

# *Nova Scotia Physiotherapy Advisory Group*

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## **Submitted by:**

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## **Submitted to:**

Personal Health Information Legislation Project  
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The Nova Scotia Physiotherapy Advisory Group (NSPAG), a coalition of physiotherapy representatives, works to promote the provision of quality physiotherapy services, education and research and affect health outcomes of Nova Scotians through communication, collaboration, advocacy and leadership on matters of interest affecting physiotherapists and physiotherapy.

NSPAG members are physiotherapists that represent different aspects of physiotherapy practice in Nova Scotia and are selected by the following organizations:

- Dalhousie University School of Physiotherapy
- Nova Scotia Branch of the Canadian Physiotherapy Association (NSCPA)
- Nova Scotia College of Physiotherapists
- Nova Scotia Occupational Therapy & Physiotherapy Leadership Committee (representing physiotherapists in public practice)
- Nova Scotia Section of the Private Practice Division of the CPA

NSPAG is pleased to provide the following response to the Personal Health Information Discussion Paper. While we have provided a detailed response using the questionnaire format, the members of our group wished to draw your attention to four points that we believe are particularly important:

- NSPAG wishes to see further clarification of the legislation covering health information collected by insurance companies. While WCB is listed as an organization potentially covered by the proposed Health Information Legislation, there is no mention of private insurance companies.

- NSPAG is interested in the application of health information legislation to unregulated health care providers. Physiotherapists commonly work in interdisciplinary settings with unregulated providers. The inclusion of unregulated providers as Health Information Custodians in the regulations would likely simplify the administrative management of information between practitioners, and would result in a more consistent application of personal health information standards and requirements.
- NSPAG wishes to emphasize the importance of access to personal health information for research purposes. It does not serve the health care system or the health of Nova Scotians well if privacy legislation has a chilling effect on research.
- NSPAG emphatically supports the implementation of a privacy oversight body for Nova Scotia. We see this body as a critical resource for clarifying requirements under the Act, providing advice on matters such as the precedence of various pieces of legislation that impact on health records, and for conducting appeals and investigations that will ensure an accountable, enforceable privacy infrastructure for the province.

Contact information has been provided at the end of the document, and we would welcome you to contact us for additional information or clarification as needed.

Thank you for the opportunity to provide feedback.

*Nova Scotia Physiotherapy Advisory Group*

## Purpose of the legislation

### **Q1 Is this an appropriate statement of the purpose of the legislation? Why or why not?**

NSPAG supports the balanced approach taken in the statement of purpose. The need for privacy of information must be balanced with the recognition that our health care system needs to be sufficiently open in order to foster innovation, research, and creative solutions. Additionally, while the privacy system needs to be effective, it must avoid placing an onerous administrative burden on our already strained health care system and its professionals.

## Scope of the legislation

### **“Who” - health information custodians**

### **Q2 Is the provision describing “health information custodians” appropriate? Why or why not?**

NSPAG supports the “circle of care” approach to the issue of health information privacy. The current *Freedom of Information and Protection of Privacy Act*, with its application to public settings only, is clearly inadequate in today’s interdisciplinary system which commonly crosses public and private boundaries. Physiotherapy is a particularly relevant example of this phenomenon. The Nova Scotia College of Physiotherapists reports that over 50% of its registered members practise in the private sector. Physiotherapy care is funded within the hospital setting, through private insurance, through Workers Compensation coverage, or out-of-pocket. Beyond direct care settings, physiotherapists access health information through research conducted in private, public and academic settings; they participate in planning for future health system requirements; and they teach the next generation of therapists. The acknowledgement of this diversity through a broad definition of the health system is essential.

### **Q3 Are there other person or organizations who provide health care who should be considered as health information custodians under this Act?**

In reviewing the list of “other organizations or professions” that are not currently on the list of Health Information Custodians, NSPAG questioned why the Workers Compensation Board was included on the list, but not other insurance companies. Private insurance companies have access to and control over huge, and growing, amounts of personal health information. Consistent legislation should apply to all health care insurers.

