[Français](http://www.ontario.ca/fr/lois/loi/17h25)

Health Sector Payment Transparency Act, 2017

[S.o.](https://www.ontario.ca/laws/statute/s17025" \l "sched3s18) 2017, chapter 25  
Schedule 4

**Consolidation Period:** From May 29, 2019 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Note: THIS ACT IS NOT YET IN FORCE. It comes into force on a day to be named by proclamation of the Lieutenant Governor. (See: 2017, c. 25, Sched. 4, s. 20)

Last amendment: [2019, c. 7, Sched. 17, s. 85](http://www.ontario.ca/laws/statute/S19007" \l "sched17s85).

Legislative History: [2019, c. 7, Sched. 17, s. 85](http://www.ontario.ca/laws/statute/S19007" \l "sched17s85).

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Purpose

**1** The purpose of this Act is to require the reporting of information about financial relationships that exist within Ontario’s health care system, including within health care research and education, and to enable the collection, analysis and publication of that information in order to,

(a) strengthen transparency in order to sustain and enhance the trust that patients have in their health care providers and in the health care system;

(b) provide patients with access to information that may assist them in making informed decisions about their health care;

(c) provide the Minister and others with information for the purposes of health system research and evaluation, planning and policy analysis; and

(d) provide for the collection, use and disclosure of personal information for these purposes.

Definitions

**2** In this Act,

“affiliate” has the same meaning as in the Business Corporations Act; (“membre du même groupe”)

“drug” means,

(a) subject to the regulations, a substance or a preparation containing a substance referred to in clauses (a) to (d) of the definition of drug in subsection 1 (1) of the Drug and Pharmacies Regulation Act for human use, but does not include,

(i) a substance or preparation referred to in clause (e) of that definition, or

(ii) a natural health product within the meaning of the *Natural Health Products Regulation* made under the *Food and Drugs Act* (Canada), and

(b) any other prescribed substance or preparation; (“médicament”)

“intermediary” means a person or entity who provides or facilitates a transfer of value to a recipient on behalf of a payor; (“intermédiaire”)

“medical device” means,

(a) a device as defined in section 2 of the Food and Drugs Act (Canada) that is intended for human use other than a prescribed device, and

(b) any other prescribed instrument, apparatus, contrivance or similar article intended for human use; (“instrument médical”)

“medical product” means,

(a) a drug,

(b) a medical device, and

(c) any other prescribed product used in the health care system; (“produit médical”)

“Minister” means the Minister of Health and Long-Term Care or such other member of the Executive Council as may be assigned the administration of this Act under the Executive Council Act; (“ministre”)

“Ministry” means the ministry of the Minister; (“ministère”)

“payor” has the meaning set out in section 3; (“payeur”)

“personal information” has the same meaning as in subsection 2 (1) of the *Freedom of Information and Protection of Privacy Act* other than personal information that is personal health information within the meaning of the *Personal Health Information Protection Act, 2004*; (“renseignements personnels”)

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

“recipient” means a prescribed person or entity that receives a transfer of value from a payor; (“bénéficiaire”)

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

“transfer of value” means a transfer of value of any kind and includes a payment, benefit, gift, advantage, perquisite or any other prescribed benefit. (“transfert de valeur”)

Interpretation, “payor”

**3** Any of the following persons is a payor for the purposes of this Act if the person provides a transfer of value to a recipient:

1. A manufacturer that sells a medical product under the manufacturer’s own name or under a trade-mark, design, trade name or other name or mark that is owned or controlled by the manufacturer and that fabricates, produces, processes, assembles, packages or labels the product, even if those tasks are performed by someone else on the manufacturer’s behalf.

2. A person who fabricates, produces, processes, assembles, packages or labels a medical product on behalf of a manufacturer described in paragraph 1.

3. A wholesaler, distributor, importer or broker that promotes or facilitates the sale of a medical product.

4. A marketing firm or person who performs activities for the purposes of marketing or promoting a medical product.

5. A person who organizes continuing education events for members of a health profession on behalf of a manufacturer described in paragraph 1.

6. A prescribed person or entity.

Reporting obligations

**4** (1)  Subject to subsection (2),a payor shall report to the Minister the information set out in subsection (5) with respect to the following transactions:

1. A transfer of value provided directly by a payor to a recipient.

2. A transfer of value provided indirectly by a payor to a recipient through an intermediary.

Exceptions

(2)  A payor is not required to report a transaction that,

(a) has a dollar value that is less than the prescribed threshold; or

(b) is otherwise prescribed.

Report by intermediaries, affiliates

(3)  If requested by the Minister, an intermediary in a transaction, an affiliate of the intermediary or an affiliate of a payor shall, in the manner and the timeframe set out in the request, report to the Minister the information set out in subsection (5) that the Minister may request with respect to a transaction that is required to be reported under subsection (1).

