

RECENT AND UPCOMING CHANGES TO PHIPA (current to October 1, 2020)

Blue – Royal Assent

Green – In force

Yellow - Not yet in force

Grey – be aware of

Orange - significant

Bill	Section of Bill (in order of amendments to PHIPA; with links to PHIPA)	Notes/Comments
Bill 188 - Economic and Fiscal Update Act, 2020 Schedule 6	1 (1) Section 2 of the Personal Health Information Protection Act, 2004 is amended by adding the following definition: “Crown” means the Crown in right of Ontario; (“Couronne”)	An unpaid administrative monetary penalty (see new s. 61(1)(h.1)) is a debt owed to the Crown
Bill 138 – Plan to Build Ontario Together Act, 2019 Schedule 30	1 Section 2 of the Personal Health Information Protection Act, 2004 is amended by adding the following definition: “de-identify”, in relation to the personal health information of an individual, means to remove any information that identifies the individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify the individual, and “de-identification” has a corresponding meaning; (“anonymiser”)	Definition moved from where it is currently at s. 47(1) to definitions section – no change in definition
Bill 188 - Economic and Fiscal Update Act, 2020 Schedule 6	1 (2) The definition of “de-identify” in section 2 of the Act is amended by striking out “to remove any information” and substituting “to remove, in accordance with such requirements as may be prescribed, any information”.	To be amended to reflect that regulations may be established with respect to de-identification



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<p data-bbox="205 240 438 350">Bill 188 - Economic and Fiscal Update Act, 2020</p> <p data-bbox="205 386 338 415">Schedule 6</p>	<p data-bbox="468 240 1297 310">2 Paragraph 2 of the definition of “health information custodian” in subsection 3 (1) of the Act is repealed and the following substituted:</p> <p data-bbox="468 362 1402 597">2. A service provider within the meaning of the <i>Home Care and Community Services Act, 1994</i> who provides a community service within the meaning of that Act. A service provider is a health information custodian in connection with the provision of any community service within the meaning of <i>Home Care and Community Services Act, 1994</i>, regardless of whether a particular community service is publicly funded.</p>	<p data-bbox="1434 240 1908 431">Clarification of definition of health information custodians in relation to the <i>Home Care and Community Services Act, 1994</i> to explicitly include private service providers</p>
<p data-bbox="205 638 438 748">Bill 138 – Plan to Build Ontario Together Act, 2019</p> <p data-bbox="205 784 352 813">Schedule 30</p>	<p data-bbox="468 638 1360 708">2 Subparagraph 4 iii of the definition of “health information custodian” in subsection 3 (1) of the Act is amended by striking out “Part VI of”.</p>	<p data-bbox="1434 638 1881 748">iii. A pharmacy within the meaning of Part VI of the <i>Drug and Pharmacies Regulation Act</i>.</p>
<p data-bbox="205 857 438 967">Bill 188 - Economic and Fiscal Update Act, 2020</p> <p data-bbox="205 1003 338 1032">Schedule 6</p>	<p data-bbox="468 857 1121 886">3 The Act is amended by adding the following section:</p> <p data-bbox="468 922 701 951">Electronic audit log</p> <p data-bbox="468 963 1409 1279">10.1 (1) Subject to any prescribed exceptions, a health information custodian that uses electronic means to collect, use, disclose, modify, retain or dispose of personal health information shall, (a) maintain, or require the maintenance of, an electronic audit log described in subsection (4); (b) audit and monitor the electronic audit log as often as is required by the regulations; and (c) comply with any requirements that may be prescribed.</p>	<p data-bbox="1434 857 1892 1049">New requirement that health information custodians maintain, audit and monitor an electronic audit log and provide it to the IPC upon request</p>