NSPAG would also like to see a clearer definition of “agents” and “information managers” of health information custodians. It was unclear who would fall within these definitions. For example, it is unclear if the regulatory colleges governing health information custodians would themselves be considered custodians. Colleges collect personalized health information as part of their investigations and fitness to practice processes. The legislation governing colleges has specific requirements regarding the release of information and NSPAG would therefore not support the inclusion of regulatory colleges as Health Information Custodians; additionally, NSPAG would support clear wording similar to that found in Ontario’s *Personal Health Information Protection Act, 2004*, which states that “Nothing in this Act shall be construed to

interfere with ... the regulatory activities of a College under the *Regulated Health Professions Act*'.

Similarly, NSPAG would want input into clause (j) in the Provision ("any other individual or organization prescribed by regulation as a health information custodian") at the regulation development stage. Would unregulated health providers (such as massage therapists) fall within this provision? Health services are broadly defined in the discussion paper and include many services provided by non-custodians such as unregulated providers. It is unclear if they would in fact be captured under clause (j).

Similarly, it is unclear if proposed health information legislation will take precedence over existing legislation containing release of information requirements, such as Nova Scotia's *Hospitals Act*. Precedence of legislation, and the responsibilities of health custodians under each, will need to be clearly defined.

#### **"What" - definition of personal health information**

**Q4 Is the proposed provision appropriate? Why or why not?**

**Q5 Specifically, should both recorded and unrecorded information be covered, or should the legislation only apply to information that is recorded?**

NSPAG supports the provision as worded, and supports the inclusion of both recorded and unrecorded information as a critical feature to ensure patient/consumer confidence that their personal health information is protected. That said, it may be necessary to further define what is intended by "unrecorded forms", and to include information on the protection of this type of personal health information when developing resource information for Health Information Custodians.

#### **"What" - definition of health care**

**Q6 Is the proposed provision appropriate? Why or why not?**

**Q7 Specifically, are there any health care services that are not captured in the proposed provision that should be covered by personal health information legislation?**

NSPAG is pleased to see health *protection and promotion* included in the definition of health care. While NSPAG does not have any specific additions to the definition, the inclusion of item (f), *a program or service designated as a health care service in the regulations*, did raise questions about how the definition of health care might be expanded at the regulation-development stage. NSPAG asserts that thorough consultation at the regulation-development stage will be critical to ensuring appropriate scope and definition.

There are of course many health services (as defined in the Provision) provided by non-Custodians – for example, services provided by unregulated health care practitioners (such as Massage Therapists, Osteopaths). If these individuals are not captured by the regulations, their obligations to protect the health information that they collect will need to be clearly defined (for example, under the *Personal Information & Protection of Electronic Documents Act* [PIPEDA]).

### **Consent for collection, use and disclosure of personal health information**

**Q8 Are the proposed provisions appropriate? Why or why not?**

**Q9 Specifically, do you think that the definition of what is “knowledgeable” outlined in section 5 is reasonable?**

Nova Scotia benefits from the considerable work accomplished in the area of health care consent in other jurisdictions. The concepts of knowledge, and implied and express consent, are well established and tested. NSPAG concurs that the definitions included in the Provision are consistent with these established principles of consent.

One concern identified by NSPAG links back to the question posed earlier regarding unregulated practitioners and whether or not they will fall within the definition of Health Care Custodians at the regulation development stage. Within increasingly common multidisciplinary clinic settings, both regulated and unregulated health care practitioners (i.e., custodians and non-custodians) practice and frequently treat the same patient. There needs to be a solution that makes implied vs. express consent manageable from an administrative perspective. Additionally, the consultation document does not address *how* the consent should be recorded by the Custodian. While a prescriptive approach is not recommended, it will be important to provide guidance to Health Care Custodians regarding the recording of consent, particularly when the consent is implied.

