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Quality of Care Information Protection Act, 2016

[S.o.](https://www.ontario.ca/laws/statute/s16006" \l "Sched1s5) 2016, chapter 6  
Schedule 2

**Consolidation Period:** From September 25, 2023 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Last amendment: [2023, c. 4, Sched. 1, s. 81](http://www.ontario.ca/laws/statute/S23004" \l "sched1s81).

Legislative History: [2017, c. 25, Sched. 9, s. 114](http://www.ontario.ca/laws/statute/S17025" \l "sched9s114s1) (See: [2023, c. 4, Sched. 1, s. 67](http://www.ontario.ca/laws/statute/S23004" \l "sched1s67)); [2021, c. 27, Sched. 2, s. 69](http://www.ontario.ca/laws/statute/S21027" \l "sched2s69); [2023, c. 4, Sched. 1, s. 81](http://www.ontario.ca/laws/statute/S23004" \l "sched1s81).

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Preamble

The people of Ontario and their Government:

Believe in patient-centred health care;

Remain committed to improving the quality of health care provided by health facilities and maintaining the safety of patients;

Believe that quality health care and patient safety is best achieved in a manner that supports openness and transparency to patients and their authorized representatives regarding patient health care;

Recognize that health care providers and other staff in health facilities sometimes need to hold confidential discussions to identify and analyze errors affecting patients, systemic problems and opportunities for quality improvement in patient health care;

Believe that protections are needed to encourage and enable health care providers and other staff of health facilities to share all available information, provide honest assessment and opinions and participate in discussions to improve patient health care without fear of retaliation;

Believe that sharing information about critical incidents and quality improvement helps to improve the quality of health care for patients;

Are committed to ensuring that measures to facilitate the sharing of information for quality improvement purposes do not interfere with the right of patients and their authorized representatives to access information about their health care or with the obligations of health facilities to disclose such information to patients and their authorized representatives; and

Affirm that the inclusion of patients and their authorized representatives in the process of reviewing a critical incident helps to improve patient care, and therefore quality of care information protection must be implemented in a manner that supports such inclusion.

Purpose

**1** The purpose of this Act is to enable confidential discussions in which information relating to errors, systemic problems and opportunities for quality improvement in health care delivery can be shared within authorized health facilities, in order to improve the quality of health care delivered to patients.

Interpretation

**2** (1)  In this Act,

“critical incident” means any unintended event that occurs when a patient receives health care from a health facility that,

(a) results in death, or serious disability, injury or harm to the patient, and

(b) does not result primarily from the patient’s underlying medical condition or from a known risk inherent in providing the health care; (“incident critique”)

“disclose” means, with respect to quality of care information, to provide or make the information available to a person who is not a member of the quality of care committee with which the information is associated, and “disclosure” has a corresponding meaning; (“divulguer”, “divulgation”)

“health care” means any observation, examination, assessment, care, service or procedure that is done for a health-related purpose and that,

(a) is carried out or provided to diagnose, treat or maintain an individual’s physical or mental condition,

(b) is carried out or provided to prevent disease or injury or to promote health, or

(c) is carried out or provided as part of palliative care,

and includes,

(d) the compounding, dispensing or selling of a drug, a device, equipment or any other item to an individual, or for the use of an individual, pursuant to a prescription, and

(e) a prescribed type of service; (“soins de santé”)

“health facility” means,

(a) a hospital within the meaning of the Public Hospitals Act,

(b) a private hospital within the meaning of the Private Hospitals Act,

(c) a psychiatric facility within the meaning of the Mental Health Act,

(d) an integrated community health services centre within the meaning of the Integrated Community Health Services Centres Act, 2023, or

(e) a prescribed entity that provides health care; (“établissement de santé”)

“information” includes personal health information as defined in the Personal Health Information Protection Act, 2004; (“renseignements”)

“Minister” means the Minister of Health and Long-Term Care; (“ministre”)

“patient” means a recipient of health care; (“patient”)

