

# WHY A HEALTH NUMBER IS NOT AN ONTARIO IDENTIFICATION NUMBER

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## AGENDA

- OBJECTIVE
- WHAT IS A HEALTH NUMBER?
- A HEALTH NUMBER AS PHI
- HEALTH NUMBER RULES
- SUMMARY
- QUESTIONS
- CONTACT INFORMATION

You may have either a red and white or photo health card



Either card is acceptable for insured health services if it is valid and belongs to you

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### OBJECTIVE

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Provide clarity and certainty around the appropriate management of health numbers in Ontario

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### OBJECTIVE

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- A health number is the number and/or version code assigned to an individual under the *Health Insurance Act*
- The number uniquely identifies you as an individual who is eligible to receive insured health services in Ontario
- The “OHIP number”: Ontario Health Insurance Plan number

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- PHIPA repealed the *Health Cards and Numbers Control Act, 1991*
- An individual's health number is a specific, enumerated element of "personal health information" (PHI) [s.4(1)(f)]
- It is identifying information about an individual

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- PHIPA contains a specific set of rules for health numbers and health cards [s.34]
- These rules take precedence over any general, conflicting rules that apply more generally to all PHI
- The rules address the management of health numbers by:
  - health information custodians (HICs)
  - agents of HICs
  - researchers
  - other non-HICs

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### HIC

- Enumerated classes of persons or organizations who have custody or control of PHI as a result of or in connection with performing their powers or duties [s.3(1)]
  - hospitals, health care providers, pharmacies

### AGENT

- A person that, with the authorization of a HIC, acts for or on behalf of the HIC in respect of PHI for the purposes of the HIC and not the agent's own purposes [s.3(1)]
  - an agent may or may not be employed by the HIC
  - provision of PHI from a HIC to its agent: is a "use" by the HIC, not a disclosure is not a "collection" by the agent [s.6(1)]
  - a physician or researcher in a hospital; an outsourced IT service provider

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### RESEARCH

- A systematic investigation designed to develop or establish principles, facts or generalizable knowledge, or any combination of them, and includes the development, testing and evaluation of research

### RESEARCHER

- A person who conducts research

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## HICs

- Collection, use and disclosure of health numbers is regulated in the same way as for other PHI; i.e. as another category of PHI
- Subject to the general limiting principles of PHIPA:
  - do not CUD PHI if other information would serve the purpose [s.30(1)]
  - do not CUD more PHI than is reasonably necessary for the purpose [s.30(2)]

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## PERSONS WHO ARE NOT CUSTODIANS

Collection and Use

- May only collect and use a health number for purposes and in circumstances as set out in PHIPA:
  - purposes **related to** the provision of provincially funded health resources [s.34(2)(a)]
    - summer camps, sports teams, school boards
  - purpose for which it was disclosed [s.34(2)(b)]
  - for the purposes of a proceeding [s.34(5)(a)]
    - the collection by a lawyer of her client's health number in a medical malpractice suit

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## PERSONS WHO ARE NOT CUSTODIANS

Collection and Use

- Rules applicable to certain categories of persons
  - Governing bodies of health care practitioners who provide provincially funded health resources may collect or use health numbers for purposes related to its duties or powers [s.34(2)(c)]
    - the CPSO investigating a patient complaint
  - Prescribed planning entities in the course of carrying out their functions [s.34(5)(b)]
    - CCO, CIHI, ICES, POGO, OICR
  - Health data institutes in the course of carrying out their functions [s.34(5)(c)]
  - Archives that are entitled to receive a transfer of PHI [s.42(b)]

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## PERSONS WHO ARE NOT CUSTODIANS

Disclosure

- The general rule is that a recipient of a health number cannot disclose it except as required by law or permitted by the regulations [s.34(3)]
- Required by law or permitted by regulation [O. Reg. 329/04, s.12]
  - search warrant, court order, mandatory disclosure
  - for a purpose related to the provision of provincially funded health resources (summer camp to a hospital)
- Purpose of a proceeding [s.34(5)(a)]

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## PERSONS WHO ARE NOT CUSTODIANS

Disclosure

- Rules applicable to certain categories of persons
  - Prescribed health registries for the purposes of their functions [Reg. s.12(3)]
    - Cardiac Care Network of Ontario in respect of its registry of cardiac services; INSCYTE (Information System for Cytology etc.) Corporation in respect of CytoBase.; Canadian Stroke Network in respect of the Registry of the Canadian Stroke Network; Hamilton Health Sciences Corporation in respect of the Critical Care Information System.; Cancer Care Ontario in respect of the Colorectal Cancer Screening Registry.; Children's Hospital of Eastern Ontario in respect of the Ontario Perinatal Surveillance System; Ontario Institute for Cancer Research in respect of the Ontario Tumour Bank
  - Prescribed planning entities for the purposes of their functions [s.34(5)(b)]
  - Health data Institute [s.34(5)(c)]
  - Workplace Safety and Insurance Board [Reg. s.12(4)]
    - Payments for an individual's care
  - Archives that are entitled to receive transfers of records of PHI for the purposes of research [Reg.ss.14(2)(3)]

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## RESEARCHERS

- May collect and use health numbers:
  - if the individual has consented to the collection or use of the health number for that purpose [s.34(2)(d); Reg.s.11(5)]
  - if the researcher obtains the health number through a disclosure authorized under the research provisions of the Act [s.34(2)(d); Reg.s.11(4)]
- May disclose health numbers:
  - As required by law [s.34(3)]
  - Where the researcher collected the number pursuant to an authorized research plan under s.44, to:
    - a prescribed person; (e.g. CCO)
    - a prescribed entity; (e.g. CIHI, ICES) or
    - another researcher, if
  - The disclosure is part of an approved research plan under s.44; or
  - The disclosure is necessary to verify or validate the information or research [Reg.s.12(2)]

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## RESEARCHERS

- A researcher can collect and use a health number with the consent of the individual, but cannot disclose it even if they have the individual's consent
- Disclosure by one researcher to another has to be through s.44 whereby the researcher initially obtained the health number; i.e. from a HIC

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## OFFENCES AND PENALTIES

- It is an offence to contravene the provisions of PHIPA related to the collection, use and disclosure of health numbers [s.72]
- Unlike other offences under the Act, does not require "willfull" action
- If convicted, persons are liable to a fine of not more than \$50,000
- Only the Attorney General may commence a prosecution



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- A health number:

- uniquely identifies an individual as one who is *eligible to receive insured health services*
- is a listed element of PHI under PHIPA
- is subject to specific rules for CUD by non-HICs, including researchers

**IS NOT TO BE USED AS A UNIQUE IDENTIFIER FOR RESEARCH OR OTHER NON-INSURANCE RELATED PURPOSES**

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