

Quality-improvement Information Protection Act

CHAPTER 8 OF THE ACTS OF 2015



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**An Act to Protect Health-care Information
to Promote Quality Improvement**

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(The table of contents is not part of the statute)

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Short title

1 This Act may be cited as the *Quality-improvement Information Protection Act*. 2015, c. 8, s. 1.

Interpretation

2 In this Act,

(a) “de-identified information” means quality-improvement information from which is removed all information that

(i) may identify

(A) an individual,

(B) a health authority,

(C) a specific site in a health authority where health services are provided, or

(D) an entity referred to in clause 3(1)(c), or

(ii) where it is reasonably foreseeable in the circumstances, could be utilized either alone or with other information, to identify an individual, a health authority, a site or an entity described in subclause (i);

(b) “health authority” means a health authority as defined in the *Health Authorities Act*;

(c) “health services” means health services as defined in the *Health Authorities Act*;

(d) “legal proceeding” means any civil proceeding, inquiry, proceeding before any tribunal, board, commission, disciplinary committee of a health authority or a regulated health-profession body or arbitration, in which evidence is or may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of an enactment;

(e) “Minister” means the Minister of Health and Wellness;

(f) “personal health information” means personal health information as defined in the *Personal Health Information Act*;

(g) “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*, and includes any information related to an individual’s role within the Department of Health and Wellness, a health authority or an entity referred to in clause 3(1)(c);

(h) “quality-improvement activity” means an activity of a quality-improvement committee or any other activity that is part of a program or plan

(i) approved by a health authority, the Minister or an entity referred to in clause 3(1)(c), and

(ii) implemented for the purpose of assessing, investigating, evaluating or making recommendations respecting the provision of health services by a health authority, the Minister or an entity referred to in clause 3(1)(c),

with a view to maintaining or improving the quality of health services;

(i) “quality-improvement committee” means a committee established or designated under Section 3 to carry out quality-improvement activities;

(j) “quality-improvement information” means information in any form that is communicated for the purpose of, or created in the course of, carrying out a quality-improvement activity, but does not include

(i) information contained in a record, including a health record, that is maintained for the purpose of providing and documenting health services to an individual,

(ii) the fact that a quality-improvement committee met or conducted a quality-improvement activity,

(iii) information disclosed to a person, or in the event of the person’s incapacity, to the person’s substitute decision-maker, regarding any quality-related event in which the person is directly affected,

(iv) the terms of reference of a quality-improvement committee, or

(v) an accreditation report issued by Accreditation Canada;

(k) “witness” includes every person who, in the course of a legal proceeding, is examined for discovery, is cross-examined upon an affidavit

made by that person, answers any interrogatories, makes an affidavit as to documents or is called upon to answer any question or produce any document, whether under oath or not. 2015, c. 8, s. 2.

Quality-improvement committees

3 (1) A quality-improvement committee may be established or designated by

- (a) a health authority;
- (b) the Minister; or
- (c) an entity prescribed by the regulations,

with terms of reference and membership as mandated by the person or entity creating the committee to carry out quality-improvement activities.

(2) The Minister may delegate to any person the Minister's authority to establish or designate a quality-improvement committee.

(3) A health authority or an entity referred to in clause (1)(c) may delegate to any officer, employee or member of the medical staff of the health authority or of the entity, as the case may be, the authority to establish or designate a quality-improvement committee. 2015, c. 8, s. 3.

Provision of quality-improvement information

4 The Minister may direct a quality-improvement committee to provide to the Minister such quality-improvement information that does not include personal health information or personal information and recommendations that do not include personal health information or personal information, as the Minister directs, in any form the Minister directs, for the purposes only of planning and managing the health system or conducting Province-wide quality-improvement activities. 2015, c. 8, s. 4.

Disclosure of quality-improvement information

5 (1) The *Freedom of Information and Protection of Privacy Act* does not apply to quality-improvement information.

(2) Notwithstanding any enactment, including the *Personal Health Information Act*, a person may disclose any information, including personal information and personal health information, to a quality-improvement committee for the purpose of a quality-improvement activity.

(3) Notwithstanding the *Personal Health Information Act*, no person may disclose or access quality-improvement information except as permitted under this Act, regardless of whether it includes the personal health information of the individual. 2015, c. 8, s. 5.

Disclosure of aggregated de-identified information and recommendations

6 The Minister, a health authority or an entity referred to in clause 3(1)(c) may disclose aggregated de-identified information and any resulting health-services system recommendations that do not include personal health information or personal information. 2015, c. 8, s. 6.

Disclosure for purpose of improving quality of health services

7 Nothing in this Act prohibits or prevents the disclosure of

- (a) quality-improvement information that does not include personal health information or personal information; or
- (b) recommendations, that do not include personal health information or personal information, that result from the quality-improvement activities of a health authority, the Minister or an entity referred to in clause 3(1)(c),

within a quality and patient-safety oversight structure if such disclosure is made for the purpose of improving the quality of health services and patient safety or implementing such recommendations or both. 2015, c. 8, s. 7.

No dismissal for permitted disclosure

8 No person may dismiss, suspend, demote, discipline, harass or otherwise disadvantage another person for disclosing information pursuant to subsection 5(2). 2015, c. 8, s. 8.

Quality-improvement information not admissible

9 (1) No person may ask a witness and no court or other body holding a legal proceeding may permit or require a witness in the proceeding to disclose quality-improvement information.

(2) Quality-improvement information is not admissible in evidence in a legal proceeding. 2015, c. 8, s. 9.

Offence and penalty

10 (1) A person who contravenes subsection 5(3) or Section 8 is guilty of an offence and liable on summary conviction

(a) to a fine of not more than \$10,000 or to imprisonment for six months, or to both a fine and imprisonment, if the person is an individual; or

(b) to a fine of not more than \$50,000 if the person is a corporation.

(2) Where a corporation contravenes this Act or the regulations, a director, officer or agent of the corporation who authorized, permitted or acquiesced in the contravention is also guilty of an offence and liable on summary conviction to the penalties set out in clause (1)(a), whether or not the corporation has been prosecuted or convicted. 2015, c. 8, s. 10.

No action lies

11 No action or other proceeding lies, and an action or other proceeding must not be instituted, against a person who in good faith discloses information to a quality-improvement committee at the request of the committee or for the purpose of assisting the committee to carry out its function. 2015, c. 8, s. 11.

Regulations

- 12** (1) The Governor in Council may make regulations
- (a) prescribing an entity that may establish or designate a quality-improvement committee for the purpose of clause 3(1)(c);
 - (b) defining any word or expression used but not defined in this Act;
 - (c) further defining any word or expression defined in this Act;
 - (d) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2015, c. 8, s. 12.

Evidence Act amended

13 *amendment*

Freedom of Information and Protection of Privacy Act amended

14 *amendment*