“patient record” means a record that is maintained for the purpose of providing health care to a patient; (“dossier du patient”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“proceeding” includes a proceeding that is within the jurisdiction of the Legislature and that is held in, before or under the rules of a court, a tribunal, a commission, a justice of the peace, a coroner, a committee of a College within the meaning of the Regulated Health Professions Act, 1991, a committee of the Board of Regents continued under the Drugless Practitioners Act, a committee of the Ontario College of Social Workers and Social Service Workers under the Social Work and Social Service Work Act, 1998, an arbitrator or a mediator, but does not include any activities carried on by a quality of care committee; (“instance”)

Note: On December 1, 2024, the day named by proclamation of the Lieutenant Governor, the definition of “proceeding” in subsection 2 (1) of the Act is repealed and the following substituted: (See: 2021, c. 27, Sched. 2, s. 69)

“proceeding” includes a proceeding that is within the jurisdiction of the Legislature and that is held in, before or under the rules of a court, a tribunal, a commission, a justice of the peace, a coroner, a committee of a College within the meaning of the Regulated Health Professions Act, 1991, a committee of the Board of Regents continued under the Drugless Practitioners Act, a committee of the Ontario College of Social Workers and Social Service Workers under the Social Work and Social Service Work Act, 1998, a committee of the Authority within the meaning of the Health and Supportive Care Providers Oversight Authority Act, 2021, an arbitrator or a mediator, but does not include any activities carried on by a quality of care committee; (“instance”)

“quality of care committee” means a body of one or more individuals that performs quality of care functions and,

(a) that is established, appointed or approved,

(i) by a health facility,

(ii) by a quality oversight entity, or

(iii) by any combination of health facilities or quality oversight entities, and

(b) that meets the prescribed criteria, if any; (“comité de la qualité des soins”)

“quality of care functions”, in respect of a quality of care committee, means activities carried on for the purpose of studying, assessing or evaluating the provision of health care with a view to improving or maintaining the quality of the health care and include conducting reviews of critical incidents; (“fonctions liées à la qualité des soins”)

“quality oversight entity” means a prescribed entity that carries on activities for the purpose of improving or maintaining the quality of care provided by a health facility, a health care provider or a class of health facility or health care provider; (“entité de surveillance de la qualité”)

“regulations” mean the regulations made under this Act; (“règlements”)

“use”, with respect to quality of care information, does not include to disclose the information and “use”, as a noun, does not include disclosure of the information; (“utiliser”, “utilisation”)

“witness” means a person, whether or not a party to a proceeding, who, in the course of the proceeding,

(a) is examined or cross-examined for discovery, either orally or in writing,

(b) makes an affidavit, or

(c) is competent or compellable to be examined or cross-examined or to produce a document, whether under oath or not. (“témoin”) 2016, c. 6, Sched. 2, s. 2 (1); 2023, c. 4, Sched. 1, s. 81.

Quality of care information

(2)  Subject to subsection (3), in this Act,

“quality of care information” means information that,

(a) is collected or prepared by or for a quality of care committee for the sole or primary purpose of assisting the committee in carrying out its quality of care functions,

(b) relates to the discussions and deliberations of a quality of care committee in carrying out its quality of care functions, or

(c) relates solely or primarily to any activity that a quality of care committee carries on as part of its quality of care functions, including information contained in records that a quality of care committee creates or maintains related to its quality of care functions. 2016, c. 6, Sched. 2, s. 2 (2).

What is not included

(3)  “Quality of care information” does not include any of the following:

1. Information contained in a patient record.

2. Information contained in a record that is required by law to be created or to be maintained.

3. Information relating to a patient in respect of a critical incident that describes,

i. facts of what occurred with respect to the incident,

ii. what the quality of care committee or health facility has identified, if anything, as the cause or causes of the incident,

iii. the consequences of the critical incident for the patient, as they become known,

iv. the actions taken and recommended to be taken to address the consequences of the critical incident for the patient, including any health care or treatment that is advisable, or

v. the systemic steps, if any, that a health facility is taking or has taken in order to avoid or reduce the risk of further similar incidents.