Requests by party to transaction

(4)  A party or an affiliate of a party to a transaction that is required to be reported under subsection (1), other than a recipient or an affiliate of a recipient, shall obtain from any other party or affiliate of a party to the transaction, other than a recipient or an affiliate of a recipient, any information that the party or affiliate requires in order to comply with subsection (1) or (3), and a party or affiliate that receives a request for the information shall comply with it.

Information to be reported

(5)  Subject to the regulations, the following information, which may include personal information, shall be reported:

1. The name of the parties to the transaction including,

i. if a party is a business, its legal and operating names,

ii. if a party is an individual, the individual’s name, profession or title and any other prescribed identifying information.

2. If requested by the Minister from an intermediary or an affiliate of an intermediary under subsection (3), the source of the transfer of value.

3. The parties’ respective business addresses.

4. The date of the transfer of value.

5. The transfer of value’s dollar value or, in the case of a non-monetary transfer of value, its approximate dollar value.

6. A description of the transfer of value, including the reasons for it.

7. Any other prescribed information.

Notice required by s. 39 (2) of FIPPA

(6)  If the Minister collects personal information indirectly under this section, the notice required by subsection 39 (2) of the Freedom of Information and Protection of Privacy Act may be given by,

(a) a public notice posted on the Ministry or the Government of Ontario’s website; or

(b) any other method that may be prescribed.

Manner and frequency of reporting

(7)  A payor shall report to the Minister at the prescribed times and in the prescribed manner.

False or misleading statements

(8)  No payor, intermediary or affiliate shall report any information that is false or misleading.

Retention of records

(9)  A party to a transaction described in subsection (1) shall retain any records that the party creates or receives with respect to the transaction for the prescribed length of time.

Definition

(10)  In this section,

“party” means, in respect of a transaction that is required to be reported to the Minister under subsection (1), the recipient and the payor and includes any intermediary in the case of an indirect payment.

Use of information for analysis

**5** The Minister shall analyse the information reported under this Act, including any personal information, for the purposes of health system research and evaluation, planning and policy analysis.

Publication of information

**6** (1)  The Minister shall, in any format the Minister considers appropriate, disclose the information reported under this Act, which may include personal information, on a website and in any other manner that the Minister considers appropriate at least once in a calendar year and at any other time as the Minister considers appropriate.

Publication of analysis

(2)  If the Minister determines it is appropriate to do so, the Minister shall publish the results of any analysis conducted using information collected under this Act at the time and in the manner that the Minister considers appropriate.

Request for correction

**7** A prescribed person may, in accordance with the regulations, request that the Minister correct information reported to the Minister under this Act, and the Minister shall deal with the request in accordance with the regulations.

Requests for information

**8** (1)  The Minister may request that a recipient, a payor, an intermediary or an affiliate of a payor or an intermediary provide any information, including personal information, to the Minister that the Minister requires to determine compliance with this Act and the regulations.

Compliance required

(2)  A recipient, payor, intermediary or affiliate shall comply with any request from the Minister within the timelines specified in the request.

Inspectors

**9** (1)  The Minister may appoint, in writing, any person as an inspector for the purposes of this Act.

Inspection

(2)  An inspector may, without a warrant and at any reasonable time, enter a premises or any part of a premises if the inspector reasonably believes that a record relating to a transaction that is required to be reported under subsection 4 (1) may be located there, in order to conduct inspections for the purpose of determining compliance with the requirements under this Act.

Dwellings

(3)  No inspector shall enter a premises or any part of a premises that is being used as a dwelling, except with the consent of the occupier of the premises.

Identification

(4)  The Minister shall issue to every inspector a certificate of appointment which the inspector conducting an inspection shall produce, upon request, when acting in the performance of the inspector’s duties.

Powers of inspector

(5)  An inspector conducting an inspection may, with respect to any record or other thing the inspector determines relevant to the inspection,

(a) examine and make copies of it;

(b) demand its production; and

(c) remove it for the purpose of making a copy.

Same, questioning any person

(6)  An inspector conducting an inspection may question any person on matters the inspector determines relevant to the inspection and the person shall co-operate fully with the inspector.

Same, audit

(7)  An inspector conducting an inspection may audit the accounts and financial transactions of a recipient, a payor, an intermediary or an affiliate of a payor or an intermediary in order to determine compliance with this Act.

Obligation to produce and assist

(8)  If an inspector demands that a record or other thing be produced under this section, the person who has access to the record or thing shall produce it within the time provided for in the demand and shall, on request, provide any assistance that is reasonably necessary to copy it, interpret it or produce it in a readable form.