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	<p>Access by Commissioner (2) A health information custodian referred to in subsection (1) shall provide a copy of the electronic audit log to the Commissioner, upon request.</p> <p>Same (3) Despite subsection 60 (13), the Commissioner may be provided with a copy of the electronic audit log even if it contains personal health information.</p> <p>Content of log (4) The electronic audit log must include, for every instance in which a record or part of a record of personal health information that is accessible by electronic means is viewed, handled, modified or otherwise dealt with, (a) the type of information that was viewed, handled, modified or otherwise dealt with; (b) the date and time on which the information was viewed, handled, modified or otherwise dealt with; (c) the identity of all persons who viewed, handled, modified or otherwise dealt with the personal health information; (d) the identity of the individual to whom the personal health information relates; and (e) any other information that may be prescribed.</p>	
<p>Bill 138 – Plan to Build Ontario Together Act, 2019 Schedule 30</p>	<p>3 The Act is amended by adding the following section:</p> <p><u>Limits on use of de-identified information</u> 11.2 (1) Subject to subsection (2) and to any other exceptions that may be prescribed, no person shall use or attempt to use information that has been de-identified to identify an individual, either alone or with other information,</p>	<p>Using personal health information that has been de-identified to identify an individual is prohibited, subject to certain exceptions</p>



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	<p>unless this Act or another Act permits the information to be used to identify the individual.</p> <p>Exceptions</p> <p>(2) The limitation in subsection (1) does not prevent any of the following from using information that they de-identified, either alone or with other information, to identify an individual:</p> <ol style="list-style-type: none"> 1. A health information custodian. 2. A prescribed entity mentioned in subsection 45 (1). 3. A prescribed person who compiles or maintains a registry of personal health information. 4. Any other prescribed person 	
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>4 (1) Subsection 34 (2) of the Act is amended by adding the following clause:</p> <p>(b.1) if the person is prescribed and is collecting or using the health number, as the case may be, with the express consent of the other person, for the purpose of accurately identifying the other person’s records of personal health information, verifying their identity or linking their records of personal health information, subject to the additional requirements, if any, that are prescribed;</p>	<p>Introduces a new exception to limits on collection or use of the health number – a prescribed person with express consent can collect or use the health number to identify records of PHI, verify identity or links records of PHI subject to prescribed requirements, if any</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>4 (2) Section 34 of the Act is amended by adding the following subsections:</p> <p>Collection, use and disclosure, non-provincially funded health resource</p> <p>(6) Subject to the additional requirements, if any, that are prescribed, a health information custodian that is providing health care to a person may collect, use or disclose the person’s health number with the consent of the person for the purpose of accurately identifying the person’s records of personal health information, verifying their identity or linking their records of personal health</p>	<p>Health information custodians that are providing health care to a person, can collect, use, or disclose the person’s health number, with the person’s consent, for certain verification and linking purposes, even if not providing a provincially funded health resource.</p>



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	<p>information, even where the health information custodian is not providing a provincially funded health resource.</p> <p>Same, provincially funded health resource (7) Subject to the additional requirements, if any, that are prescribed, a health information custodian that has collected a health number for purposes related to the provision of a provincially funded health resource to a person may use the health number for the purpose of accurately identifying the person’s records of personal health information, verifying their identity or linking their records of personal health information.</p> <p>Other permitted collection, etc. not affected (8) Nothing in subsection (6) or (7) limits a health information custodian’s authority to collect, use or disclose a health number as otherwise permitted or required by this Act.</p>	<p>If provincially funded, a HIC may use the health number for identifying the person’s records of PHI, verifying their identity, or linking their records of PHI.</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>5 Clauses 39 (2) (a) and (b) of the Act are amended by adding “or the <i>Immunization of School Pupils Act</i>” at the end of each clause.</p>	<p>Disclosures of personal health information to the Chief Medical Officer of Health, a medical officer of health, or a similar public health authority in another province or territory of Canada or other jurisdiction, for purposes related to the <i>Immunization of School Pupils Act</i> are permitted.</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p>	<p>6 Section 44 of the Act is amended by adding the following subsection:</p>	<p>If a researcher works with a HIC on a research plan that reflects the requirements of PHIPA and its regulations from the perspective of the</p>



