



Sharing Information in Situations Involving Risk of Serious Harm: A Quick Guide for Professionals



Information and Privacy
Commissioner of Ontario
Commissaire à l'information et à la
protection de la vie privée de l'Ontario

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Sharing Information in Situations Involving Risk of Serious Harm: A Quick Guide for Professionals

Privacy legislation in Ontario does not prevent the lawful sharing¹ of personal information when there is reason to believe there is a risk of serious harm to health or safety.

This guide² is intended for professionals working in sectors regulated by Ontario's privacy laws, including:

- **Provincial public sector institutions under the *Freedom of Information and Protection of Privacy Act (FIPPA)***
 - o This includes provincial ministries/agencies, colleges and universities, hospitals, etc.
- **Municipal public sector institutions under the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)***
 - o This includes municipalities, police services boards, public library boards, school boards, conservations authorities, boards of health, transit commissioners, local housing corporations, etc.
- **Health information custodians under the *Personal Health Information Protection Act (PHIPA)***
 - o This includes regulated health professionals who provide health care (for example, doctors, nurses, psychologists, pharmacists, social workers, and social service workers), paramedics providing ambulance services, etc.
- **Service providers under the *Child, Youth and Family Services Act (CYFSA)***
 - o This includes children's aid societies, residential/out-of-home care providers, adoption providers, youth justice facilities, children's mental health providers, First Nations, Inuit, and Métis child and family well-being agencies, etc.

When there is a risk of serious harm to someone's health or safety, professionals in the public, health, or child and family service sectors may sometimes feel uncertain about whether they are permitted to share personal information. This guide is designed to give you a greater understanding that sharing is permitted when there is a risk of serious harm to health or safety, both in your own sector and others.

Note: This quick guide focuses on permissible sharing of personal information in situations of risk of serious harm to health or safety. It does not address permissible collection(s) and use(s) of personal information or other types of information sharing permitted without consent. As professionals working in sectors regulated by Ontario privacy laws, you must ensure that you are permitted to collect, use, and share the personal information provided to you. For general guidance on collection, use and disclosure of information under Ontario's privacy laws, see "More information" at the end of this guide.

1 This guidance uses the term "sharing" to refer to disclosure.

2 This guide was developed by updating and adapting content in the IPC's 2005 Fact Sheet #7, entitled Disclosures of Information Permitted in Emergency Circumstances, and the IPC's recent guidance [Sharing Information in Situations Involving Intimate Partner Violence: Guidance for Professionals](#).

Duty to report

Before exploring permitted disclosures in the absence of an individual's consent to reduce or eliminate a risk of serious harm, it is important to first consider whether the duty to report obligation under the CYFSA applies to the situation.

If a person has reasonable grounds to suspect that a child under the age of 16 is or may be in need of protection, the person must immediately report the suspicion and the information on which it is based to a children's aid society or Indigenous child and family well-being agency. A person may also voluntarily make a report concerning a child/youth who is 16 or 17 years old if they have reasonable grounds to suspect that that child/youth is or may be in need of protection.

For more information, please see section 125 of the *Child, Youth and Family Services Act* and *Yes, You Can* guidance.

Sharing to reduce risk of serious harm to health or safety

Ontario's privacy and access laws protect personal information and set firm limits on when it can be shared. However, these protections are not intended to prevent the sharing of vital – and in some cases, life-saving – information when there is a risk of serious harm to health or safety.

In situations when there is reason to believe there is a risk of serious harm to health or safety, you may need to share personal information, including personal health information, in a timely way, even without the person's consent. In these circumstances, professionals may – and in some cases must – share information that would otherwise be protected by Ontario's privacy laws. However, it is the professional's responsibility to decide when and how much personal information to share and to understand what is permitted in certain situations.

Ontario's access to information and privacy laws protect professionals from liability for damages if they have acted in good faith and have done what is reasonable under the circumstances.³ This protection relates to, among other things:

- the disclosure (or non-disclosure) of information; or
- the giving of a required notice, if that person took reasonable care to give the required notice

Note: The fact that professionals working in sectors regulated by Ontario privacy laws are permitted to share an individual's personal information without their consent does not prevent them from consulting the individual about the impact of sharing their personal information for their health or safety.

