

NOTICE OF AMENDMENT

BILL 52

HEALTH INFORMATION AMENDMENT ACT, 2009

A1B Agreed to May 26, 2009

Mr. Horne to move that Bill 52, *Health Information Amendment Act, 2009*, be amended as follows:

B Section 20 is amended

(a) in the proposed section 56.1

(i) in clause (c) by adding “a regulated health professional or” **after** “regulations that”;

(ii) by adding the following after clause (c):

(d) “regulated health professional” means

- (i) a regulated member under the *Health Professions Act*,
- (ii) a person registered as a medical practitioner under the *Medical Profession Act*,
- (iii) a person registered as a podiatrist under the *Podiatry Act*,
- (iv) a person registered as a physical therapist under the *Physical Therapy Profession Act*,
- (v) a person registered as an optician under the *Opticians Act*, or
- (vi) a person registered under the *Health Disciplines Act*.

(b) by striking out the proposed section 56.3 and substituting the following:

Making prescribed health information accessible

56.3(1) The health professional body of a regulated health professional may in writing direct the regulated health professional to make prescribed health information that is in the custody or under the control of the regulated health professional accessible to authorized custodians via the Alberta EHR in accordance with the regulations.

(2) If

(a) the Minister determines that it is in the public interest to have certain prescribed health information that is in the custody or under the control of one or more regulated health professionals made accessible to authorized custodians via the Alberta EHR, and

(b) the health professional body of the regulated health professionals has not directed the regulated health professionals to make that prescribed health information accessible via the Alberta EHR,

the Minister may, subject to subsection (3), in writing direct the regulated health professionals to make the prescribed health information accessible to authorized custodians via the Alberta EHR in accordance with the regulations.

(3) Before giving a direction under subsection (2), the Minister must

(a) consult with the health professional body referred to in subsection (2)(b),

(b) prepare a privacy impact assessment describing how disclosure of the health information may affect the privacy of the individual who is the subject of the information and submit the privacy impact assessment to the Commissioner for review and comment, and

(c) consider the comments of the Commissioner, if any, made in response to the privacy impact assessment.

(4) A failure by a regulated health professional to comply with a direction of the health professional body under subsection (1) or of the Minister under subsection (2) constitutes

(a) in the case of a regulated member under the *Health Professions Act*, unprofessional conduct;

(b) in the case of a person registered as a medical practitioner under the *Medical Profession Act*, unbecoming conduct;

(c) in the case of a person registered as a podiatrist under the *Podiatry Act*, professional misconduct;

(d) in the case of a person registered as a physical therapist under the *Physical Therapy Profession Act*, professional misconduct;

(e) in the case of a person registered as an optician under the *Opticians Act*, professional misconduct;

(f) in the case of a person registered under the *Health Disciplines Act*, professional misconduct.

(5) An authorized custodian may make prescribed health information in its custody or under its control accessible to authorized custodians via the Alberta EHR in accordance with the regulations.

(6) An authorized custodian, other than a regulated health professional, must, if the Minister requests in writing, make prescribed health information in its custody or under its control accessible to authorized custodians via the Alberta EHR in accordance with the regulations.

(7) For greater certainty, the making of prescribed health information accessible pursuant to this section does not

(a) constitute a disclosure of that information, or

(b) require the consent of the individual who is the subject of the information.

(c) by adding the following after the proposed section 56.3:

Duty to consider expressed wishes of individual who is the subject of prescribed health information

56.31 In deciding how much prescribed health information to make accessible via the Alberta EHR, a regulated health professional or an authorized custodian must consider as an important factor any expressed wishes of the individual who is the subject of the prescribed health information relating to access to that information, together with any other factors the regulated health professional or authorized custodian considers important.

(d) by striking out the proposed section 56.4(3)(a) and substituting the following:

(a) the regulated health professional or authorized custodian who originally made that information accessible via the Alberta EHR pursuant to section 56.3,

(e) by adding the following after the proposed section 56.4:

Maintaining record of Alberta EHR information

56.41(1) If an authorized custodian uses prescribed health information pursuant to section 56.4, the authorized custodian must keep an electronic log of the following information:

(a) a name or number that identifies the custodian who uses the information;

(b) the date and time that the information is used;

(c) a description of the information that is used.

(2) The information referred to in subsection (1) must be retained by the authorized custodian for a period of 10 years following the date of the use.

(3) An individual who is the subject of information referred to in subsection (1) may ask the authorized custodian or the information manager of the Alberta EHR for access to and a copy of the information, and Part 2 applies to the request.

(4) If, pursuant to subsection (3), an individual asks the information manager of the Alberta EHR for access to and a copy of the information referred to in subsection (1), the information manager of the Alberta EHR must, in accordance with Part 2, provide that information in respect of all custodians who have used that individual's prescribed health information pursuant to section 56.4.

Multi-disciplinary data stewardship committee

56.42(1) The Minister shall establish a multi-disciplinary data stewardship committee whose function is to make recommendations to the Minister with respect to rules related to access, use, disclosure and retention of prescribed health information that is accessible via the Alberta EHR.

(2) At least 2 members of the multi-disciplinary data stewardship committee must be members of the public.

(3) Section 7(2) to (5) of the *Government Organization Act* apply with respect to the multi-disciplinary data stewardship committee.

(f) in the proposed section 56.5(d) by adding "a regulated health professional or" after "which";