

PCISA means *The Protecting Children (Information Sharing) Act* S.M. 2016, c. 17.

FIPPA means *The Freedom of Information and Protection of Privacy Act* C.C.S.M. c. F175

PHIA means *The Personal Health Information Act* C.C.S.M. c. P33.5.

Do I need to use the PCISA Information Request Form if I have received consent from the client to share information?

There is no legal obligation for the use of this form. However, many Service Providers and Trustees will require by organizational policy that requests under the PCISA to be submitted using the form, as, when it is filled out and signed, it will contain all the information that they need to efficiently and accurately process and document requests.

What obligations are there for a Service Provider or a Trustee in regards to the use, disclosure, security, retention and destruction of information it has received under the PCISA?

Many Service Providers are public bodies and/or Trustees that are limited by FIPPA and/or PHIA in how they may use and disclose information they have collected.

When information is disclosed under the PCISA to a Service Provider who is neither a public body under FIPPA nor a Trustee under PHIA, the PCISA prohibits that Service Provider from further disclosing that information to any other third party except where the disclosure is authorized by the PCISA.

Lastly, the Regulation requires that a Service Provider who obtains or creates a record containing information disclosed to the Service Provider under the PCISA must:

- protect the information by making reasonable security arrangements against such risks as unauthorized access, use, disclosure or destruction, and
- when the record is no longer required, destroy it in a manner that protects the privacy of the individual the information is about.

What if there are concerns regarding the type and amount of information that is being requested?

Where a Service Provider or a Trustee receives a PCISA Information Request Form and has concerns about the type and amount of information that is being requested, they are encouraged to contact directly the individual making the request to discuss their concerns. As the PCISA authorizes but does not require disclosures, Service Providers that are seeking the disclosure of information in order to provide or plan for the provision of services or benefits to supported children need to keep in mind that they may need to explain why they need the information that they are requesting. This may require disclosing Personal Information or Personal Health Information about the subject of the request to the Service Provider or Trustee that holds the information being requested. Such disclosures are authorized by section 3(1) of the PCISA.

What should be done with the form after the request has been fully processed?

Once the information request has been processed, subject to any relevant organization policies, the form should be retained in the subject individual's record as it may be subject to access and disclosure requirements of FIPPA and/or PHIA. Additionally, the form, when complete, will contain useful information that can help disclosing organizations document the disclosure.

What if an emergent situation arises where Personal Information or Personal Health Information is required immediately, but sending or receiving the form is not possible or is not expedient?

If there is a risk of harm to the health or safety of a minor, or if there is a serious and immediate threat to the health or safety of an adult individual, the public health or public safety, then this information sharing protocol should not be relied on to obtain information related to the risk or threat. Authorization for the disclosure of information that may prevent or lessen such a risk or threat may be found in other legislation, including but not limited to PHIA and *The Public Health Act*.

The PCISA Information Request Form should only be used when information is required to provide or plan for the provision of services or benefits to Supported Children in non-emergency situations only.

Is there any obligation to keep those requesting information “up to date” on subject individuals?

Generally speaking, once a Service Provider or Trustee has disclosed information to a third party in response to a request made under the PCISA, that request will be considered closed. Any subsequent requests for updated or additional information should be submitted by the requestor on a new form, separate from any previous requests.

An exception to this may be when a trustee is required by section 12(5) of PHIA to notify a trustee or person to whom Personal Health Information has been disclosed about a correction to the Personal Health Information, or about a statement of disagreement regarding the Personal Health Information.

Can the form be sent to a private health service provider, such as a private medical clinic?

Fee-for-service health care providers, such as physicians in private medical clinics, do fall into the definition of Service Provider, and as such are authorized to make disclosures under the PCISA. However, because of the high number of private health service providers in the province, it cannot be guaranteed that all will be familiar with this form or the PCISA. Service Providers that are seeking Personal Health Information maintained by such providers should be prepared to communicate directly with the provider to address any concerns that they may have regarding any request.

What happens if a Service Provider or Trustee refuses to provide information requested under the PCISA?

The PCISA authorizes Service Providers and Trustees to disclose information requested by another Service Provider for the purpose of providing or planning the provision of services or benefits to a Supported Child, but does not require such disclosures. If a request for the disclosure of Personal Information or Personal Health Information under the PCISA is refused by the Service Provider or Trustee receiving the request, the person submitting the request is encouraged to contact the person refusing the request directly to discuss the request. The Service Provider making the request should be prepared to share any relevant information about the subject individual that they may have to clarify or justify their need for the information.

There is no formal mechanism to appeal any decision to refuse to provide information requested under the PCISA.

Service Providers need to be aware that the PCISA does not authorize the disclosure of information where the disclosure is explicitly prohibited by another law, including *The Child and Family Services Act* (Manitoba) the *Youth Criminal Justice Act* (Canada).

What if the information provided in response to a request under the PCISA by a Service Provider or Trustee is confusing or cannot be understood (e.g. medical terms, test results without context, etc.)?

If any part of the information that is provided cannot be understood, the Service Provider or Trustee who provided the information should be contacted to clarify the information.

Can this form be used to request the disclosure of Personal Health Information from a psychiatric facility?

Personal health information maintained by a designated psychiatric facility falls under *The Mental Health Act* (MHA). The MHA is more restrictive than FIPPA and PHIA in that it does not authorize the disclosure of information where the disclosure is authorized by another act of Manitoba or Canada, such as the PCISA. However, the MHA does authorize the disclosure of information without the consent of the individual the information is about in other circumstances, so it would be advisable to contact the facility directly to discuss if any would apply.

Does the PCISA pertain to all children residing both off and on reserve?

PCISA pertains to all children residing in Manitoba if they are receiving or entitled to receive services by or on behalf of the Government of Manitoba. If a child lives on reserve and receiving provincial government services it is pertinent. If a child lives on reserve and is receiving federally funded services, it is not pertinent. If unsure whether the services provided are by the provincial or federal government, contact your manager for assistance.

How do we differentiate between requests related to Child & Family Services investigations and guardianship and requests related to information sharing to assist with the provision of services?

There is a separate process for Child and Family Services investigations related to guardianship under the Child & Family Services Act. The requests related to PCISA are pertinent when Child & Family Services are already a service provider and are requesting information to assist in the provision of services.

If a request is for information related to the parent or Guardian of a Supported Child how do I know what information may be pertinent to the provision of programs and services of the Supported Child?

Discretion will be needed to determine pertinent information. A service provider may share information about the parent or Guardian of a Support Child, if the Service Provider reasonably believes it to be in the Supported Child's best interest.

What if a complaint is received from the parent or Guardian of a Supported Child regarding the information sharing?

The Service Provider should make every attempt to discuss the sharing of information allowed under PCISA. If the individual still has concerns about the sharing of the information then they should be advised of their right to contact the Manitoba Ombudsman at toll free 1-800-665-0531.