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Schedule 6	<p>Same</p> <p>(1.1) For greater certainty, the decision of only one research ethics board is sufficient for the purposes of subclause (1) (a) (iii).</p>	HIC, the researcher and the HIC do not need to approach two separate research ethics boards for approval
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>7 Section 45 of the Act is amended by adding the following subsection:</p> <p>Additional uses, extra-ministerial data integration unit</p> <p>(7) Despite subsection (6), if an entity that receives personal health information under subsection (1) is an <i>extra-ministerial data integration unit within the meaning of Part III.1 of the Freedom of Information and Protection of Privacy Act</i>, or if such an extra-ministerial data integration unit is located within the entity, the entity may also use the personal health information for a purpose set out in section 49.2 of that Act if the entity complies with Part III.1 of that Act as if it were initially collecting the personal health information.</p>	<p>Entities that are extra-ministerial data integration units under Part III.1 of the <i>Freedom of Information and Protection of Privacy Act</i> can use personal health information to compile information, including statistical information, to enable analysis in relation to,</p> <ol style="list-style-type: none"> 1. the management or allocation of resources; 2. the planning for the delivery of programs and services provided or funded by the Government of Ontario, including services provided or funded in whole or in part or directly or indirectly; and 3. the evaluation of those programs and services.
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>8 (1) Section 46 of the Act is repealed and the following substituted:</p> <p>Health care payments</p> <p>46 (1) If requested by the Minister or the minister of a prescribed ministry, a health information custodian shall disclose personal health information to the</p>	Amended section 46 allowing for the disclosure of personal health information to the Minister, or other



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	<p>minister who made the request for the purpose of determining, providing, monitoring or verifying payment or funding for health care funded wholly or in part by the Ministry, the prescribed ministry, a local health integration network or the Agency or for goods used for health care funded wholly or in part by one or more of them.</p> <p>Disclosure by minister</p> <p>(2) The Minister or a minister of a prescribed ministry may disclose information collected under subsection (1) to any person for a purpose set out in that subsection if the disclosure is reasonably necessary for that purpose.</p> <p>Other information</p> <p>(3) The Minister or minister of a prescribed ministry, as the case may be, who makes a request under subsection (1) shall not collect, use or disclose personal health information if other information will serve the purpose of the collection, use or disclosure.</p> <p>Extent of information</p> <p>(4) The Minister or minister of a prescribed ministry, as the case may be, who makes a request under subsection (1) shall not collect, use or disclose more personal health information than is reasonably necessary to meet the purpose of the collection, use or disclosure, as the case may be.</p> <p>(2) Subsection 46 (1) of the Act, as re-enacted by subsection (1), is amended by striking out “a local health integration network”.</p>	<p>prescribed ministers, for certain health care payment purposes</p>
<p>Bill 138 – Plan to Build Ontario Together Act, 2019</p>	<p>4 Subsection 47 (1) of the Act is repealed.</p>	<p>Definition of “de-identify” is moved from here to s. 2, definitions section of PHIPA</p>



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Schedule 30		
Bill 188 - Economic and Fiscal Update Act, 2020 Schedule 6	<p>9 Section 52 of the Act is amended by adding the following subsection:</p> <p>Format of records (1.1) The right to access a record of personal health information includes the right to access the record in an electronic format that meets the prescribed requirements, subject to any restrictions, additional requirements or exceptions that may be prescribed.</p>	Expansion of the right to access to include access to record in an electronic format
Bill 188 - Economic and Fiscal Update Act, 2020 Schedule 6	<p>10 The Act is amended by adding the following section:</p> <p>Consumer electronic service providers</p> <p>54.1 (1) In this section, “consumer electronic service provider” means a person who provides electronic services to individuals at their request, primarily for, (a) the purpose of allowing those individuals to access, use, disclose, modify, maintain or otherwise manage their records of personal health information, or (b) such other purposes as may be prescribed.</p> <p>Prescribed requirements (2) In providing electronic services to an individual, a consumer electronic service provider shall comply with the prescribed requirements.</p> <p>Health number (3) Despite section 34, a consumer electronic service provider may, if authorized by the individual who requested the provider’s services, collect and use health numbers in accordance with any prescribed rules in order to verify the identity of an individual or for any other prescribed purpose.</p> <p>Health information custodians (4) A health information custodian that provides personal health information</p>	New requirements for “consumer electronic service providers” that provide electronic services to individuals for the purpose of, among other things, allowing those individuals to access their records of personal health information



