

**Association of Family Health Teams of Ontario**

**STATUTORY COMPLIANCE FOR FAMILY HEALTH TEAMS AND  
NURSE PRACTITIONER-LED CLINICS**

**A Toolkit for Boards and Executive Directors/Administrators**

**Written by:**



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**Kate Dewhirst Health Law** is a law firm serving health care organizations including family health teams and nurse practitioner-led clinics as well as Ontario Health Teams, hospitals, mental health and addictions agencies, long-term care homes, community health centres and shared services organizations in Ontario. [www.katedewhirst.com](http://www.katedewhirst.com)

### Acknowledgements

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### Disclaimer

This Toolkit is for general information purposes only. It is not legal or professional advice or opinion. Family health teams or nurse practitioner-led clinics that have specific concerns about their statutory obligations and compliance should seek their own legal or professional advice based on their particular circumstances.

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## ABOUT THE TOOLKIT

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AFHTO first published this Statutory Compliance Toolkit more than 10 years ago to highlight the laws that Executive Directors or Administrators of Family Health Teams (FHTs) and Nurse Practitioner-Led Clinics (NPLCs) need to know and to provide them with tools to assist them in reporting on their organization's statutory compliance to their Board.

This Toolkit not only updates the laws and compliance obligations on FHTs and NPLCs but also reflects the maturation of FHTs and NPLCs for demonstrating organizational accountability and transparency in government funding contracts, and reports to their Boards and their communities.

Since 2014, the Ontario government has introduced new or increased penalty (fine) amounts and administrative monetary penalties (AMPs) under various statutes. These changes signal to FHTs/NPLCs the public service activities where government expects compliance by giving regulators better practical tools of enforcement. However, it is important to note that such penalties for offences can only be imposed after a court proceeding in which a contravention of the relevant statute has been found. AMPs can be issued directly by regulators (for example, by the Information and Privacy Commissioner of Ontario for violations of the *Personal Health Information Protection Act* (PHIPA)). Despite these enhanced enforcement powers, there are not many examples of them being used against FHTs and NPLCs (or the public sector in general).

This new version of the Toolkit:

- highlights advice for Executive Directors, Administrators and Board Members for statutory compliance in the primary care sector;
- emphasizes accessibility as an important compliance domain by adding a 6<sup>th</sup> key duty related to the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) and providing information about the *French Language Services Act*;
- includes information about new (or now in force) statutes including the *Connecting Care Act, 2019*; *Child, Youth, and Family Services Act, 2017*; *Smoke-Free Ontario Act, 2017*; *Missing Persons Act, 2018*; *Building Ontario Businesses Initiative Act, 2022*; *Not-for-profit Corporations Act, 2010* (in force since 2021 after a very long delay of it coming into force);
- provides content on the *Freedom of Information and Protection of Privacy Act* (FIPPA) and the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) for FHTs/NPLCs that are linked to universities, hospitals or municipalities or working with them or other freedom of information bound partners such as public health units in the context of an Ontario Health Team; and content about *Canada's Anti-Spam Legislation* (CASL) and the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) if the FHT/NPLC is engaged in a commercial activity; and
- includes two new sections:
  - a list of compliance deadlines from statutes;
  - a table of laws that may apply in different health care contexts but do not generally give rise to compliance activities for FHTs or NPLCs.

## A COMMITMENT TO STATUTORY COMPLIANCE

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### STATUTORY COMPLIANCE IN THE PRIMARY CARE SECTOR

More than 50 major provincial and federal laws apply to Ontario FHTs and NPLCs. These laws (also known as “acts”, “statutes” or “legislation”) touch all aspects of the operations of a FHT or NPLC. For example, there are laws that apply to your FHT and NPLC because it is:

- A group of health care providers
- A health information custodian or agent under the *Personal Health Information Protection Act, 2004* (“PHIPA”)
- A corporation (and specifically a not-for profit corporation)
- An employer
- A recipient of public funds

Depending on your circumstances, there are additional laws that apply to your organization if you operate as a charitable organization, a building site (during construction) or a landlord or tenant.

These laws impose duties not only on your organization as a corporation, but also on your management team and your Board of Directors.