NSPAG would like to see further clarification regarding the required actions for a health information custodian when a patient withdraws consent after their health record has been released to another custodian or non-custodian. Beyond notifying the other custodian or non-custodian regarding withdrawal of consent, what are the obligations for the custodian, if any, to retrieve the record and ensure that the secondary recipient of the information does not use it?

### **Mature minors and consent**

**Q10 Are the proposed provisions appropriate? Why or why not?**

**Q11 Specifically, is it appropriate to continue the current approach that leaves it to the health information custodian to decide the minor’s ability to consent in the circumstances?**

NSPAG supports an approach that relies on the professional judgment of health care providers to determine a correct course of action. No prescriptive model for consent from minors will be able to address all circumstances, nor can it possibly take into account the personal attributes of individual patients.

**Q12 Should there be an exact age stated in the legislation at which minors can be considered to have the ability to consent to the collection, use and disclosure of their personal health information? If so, what would be an appropriate age?**

NSPAG does not support the inclusion of a specific age for consent, but rather supports an individual assessment model as outlined above.

**Q13 If this approach were implemented, what would be appropriate factors for health information custodian to consider when determining when minors can consent to the collection, use and disclosure of their personal health information?**

NSPAG would support the adoption in Nova Scotia of similar criteria to those used in the Alberta model. Specifically, the ability of minors to consent would be determined based on an assessment by the health care provider(s) of factors including maturity, economic status, living arrangements, mental state, risk assessment, and the complexity of the treatment.

**Substitute decision-maker**

**Q14 Are the proposed provisions appropriate? Why or why not?**

As with consent, the definition and role of substitute decision-makers is well established and has been tested in Nova Scotia and other jurisdictions. NSPAG supports the substitute decision-maker provisions, as presented.

**Collection of personal health information**

**Q15 Are the proposed provisions appropriate for the protection of privacy in limiting collection of personal health information? Why or why not?**

While NSPAG strongly supports the principle of collecting the minimum information required to achieve the purpose for which it is being collected, we believe that this needs to have sufficient flexibility to allow for the consideration of the complexity of health care. Information seemingly unrelated to a particular condition or concern may provide a critical clue to identifying and resolving that condition. Undue concern about the consequences of collecting too much information may hamper care to the detriment of the patient. NSPAG would support the inclusion of wording that would protect health information custodians who collect information in good faith that it is, or is potentially, significant to positive health outcomes for their clients/patients.

**Use of personal health information**

**Q16 Do you agree with the proposed provisions? Why or why not?**

The proposed provision for Research allows for personal health information to be used by researchers *without consent* when specific criteria are met. Therefore, NSPAG would like to see the addition of a reference to research captured under section 10 of the provision for Use of Personal Health Information (use without consent), in addition to section 7 (permitted uses).

Additionally, NSPAG would like to see a more specific definition of “agent”, as it is used in section 8 of the Provision.

## **Disclosure**

### **General**

**Q17 Are the proposed provisions appropriate? Why or why not?**

**Q18 Are the circumstances outlined in the proposed provision appropriate for disclosure without an individual's consent? If not, what should be amended?**

NSPAG agrees with the Provision wording for disclosure. In particular, the clear wording indicating the obligations of Custodians to disclose health information without consent for regulatory purposes is helpful.

Clause (d), related to release of information without consent in order to avert an imminent danger may require clarification to ensure appropriate implementation. For example, would this clause allow for the release of personal health information related to communicable diseases? A definition of "imminent" would be helpful. Ontario's Privacy Office developed a fact sheet on release of health information in the event of an emergency; similar resource development for Nova Scotia's health information custodians would be very useful.

**Q19 Are there additional circumstances when personal health information should be disclosed without an individual's consent? What are they?**

No additional circumstances were identified by NSPAG.