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	<p>to a consumer electronic service provider shall comply with any prescribed requirements or procedures.</p> <p>Not required to respond through consumer electronic service provider (5) For greater certainty, a health information custodian that receives an individual’s request for access to their records of personal health information from a consumer electronic service provider is not required to provide the personal health information to the consumer electronic service provider in responding to the request.</p>	
<p>Bill 138 – Plan to Build Ontario Together Act, 2019</p> <p>Schedule 30</p>	<p>5 The definition of “de-identify” in subsection 55.1 (1) of the Act is repealed.</p>	<p>Because definition of “de-identify” being moved to definitions section of the Act</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>11 Section 55.9 of the Act is repealed and the following substituted:</p> <p>Collection of information by Ministry 55.9 (1) Despite section 55.5, members of a ministry data integration unit located within the Ministry may collect personal health information by means of the electronic health record for the purposes set out in section 49.2 of the Freedom of Information and Protection of Privacy Act in accordance with the requirements set out in Part III.1 (Data Integration) of that Act.</p> <p>No other uses and disclosures permitted (2) Despite any other provision in this Act or the regulations, members of a ministry data integration unit shall not use or disclose the personal health information collected under subsection (1) except as authorized by this section or by Part III.1 of the Freedom of Information and Protection of Privacy Act.</p>	<p>Amends provincial electronic health record provisions of PHIPA that are NOW IN FORCE</p> <p>Members of a ministry data integration unit within the Ministry can collect personal health information by means of the electronic health record to compile information, including statistical information, to enable analysis in relation to,</p> <p>(a) the management or allocation of resources;</p>



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	<p>Direction to prescribed organization (3) A member of a ministry data integration unit located within the Ministry may issue a direction requiring the prescribed organization to provide members of the ministry data integration unit with the information that the members are authorized to collect under subsection (1), and the prescribed organization must comply with the direction.</p> <p>Terms and conditions (4) A direction made under subsection (3) may specify the form, manner and timeframe in which the information that is the subject of the direction is to be provided to the ministry data integration unit.</p> <p>Disclosure (5) If members of a ministry data integration unit collect personal health information by means of the electronic health record under subsection (1), the disclosure of the personal health information to the members of the ministry data integration unit by the health information custodian who provided it to the prescribed organization is permitted under this Act.</p> <p>Definitions (6) In this section, “member” and “ministry data integration unit” have the same meanings as in Part III.1 of the Freedom of Information and Protection of Privacy Act.</p>	<p>(b) the planning for the delivery of programs and services provided or funded by the Government of Ontario, including services provided or funded in whole or in part or directly or indirectly; and</p> <p>(c) the evaluation of those programs and services</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>12 The Act is amended by adding the following section:</p> <p>Provision of personal health information to, and collection by, coroners and medical officers of health</p> <p>Provision to coroner</p> <p>55.9.1 (1) Where the prescribed requirements, if any, are met, the prescribed</p>	<p>Amends provincial electronic health record provisions of PHIPA</p> <p>Personal health information from the electronic health record may be provided to a coroner and collected by</p>



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	<p>organization may provide personal health information that is accessible by means of the electronic health record to a coroner in relation to an investigation conducted under the <i>Coroners Act</i>.</p> <p>Collection by medical officer of health</p> <p>(2) The Chief Medical Officer of Health or a medical officer of health within the meaning of the <i>Health Protection and Promotion Act</i> may collect personal health information by means of the electronic health record for purposes related to their duties under that Act or the <i>Immunization of School Pupils Act</i>.</p> <p>Disclosure</p> <p>(3) Personal health information may be provided or collected in accordance with subsection (1) or (2) despite any provision of sections 55.5, 55.6 and 55.7.</p>	<p>medical officers of health for purposes related to their duties under the <i>Health Protection and Promotion Act</i> or the <i>Immunization of School Pupils Act</i>.</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>13 Subsection 55.12 (1) of the Act is repealed and the following substituted:</p> <p>Practices and procedures review</p> <p>(1) The Commissioner shall review the practices and procedures of the prescribed organization referred to in paragraph 14 of section 55.3 every three years after they are first approved or reviewed, as the case may be, to determine if the practices and procedures continue to meet the requirements of subparagraph 14 i of section 55.3 and, after the review, the Commissioner may renew the approval.</p>	<p>Amends provincial electronic health record provisions of PHIPA</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>14 Clause 55.14 (2) (g) of the Act is repealed.</p> <p>(55.14 (2)) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations, . . .</p>	

