Office of the Information and
Privacy Commissioner of Alberta

PRIVACY IMPACT ASSESSMENT (PIA) SUBMISSION ASSESSMENT TOOL

Sections 46(1)(b), 46(5)(a), 56.3 (3)(b), 64, 70(2) and 70(3) of the Health Information Act; Section 26(1) of the Protection of Privacy Act and Sections 7(1) and 7(5) of the Protection of Privacy (Ministerial) Regulation.

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Introduction

This tool is designed to assist custodians as defined under the *Health Information Act* (HIA) and public bodies as defined under the *Access to Information Act* (ATIA) and *Protection of Privacy Act* (POPA) in **assessing whether they are required** to complete and submit Privacy Impact Assessments (PIAs) to the Commissioner.

Pursuant to section 64 of HIA, custodians are required to complete a PIA and submit to the Commissioner for review and comment prior to implementing administrative practices or information systems or changes to administrative practices or information systems that collect, use or disclose identifying health information. In addition, there are other specific circumstances where certain larger custodians must submit a PIA to the Commissioner, pursuant to sections 46(1)(b) and 46(5)(a), 56.3 (3)(b), and 70(2) and (3) of HIA.

Pursuant to section 26(1) of POPA, a public body must prepare a PIA in prescribed circumstances and, if required by the regulations (sections 7(1) and 7(5) of the Protection of Privacy (Ministerial) Regulation), submit it to the Commissioner in accordance with the regulations.

Organizations subject to the *Personal Information Protection Act* (PIPA) are **not required** to complete a PIA. However, the Office of the Information and Privacy Commissioner (OIPC) encourages organizations to complete and submit PIAs to the OIPC prior to implementing projects[1] that involve the collection, use or disclosure personal information.

Conducting a PIA prior to implementing a project that collects, uses or discloses identifying information assists an entity to identify and address potential privacy and security risks that may occur in the project.

Complete the PIA Submission Assessment Tool to assist you in determining if you need to complete a PIA and if you are required to submit a PIA to the OIPC.

For each question, click on the box (☐) to check or uncheck the box.

If at any stage of the assessment you are unsure on how to proceed or have questions, please contact the OIPC at **780-422-6860 or 1-888-878-4044 (toll free) or by email at generalinfo@oipc.ab.ca**.

Custodians and Public bodies are not required to submit a copy of this assessment to the Commissioner upon completion.

[1] The term "**project**", when used in this document means any administrative practice, information system, program or service, or a change to any existing administrative practice, information system, program or service a custodian, public body or organization plans to implement that will involve the collection, use or disclosure of personal or identifying health information. For public bodies, it also means any of the activities undertaken by a public body under section 7(5)(a) to (e) of the POPA Ministerial Regulation.

Section A – General Information

1. Are you a Public Body under the *Access to Information Act* (ATIA) and Protection of Privacy Act (POPA), custodian under the *Health Information Act* (HIA), or Organization under *Personal Information Protection Act* (PIPA)?

Public bodies include a department, branch or office of the Government of Alberta; an agency, board, commission, corporation, office or other body designated as a public body in the regulations; the Executive Council Office; the office of a member of the Executive Council; the Legislative Assembly Office, the office of the Auditor General, the Ombudsman, the Chief Electoral Officer, the Ethics Commissioner, the Information and Privacy Commissioner, the Child and Youth Advocate or the Public Interest Commissioner; or a local public body pursuant to section 1(n) of the ATIA.

Examples of custodians include regulated health professionals, provincial health services agencies, Alberta Health, and the Department of Mental Health and Addictions. Custodians designated under sections 2(1) and 2(2) of the Health Information Regulation include physicians, chiropractors, optometrists, opticians, midwives, pharmacists, dentists, physicians, registered nurses, Mental Health Patient Advocate and Health Advocate.

Examples of organizations include a corporation, an individual acting in a corporate capacity and an unincorporated association.

Select the option that applies.

