

**INSTRUCTIONS FOR APPLICATION FOR MINISTER'S ORDER UNDER S. 3(8) OF  
THE  
PERSONAL HEALTH INFORMATION PROTECTION ACT, 2004**

*Subsection 3(8) of the Personal Health Information Protection Act, 2004 provides that the Minister of Health and Long-Term Care may make an order permitting one or more applicants under subsection 3(7) to act as a single health information custodian with respect to the facilities, powers, duties or work that the Minister specifies, if the Minister is of the opinion that it is appropriate to make the order in the circumstances, having regard to the matters set out in s. 3(8). The main relevant provisions are attached. Please read them carefully before preparing your application.*

***Applicant Information***

Please provide full legal name of all health information custodians who are applying for this order. Each applicant must also provide:

- principal business address
- mailing address if different
- full details who the applicant is employed or retained by, if applicable
- the functions that the applicant performs that would be subject to the order, and any such functions that should not be included in the order
- signature(s) of authorized signing officer(s) endorsing the application and certifying that they are authorized to bind the applicable applicant

Please indicate which applicant(s) acts as the primary contact for this application. Be sure to provide the name of the responsible person with full contact information (including telephone and fax numbers and email address) for each such applicant.

***Application type***

Indicate which of the following types of application you are making:

1. Application by one health information custodian that operates more than one facility described in one of the subparagraphs of paragraph 4 of the definition of "health information custodian" in subsection (1) and wishes to be permitted to act as one custodian with respect to two or more of those facilities.
2. Application by Multiple health information custodians who wish to be permitted to act as one custodian.

**Please provide the following information for all applications:**

Note: The Minister reserves the right to request further information to assess the appropriateness of the proposed order.

- Description of the facilities, powers, duties, or work in respect of which an order of the Minister is sought. (Include address of all facilities)
- Explanation of why the applicant(s) believe that the Minister making the order would be in the public interest. (Please explain what consequences may follow if an order is not made, and please provide details as to what alternatives exist to making such an order.)
- Description of how applicant(s) would be able to provide individuals with reasonable access to their records of personal health information if permitted to act as a single health information custodian as proposed by the applicant.
- Explanation of how an order would enhance the ability of the applicant(s) to effectively provide integrated health care.
- Explanation of how an order would affect the applicant(s)' ability to comply with the Act.
- Description of any measures or safeguards that the applicant(s) proposes to take in order to ensure that the purposes of the Act, and the applicant(s) ability to comply with the Act, are not impeded by the requested order to act as a single HIC.
- Description of any terms to which the order may or should be subject.
- Any custodian or group of custodians in a comparable situation to the applicant that the Minister should consider in extending the order, through subsection 3(9), taking into consideration the requirements set out in that subsection.
- In an application by multiple custodians, the application must indicate who proposes to take responsibility for the single custodian permitted under the order, i.e. which one of the applicants takes over the responsibility and how that person will be able to discharge that responsibility, and:
- In an application by multiple custodians who are health care practitioners as defined in the Act, why they are not organized as a group practice under paragraph 3(1)[3] of the Act.

The information you provide in an application described above is being collected so that the Minister of Health and Long-Term Care may determine, pursuant to subsection 3 (8) of the *Personal Health Information Protection Act, 2004*, on the initial and ongoing appropriateness of an order under this provision, and for the administration of that Act by the Ministry and by the Information and Privacy Commission. An order issued under s. 3(8) will contain the legal name of the applicants, the applicant's business and/or mailing address, the functions that the applicants perform that are subject to the order, and any other information provided by an applicant that may be relevant to the order. An order, once issued, will become public information. If you have any questions about the collection of this information, you can contact Carol Appathurai, Acting Director, Health Information Privacy and Sciences Branch, Ministry of Health and Long Term Care at (416) 327-2299.

***Where to send your application***

After ensuring that your application includes all the items set out above, please send it to:

Ms. Carol Appathurai  
Acting Director, Health Information Privacy and Sciences Branch  
Ministry of Health and Long Term Care  
56 Wellesley St. West, 15<sup>th</sup> Floor  
Toronto, Ontario  
M5S 2S3

Excerpt from *Personal Health Information Protection Act, 2004*

**Health information custodian**

3. (1) In this Act,

"health information custodian", subject to subsections (3) to (11), means a person or organization described in one of the following paragraphs who has custody or control of personal health information as a result of or in connection with performing the person's or organization's powers or duties or the work described in the paragraph, if any:

1. A health care practitioner or a person who operates a group practice of health care practitioners.
2. A service provider within the meaning of the *Long-Term Care Act, 1994* who provides a community service to which that Act applies.
3. A community care access corporation within the meaning of the *Community Care Access Corporations Act, 2001*.
4. A person who operates one of the following facilities, programs or services:
  - i. A hospital within the meaning of the *Public Hospitals Act*, a private hospital within the meaning of the *Private Hospitals Act*, a psychiatric facility within the meaning of the *Mental Health Act*, an institution within the meaning of the *Mental Hospitals Act* or an independent health facility within the meaning of the *Independent Health Facilities Act*.
  - ii. An approved charitable home for the aged within the meaning of the *Charitable Institutions Act*, a placement co-ordinator described in subsection 9.6 (2) of that Act, a home or joint home within the meaning of the *Homes for the Aged and Rest Homes Act*, a placement co-ordinator described in subsection 18 (2) of that Act, a nursing home within the meaning of the *Nursing Homes Act*, a placement co-ordinator described in subsection 20.1 (2) of that Act or a care home within the meaning of the *Tenant Protection Act, 1997*.
  - iii. A pharmacy within the meaning of Part VI of the *Drug and Pharmacies Regulation Act*.
  - iv. A laboratory or a specimen collection centre as defined in section 5 of the *Laboratory and Specimen Collection Centre Licensing Act*.
  - v. An ambulance service within the meaning of the *Ambulance Act*.
  - vi. A home for special care within the meaning of the *Homes for Special Care Act*.
  - vii. A centre, program or service for community health or mental health whose primary purpose is the provision of health care.
5. An evaluator within the meaning of the *Health Care Consent Act, 1996* or an assessor within the meaning of the *Substitute Decisions Act, 1992*.
6. A medical officer of health or a board of health within the meaning of the *Health Protection and Promotion Act*.
7. The Minister, together with the Ministry of the Minister if the context so requires.
8. Any other person prescribed as a health information custodian if the person has custody or control of personal health information as a result of or in connection with performing prescribed powers, duties or work or any prescribed class of such persons.

...

**Exceptions**

(3) Except as is prescribed, a person described in any of the following paragraphs is not a health information custodian in respect of personal health information that the person collects, uses or discloses while performing the person's powers or duties or the work described in the paragraph, if any:

1. A person described in paragraph 1, 2 or 5 of the definition of "health information custodian" in subsection (1) who is an agent of a health information custodian.
2. A person who is authorized to act for or on behalf of a person that is not a health information custodian, if the scope of duties of the authorized person does not include the provision of health care.
3. The Minister when acting on behalf of an institution within the meaning of the *Freedom of Information and Protection of Privacy Act* or the *Municipal Freedom of Information and Protection of Privacy Act* that is not a health information custodian.

...

#### **Application to act as one custodian**

(7) A health information custodian that operates more than one facility described in one of the subparagraphs of paragraph 4 of the definition of "health information custodian" in subsection (1) or two or more health information custodians may apply to the Minister, in a form approved by the Minister, for an order described in subsection (8).

#### **Minister's order**

(8) Upon receiving an application described in subsection (7), the Minister may make an order permitting all or some of the applicants to act as a single health information custodian on behalf of those facilities, powers, duties or work that the Minister specifies, subject to the terms that the Minister considers appropriate and specifies in the order, if the Minister is of the opinion that it is appropriate to make the order in the circumstances, having regard to,

- (a) the public interest;
- (b) the ability of the applicants to provide individuals with reasonable access to their personal health information;
- (c) the ability of the applicants to comply with the requirements of this Act; and
- (d) whether permitting the applicants to act as a single health information custodian is necessary to enable them to effectively provide integrated health care.

#### **Scope of order**

(9) In an order made under subsection (8), the Minister may order that any class of health information custodians that the Minister considers to be situated similarly to the applicants is permitted to act as a single health information custodian, subject to the terms that the Minister considers appropriate and specifies in the order, if the Minister is of the opinion that it is appropriate to so order, having regard to,

- (a) the public interest;
- (b) the ability of the custodians that are subject to the order made under this subsection to provide individuals with reasonable access to their personal health information;
- (c) the ability of the custodians that are subject to the order made under this subsection to comply with the requirements of this Act; and
- (d) whether permitting the custodians that are subject to the order made under this subsection to act as a single health information custodian is necessary to enable them to effectively provide integrated health care.

#### **No hearing required**

(10) The Minister is not required to hold a hearing or to afford to any person an opportunity for a hearing before making an order under subsection (8).