When sharing information in these circumstances (and others), professionals working in sectors regulated by Ontario privacy laws should take a trauma, violence-informed and culturally sensitive approach, including familiarizing themselves with Indigenous governance and sovereignty rights.

When sharing personal information in situations when there is reason to believe there is a risk of serious harm to an individual's health or safety (and other circumstances), professionals must limit the amount of personal information shared to what is necessary. If non-personal information could serve the same purpose, that information should be shared instead. In difficult cases, professionals should consult with legal counsel or others to assess the information necessary to meet this objective.

Professionals should document instances when personal information is shared and consider using a specific template or format to demonstrate that they have made decisions on reasonable grounds and in good faith.⁴ Refer to Ontario privacy laws, as applicable, and retain records based on your organization's information management and recordkeeping policies.

3 See s. 62(2) of FIPPA, s. 49(2) of MFIPPA, s. 71 of PHIPA and s. 37 of the CYFSA.

4 Under s. 306(3) of the CYFSA, service providers must document instances where personal information is shared.

Institutions under FIPPA or MFIPPA

FIPPA and MFIPPA permit professionals working in public sector institutions to share personal information without consent in compelling circumstances affecting the health or safety of an individual.⁵

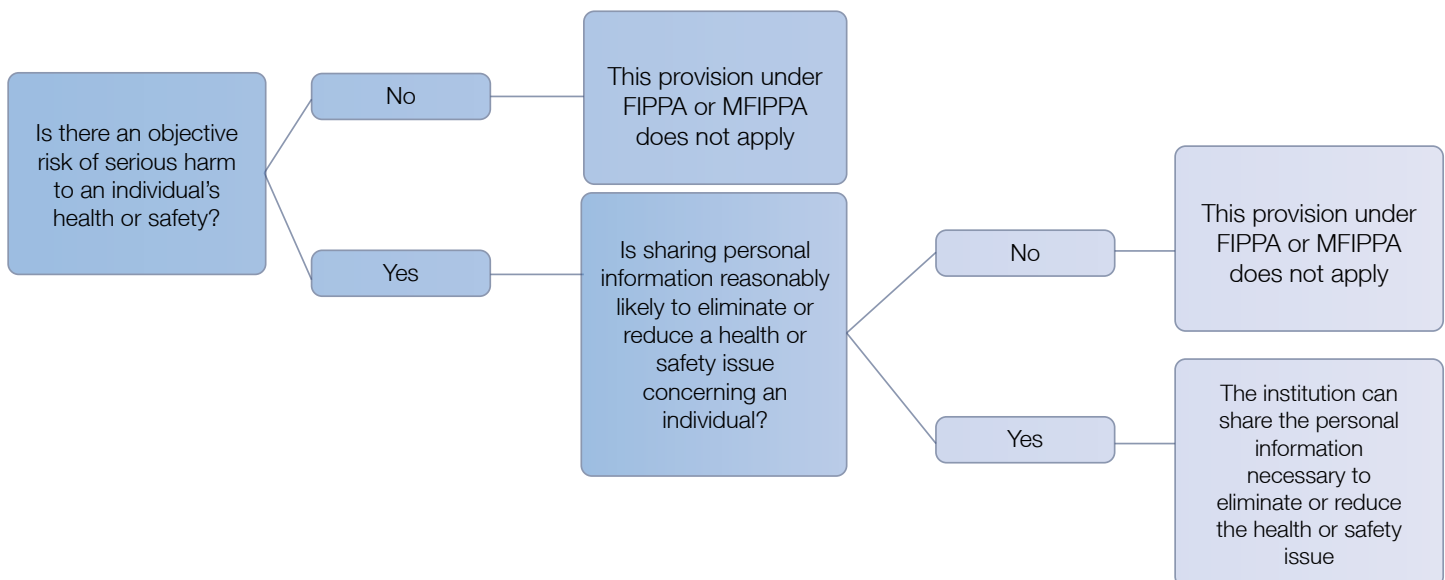
To be considered a compelling circumstance, it must be reasonable to believe that sharing personal information could reasonably be expected to eliminate or reduce a health or safety issue.⁶

Before sharing personal information, you must consider:

- the likelihood of the harm occurring
- the severity of the harm
- how soon the harm might occur⁷
- whether sharing personal information is reasonably likely to reduce or eliminate the risk of harm to the individual

Having carefully assessed all the available information and the relevant factors, you may share personal information if there is an objective risk of serious harm to an individual and the sharing is reasonably likely to eliminate or reduce the risk. The focus should be on only sharing personal information that is reasonably necessary to eliminate or reduce the risk.

