4. PRIVACY INFORMATION

4.1. Privacy and Confidentiality

4.1.1. Policy Statement

Under the authority of the Newfoundland and Labrador *Pharmaceutical Services Act*, the Program may collect, use and disclose both "Personal Health Information" as defined by the Newfoundland and Labrador *Personal Health Information Act* ("PHIA") and "Personal Information" as defined by the Newfoundland and Labrador *Access to Information and Protection of Privacy Act* ("ATIPPA").

Where the Program discloses information to a Provider in the administration of services, the Provider must protect information received in accordance with applicable federal and provincial laws. Laws having application to the activities of a Provider may include, but are not limited to, PHIA, ATIPPA and the *Personal Information Protection and Electronic Documents Act* ("PIPEDA").

It is a Provider's responsibility to comply with obligations arising under applicable federal and provincial laws. Failure on the part of a Provider to meet these obligations will be viewed seriously by the Program and may be subject to corrective action by the Program.

4.1.2. Collection, Use, and Disclosure

Generally

4.1.2.1. Pharmaceutical Services Act

In the administration of the Program, the Program may collect, use and disclose Information in accordance with section 4 of the *Pharmaceutical Services Act*. The Program may, from time to time, collect information from and/or disclose information to Beneficiaries, Prescribers, Providers, Service Providers, and/or others, as permitted or required by law.

4.1.2.2. Personal Health Information Act (PHIA)

PHIA establishes rules for the collection, use and disclosure of Personal Health Information. "Personal Health Information" is defined in PHIA. The rules established by PHIA protect the confidentiality of personal health information and the privacy of individuals with respect to their personal health information.

PHIA applies to all activities undertaken by Department of Health and Community Services, including the activities of the

Pharmaceutical Services Division, where the Department collects, uses and discloses personal health information.

The Program may collect, use and disclose information in accordance with the *Pharmaceutical Services Act*, except where a provision of the *Pharmaceutical Services Act* conflicts with PHIA. Where there is a conflict between the *Pharmaceutical Services Act* and PHIA in respect of the collection, use or disclosure of personal health information, PHIA will prevail.

4.1.2.3. The Access to Information and Protection of Privacy Act

ATIPPA establishes rules for the collection, use and disclosure of personal information. "Personal information" is defined in ATIPPA. The rules established by ATIPPA protect the confidentiality of personal information and the privacy of individuals with respect to their information.

ATIPPA applies to all activities undertaken by Department of Health and Community Services, including the activities of the Pharmaceutical Services Division, where the Department collects, uses and discloses personal information, as defined by ATIPPA.

The Program may collect, use and disclose information in accordance with the *Pharmaceutical Services Act*, except where a provision of the *Pharmaceutical Services Act* conflicts with ATIPPA. Where there is a conflict between the *Pharmaceutical Services Act* and ATIPPA in respect of the collection, use or disclosure of personal information, ATIPPA will prevail.

4.1.2.4. Examples – Collection, Use and Disclosure of Information

The following are examples of collections, uses and disclosures of information permitted in the administration of the Program:

Collection

- Obtaining information in-person or by telephone, via electronic means or by regular mail;
- Obtaining information through interviews and/or written communications from Beneficiaries and Prescribers to confirm aspects of claims billed to the Program;

- Obtaining information for audit purposes and general Program administration such as photocopies and electronic scans of documents;
- Obtaining anonymised data for research or other authorized purposes.

Use

- Performing drug utilization reviews;
- Conducting quality assurance audits;
- Placing Provider Restrictions on Beneficiaries suspected of drug abuse/misuse or double doctoring.

Disclosure

- Providing Beneficiary and/or claim information to authorized third party recipients in-person or by electronic means, verbally or by regular mail;

4.1.2.5. Limitation of Collection, Use and Disclosure

The Program will only collect, use and disclose the minimum amount of information necessary to fulfill its operational requirements.

4.1.2.6. Disclosure of De-Identified Information

The Program may disclose de-identified information as necessary for purposes including responding to written requests from federal, provincial, or municipal officials.

4.1.2.7. Authorized Representative

An Authorized Representative is any individual who has written authority from a Beneficiary of the Program to act on his/her behalf and to access information held by the Program about him/her.

A consent form must be completed and returned to a representative of the Program in order to be designated as an Authorized Representative.

A copy of the consent form used to designate an Authorized Representative can be found in Appendix A, or at the following web address:

http://www.health.gov.nl.ca/health/prescription/NLPDP_consent_form.pdf

Copies of written authorizations will be maintained by the Program. Consent directives will remain in effect until the Beneficiary, Authorized Representative or other authorized entity informs the Program otherwise in writing.

4.1.2.8. Substitute Decision Maker

Where a Beneficiary requires the administration of health care but lacks the competency to make a health care decision and has not, while he or she was competent, appointed a Substitute Decision Maker, or a guardian has not been appointed for the purpose by a court, or a person has been appointed but is unable or refuses to act, the first named person or a member of the category of persons on the list under section 10(1) of the *Advanced Health Care Directives Act* may, if he or she is at least 19 years of age, act as a Substitute Decision Maker.

Section 10(1) of the *Advanced Health Care Directives Act* allows a substitute decision maker (in the following order) to be the Beneficiary's:

- spouse,
- children,
- parents,
- siblings,
- grandchildren,
- grandparents,
- uncles and aunts,
- nephews or nieces,
- another relative of the person, and
- health care professional who is responsible for the proposed health care.

4.1.3. Requirements of the Program

The Program will not make a record of information, or part of it, available to an individual under this policy without first taking reasonable steps to be satisfied as to the individual's identity.

The Program will only disclose the minimum amount of information necessary to respond to an inquiry.

When requesting information from the Program regarding the status of Special Authorization requests, billing, eligibility, etc., a Provider must provide the Program with a Beneficiary's:

- Program card number
- Complete name
- Address
- Date of birth

Policy Amendment History

	Effective Date
Original Policy	November 30, 2011
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