

VIA REGULAR AND ELECTRONIC MAIL

May 27, 2025

Meghan Stenson, Clerk of Procedural Services
Procedural Services Branch
Whitney Block, Room 1405
99 Wellesley St. W
Toronto, ON M7A 1A2

Dear Meghan Stenson:

Re: Schedule 6 to Bill 11, *More Convenient Care Act, 2025*, amending the *Personal Health Information Protection Act, 2004*

As Ontario's Information and Privacy Commissioner, I am writing regarding [Bill 11](#), the *More Convenient Care Act, 2025* currently at Second Reading before the Legislative Assembly of Ontario, specifically Schedule 6, which proposes amendments to the *Personal Health Information Protection Act, 2004* (PHIPA). This bill was originally introduced to the previous legislature in virtually identical form as Schedule 6 to [Bill 231](#). I am providing my office's submission for distribution in the event that Bill 11 is referred to committee for study.

The government's stated intent for this legislation is to "better meet the needs of patients by making it easier to conveniently access their health information and records online and by providing better access to key services like primary care." The bill proposes significant changes to the province's health privacy statute, PHIPA, including the introduction of a digital health identifier tool or Digital Health ID.

As an independent officer of the legislature, part of my mandate is to provide advice to the government on the privacy and access to information implications of proposed legislation. Advocating for Ontarians' right to access their own personal health information is a fundamental part of that mandate. As such, I provided a detailed [submission](#) on the predecessor Bill 231. Our submission on Bill 231 built on earlier [advice](#) my office provided in response to two draft regulations¹, which represented the government's initial approach to establishing Digital Health IDs and enabling individual access to records of personal health information maintained in the Electronic Health Record (EHR).

In both submissions, I expressed support for the government's laudable policy goals of increasing access to one's own digital health information. However, both times, I raised serious concerns that the proposed approach created an unduly complex and confusing framework that will have the opposite effect. As proposed, the bill will obfuscate, and possibly even undermine, individuals' right of access to their digital health records rather than enable it.

¹ Amendment of Regulation O. Reg. 329/04 (General) under the Personal Health Information Protection Act, 2004 (PHIPA) to provide validation, verification and authentication services. [Proposal | regulatoryregistry.gov.on.ca](https://regulatoryregistry.gov.on.ca)

Despite repeated efforts to communicate our concerns and offer very concrete suggestions on how to make the bill more operationally feasible to implement, the government has introduced a virtually identical third iteration of the same proposal. Given the many months that have passed since our concerns were first raised, and multiple rounds of correspondence, I would have expected to see at least some of our recommendations considered and incorporated into an improved version of the bill. This is particularly so since my office will ultimately be responsible for overseeing and enforcing these new provisions in practice.

During debate on second reading of the bill, the Minister of Health stated that the government has “been working with the Information and Privacy Commissioner’s office all through the preparing of this legislation”. While it is true that my office has made considerable efforts to engage constructively with Ministry of Health staff, our advice has been almost entirely ignored.

As currently drafted, Schedule 6 of Bill 11 fails to address key concerns we raised. If left unaddressed, these issues would weaken Ontarians’ privacy and access rights, rather than protect them. In summary, our concerns are as follows:

1. **Narrowing the existing access rights of Ontarians.** Instead of expanding access, Bill 11 would actually restrict rights that were previously granted to Ontarians under legislation passed in 2016, which remains unproclaimed to this day. Rather than make good on these access rights, Schedule 6 would grant broad regulation making authority for government to *limit* access to EHR records by excluding classes of records, excluding classes of persons from accessing those records, or blocking access altogether.
2. **Introducing broad authorities for digital identifiers without appropriate guardrails.** The framework for the creation and use of digital health identifiers does not clearly define or limit how and when they can be used, what they can be used for, or who can use them. Without these guardrails, Ontarians may reasonably question whether their personal health information will be safe and secure. Rather than inspire Ontarians’ trust in the digital health system, this level of uncertainty may undercut it.
3. **Allowing key elements of PHIPA to be modified or excluded through regulations.** Most notably, Schedule 6 explicitly authorizes the government to make regulations that could exclude requirements related to individual consent – one of the most fundamental privacy protections under Ontario’s privacy laws.
4. **Adding a new prescribed organization role for Ontario Health without clear boundaries.** Ontario Health already holds multiple functions under PHIPA, including that of “prescribed person”, “prescribed entity” and “prescribed organization” for the purposes of the EHR. Bill 11 introduces yet another role for Ontario Health with respect to digital health identifiers but does not clearly distinguish this from all of its other responsibilities. This conflation of responsibilities and lack of clarity between them creates a risk that personal health information may flow inappropriately across these different roles, and for different purposes.
5. **Creating an inconsistent and incomplete approach to oversight and enforcement.** As drafted, Schedule 6 creates clear gaps in my office’s oversight of Ontario Health as the prescribed organization and does not provide my office with the necessary order-making powers to fully

enforce Ontario Health's many roles and obligations. Without these enforcement tools, Ontarians could be left without proper or meaningful recourse if their privacy rights are violated.

I have attached to this submission a set of specific line-by-line amendments my office proposed to the ministry as ways of addressing the above stated concerns. While these proposed amendments would not fully address the fundamental failures of the bill, they would at least help clarify the new provisions and reduce risk by correcting several drafting errors, streamlining provisions across different parts of the bill, addressing oversight gaps and narrowing the broad scope of new rulemaking authorities.

I continue to fully support the government's objective of empowering patients to manage their health by improving access to their own information, which could also lead to greater efficiencies in the health care system. However, the complex framework proposed in Bill 11 is tied to a vague and expansive scheme of managing and protecting digital health identifiers, leaves me deeply concerned that the government's approach will prevent it from achieving its intended goals. Instead of making it more convenient for Ontarians to access their digital health records, the bill makes it unduly complicated; and rather than enhancing Ontarians' trust in digital health, the bill risks undermining it.

Given that these significant drafting concerns remain unaddressed, I must again urge the legislature to strike Schedule 6 from Bill 11 until these defects can be resolved.

My office remains available to support the development of an improved proposal that would better reflect the fundamental principles of privacy, access, transparency, and accountability that are essential for ensuring the privacy rights of Ontarians.

In the spirit of openness and transparency, I will be posting this letter on my office's website.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Kosseim', with a stylized flourish at the end.

Patricia Kosseim
Commissioner

c.c. Hon. Sylvia Jones, Minister of Health
Deborah Richardson, Deputy Minister of Health
Matthew Anderson, Chief Executive Officer, Ontario Health

Encl.