**Q20 Should there be a requirement that all disclosures without consent are documented?**

NSPAG supports the documentation of all releases of information, with or without consent, as good record-keeping practice.

### **Disclosure of personal health information without consent unless the individual objects**

**Q21 Are the circumstances outlined in the Proposed Provision appropriate for disclosure without an individual's consent unless the individual objects? If not, what should be amended?**

NSPAG recommends that a clear definition of "successor" be developed, for section 4 of this Provision. While section 4 would obviously apply in a situation where a Custodian is leaving practice permanently, it is less clear if it would apply in a situation where the Custodian is, for example, leaving for a vacation, or an extended leave of absence and has appointed someone to manage their caseload in their absence. Would this replacement be considered a successor?

Additionally, precedence of legislation will need to be clarified. For example, regulatory colleges commonly have standards for transferring records. Would the Privacy legislation or the college requirements take precedence?

**Q22 Are there additional circumstances when personal health information could be disclosed without an individual's consent unless the individual objects? What are they?**

No additional circumstances were identified by NSPAG.

**Disclosure outside Nova Scotia**

**Q23 Are the proposed provisions appropriate for disclosure outside of Nova Scotia? Why or why not?**

No comments on this Provision.

**Retention, destruction and disposal**

**Q24 Are the proposed provisions appropriate for the protection of personal health information? Why or why not?**

As with transfer of records to a successor, NSPAG questioned whether existing standards for retention, destruction and disposal (for example, those established by regulatory Colleges) would take precedence over the Provision's requirement that "personal health information shall be retained only as long as is necessary for the fulfillment of the identified purposes for which it was collected". While the proposed provision indicates that it does not override or modify existing requirements of public bodies, the requirements for private practitioners under the jurisdiction of regulatory bodies is unclear.

With regard to the development of retention schedules, NSPAG suggests that this would be a helpful area for the Oversight Body, in conjunction with other standards bodies such as Colleges, to develop resources to assist Custodians in implementing the requirements.

**Research**

**Q25 Are the proposed provisions appropriate for research? Why or why not?**

NSPAG strongly supports provisions that ensure continued access by researchers to health information. As noted in the background information, it does not serve the health care system or the health of Nova Scotians well if privacy legislation has a chilling effect on research.

NSPAG supports the identification of the Tri-Council Policy Statement as the benchmark for ethics reviews. NSPAG asserts that all Ethics Board reviews that meet the requirement of the Policy Statement should be acceptable as an adequate ethics review for the purposes of release of health information for research.

Under section 17, NSPAG agrees that the Health Custodian should retain the right to refuse the disclosure of personal health information. However, NSPAG believes that, just as health custodians must justify a denial of release of health information to the individual to whom the health information belongs, or to deny a frivolous or vexatious request, a refusal to disclose information to a researcher should also require an explanation as to why the release is being

denied. This would serve to prevent unnecessary refusals for disclosure to researchers, and, in situations where the denial is for a legitimate cause, would serve to educate the researcher as to why the denial is being made, and may allow for correction or amendment to the research plan, thereby allowing for disclosure.

NSPAG strongly recommends that an additional section should be added under section 17, as follows: "Where a refusal is made under section 17, the Health Information Custodian shall provide the researcher with a notice that sets out the reasons for the refusal and that states that the researcher is entitled to make a complaint about the refusal."

Given that the intent of the legislation is to balance the rights of the individual with the requirements of an effective and efficient health care system, NSPAG believes that the Oversight Body investigating individual complaints and inquiries should also investigate refusals for release of information to researchers.

### **Practices to protect personal health information**

#### **Q26 Are the proposed provisions appropriate? Why or why not?**

NSPAG agrees that the proposed provisions are for the most part appropriate. However, we questioned why a Health Information Custodian is not able to charge a reasonable fee to fulfill a request for a record of user activity, similar to a fee that is permissible for access to the health record itself. NSPAG would support the allowance of a reasonable fee to cover administrative expenses associated with generating a record of user activity, or alternatively would like to see a better description of the rationale for forbidding fees for this activity but not for other administrative activities related to health record administration.