### THE ROLE OF THE EXECUTIVE DIRECTOR/ADMINISTRATOR

As an Executive Director or Administrator of a FHT or NPLC, you have the day-to-day responsibility of making sure your organization complies with tasks that are required by law and for reporting on your organization’s statutory compliance to your Board (from time to time and on request). You need direct familiarity with the laws that impact your FHT or NPLC even though you may have other staff members (such as human resources and finance staff) who assist you to discharge your organization’s duties.

The Executive Director or Administrator reports to the Board on the organization's key contracts, its legal context and commitments and assures the Board that the organization has adequate processes, policies, and practices in place to meet its legal obligations.

This Toolkit highlights the laws that you need to know and provides you with tools to assist you to report on your organization’s statutory compliance to your Board.

### Tips for Executive Directors/Administrators – How to track, manage, and communicate legal compliance to the Board

The Executive Director or Administrator can use an annual Statutory Remittance Certificate (see **Appendix 1**) to reassure the Board that all financial payments for which the Board members could be personally liable have been made and are up-to-date.

The Executive Director or Administrator can track compliance activities of the organization using a Statutory Compliance Checklist (see **Appendix 2**). Executive Directors or Administrators can use the tool to report to the Board any compliance breaches or complaints. We recommend that Executive Directors or Administrators keep track of:

- The laws that apply to your organization
- Your compliance status with those laws (such as “Compliant” or “In progress”)

- Your compliance activities related to those laws including keeping track of any related organizational committees, policies, reports made to authorities, internal or external audits, training, and/or legal/professional advice and who is responsible within the team
- Any known legal breaches or complaints

If statutory compliance gaps or risks are identified, the Executive Director or Administrator can use the Statutory Compliance Checklist to:

- prioritize activities to achieve compliance and identify expected timelines;
- identify and report those gaps and risks to the Board; and
- help anticipate and answer questions of the Board.

The Executive Director or Administrator should ensure that the Board receives training on statutory compliance.

The Executive Director or Administrator also ensures that there is adequate directors' and officers' liability insurance to protect the Board.

The Executive Director or Administrator of a FHT or NPLC should be prepared to assure their Board that the organization has the necessary processes, policies and practices in place to meet its legal obligations.

## **THE ROLE OF THE BOARD**

As a Board member of a FHT or NPLC, you are not expected to know the details of every law that applies to your organization. However, you should be sufficiently familiar with the relevant laws to be able to take at least the level of care that a reasonably prudent person would take in fulfilling the Board's mandate to govern.

As a Board member, you must (among other things):

- Act honestly and in good faith with a view to the best interest of the FHT or NPLC
- Ensure the integrity of the organization's internal control systems
- Identify the principal risks of the organization's business and ensure implementation of appropriate systems to manage those risks

As a Board member you should know that there are some laws that could impact you personally if your FHT or NPLC does not fulfil its legal duties. This Toolkit will highlight the key laws you need to know and the impact of those laws on your organization and on you personally.

### **Tips for Board Members – How to verify and ensure compliance**

Some of the most important ways to protect yourself and assure yourself that the FHT or NPLC is meeting all of its legal obligations are to:

- Ask questions of your Executive Director/Administrator (this Toolkit has provided recommendations for the types of questions you should ask)
- Attend Board meetings
- Review management and Board committee reports and other materials provided to you
- Ask for annual business plans and updates from your Executive Director/Administrator
- Ask for a Statutory Remittance Certificate on an annual basis (see Appendix 1)

- Ask the Executive Director/Administrator to report legal compliance breaches or complaints to the Board on at least a quarterly basis (or more frequently if appropriate)
- Ask for a Statutory Compliance Report on an annual basis (see **Appendix 3**)
- Ask whether the FHT or NPLC has directors' and officers' liability insurance, whether that insurance covers statutory fines/penalties, and whether the organization indemnifies its Board members for costs incurred in carrying out their duties

Please refer to [AFHTO Governance Fundamentals](#) for additional information on your duties as a Board member of a FHT or NPLC and how to fulfil your governance obligations.