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	(g) prescribing the units of the Ministry that will be permitted to collect, use and disclose personal health information by means of the electronic health record on behalf of the Minister for the purposes described in section 55.9;)	
<p data-bbox="201 412 432 521">Bill 188 - Economic and Fiscal Update Act, 2020</p> <p data-bbox="201 561 338 586">Schedule 6</p>	<p data-bbox="464 412 1381 440">15 (1) Section 60 of the Act is amended by adding the following subsection:</p> <p data-bbox="464 480 919 508">Inspection of record without consent</p> <p data-bbox="464 521 1373 672">(12.1) Despite subsections (2) and (12), the Commissioner shall not inspect a record of, require evidence of, or inquire into personal health information without the consent of the individual to whom it relates except in the circumstances referred to in subsections (13) and (14.1).</p> <p data-bbox="464 712 1325 781">(2) Subsection 60 (13) of the Act is amended by striking out the portion before clause (a) and substituting the following:</p> <p data-bbox="464 821 726 849">Same, public interest</p> <p data-bbox="464 862 1400 971">(13) The Commissioner may inspect a record of, require evidence of, or inquire into personal health information without the consent of the individual to whom it relates if,</p> <p data-bbox="464 1011 1339 1039">(3) Section 60 of the Act is amended by adding the following subsection:</p> <p data-bbox="464 1079 1167 1107">Inspection of record without consent, abandoned records</p> <p data-bbox="464 1120 1392 1310">(14.1) The Commissioner may inspect a record of, require evidence of, or inquire into personal health information without the consent of the individual to whom it relates if the Commissioner determines or has reasonable grounds to suspect that the record of personal health information has been abandoned.</p>	



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<p>Bill 138 – Plan to Build Ontario Together Act, 2019</p> <p>Schedule 30</p>	<p>6 Clause 61 (1) (e) of the Act is repealed and the following substituted:</p> <p>(e) make an order directing any person whose activities the Commissioner reviewed to return, transfer or dispose of records of personal health information that the Commissioner determines the person collected, used or disclosed in contravention of this Act, its regulations, or an agreement entered into under this Act but only if the return, transfer or disposal of the records is not reasonably expected to adversely affect the provision of health care to an individual.</p>	<p>New power for IPC to order the return or transfer of records of personal health information that were improperly collected, used or disclosed (instead of just power to order disposal)</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>16 (1) Subsection 61 (1) of the Act is amended by adding the following clause:</p> <p>(f.1) make an order requiring a health information custodian or a class of health information custodians to cease providing personal health information to a consumer electronic service provider;</p> <p>(2) Subsection 61 (1) of the Act is amended by adding the following clause:</p> <p>(h.1) make an order in accordance with section 61.1 requiring any person whose activities the Commissioner reviewed to pay an administrative penalty in the amount set out in the order if the Commissioner is of the opinion that the person has contravened this Act or its regulations;</p>	<p>New powers for the IPC including ability to impose an administrative monetary penalty (AMP) for contravention of PHIPA or its regulations</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>17 The Act is amended by adding the following section:</p> <p>Administrative penalties</p> <p>61.1 (1) An order requiring a person to pay an administrative penalty may be issued under clause 61 (1) (h.1) for the purposes of,</p> <p>(a) encouraging compliance with this Act and its regulations; or</p>	<p>Purposes and amount of administrative penalties; two year limitation; contents of order; payment to Ministry of Finance</p>