#### **Q27 When determining what safeguards are "*reasonable in the circumstances*", should the health information custodian take into account the type of personal health information which is being protected? Should some personal health information be given more protection than other personal health information?**

NSPAG does not support the development of different requirements for different types of personal health information. Rather, by maintaining an overarching requirement to implement safeguards that are "reasonable in the circumstances", this allows the custodian to use discretion and judgment. The development of supportive resources in this area is recommended to assist custodians to develop appropriate safeguards. However we do not believe that further differentiation is required in the Provision wording.

The provision of suggested templates for the written public statement required in section 12 of this provision would be a recommended and helpful resource for custodians.

#### **Q28 Should any additional safeguards be required for electronic health records?**

While the *type* of safeguard will obviously be different for electronic records versus paper (ie., encryption, passwords) NSPAG believes that security of electronic records can adequately be addressed by requiring safeguards that are "reasonable in the circumstances". Again, as suggested above, the development of supportive resources in this area is recommended.

### **Reporting of a privacy breach**

- Q29 Are the proposed provisions appropriate? Why or why not?**
- Q30 Specifically, do you think individuals should be notified when their privacy is breached?**
- Q31 Should every loss, theft or unauthorized access be reported to the individual, or should there be criteria for determining when notice is required?**

NSPAG does not support a requirement to inform individuals in every circumstance of a privacy breach (Option 1 on page 36 of the consultation paper), as this would not be administratively reasonable and, more importantly, may cause unnecessary anxiety for the patient or mistrust of the Health Care Custodian. That said, NSPAG does believe that criteria developed for determining when notice is required should be more stringent than a criteria of risk of harm or embarrassment (i.e., Option Two, as opposed to Option Three).

NSPAG feels that the proposed provision is too broad as currently worded, as it does not allow for the waiver of the notification requirement in situations of, for example, short-term loss of a record without an unauthorized individual viewing the record, or brief accidental viewing of a record. NSPAG would support wording such as the following (emphasis added to highlight revised text): "...a health information custodian that has custody or control of personal health information about an individual shall notify the individual at the first reasonable opportunity if the information is stolen, lost *with potential for risk of harm or embarrassment to the individual*, or subject to *intentional* unauthorized access, use, disclosure, copying or modification."

- Q32 What factors should a health information custodian consider when deciding whether to notify an individual of a breach?**

See proposed revised wording above. NSPAG supports the use of criteria related to theft (in which case it is impossible to confirm whether or not the information was viewed/used); loss in situations where there is potential risk of harm, or intentional unauthorized access, use, disclosure, copying or modification.

- Q33 Should there be an independent review of all breaches, regardless of whether the individual has been notified?**

If a breach has happened, it likely means that an administrative procedure was not followed, or not fully followed. NSPAG supports the review of all breaches in order to ensure that administrative gaps are identified, and breaches are used as learning opportunities to prevent further breaches. We would support a model where the nature of the investigation is dependent on the risk of harm of the breach. If the breach was purely administrative and no risk of harm or embarrassment resulted, then we believe the review could be conducted *internally* by the individual appointed as Privacy Officer (or equivalent). Only breaches resulting in notification of the individual should merit independent review, and they should be prioritized in order to place emphasis on breaches that resulted or potentially resulted in harm or embarrassment to the individual.

### **Privacy rights of deceased individuals**

**Q34 Do you think that the period proposed for disclosure of information related to deceased persons or older records without consent is appropriate? Why or why not?**

NSPAG supports the provision as worded. However, there may be some clarification required in situations where health records of deceased persons are requested for purposes where consent is not required, for example for research that meets the criteria for release without consent under the proposed legislation. It would be our understanding that the 50-year requirement would not apply in circumstances where consent is not required for the release; however we believe this should be clearer in the wording of the provision.