FIPPA and MFIPPA institutions decision tree: Compelling circumstances affecting the health or safety of an individual



Section 42(1)(h) in FIPPA and 32(h) in MFIPPA

An institution shall not disclose personal information in its custody or under its control except in compelling circumstances affecting the health or safety of an individual if upon disclosure notification thereof is mailed to the last known address of the individual to whom the information relates.

5 See s. 42(1)(h) of FIPPA or s. 32(h) of MFIPPA.

6 The IPC has considered the meaning of a “compelling circumstance” under Order [MO-3247](#), para. 62.

7 While some compelling circumstances may involve a risk of imminent harm, FIPPA and MFIPPA do not require that the risk be imminent before sharing personal information.

As a professional working in a public sector institution, you must provide written notice to the individual whose personal information was shared as soon as reasonably possible. However, if notification would cause a significant risk to someone's health or safety, notice may be delayed until the risk has abated.

You must also determine what personal information is necessary to share with the individual at risk or another organization or service provider. Before sharing personal information, you need to take reasonable steps to ensure that it is accurate, complete, and up-to-date. Professionals should also document that the personal information was shared.

Example: A university students' residence advisor believes that a student is at risk of suicide. The residence advisor has observed several warning signs, including that the student has exhibited signs of severe depression and has not left their room for an extended period. The residence advisor believes it may be necessary to share information with the police and an immediate family member or another emergency contact. Although the student has specifically instructed the residence advisor not to disclose any personal information to anyone, the residence advisor would be permitted to share personal information in this situation to reduce risk of serious harm to the student's own health or safety.

Other considerations for FIPPA and MFIPPA institutions: Public interest and grave hazards

If there are reasonable and probable grounds to believe that disclosure is in the public interest, and the record of information reveals a grave environmental, health, or safety hazard to the public, institutions under FIPPA or MFIPPA are required to share records with the public or affected persons. This requirement applies even if the information contains personal information and may affect that individual's interests.⁸

Example: A fire department would be required to share information to help identify the source and location of a toxic discharge or emission if there were reasonable grounds to believe it would be in the public interest to do so, and the information reveals a grave environmental, health, or safety concern. The information might include the name of an individual whose business or home is the source of the discharge.

Health information custodians under PHIPA

PHIPA permits a professional working for a health information custodian to share personal health information about an individual without their consent if they believe on reasonable grounds that sharing is necessary to eliminate or reduce the risk of serious harm to a person or group of persons.⁹ The need to eliminate or reduce serious harm by sharing an individual's personal health information outweighs an individual's prior explicit instructions not to share it.¹⁰

PHIPA requires professionals to have reasonable grounds to believe that sharing an individual's personal health information is necessary to eliminate or reduce a risk of serious harm. Each professional must decide what personal health information is necessary to share with the individual at risk or with another organization or service provider.¹¹

Having carefully assessed all the available information and the relevant factors, you can share personal health information if there is an objective and significant risk of serious harm to an individual and the sharing is necessary to eliminate or reduce the risk. The focus should be on sharing only the personal health information necessary to eliminate or reduce risk.

