



## Information Sharing using the Privacy Acts (PHIA & FIPPA) and The Child and Family Services Act

This Fact Sheet aims to provide clear guidelines for information sharing between collateral service providers and child and family service (CFS) staff for the purposes of protecting children and providing coordinated services to families.

### **1. What are PHIA and FIPPA?**

*The Personal Health Information Act (PHIA)* applies to any professional who is a **trustee** of personal health information. Any information collected in the course of providing health care services to an individual is considered personal health information. Personal health information must be kept confidential. **An exception however, is where another provincial Act, such as *The Child and Family Services Act* requires the sharing of information in the best interests of children.**

*The Freedom of Information and Protection of Privacy Act (FIPPA)* protects personal information collected by an organization. ***The Child and Family Services Act* supercedes FIPPA if the information is required in the best interests of children.**

### **2. When must Personal Information be disclosed to a Child and Family Service Agency by a Collateral Service Provider?**

Despite any other Act within which a professional may practice, *The Child and Family Services Act* sets out an obligation to report a child who is or might be in need of protection (ex: mandatory reporting of child abuse, minor parents) to a child and family service agency. This duty to report applies even when the information is collected during a professional or confidential relationship, such as any health provider/patient relationship. **PHIA and FIPPA do not in any way prohibit the sharing of confidential information during a child protection investigation.**

### **3. What is the Process for reporting Child Protection Concerns?**

***It is the responsibility of any professional or individual to report any situation where he/she reasonably believes a child might be or is in need of protection. The professional should contact the Designated Intake Child and Family Service Agency in their region, the CFS worker providing ongoing service on an open case, or call the toll free number 1-866-345-9241.***

### **4. When can Information be shared between Collateral Service Providers and CFS staff?**

- **During a child protection investigation** - *The CFS Act* supercedes PHIA and FIPPA and allows for the ongoing sharing of information during a child protection investigation. When the CFS worker requires such information he/she must inform the external collateral organization that the information is required for investigation purposes.
- **Coordinated services** – *The CFS Act* allows for information sharing between a CFS worker and an external collateral(s) as part of an ongoing coordinated case plan developed

between professionals involved with an child/family. Best practice dictates that client consent should be obtained to allow CFS workers and collateral organizations to share information, however, consents are not mandatory in protection cases if it is required “in the best interests” of the child.

#### **5. Can Information be shared when there is an open CFS Voluntary Family Service Case?**

A CFS worker can share no information with external collaterals regarding a case with a voluntary designation without signed family consents.

#### **APPENDICES:**

**CFS Act** – Section 18(1) states:

18(1) Subject to subsection (1.1), where a person has information that leads the person reasonably to believe that a child is or might be in need of protection as provided in section 17, the person shall forthwith report the information to an agency or to a parent or guardian of the child.

**NOTE:** Exception: Where that person reasonably believes that the parent/guardian of the child is responsible for causing the child to be in need of protection, or may not be in a position to protect the child, the person must report directly to an agency.

**CFS Act** – Section 76(3)(g) states:

76(3)(g) Subject to this section, a record made under this Act is confidential and no person shall disclose or communicate information from the record in any form to any person except

(g) where a disclosure or communication is required for purposes of this Act;

**CFS Act and FIPPA** – Section 86.1 Conflict with *The Freedom of Information and Protection of Privacy Act* (FIPPA) states:

86 If a provision of this Act is inconsistent or in conflict with a provision of *The Freedom of Information and Protection of Privacy Act*, the provision of this Act prevails.

**CFS Act and PHIA** – PHIA permits the collection and sharing of personal health information under Subsections 14(2)(e) and 22(2)(o) which permit information flow where another Act (CFS Act) authorizes or requires it:

14(2)(e) another method of collection is authorized or required by a court order or an enactment of Manitoba or Canada.

22(2)(o) authorized or required by an enactment of Manitoba or Canada.

For further information you can visit the following websites:

[www.gov.mb.ca/fs/childfam/index.html](http://www.gov.mb.ca/fs/childfam/index.html) and click on 'Protecting Children from

Abuse or Neglect

[www.pacca.mb.ca/publications.html/#revised](http://www.pacca.mb.ca/publications.html/#revised) and click on Child Protection and Child Abuse Manuals.