### **Access to your personal health information**

#### **Exceptions to access**

**Q35 Are the proposed provisions appropriate? Why or why not?**

**Q36 Are there any other exceptions which could be included in the legislation?**

NSPAG supports the provision on *Access to your personal health information* and does not have any additional comments on this section.

#### **Process for requesting access**

**Q37 Are the proposed provisions appropriate? Why or why not?**

**Q38 Should individuals be required to put all requests for information in writing?**

NSPAG believes the provisions are appropriate as worded. NSPAG would not support a requirement for all requests for information to be in writing as this would place an unnecessary administrative burden on many situations where informal access would be appropriate. We support the proposed wording where the requirement for a written request for access is left to the discretion of the Custodian.

**Q39 What is a reasonable requirement for a health information custodian to assist an individual in making a request?**

NSPAG would not support a requirement that would make it mandatory for the custodian to complete a form on behalf of the individual. Allowing for the removal of the form to allow another individual to complete the form would be reasonable.

Health Information Custodians should be permitted to recover any costs associated with assisting an individual in making a request. For example, if a custodian offers the option of a translation service, and there is a fee to the Custodian to use the translator, this should be a recoverable cost. We also believe such services should be optional for the Custodian to offer, not required.

## **Frivolous or vexatious requests**

### **Q40 Is the proposed provision appropriate? Why or why not?**

NSPAG supports the provision as worded. It provides discretion and decision-making authority with the Custodian, while ensuring a system of accountability by requiring a rationale for refusal, and by providing a complaint/appeal mechanism.

## **Fees**

### **Q41 Is the proposed provision appropriate? Why or why not?**

Regulatory bodies often provide guidelines for appropriate fees for accessing records. We would encourage any requirements or guidelines for fees developed under this proposed legislation to take this into consideration.

## **Correction of your health information**

### **Q42 Are the proposed provisions appropriate? Why or why not?**

NSPAG agrees that the provisions are appropriate. In particular, NSPAG supports the provisions that provide options to the Health Information Custodian to determine the most appropriate way to amend the record, and the ability to accommodate both formal and informal requests to correct records.

### **Q43 Are there circumstances when a health information custodian should not have to make a correction to the record? If so, can you provide examples of the circumstances?**

Health Information Custodians must be permitted to exercise their professional judgment when requests for corrections are made for records in their control. The provisions that allow for the custodian to refuse to make changes to a record when they do not have sufficient knowledge, expertise or authority to correct the record, or they believe that in fact the record reflects an accurate opinion or observation, are critical. There are situations in which a custodian may be under significant pressure to adjust a record, for example, where benefits or payment may be refused based on the opinion. The necessity of maintaining professional integrity must not be undermined by the rights of an individual to request changes to their record.

## **Collection and use of health card numbers**

### **Q44 Are the proposed provisions appropriate? Why or why not?**

NSPAG supports the provision and has no further comment on this section.

### **Privacy review and oversight**

#### **Q45 Is independent privacy oversight an important component of health information legislation? Why or why not?**

An independent privacy oversight body is absolutely critical to the fair and equitable implementation and administration of Personal Health Information Legislation; this fact is reflected in the acknowledgement that Nova Scotia is the only Canadian province without an independent organization with legal authority to oversee privacy issues and complaints. NSPAG asserts that the implementation of legislation should happen simultaneously with the implementation of an oversight body. In addition to addressing “issues and complaints” NSPAG would like to see this body take on an educational and resource development role, for both health care consumers and health information custodians.