## A COMMITMENT TO STATUTORY COMPLIANCE

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This Toolkit is divided into the following sections:

<b>Section I: The Big Picture</b>	A one-page visual overview listing the major laws that apply to FHTs and NPLCs operating in Ontario.
<b>Section II: The 6 Key Duties (and 11 Laws) That Impact You as a Board Member</b>	The <b>6 key duties</b> and <b>11 key laws</b> that expose Board members to personal liability for their own acts and omissions as Board members or expose Board members to personal liability for the acts and/or omissions of the FHT or NPLC. Penalties can include substantial fines and imprisonment.
<b>Section III: The Clinical Fundamentals</b>	A health law primer summarizing the <b>2 key clinical laws</b> that underpin care delivery at a FHT or NPLC. Penalties for non-compliance with these laws can include fines and imprisonment. Also includes a list of the mandatory reporting obligations of regulated health providers.
<b>Section IV: Other Important Laws</b>	Other laws that Board members and Executive Directors or Administrators should know about. For the most part, penalties for non-compliance with these laws are limited to corporate fines.
<b>Section V: Laws that Apply to Particular Kinds of FHTs and NPLCs and Activities Out of the Ordinary</b>	Additional <b>key laws</b> that apply to FHTs or NPLCs that fall into one or more special categories or conduct certain activities. Penalties for non-compliance with these laws can include substantial fines and imprisonment for Board members. It is important to review this section to see which are applicable to your FHT or NPLC (if any).
<b>Section VI: Compliance Deadlines</b>	Table of compliance deadlines in statutes.
<b>Section VII: Laws that Do Not Apply</b>	Laws that are relevant and may apply in different health care contexts but do not give rise to compliance activities for FHTs or NPLCs.
<b>Appendices</b> (separately available templates)	The <b>Appendices</b> provide sample templates – an Executive Director/Administrator compliance certificate to submit to the Board annually ( <b>Appendix 1</b> ); a Statutory Compliance Checklist to keep track of compliance activities and problems ( <b>Appendix 2</b> ); a Statutory Compliance Audit Report ( <b>Appendix 3</b> ); and a Corporation Information Summary Document ( <b>Appendix 4</b> ).

**SECTION I: THE BIG PICTURE**

**LAWS GENERALLY APPLICABLE TO ONTARIO FHTs and NPLCs†**

**CLINICAL**

- Accessibility for Ontarians with Disabilities Act, 2005
- Apology Act, 2009
- Child, Youth and Family Services Act, 2017\*
- Connecting Care Act, 2019
- Controlled Drugs and Substances Act (Can)
- Coroners Act
- Drug and Pharmacies Regulation Act
- French Language Services Act
- Health Care Consent Act, 1996
- Health Insurance Act
- Health Protection and Promotion Act\*
- Highway Traffic Act
- Mandatory Blood Testing Act, 2006
- Mental Health Act
- Narcotic Safety and Awareness Act, 2010
- Personal Health Information Protection Act, 2004\*
- Regulated Health Professions Act, 1991 + 27 health profession specific Acts
- Safeguarding our Communities Act (Patch for Patch Return Policy), 2015
- Social Work and Social Service Work Act, 1998
- Substitute Decisions Act, 1992
- Vital Statistics Act

**EMPLOYMENT**

- Accessibility for Ontarians with Disabilities Act, 2005
- Criminal Code (Canada)\*
- Employment Standards Act, 2000\*
- Human Rights Code\*
- Occupational Health and Safety Act\*
- Pay Equity Act\*
- Workplace Safety and Insurance Act, 1997\* (only applies if a FHT/NPLC registers to have it apply)

**TAX, CORPORATE & CHARITY**

- Auditor General Act
- Broader Public Sector Accountability Act, 2010 (applies if FHT/NPLC received more than \$10 million dollars of public funding prior year)
- Building Ontario Businesses Initiative Act, 2022
- Canada Pension Plan\*
- Canada's Anti-Spam Legislation\*
- Charities Accounting Act (applies if FHT/NPLC is a charitable corporation)
- Not-for-Profit Corporations Act, 2010\*
- Corporations Information Act
- Corporations Tax Act
- Employer Health Tax Act\*
- Employment Insurance Act (Canada)\*
- Excise Tax Act (Canada)\*
- Health Sector Payment Transparency Act, 2017 – not yet in force
- Income Tax Act (Canada and Ontario)\*
- Pension Benefits Act\*
- Public Salary Disclosure Act, 1996 (applies if FHT/NPLC receives more than \$1 million in government funding annually)
- Retail Sales Tax Act\*