4. Information that consists of facts contained in a record of an incident involving the provision of health care to a patient.

5. Information that a regulation specifies is not quality of care information and that a quality of care committee collects or prepares after the day on which that regulation comes into force. 2016, c. 6, Sched. 2, s. 2 (3).

**Section Amendments with date in force (d/m/y)**

[2017, c. 25, Sched. 9, s. 114 (1, 2)](http://www.ontario.ca/laws/statute/S17025" \l "sched9s114s1) - no effect - see [2023, c. 4, Sched. 1, s. 67](http://www.ontario.ca/laws/statute/S23004" \l "sched1s67) - 18/05/2023

[2021, c. 27, Sched. 2, s. 69](http://www.ontario.ca/laws/statute/S21027" \l "sched2s69) - 01/12/2024

[2023, c. 4, Sched. 1, s. 81](http://www.ontario.ca/laws/statute/S23004" \l "sched1s81) - 25/09/2023

Application of Freedom of Information and Protection of Privacy Act

**3** The Freedom of Information and Protection of Privacy Act does not apply to quality of care information.

Interviews and disclosure not affected

**4** (1)  Nothing in this Act interferes with a requirement under applicable law for a health facility or health care provider to,

(a) offer to interview a patient or the authorized representative of the patient or the patient’s estate in any review of an incident or circumstances involving the provision of health care to the patient;

(b) include a person responsible for patient relations or providing patient perspectives to the facility on a committee or other similar body conducting any review of a critical incident; or

(c) disclose information specified under the applicable law that is related to a critical incident to a patient or the authorized representative of the patient or the patient’s estate.

Authorized representative

(2)  For the purposes of subsection (1), the authorized representative of a patient includes a person who was lawfully authorized to make treatment decisions on behalf of the patient immediately prior to the patient’s death, or who would have been so authorized if the patient had been incapable.

Conflict

**5** In the event of a conflict between a provision of this Act or its regulations and a provision of any other Act or its regulations, this Act and its regulations prevail unless this Act or its regulations specifically provide otherwise.

Restrictions on use of committee

**6** Where a regulation has been made restricting or prohibiting the use of a quality of care committee for the purpose of reviewing critical incidents, every quality of care committee and health facility shall comply with that regulation.

Quality of care information continues

**7** Quality of care information collected by or for a quality of care committee while it is constituted and operating in accordance with this Act shall continue to be treated as quality of care information after,

(a) the quality of care committee by or for which the information was collected is no longer in operation; or

(b) a health facility or entity that established, appointed or approved the quality of care committee is no longer eligible to establish, appoint or approve a quality of care committee.

Disclosure to quality of care committee

**8** (1)  Despite this Act and the Personal Health Information Protection Act, 2004, a person may disclose any information to a quality of care committee for the purposes of carrying out quality of care functions.

Disclosure among committees

(2)  Any quality of care committee may disclose any information, including quality of care information, to any other quality of care committee for the purpose of carrying out quality of care functions, and any person may disclose information that has been disclosed to any quality of care committee to any other quality of care committee.

Restriction, personal health information

(3)  A disclosure permitted under this section shall not contain more personal health information, as defined in the Personal Health Information Protection Act, 2004, than is reasonably necessary for the purpose of the disclosure.

Restriction on disclosure

**9** (1)  Despite the Personal Health Information Protection Act, 2004, no person shall disclose quality of care information except as permitted by this Act.

Definition

(2)  In this section,

“management”, with respect to a health facility, includes members of the senior management staff, the board of directors, governors or trustees and members of the commission or other governing body or authority of the facility.

