions (e.g. - January 1, 2016 to December 31, 2018); as well, a record of how they were destroyed and who destroyed them must be kept.

***Q. When a staff member signs a Pledge of Confidentiality, can the document list all the trustees at that pharmacy or does there have to be separate documents signed with each trustee?***

A. The confidentiality pledge signed by a staff member (this should include all persons who have access to patient information including delivery personnel, but not trustees) can list all trustees, and once signed is binding between the employee and all trustees (pharmacists) at the pharmacy. New agreements must be signed with new staff members.

***Q. What if a staff member refuses to sign a pledge of confidentiality? Is this grounds for dismissal in compliance with the Labour Relations Act?***

A. Since a person who is not a Trustee or Information Manager cannot have access to personal health

information, they would have to be either transferred to another position that does not have such access or dismissed.

***Q. Trustees must inform the patient why they are collecting health information. Can a common sign approved by the Association and displayed prominently, listing the reasons for the collection be acceptable?***

A. Yes, standardized signs are available on-line at [www.cphm.ca](http://www.cphm.ca) under Forms and Pharmacy Signs

***Q. How are minors treated under PHIA?***

A. Subsection 60 (e) states “The rights of an individual under this Act may be exercised by the parent or guardian of an individual who is a minor (under 18 years of age), if the minor does not have the capacity to make health care decisions. This calls upon the pharmacist to make a difficult judgment, however, if a minor has made a personal decision to go to a physician and the physician has given that minor a prescription, then the physician has judged the minor capable of making a health care decision. Therefore, the information could only be released by permission of the minor.

You are reminded that Section 62 of the Act protects trustees from liability if the trustee reasonably believed that the use or disclosure of personal health information was authorized under this Act.