



CANADIAN ASSOCIATION DES
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PRIVACY LEGISLATION

Important Notice to Pharmacists from CPhA

TO: Pharmacists **FROM:** Jeff Poston, Executive Director

RE: **Impact on Prescription Claims Processing of Federal Privacy Legislation – *Personal Information Protection and Electronics Documents Act (PIPEDA)***

On January 1, 2002, the Personal Information Protection and Electronics Documents Act (PIPEDA) comes into force with respect to the transfer of information across provincial boundaries “for consideration”. CPhA has obtained a legal opinion on the impact of this legislation on pharmacy practice. Our concern relates to processing of prescription claims and whether informed consent needs to be obtained from clients by pharmacists when submitting insurance claims which cross provincial and national boundaries electronically.

The legal opinion confirms our assessment that on-line claims processing **will not be affected** by PIPEDA as of January 1, 2002, since “consideration” is paid for the drug and the pharmacist’s services not the information. However, pharmacists should be aware of the following factors:

- Judgement about the jurisdiction of PIPEDA rests with the Federal Privacy Commissioner, Mr. George Radwanski.
- PIPEDA is a complaint-driven process with the Privacy Commissioner ruling only when a formal complaint is made; further recourse to a decision entails going to the Federal Court. It should be noted, therefore, that our legal opinion could be negated by a decision by the Privacy Commissioner or the Federal Court with respect to a complaint.
- We are informed that PIPEDA will not affect prescribing data information provided to companies such as IMS Health, Canada.
- CPhA is part of the G6 (Group of Six) comprised of CPhA, Canadian Medical Association, Canadian Nurses Association, Canadian Dental Association, Canadian Healthcare Association and the Consumers’ Association of Canada.
- CPhA has been aggressively advocating for the past 18 months for changes to the legislation in regards to its dealing with health information and will continue to do so.
- CPhA’s concerns focus on the lack of clarity in PIPEDA – the Act was developed and enacted to deal primarily with trade and commerce issues stemming from international trade regulations, and health information has been caught in it without guidelines or provisions.
- PIPEDA comes fully into effect on January 1, 2004. Further aspects of pharmacy practice might be affected then depending on whether or not “substantially similar” provincial legislation is in place.
- Current legislation in Alberta would appear to make that province a special case with respect to claims processing, and pharmacists should consult their provincial pharmacy organization.

For more information, please visit CPhA’s website (www.pharmacists.ca) to view the legal opinion, or contact Russell Milon, Director of Government Affairs, at 1-800-917-9489 ext. 257 or rmilon@pharmacists.ca.