#### **Q46 Which of the potential responsibilities outlined in the Pan-Canadian Framework are appropriate for the oversight body?**

#### **Q47 Are there additional responsibilities for which an independent privacy oversight body should be responsible?**

#### **Q48 What do you think should be the priorities for the responsibilities assigned to an independent privacy oversight body?**

While NSPAG sees all of the potential responsibilities as being appropriate for the oversight body, we would encourage priority being given to:

- Monitoring the Act;
- Investigations;
- Resolutions/Mediations of privacy complaints (including complaints from the public, from custodians, and from researchers);
- Developing public education programs;
- Providing resources and other assistance to health information custodians; and
- Promoting best practice.

We believe there is a more proactive role for the oversight body beyond “providing advice and comments to health information custodians”. The oversight body could work with other organizations that set standards and requirements for health information privacy (such as hospitals, regulatory bodies) to develop implementation resources, best practices, templates, guidelines, and other resources to assist Custodians with the appropriate, efficient and consistent implementation of the legislation.

### **Offences and penalties**

#### **Q49 Are the proposed provisions appropriate? Why or why not?**

#### **Q50 Are there other potential offences which should be added?**

NSPAG did not identify any other potential offences to add.

**Q51 Should due diligence (e.g. the the care that a reasonable person exercises under the circumstances to avoid harm) be a possible defense to these offences? Why or why not?**

Considerable leeway for discretion and decision-making is left to Health Information Custodians under the proposed provisions. Given this, NSPAG *does* support the possibility of due diligence as a defense to the offences. There will be many “grey areas” – for example in determining how much information to collect in order to fulfill the purpose for which information is being collected – and therefore the recognition and consideration of due diligence and good faith are important.

**Q52 Are the ranges of fines and penalties appropriate? Why or why not?**

Given the potentially significant risks associated with unlawful collection, retention, use, storage, disclosure or destruction of personal health information, NSPAG concurs that penalties need to be significant. The fines proposed are significant deterrents, and emphasize the importance of ensuring careful handling of personal health information.

NSPAG would assert that the maximum fines and penalties would be appropriate only in cases of egregious mistreatment of personal health information where serious risk of harm to the individual(s) resulted, or was likely to result. As well, repeat offences should be subject to higher penalties than first-time offences. The typical physiotherapy practice consists of a small number of practitioners (often just one) operating as a small business. The fines proposed in the consultation document would put many such small practices out of business. Except in extreme circumstances, this would not be to the greater good of the health of Nova Scotians. Additionally, fear of debilitating fines and penalties can lead to unnecessary administrative backlogs and burdens, also not a productive outcome for the health system. Education regarding the situations that would lead to the application of severe fines and penalties will be important in circumventing these unwanted and unnecessary outcomes.

**Review of legislation**

**Q53 Is mandatory review a good idea?**

NSPAG supports a mandatory review of any legislation resulting from this consultation process.

**Q54 If so, what would be an appropriate time period for a review and a review report?**

NSPAG would support a review after three years of full implementation of the Act and related regulations. The review report should be available within a year of the review date.

**Q55 If you don't support a mandatory review, would you have any recommendation for an ongoing review process?**

N/A

**“SUBSTANTIALLY SIMILAR”**

**Q56 Should the legislation be developed to aim for substantial similarity with *Personal Information Protection and Electronic Documents Act*? Why or why not?**

NSPAG strongly supports the development of legislation that will be deemed substantially similar to PIPEDA. As has been highlighted in several places in this response, there are already multiple organizations with linkages to personal health information privacy administration, such as hospitals, insurers, and regulatory bodies. To have some health custodians falling under PIPEDA, others falling under provincial legislation, and yet others falling under both, would add confusion and additional unnecessary administrative burden to the health information protection system.

**Additional Comments**

**Q57 Are there any additional comments or questions related to the collection, use, disclosure, retention and destruction of personal health information or the content of this discussion paper?**

The Nova Scotia Physiotherapy Advisory Group appreciates the opportunity to provide feedback to the Department of Health on behalf of our constituent groups. Please do not hesitate to contact us if we can be of further assistance. We look forward to involvement in the next steps of legislation and regulation development as this undertaking progresses.

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