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	<p>(b) preventing a person from deriving, directly or indirectly, any economic benefit as a result of a contravention of this Act or its regulations.</p> <p>Amount of administrative penalty</p> <p>(2) The amount of an administrative penalty for a contravention shall,</p> <p>(a) reflect the purposes referred to in subsection (1); and</p> <p>(b) be determined by the Commissioner in accordance with the regulations made under this Act.</p> <p>Two-year limitation</p> <p>(3) An order requiring a person to pay an administrative penalty shall not be issued under this section more than two years after the day the most recent contravention on which the order is based first came to the knowledge of the Commissioner.</p> <p>Content of order of administrative penalty</p> <p>(4) An order requiring a person to pay an administrative penalty shall,</p> <p>(a) contain or be accompanied by a description of the contravention; and</p> <p>(b) set out the amount of the penalty to be paid and specify the time and manner of the payment.</p> <p>Payment to Minister of Finance</p> <p>(5) A person who is required to pay an administrative penalty shall pay the penalty to the Minister of Finance.</p>	
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>18 Subsection 62 (1) of the Act is amended by striking out “to (h)” and substituting “to (h.1)”.</p>	<p>A person affected by an AMP may appeal the order to divisional court</p>



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<p data-bbox="201 240 432 350">Bill 188 - Economic and Fiscal Update Act, 2020</p> <p data-bbox="201 386 338 415">Schedule 6</p>	<p data-bbox="464 240 1350 269">19 Section 63 of the Act is amended by adding the following subsections:</p> <p data-bbox="464 305 569 334">Interest</p> <p data-bbox="464 345 1392 537">(2) Section 129 of the Courts of Justice Act applies in respect of an order requiring a person to pay an administrative penalty under clause 61 (1) (h.1) and, for the purpose, the date on which the order is filed under subsection (1) is deemed to be the date of the order that is referred to in section 129 of the Courts of Justice Act.</p> <p data-bbox="464 573 747 602">Debt due to the Crown</p> <p data-bbox="464 613 1402 773">(3) An administrative penalty imposed under clause 61 (1) (h.1) that is not paid in accordance with the terms of the order is a debt due to the Crown, and the Crown may recover the debt by action or by any other remedy or procedure available by law to the Crown for the collection of debts owed to the Crown.</p>	<p data-bbox="1430 240 1906 350">Provisions related to enforcement of an order of the IPC requiring the payment of an AMP</p>
<p data-bbox="201 813 432 924">Bill 188 - Economic and Fiscal Update Act, 2020</p> <p data-bbox="201 959 338 989">Schedule 6</p>	<p data-bbox="464 813 1339 881">20 (1) Clause 64 (3) (b) of the Act is amended by striking out “to (h)” and substituting “to (h.1)”.</p> <p data-bbox="464 917 1318 985">(2) Subsection 64 (4) of the Act is amended by striking out “to (h)” and substituting “to (h.1)”.</p>	
<p data-bbox="201 1032 432 1143">Bill 188 - Economic and Fiscal Update Act, 2020</p> <p data-bbox="201 1179 338 1208">Schedule 6</p>	<p data-bbox="464 1032 1136 1062">21 The Act is amended by adding the following section:</p> <p data-bbox="464 1097 747 1127">Enforcement measures</p> <p data-bbox="464 1138 1388 1330">65.1 The use of an enforcement measure provided for in this Act in respect of a contravention of this Act or its regulations does not prohibit the use, at the same time or different times, of any other enforcement measure or remedy provided for in this Act or otherwise available in law in respect of the same contravention.</p>	<p data-bbox="1430 1032 1906 1305">Clarification that the use of an enforcement measure provided for in the Act does not prohibit the use of any other enforcement measure or remedy – so for example, paying an AMP or fine under PHIPA does not insulate from a tort claim</p>