Documents and things removed from place

(9)  An inspector shall return, as promptly as reasonably possible, a record or thing that the inspector removes.

Certificate of evidence

(10)  A copy of a record or other thing that appears to be certified by an inspector as being a true copy of the original is admissible in evidence in any proceeding to the same extent as the original and has the same evidentiary value as the original, without proof of the signature or official character of the person appearing to have certified the copy.

No obstruction

(11)  No person shall,

(a) hinder, obstruct or interfere with or attempt to obstruct, hinder or interfere with an inspector conducting an inspection or an audit;

(b) destroy or alter a record or other thing that has been demanded under clause (5) (b);

(c) fail to do anything required under subsection (6) or (8); or

(d) provide the inspector with false information on matters relevant to the inspection.

Definition of record

(12)  In this section,

“record” means any document or record of information, in any form, including a record that contains personal information.

Production order

**10** (1)  On application, without notice by an inspector, a justice may issue a production order to a person, other than a person being investigated, requiring the person to,

(a) produce data, a document or a copy of a document certified by affidavit to be a true copy; or

(b) prepare and produce data or a document based on documents or other things already in existence.

Contents of order

(2)  A production order shall set out the time at which, the form and manner in which and to whom the data, document or copy of a document shall be produced.

Grounds

(3)  A justice may make a production order if the justice is satisfied, by information given under oath or affirmation, that there are grounds to believe that,

(a) an offence under this Act has been or is being committed;

(b) the data or document will provide evidence respecting the offence or suspected offence; and

(c) the person who is subject to the order has possession or control of the data or document.

Conditions

(4)  A production order may contain any conditions the justice considers advisable.

Evidence

(5)  A copy of data or a document produced under this section, on proof by affidavit that it is a true copy, is admissible in evidence in any proceeding under this Act to the same extent as the original data or document and has the same evidentiary value as the original data or document would have if it had been proved in the ordinary way without proof of the signature of the person appearing to have provided the affidavit.

No return of data, copies

(6)  Data or copies of documents produced under this section are not required to be returned to the persons who provided them.

Compliance required

(7)  A person to whom a production order is directed shall comply with the order according to its terms.

Definition of justice

(8)  In this section,

“justice” means a justice under the Provincial Offences Act.

Compliance orders

**11** (1)  If the Minister or an inspector has grounds to believe that a person has failed to comply with this Act or the regulations, the Minister or the inspector may serve on the person a compliance order requiring the person to do anything, or refrain from doing anything, in order to comply with this Act and the regulations.

Submissions

(2)  The person to whom the order is directed may, within 14 days after the order is served, provide submissions to the Minister as to how the person has complied with the Act and the regulations.

Reconsideration by Minister

(3)  After considering the submissions, the Minister shall confirm or rescind the compliance order and serve on the person a notice of the decision.

Compliance

(4)  A person to whom a compliance order is directed shall comply with it unless the Minister rescinds it.

Service of order

(5)  A compliance order shall be served in accordance with the regulations.

Proof of service

(6)  A certificate of service that appears to have been signed by the person who effected service of a document is evidence of service and the facts contained in it without proof of the signature, if the person,

(a) certifies that the copy of the document is a true copy of it;

(b) certifies that the document was served on the person; and

(c) sets out in it the method of service used.

Non-application of SPPA

(7)  The Statutory Powers Procedure Act does not apply to the making, confirmation or rescission of a compliance order under this section.

Court order to comply

**12** If it appears to the Minister that a person is not complying with this Act or the regulations, the Minister may apply to the Superior Court of Justice, on notice to the person, for an order directing the person to comply and, on the application, the court may make the order that the court thinks fit.

Publication re orders

**13** (1)  The Minister shall publish on a website the following information about a compliance order issued under section 11 or a court order issued under section 12:

1. The name of the person or entity to whom the order is directed.

2. A description of the non-compliance that gave rise to the order.

Limitation

(2)  The Minister shall not publish information about a compliance order issued under section 11 unless,

(a) 14 days have elapsed since the Minister or inspector served the order and the person to whom the order is directed has not provided submissions under subsection 11 (2); or

(b) the Minister has confirmed the order under subsection 11 (3).

Delegation

**14** The Minister may delegate in writing any of the Minister’s powers or duties under this Act to any person.

Liability

**15** (1)  No action or other proceeding for damages may be instituted against the Minister, an employee or agent of the Ministry, a person to whom a power or duty of the Minister under this Act is delegated or an employee or agent of that person for any act done in good faith in the execution or intended execution of the person’s powers or duties under this Act or for any alleged neglect or default in the execution in good faith of the person’s powers or duties under this Act. 2017, c. 25, Sched. 4, s. 15 (1).