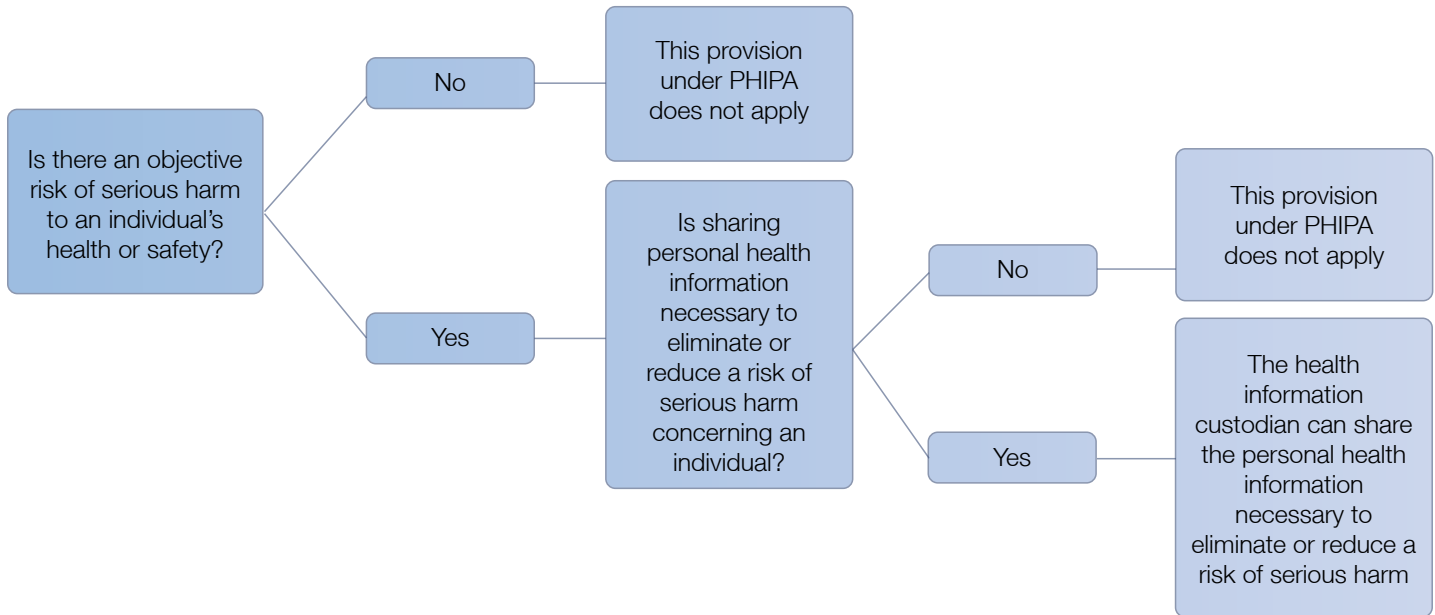
8 Both FIPPA and MFIPPA require that before disclosing the record, the head must give notice, if it is practicable to do so, to any person to whom the information in the record relates. The person may then respond and argue against disclosure. In an emergency, however, it may not be practicable to provide notice in advance of the disclosure. See s. 11 of FIPPA and s. 5 of MFIPPA.

9 See s. 40(1) of PHIPA.

10 See the IPC's [Lock-box Fact Sheet](#), page 3.

11 See s. 30 of PHIPA.

PHIPA health information custodians decision tree: Risk of serious harm



Section 40(1) of PHIPA

A health information custodian may disclose personal health information about an individual if the custodian believes on reasonable grounds that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons.

You must also take reasonable steps to ensure that the personal health information is as accurate, complete, and up to date as is necessary for the purpose of eliminating or reducing the significant risk of serious harm before sharing it. Otherwise, you must inform the information recipient of any relevant limitations potentially affecting its accuracy, completeness, or currency.¹² Professionals should also document that the personal health information was shared.¹³

Example: A health care practitioner such as a social worker would be permitted to disclose personal health information to a client's family member if the health care practitioner believes, on reasonable grounds, that the disclosure is necessary to eliminate or reduce a significant risk of serious bodily harm to the family member.

Other considerations for health information custodians under PHIPA: Disclosures to public health authorities

It is important to note that PHIPA also provides that a professional working for a health information custodian may share personal health information without a patient's consent¹⁴ to the Chief Medical Officer of Health or to a local medical officer of health¹⁵, in order to comply with the purpose and requirements listed in the *Health Protection and Promotion Act* (HPPA)¹⁶. That purpose includes preventing the spread of disease and promoting and protecting the health of the people of Ontario. Such

¹² See s. 11(2) of PHIPA.

¹³ See also s. 16 for potential notification requirements.

¹⁴ See s. 6(3) and 43(1)(h) of PHIPA.

¹⁵ Or a similar public health authority in another jurisdiction if the disclosure is made for a purpose substantially similar to a *Health Protection and Promotion Act* purpose. See s. 39(2) of PHIPA.

¹⁶ See s. 2 and for example, sections 25-30 of HPPA.

information sharing may involve, for example, situations where a person has or may have a reportable communicable disease.

