

OFFENCES AND PENALTIES

The *Personal Health Information Act (PHIA)* is Nova Scotia's health privacy law that governs how regulated health care professionals and organizations collect, use, disclose and maintain personal health information.

Whether you're a custodian of personal health information or an individual to whom personal health information applies, it is important for you to understand your responsibilities and rights under *PHIA*.

Recognizing the importance of treating personal health information with due care and the potential impact of not doing so, *PHIA* specifies numerous offences and penalties that individuals and organizations may be subject to for breaching provisions of *PHIA*.

For your privacy questions
contact

phia@gov.ns.ca

902-424-5419

or toll free

1-855-640-4765

What are the offences?

There are a total of thirteen offences provided for within Section 106 of *PHIA*. Examples of offences include wilfully collecting, using or disclosing personal health information in contravention of the Act; a failure to protect personal health information in a secure manner; and wilfully disposing of personal health information.

If you do not have a copy of the *PHIA*, you may view the Act by visiting <http://novascotia.ca/dhw/phia/> or by contacting the Department of Health and Wellness via the contact information at the bottom of this document.

Who may receive a penalty?

Any person or corporation who is found guilty of an offence under *PHIA* is subject to a penalty under *PHIA*.

What is the penalty for a person?

A person who is found guilty of an offence may be subject to a fine of not more than ten thousand dollars, or to imprisonment for six months, or to both.

However, if a person:

- is an agent (e.g. an employee or officer) of a corporation; and,
- either authorized an offence or had the authority to prevent an offence and decided to not prevent it,

a corporate penalty (see below) may be imposed upon the person even if no action was taken against the corporation.

What is the penalty for a corporation?

A corporation found guilty of an offence may be subject to a fine of not more than fifty thousand dollars.

What do you do if you believe a breach of *PHIA* has occurred?

Anyone can report an alleged breach of *PHIA*. The way an alleged breach should be reported, however, may vary depending on what is perceived to have occurred.

For example, if an individual disagrees with how their personal health information was collected, used or disclosed, s/he should register a written complaint with the “custodian” (the person or organization that was in the care of your personal health information). The custodian will then be required to provide a written response to the complaint, which can subsequently be referred to the Review Officer for further review, if the response was unsatisfactory to the complainant.

If, however, anyone has reason to believe someone has committed an offence, as they are described in Section 106 of *PHIA*, they may report the situation to their local law enforcement agency (e.g. RCMP or municipal police) for further investigation. As a result of the investigation the police, in collaboration with the Public Prosecution Service, may bring charges against the person or

corporation alleged to have contravened *PHIA*, potentially resulting in the penalties described above.

If you would like any additional information on offences and penalties under *PHIA*, please contact:

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