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<p data-bbox="205 240 432 350">Bill 188 - Economic and Fiscal Update Act, 2020</p> <p data-bbox="205 391 338 415">Schedule 6</p>	<p data-bbox="468 240 1136 264">22 The Act is amended by adding the following section:</p> <p data-bbox="468 305 674 329"><u>Production order</u></p> <p data-bbox="468 345 1402 621">71.1 (1) On application without notice by a provincial offences officer, a justice may issue a production order to a person, other than a person under investigation for an offence, requiring the person to,</p> <ul style="list-style-type: none"> <li data-bbox="468 467 1402 540">(a) produce documents or copies of documents, certified by affidavit to be true copies, or produce data; or <li data-bbox="468 557 1402 621">(b) prepare a document based on documents or data already in existence and produce it. <p data-bbox="468 662 684 686">Contents of order</p> <p data-bbox="468 703 1402 768">(2) A production order must stipulate when, where and how the documents or data are to be produced, and to whom they are to be produced.</p> <p data-bbox="468 808 573 833">Grounds</p> <p data-bbox="468 849 1371 914">(3) A justice may make a production order if satisfied by information given under oath or affirmation that there are reasonable grounds to believe that,</p> <ul style="list-style-type: none"> <li data-bbox="468 930 1192 954">(a) an offence under this Act has been or is being committed; <li data-bbox="468 971 1329 1036">(b) the document or data will provide evidence respecting the offence or suspected offence; and <li data-bbox="468 1052 1339 1117">(c) the person who is subject to the order has possession or control of the document or data. <p data-bbox="468 1157 600 1182">Conditions</p> <p data-bbox="468 1198 1314 1263">(4) A production order may contain any conditions the justice considers advisable.</p> <p data-bbox="468 1304 579 1328">Evidence</p> <p data-bbox="468 1344 1350 1377">(5) A copy of a document or data produced under this section, on proof by</p>	<p data-bbox="1434 240 1896 589">Justices can make production orders requiring persons (other than a person under investigation for an offence) to produce certain documents or data if satisfied that an offence under PHIPA has been or is being committed and that the document or data will provide evidence respecting the offence or suspected offence</p>



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	<p>affidavit that it is a true copy, is admissible in evidence in proceedings under this Act and has the same probative force as the original document or data would have if it had been proved in the ordinary way.</p> <p>No return of copies (6) Copies of documents or data produced under this section are not required to be returned to the person who provided them.</p> <p>Compliance required (7) A person to whom a production order is directed shall comply with the order according to its terms.</p> <p>Definitions (8) In this section, “justice” and “provincial offences officer” have the same meanings as in the <i>Provincial Offences Act</i>.</p>	
<p>Bill 138 – Plan to Build Ontario Together Act, 2019 Schedule 30</p>	<p>7 (1) Subsection 72 (1) of the Act is amended by adding the following clause:</p> <p>(b.1) wilfully contravenes section 11.2;</p>	<p>Makes it an offence under the Act to willfully re-identify an individual (unless you are the HIC or prescribed person or entity who de-identified)</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020 Schedule 6</p>	<p>23 Clauses 72 (2) (a) and (b) of the Act are repealed and the following substituted:</p> <p>(a) if the person is a natural person, to a fine of not more than \$200,000 or to a term of imprisonment of not more than 1 year, or to both; or</p> <p>(b) if the person is not a natural person, to a fine of not more than \$1,000,000.</p>	<p>The potential maximum penalty for offences under the Act are doubled to \$200,000 for a natural person and \$1,000,000 if the offender is not a natural person, as well as amended to provide for the possibility of imprisonment in the case of a natural person</p>