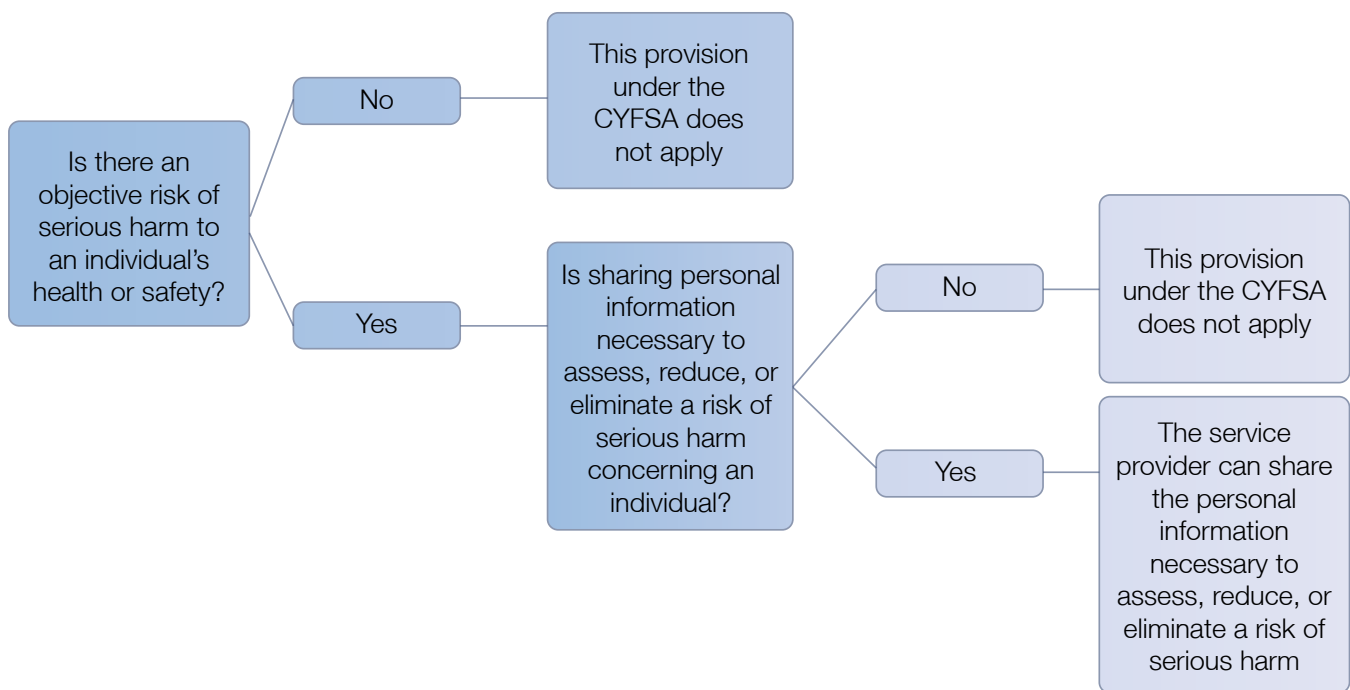
Service providers under the CYFSA

With limited exceptions¹⁷, the CYFSA permits professionals working for a service provider to share personal information without consent if they have reasonable grounds to believe that sharing is necessary to assess, reduce, or eliminate a risk of serious harm to a person or group of persons.¹⁸

The CYFSA requires professionals to have reasonable grounds to believe that sharing an individual's personal information is necessary to assess, reduce, or eliminate a risk of serious harm. Each professional must decide what personal information is necessary to share with the individual at risk or another organization or service provider.¹⁹

Having carefully assessed all the available information and the relevant factors, you can share personal information if there is an objective risk of serious harm to an individual and sharing is necessary to assess, reduce, or eliminate the risk. The focus should be on only sharing personal information that is necessary to assess, eliminate, or reduce the risk.

CYFSA service providers decision tree: Risk of serious harm



Section 292(1)(g) of CYFSA

A service provider may, without the consent of the individual, disclose personal information about an individual that has been collected for the purpose of providing a service if the service provider believes on reasonable grounds that the disclosure is necessary to assess, reduce or eliminate a risk of serious harm to a person or group of persons.

17 The sharing of personal information without consent to assess, reduce, or eliminate risk of serious harm may be subject to limitations arising from s. 291.1 and s. 292.1 of the CYFSA and their corresponding regulations under s. 0.1 of O. Reg. 191/18.