Exception, quality of care committee

(3)  Despite subsection (1) and the Personal Health Information Protection Act, 2004, a quality of care committee may disclose quality of care information to,

(a) the management of a health facility that established, appointed or approved the committee if the committee considers it appropriate to do so for the purpose of improving or maintaining the quality of health care provided in or by the facility; or

(b) the management of a health facility or health care provider, where a quality oversight entity carries on activities for the purpose of improving or maintaining the quality of health care provided by the facility, the provider or a class including the facility or the provider, if the committee considers it appropriate to do so for the purpose of improving or maintaining the quality of health care provided in or by the facility, provider or class.

Exception, any person

(4)  Despite subsection (1) and the Personal Health Information Protection Act, 2004, a person may disclose quality of care information if the disclosure is necessary for the purposes of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons.

Further disclosure of information

(5)  A member of the management of a health facility or health care provider described in subsection (3) to whom quality of care information is disclosed under that subsection may disclose the information to an agent or employee of the facility or provider if the disclosure is necessary for the purposes of improving or maintaining the quality of health care provided in or by the facility or provider.

Use of information

(6)  A person to whom information is disclosed under subsection (3), (4) or (5) shall not use the information except for the purposes for which the information was disclosed to the person.

Restriction on further disclosure

(7)  A person to whom information is disclosed under subsection (3), (4) or (5) shall not disclose the information except if subsection (4) or (5) permits the disclosure.

Restriction, personal health information

(8)  A disclosure permitted under this section shall not contain more personal health information, as defined in the Personal Health Information Protection Act, 2004, than is reasonably necessary for the purpose of the disclosure.

Non-disclosure in proceeding

**10** (1)  No person shall ask a witness and no court or other body holding a proceeding shall permit or require a witness in the proceeding to disclose quality of care information.

Non-admissibility of evidence

(2)  Quality of care information is not admissible in evidence in a proceeding.

Non-retaliation

**11** No one shall dismiss, suspend, demote, discipline, harass or otherwise disadvantage a person by reason that the person has disclosed information to a quality of care committee under section 8.

Offence

**12** (1)  Every person who contravenes section 9 or 11 is guilty of an offence.

Penalty

(2)  A person who is guilty of an offence under subsection (1) is liable, on conviction,

(a) to a fine of not more than $50,000, if the person is an individual; or

(b) to a fine of not more than $250,000, if the person is a corporation.

Officers, etc.

(3)  If a corporation commits an offence under this Act, every officer, member, employee or other agent of the corporation who authorized the offence, or who had the authority to prevent the offence from being committed but knowingly refrained from doing so, is a party to and guilty of the offence and is liable, on conviction, to the penalty for the offence, whether or not the corporation has been prosecuted or convicted.

Immunity

**13** (1)  No action or other proceeding may be instituted against a person who in good faith discloses information to a quality of care committee at the request of the committee or for the purposes of assisting the committee in carrying out quality of care functions.

Same, committee member

(2)  No action or other proceeding, including a prosecution for an offence under section 12, may be instituted in respect of,

(a) a member of a quality of care committee who, in good faith, discloses quality of care information for a purpose described in subsection 9 (3); or

(b) a person who, in good faith, discloses information for a purpose described in subsection 9 (4), if the disclosure is reasonable in the circumstances.

Same, failure to disclose

(3)  No action or other proceeding may be instituted against a member of a committee in respect of the failure of the committee to make a disclosure described in subsection 9 (3) or (4).

Review

**14** Within five years of the coming into force of this section, and at five-year intervals thereafter, the Minister shall conduct a review of this Act.

Regulations

**15** (1)  Subject to section 16, the Lieutenant Governor in Council may make regulations,

(a) defining any term used in this Act that is not defined in this Act;

(b) subject to subsection (2), governing anything that this Act refers to as being prescribed, provided for or specified in the regulations;

(c) for carrying out the purposes and provisions of this Act.

Minister’s regulations

(2)  The Minister may make regulations,

(a) prescribing anything that the definition of “health care”, “health facility” or “quality of care committee” in subsection 2 (1) mentions as being prescribed;

(b) restricting or prohibiting the use of quality of care committees for the purpose of reviewing critical incidents.