☐ Public body, as defined by section 1(t) of ATIA and section 1(u) of POPA (proceed to **Section B**)
☐ Custodian, as defined by section 1(1)(f) of HIA (proceed to **Section C**)
☐ Organization, as defined by section 1(1)(i) of PIPA (see the note below)
☐ Unsure (**STOP** – *you may contact the OIPC if you have questions*)

If you checked Organization, you are not required under PIPA to complete a PIA; however, the Commissioner encourages organizations to complete and submit PIAs to the OIPC prior to implementing projects that collect, uses or discloses personal information. For additional information regarding PIA submissions under PIPA, please see: PIA-Usage-Based-Insurance-2016.pdf.

Section B – Public Bodies

*Personal information means recorded information about an identifiable individual, **including** the individual's name, home or business address, home or business telephone number, home or business email address, or other contact information, except where the individual has provided the information on behalf of the individual's employer or principal in the individual's capacity as an employee or agent, the individual's race, national or ethnic origin, colour or religious or political beliefs or associations, the individual's age, gender identity, sex, sexual orientation, marital status or family status, an identifying number, symbol or other particular assigned to the individual, the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics, information about the individual's health and health care history, including information about the individual's physical or mental health, information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given, anyone else's opinions about the individual, and the individual's personal views or opinions, except if they are about someone else - section 1(q) of POPA.*

1. Does the public body plan to implement a new, or a substantial change to an existing administrative practice, program, project or service that will involve the collection, use and disclosure of personal information where the loss of, unauthorized access to or unauthorized disclosure of the personal information that will be collected, used or disclosed could result in a real risk of significant harm as defined in section 4 of *Protection of Privacy (Ministerial) Regulation (M-Regulation)*?

Section 7(1) of the M-Regulation requires a public body to complete PIAs in certain, prescribed circumstances. See the appendix below for information on real risk of significant harm (RROSH).

☐ Yes *(*The public body is required to prepare a PIA in accordance with section 26 of POPA and the M-Regulation)*
☐ No ***(Proceed to question 2)***
☐ Unsure **(STOP –** *you may contact the OIPC if you have questions*)

****While the public body is required to complete but not submit a PIA to the Commissioner at this time, the Commissioner may request a copy of the PIA pursuant to section 27(1)(j) of POPA and section 7(5)(f) of the M-Regulation.***

2. Does the public body plan to implement a new, or a substantial change to an existing administrative practice, program, project or service that will involve the collection, use and disclosure of personal information where <u>any</u> of the circumstances listed below apply?

Section 7(5) of the M-Regulation requires a Public Body to submit PIAs to the Commissioner in these prescribed circumstances.

a. a practice, program, project or service will collect, use or disclose personal information deemed to be of high sensitivity;
b. a practice, program, project or service will involve the personal information of a significant percentage of the population the public body serves;
c. a practice, program, project or service will involve data matching between 2 or more public bodies;

d. a practice, program, project or service is part of a common or integrated program or service; or
e. a practice, program, project or service involves the development or use of innovative technology.

☐Yes *(*The public body is required to complete a PIA and submit it to the Commissioner)*
☐No *(***STOP** – *You are not required to submit a PIA to the Commissioner. You may do so voluntarily)*
☐Unsure *(***STOP** – *you may contact the OIPC if you have any questions)*

Public bodies should regularly re-evaluate changes associated with their existing administrative practices or information systems to ensure they are still meeting their PIA requirements.

Section C: Custodians

Health information as defined in the HIA means registration information (e.g. name, address, telephone number etc.), diagnostic, treatment and care information (e.g. lab test results, prescription information, surgery information, etc.). Individually identifying, as defined in the HIA and when used to describe health information, means that the identity of the individual who is the subject of the information can be readily ascertained from the information. See the appendix for additional information.