18 See s. 292(1)(g) of the CYFSA.

19 See s. 287 of the CYFSA.

You must also take reasonable steps to ensure that the personal information is as accurate, complete, and up to date as is necessary for the purpose of assessing, reducing, or eliminating the risk of serious harm before sharing it.²⁰ Otherwise, you must inform the recipient of the personal information of any relevant limitations potentially affecting its accuracy, completeness, or currency. Professionals must also document that they shared the personal information.²¹

Example: A child protection worker at a children's aid society would be permitted to disclose personal information to staff of a youth's school if there were reasonable grounds to believe that the youth had plans to harm another student or school staff member.

For all sectors: Other circumstances

In addition to sharing information to reduce risk of serious harm to health or safety, sectors covered by Ontario privacy laws may also share information without consent in other circumstances, including but not limited to, aiding police and as required by law. At times, such information sharing may also overlap with the need to reduce or eliminate a risk of serious harm.

To aid in a police investigation

All sectors covered by Ontario privacy laws may share personal information with police to aid in an investigation.²² In some cases, disclosure of personal information is required by law, for example, in response to a court order or warrant. This type of sharing might take place either at the request of a law enforcement agency or on the initiative of the institution, health information custodian or service provider.

Voluntary sharing of personal information to assist with a police investigation should generally be limited to what is reasonably necessary.²³ In such cases, sectors covered by Ontario privacy laws should make a careful and informed assessment of the circumstances before sharing personal information with the police.

As required by law

All sectors covered by Ontario privacy laws can share personal information or personal health information if the disclosure is permitted or required by another law or by a treaty, agreement, or arrangement made under a federal or provincial act.²⁴ Examples of laws that may permit or require disclosure of personal information to reduce or eliminate risk of serious harm or urgent circumstances include the Disclosure of Personal Information regulation under the *Community Safety and Policing Act*, the *Mandatory Gunshot Wounds Reporting Act*, and duty to report under the CYFSA.

More information

For further information, please review FIPPA, MFIPPA, PHIPA, the CYFSA, and the *Health Protection and Promotion Act*, which can all be found at www.e-laws.gov.on.ca, as well as other resources on the IPC website, www.ipc.on.ca. IPC resources include informational publications about all acts and their oversight by the IPC, and complete texts of all IPC decisions and orders.

20 See s. 306(2) of the CYFSA.

21 See s. 306(3) of the CYFSA. See also s. 311 for potential notification requirements.

22 See s. 42(1)(g)(i) and 42(1)(g)(ii) of FIPPA; s. 32(g)(i) and 32(g)(ii) of MFIPPA; s. 292(1)(a) of the CYFSA, and s. 43(1)(f) and 43(1)(g) of PHIPA. With respect to the CYFSA, such sharing may be subject to limitations arising from s. 291.1 and s. 292.1 of the CYFSA and their corresponding regulations under s. 0.1 of O. Reg. 191/18.

23 See s. 287 of the CYFSA and s. 30 of PHIPA for data minimization requirements.

24 See s. 42(1)(e) FIPPA; s. 32(e) of MFIPPA; s. 292(1)(h) of the CYFSA, and s. 43(1)(h) of PHIPA. With respect to the CYFSA, such sharing may be subject to limitations arising from s. 291.1 and s. 292.1 of the CYFSA and their corresponding regulations under s. 0.1 of O. Reg. 191/18.

Please also check out the IPC's related guidance, including:

- [***Yes, You Can***](#)
- [***Sharing Information in Situations Involving Intimate Partner Violence: Guidance for Professionals***](#)
- [***Disclosure of Personal Information to Law Enforcement***](#)
- [***A Guide to Privacy and Access to Information in Ontario Schools***](#)
- [***Practice Tool for Exercising Discretion: Emergency Disclosures of Personal Information by Universities, College and other Educational Institutions***](#)

General information about collection, use and disclosure:

- [**Collection, use, and disclosure of personal information**](#) under FIPPA and MFIPPA
- [**Collection, use, and disclosure of personal information**](#) under Part X of the CYFSA
- [**Collection, use, and disclosure of personal health information**](#) under PHIPA

Other Resources:

- [**The First Nations Principles of OCAP®**](#) - The First Nations Information Governance Centre
- Government of Ontario's [**Guidance on information sharing in multi-sectoral risk intervention models**](#)

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