Public consultation before making regulations

**16** (1)  The Lieutenant Governor in Council shall not make any regulation under subsection 15 (1) unless,

(a) the Minister has published a notice of the proposed regulation on a website of the Government of Ontario and in any other format the Minister considers advisable;

(b) the notice complies with the requirements of this section;

(c) the time periods specified in the notice, during which members of the public may exercise a right described in clause (2) (b) or (c), have expired; and

(d) the Minister has considered whatever comments and submissions that members of the public have made on the proposed regulation in accordance with clause (2) (b) or (c) and has reported to the Lieutenant Governor in Council on what, if any, changes to the proposed regulation the Minister considers appropriate.

Contents of notice

(2)  The notice mentioned in clause (1) (a) shall contain,

(a) a description of the proposed regulation and the text of it;

(b) a statement of the time period during which members of the public may submit written comments on the proposed regulation to the Minister and the manner in which and the address to which the comments must be submitted;

(c) a description of whatever other rights, in addition to the right described in clause (b), that members of the public have to make submissions on the proposed regulation and the manner in which and the time period during which those rights must be exercised;

(d) a statement of where and when members of the public may review written information about the proposed regulation; and

(e) all other information that the Minister considers appropriate.

Time period for comments

(3)  The time period mentioned in clauses (2) (b) and (c) shall be at least 30 days after the Minister gives the notice mentioned in clause (2) (a) unless the Minister shortens the time period in accordance with subsection (4).

Shorter time period for comments

(4)  The Minister may shorten the time period if, in the Minister’s opinion,

(a) the urgency of the situation requires it;

(b) the proposed regulation clarifies the intent or operation of this Act or the regulations; or

(c) the proposed regulation is of a minor or technical nature.

Discretion to make regulations

(5)  Upon receiving the Minister’s report mentioned in clause (1) (d), the Lieutenant Governor in Council, without further notice under subsection (1), may make the proposed regulation with the changes that the Lieutenant Governor in Council considers appropriate, whether or not those changes are mentioned in the Minister’s report.

No public consultation

(6)  The Minister may decide that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under this section if, in the Minister’s opinion,

(a) the urgency of the situation requires it;

(b) the proposed regulation clarifies the intent or operation of this Act or the regulations; or

(c) the proposed regulation is of a minor or technical nature.

Same

(7)  If the Minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under this section,

(a) those subsections do not apply to the power of the Lieutenant Governor in Council to make the regulation; and

(b) the Minister shall give notice of the decision to the public as soon as is reasonably possible after making the decision.

Contents of notice

(8)  The notice mentioned in clause (7) (b) shall include a statement of the Minister’s reasons for making the decision and all other information that the Minister considers appropriate.

Publication of notice

(9)  The Minister shall publish the notice mentioned in clause (7) (b) on a website of the Government of Ontario and give the notice by all other means that the Minister considers appropriate.

Temporary regulation

(10)  If the Minister decides that subsections (1) to (5) should not apply to the power of the Lieutenant Governor in Council to make a regulation under this section because the Minister is of the opinion that the urgency of the situation requires it, the regulation shall,

(a) be identified as a temporary regulation in the text of the regulation; and

(b) unless it is revoked before its expiry, expire at a time specified in the regulation, which shall not be after the second anniversary of the day on which the regulation comes into force.

No review

(11)  Subject to subsection (12), a court shall not review any action, decision, failure to take action or failure to make a decision by the Lieutenant Governor in Council or the Minister under subsections (1) to (10).

Exception

(12)  Any person resident in Ontario may make an application for judicial review under the Judicial Review Procedure Act on the grounds that the Minister has not taken a step required by subsections (1) to (10).

Time for application

(13)  No person shall make an application under subsection (12) with respect to a regulation later than 21 days after the regulation is filed.

17Omitted (amends, repeals or revokes other legislation).

18 Omitted (provides for coming into force of provisions of this Act).

19Omitted (enacts short title of this Act).

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