Liability in certain cases

(2)  Despite subsections 5 (2) and (4) of the Proceedings Against the Crown Act, subsection (1) does not relieve the Crown of any liability to which it would otherwise be subject. 2017, c. 25, Sched. 4, s. 15 (2).

Note: On the later of the day section 33 of Schedule 17 (Crown Liability and Proceedings Act, 2019) to the Protecting What Matters Most Act (Budget Measures), 2019 comes into force and the day subsection 15 (2) of Schedule 4 (Health Sector Payment Transparency Act, 2017) to the Strengthening Quality and Accountability for Patients Act, 2017 comes into force, subsection 15 (2) of the Act is amended by striking out “subsections 5 (2) and (4) of the Proceedings Against the Crown Act” and substituting “subsection 8 (3) of the Crown Liability and Proceedings Act, 2019”. (See: 2019, c. 7, Sched. 17, s. 85)

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

[2019, c. 7, Sched. 17, s. 85](http://www.ontario.ca/laws/statute/S19007" \l "sched17s85) - not in force

Obligation of directors and officers

**16** Every director and officer of a corporation to which this Act applies shall ensure that the corporation complies with this Act and the regulations.

Offences

**17** (1)  Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable,

(a) in the case of an individual’s first offence, to a fine not exceeding $10,000 for each day or part of a day on which the offence occurs or continues;

(b) in the case of an individual’s second or subsequent offence, to a fine not exceeding $25,000 for each day or part of a day on which the offence occurs or continues;

(c) in the case of a corporation’s first offence, to a fine not exceeding $50,000 for each day or part of a day on which the offence occurs or continues; or

(d) in the case of a corporation’s second or subsequent offence, to a fine not exceeding $100,000 for each day or part of a day on which the offence occurs or continues.

No imprisonment or probation

(2)  A person convicted of an offence under this Act is not liable to imprisonment or to a probation order under subsection 72 (1) of the Provincial Offences Act as a result of the conviction or a result of default in payment of the fine resulting from the conviction.

Due diligence, mistake of fact

(3)  Subject to subsection (4), it is not a defence to a charge under this Act that,

(a) the person took all reasonable steps to prevent the contravention; or

(b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts which, if true, would have resulted in there not being any contravention.

Defence

(4)  It is a defence to a charge related to a contravention of subsection 4 (8) that,

(a) the person took all reasonable steps to prevent the contravention; or

(b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.

No limitation

(5)  Section 76 of the Provincial Offences Act does not apply to a prosecution under this Act.

Compliance order not necessary

(6)  A person may be prosecuted under this Act whether or not a compliance order has been made in respect of the alleged contravention.

Copy of order

(7)  In a prosecution for failing to comply with a compliance order, a copy of the order that appears to have been signed by the Minister or an inspector is evidence of the order and the facts contained in it without proof of the signature.

Presiding judge

(8)  The Crown may, by notice to the clerk of the Ontario Court of Justice, require that a provincial judge preside over a proceeding in respect of a prosecution under this Act.

Copy of record

(9)  In a prosecution under this Act, a copy of a record or thing made under subsection 9 (5) that appears to be certified as a true copy of the original by an inspector is admissible as evidence of the record or thing and of the facts appearing in it without further proof.

Review of the Act

**18** (1)  The Minister shall periodically conduct a review of this Act.

Written report

(2)  The Minister shall prepare a written report respecting the review and make it available to the public on a website and in any other manner that the Minister considers appropriate.

Period for review

(3)  The first review shall be completed and the report made available to the public within five years after the day this section comes into force.

Same

(4)  Each subsequent review shall be completed and the report made available to the public within five years after the day the report on the previous review has been made available to the public.

Regulations

**19** The Lieutenant Governor in Council may make regulations,

(a) respecting any matter that this Act describes as being prescribed by or provided for in the regulations;

(b) defining or clarifying any word or expression used in this Act but not otherwise defined;

(c) prescribing substances or preparations that are not a drug for the purposes of the definition of “drug” in section 2;

(d) further defining, specifying or clarifying the meaning of “intermediary” or “transfer of value” in section 2;

(e) respecting the correction of information under section 7, including prescribing procedures for requests for corrections, procedures for making a correction and procedures that apply if the Minister does not make a requested correction;

(f) governing the service of a compliance order under subsection 11 (5);

(g) exempting a person or a class of person from the application of this Act or any provision of it, subject to any prescribed conditions;

(h) prescribing processes, requirements or conditions related to the collection of personal information under this Act and the use or disclosure of that information;

(i) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable for carrying out the purposes and provisions of this Act.

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

21Omitted (enacts short title of this Act).

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