1. Does any of the following apply to the custodian?

a) The custodian intends to implement a new administrative practices or information systems or a change to an existing administrative practice or information system that involves the collection, use or disclosure of individually identifying health information [s. 64(1) of HIA].
b) Pursuant to section 70(2) and (3) of HIA, the custodian intends to perform data matching to create information by combining information that in its custody or control with information that is in the custody or under the control of another custodian or health information repository.
c) The custodian is one of the larger custodians identified in section 46(1)(b) and 46(5)(a) of HIA that intends to request another custodian to disclose to a Minister(s) or Department (s), as described in this section, individually identifying health information for any of the purposes listed in section 27(2) of HIA.
d) Pursuant to section 56.3 (3)(b) of HIA, the Minister(s), as described in that section, intends to direct a regulated health professional to make prescribed health information under its custody or control accessible to authorized custodians via the Alberta Electronic Health Record (Netcare), in accordance with the Alberta Electronic Health Record Regulation.

☐Yes *(Proceed to question 2. *The custodian is required to complete and submit a PIA to the Commissioner. See applicable sections of HIA for specific PIA requirements)*
☐No **(STOP –** *the custodian is not required to submit a PIA to the Commissioner)*
☐Unsure **(STOP –** *you may contact the OIPC if you have questions)*

****PIAs submitted by Custodians under HIA must follow the OIPC PIA requirement guide located in the OIPC website. Custodians should regularly re-evaluate changes associated with their existing administrative practices or information systems to ensure they continue to meet their PIA requirements under the HIA. In***

addition, when collecting, using or disclosing non-identifying information, it is important for custodians to consider and manage the risks of re-identification.

2. Has the custodian considered using non-identifying health information to achieve the objectives of the project and has determined that identifying health information is required?

A custodian should demonstrate that it needs to collect, use or disclose individually identifying health information associated with a project to meet the business objectives. Non-identifying information should be considered the first option, when possible.

☐Yes
☐No (*please re-evaluate the requirement to collect individually identifying health information*)

Name of Public Body or Custodian:	
Title of Project:	
Public Body's or Custodian's file # (if applicable):	
Date of Assessment:	

Appendix

Real Risk of Significant Harm (POPA)

Sections 4(1) and (2) of the M-Regulation sets out criteria for assessing RROSH.

4(1) In assessing under section 10(2) of the Act whether there exists a real risk of significant harm to an individual as a result of the loss of, unauthorized access to or unauthorized disclosure of personal information, a public body must consider each of the following factors, in addition to any other relevant factors;

(a) whether there is a reasonable bias to believe that the personal information has been misused;

(b) whether the loss of, authorized access to or unauthorized disclosure of the personal information occurred as a result of malicious intent;

(c) the sensitivity of the personal information that was lost or accessed or disclosed without authorization;

(d) mitigating measures taken or other factors that reduce the risk of significant harm.

(2) For the purposes of subsection (1), "significant harm" includes bodily harm, humiliation, damage to reputation or relationships, loss of employment, business or professional opportunities, identify theft, negative effects on insurability, negative effects to an individual's credit record, damage to or loss of property or other legal harms or financial losses.

Note: sensitive personal information in relations to this document includes but is not limited to biometric information, medical information, banking information, ethnicity, race-based information, Social Insurance Number (SIN), passport information, driver's licence information, child custody information, tax information, etc.

Health Information (HIA)

Health information is information in the custody or under the control of a custodian, which was collected by the custodian for the purpose of providing health service to the individual who is the subject of the information.

Pursuant to section 1(1)(k) of the HIA, health information means one or both of the following:

- diagnostic, treatment and care information (e.g. lab results, x-ray image, prescription information, etc.);
- registration information (e.g. name, date of birth, PHN, address, marital status, etc.)

Pursuant to section 1(1)(m) of the HIA, health service means a service that is provided to an individual for any of the following purposes:

- protecting, promoting or maintaining physical and mental health;
- preventing illness;
- diagnosing and treating illness;
- rehabilitation;
- caring for the health needs of the ill, disabled, injured or dying,
- but does not include a service excluded by the regulations.