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<p>Bill 138 – Plan to Build Ontario Together Act, 2019</p> <p>Schedule 30</p>	<p>7 (2) Subsection 72 (5) of the Act is amended by adding “or his or her agent” at the end.</p>	<p>“Consent of Attorney General</p> <p>72 (5) A prosecution shall not be commenced under subsection (1) without the consent of the Attorney General <u>or his or her agent.</u>”</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>24 (1) Subsection 73 (1) of the Act is amended by adding the following clause:</p> <p>(l.1) prescribing circumstances in which a person who compiles or maintains a registry of personal health information referred to in clause 39 (1) (c) may use or disclose personal health information;</p>	
<p>Bill 188 - Economic and Fiscal Update Act, 2020</p> <p>Schedule 6</p>	<p>24 (2) Subsection 73 (1) of the Act is amended by adding the following clause:</p> <p>(m.1) governing the services provided by consumer electronic service providers within the meaning of section 54.1, including their collection, use and disclosure of personal health information, the use of those services by health information custodians as well as by individuals and the rights of those individuals with regard to the services;</p>	<p>Regulations may be made governing the services provided by consumer electronic service providers, including their collection, use and disclosure of personal health information, the use of those services by health information custodians as well as by individuals and the rights of those individuals with regard to the services.</p>
<p>Bill 138 – Plan to Build Ontario Together Act, 2019</p> <p>Schedule 30</p>	<p>8 (1) Subsection 73 (1) of the Act is amended by adding the following clauses:</p> <p>(n.2) prescribing under what circumstances the Agency may collect, use and disclose personal health information, the conditions that apply to the collection, use and disclosure of personal health information by the Agency and disclosures of personal health information that may be made by a health information custodian or other person to the Agency;</p>	<p>Regulations may be made:</p> <p>in relation to the role of Ontario Health</p> <p>for Ontario Health Teams’ collection, use and disclosure of personal health information</p>

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	<p>(n.3) prescribing, (i) under what circumstances a person or entity or group of persons or entities designated under subsection 29 (1) of the <i>Connecting Care Act, 2019</i> may collect, use and disclose personal health information, (ii) conditions that apply to the collection, use and disclosure of personal health information by a person, entity or group mentioned in subclause (i), and (iii) disclosures of personal health information that may be made by a health information custodian or other person to a person, entity or group mentioned in subclause (i);</p> <p>(n.4) providing for and governing powers, functions and responsibilities of the Agency for the purposes of this Act and the regulations;</p> <p>(n.5) respecting requirements with which a health information custodian is required to comply when selecting and using electronic means to collect, use, modify, disclose, retain or dispose of personal health information, including the process for setting, monitoring and enforcing such requirements;</p>	<p>providing for and governing powers, functions and responsibilities of Ontario Health for the purposes of PHIPA and its regulations</p> <p>setting out requirements for custodians when selecting and using electronic means to collect, use, modify, disclose, retain or dispose of personal health information, including the process for setting, monitoring and enforcing such requirements</p>
<p>Bill 188 - Economic and Fiscal Update Act, 2020 Schedule 6</p>	<p>24 (3) Subsection 73 (1) of the Act is amended by adding the following clauses:</p> <p>(o.1) governing administrative penalties imposed by the Commissioner under clause 61 (1) (h.1) and all matters necessary and incidental to the administration of a system of administrative penalties under this Act;</p> <p>(o.2) governing the de-identification of personal health information and the collection, use and disclosure of de-identified information by health information custodians and any other persons;</p>	<p>Regulations may be made:</p> <p>governing administrative penalties imposed by the IPC including specific amounts or that amounts be based on the type of contravention, the contravention history, or on whether the person is or is not a natural person (see also new s. 73(5) below); and</p> <p>governing de-identification of PHI</p>



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Bill 188 - Economic and Fiscal Update Act, 2020 Schedule 6	24 (4) Section 73 of the Act is amended by adding the following subsection: Regulations respecting administrative penalties (5) Without limiting the generality of clause (1) (o.1), regulations made under that clause may prescribe specific amounts of administrative penalties or provide that the amounts of administrative penalties be based on the type of the contravention in question, on the contravention history of the person required to pay the administrative penalty or on whether the person is or is not a natural person.	Regulations regarding AMPs can prescribe amounts, provide that amounts be based on the type of contravention, the contravention history of the person required to pay, or on whether the person is or is not a natural person



This tool is for general information purposes only and is not legal advice. There may be important details missing.

Kate Dewhirst loves privacy issues. She advises health care organizations across Ontario on anything to do with privacy. Privacy breach responses. Privacy policies. Team privacy training. Privacy Officer training. If it has to do with health privacy – she does it (and enjoys it!!). Kate’s mission is bringing the law to life. She takes legal theory and makes it understandable, accessible and fun. Kate uses storytelling to transform health care culture and make legal topics relevant and memorable. Email: kate@katedewhirst.com Sign up for newsletters: katedewhirst.com Join on Facebook: Kate Dewhirst Health Law