**FACILITIES & ENVIRONMENTAL**

- Accessibility for Ontarians with Disabilities Act, 2005
- Building Code Act, 1992\*
- Environmental Protection Act, 1999 (Can) & Environmental Protection Act (Ontario)\*
- Commercial Tenancies Act
- Fire Protection and Prevention Act, 1997\*
- Hazardous Products Act\*
- Missing Persons Act, 2018
- Occupiers' Liability Act
- Ontario Water Resources Act\*
- Pesticides Act\*
- Private Security and Investigative Services Act, 2005
- Smoke-Free Ontario Act, 2017
- Technical Standards and Safety Act, 2000\*
- Trespass to Property Act

†This list includes laws generally applicable to FHTs and NPLCs in Ontario; however it may not be a complete list. For example the unique circumstance of your FHT or NPLC or changes to the laws may render this list incomplete or over inclusive. There may be Indigenous laws you need to consider. Please seek legal advice if you require a comprehensive list for your own purposes.

\* Potential financial liability exposure for Board members **personally** and/or risk of imprisonment.

## SECTION II: THE 6 KEY DUTIES (AND 11 LAWS) THAT IMPACT BOARD MEMBERS

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If you are a Board member of a FHT or NPLC, there are **6 key duties and 11 laws related to those duties** you must know.

These laws impose risks of liability, financial penalties and/or imprisonment on you personally (called “**Director Liability**” for members of a Board of Directors) or for the acts and/or omissions of the FHT or NPLC.

At a bare minimum, as a Board member you must know about the organization’s duty to:

- Remit taxes, CPP and EI Premiums
  1. *Excise Tax Act*
  2. *Income Tax Act*
  3. *Retail Sales Tax Act*
  4. *Canada Pension Plan*
  5. *Employment Insurance Act*
- Maintain minimum employment standards
  6. *Employment Standards Act, 2000*
- Provide a safe workplace
  7. *Occupational Health and Safety Act*
  8. *Criminal Code*
- Protect health records and information
  9. *Personal Health Information Protection Act, 2004*
- Provide accessible health services and clinic for patients and accessible workplace
  10. *Accessibility for Ontarians with Disabilities Act*
- Avoid discharging contaminants into the environment
  11. *Canadian Environmental Protection Act, 1999* (Canada) or the *Environmental Protection Act* (Ontario)

For each of the 6 key duties and 11 key laws in this Section, we have provided you with:

- The enforcement agency that oversees the law
- An explanation of to whom the duty is owed
- The compliance requirements
- An explanation of the potential liability for Board members
- The penalties
- The key questions Board members should ask the Executive Director/Administrator
- Links to additional related resources

**SECTION II: THE 6 KEY DUTIES (AND 11 LAWS) THAT IMPACT BOARD MEMBERS**

**TAX, CORPORATE & CHARITY – Duty to remit taxes**

**Duty:** As a corporation and employer, every FHT or NPLC has a duty to remit its taxes as well as Canada Pension Plan and Employment Insurance premiums

**Laws:** [Excise Tax Act](#) (Canada), [Income Tax Act](#) (Canada), [Income Tax Act](#) (Ontario), [Retail Sales Tax Act](#) (Ontario), [Canada Pension Plan](#) (Canada), [Employment Insurance Act](#) (Canada)

**Enforcement Agencies:** Canada Revenue Agency and Ontario Ministry of Finance

**To whom the duty is owed:** Federal and provincial governments

**Compliance Requirements:** These laws require all businesses to collect and remit federal and provincial income taxes for employees; Canada Pension Plan and Employment Insurance premiums on behalf of the employer and the employee; Harmonized Sales Tax (HST) on non-medical taxable services, such as charging rent, uninsured services, and some administrative cost-sharing arrangements; and, if the FHT/NPLC self-administers an employee benefit plan, Ontario Retail Sales Tax for such plan.

FHTs/NPLCs must remit applicable taxes and premiums prior to the prescribed deadlines.

**Potential Liability for Board Members:** If the FHT/NPLC fails to remit the required taxes and premiums, its Board members will be jointly and severally liable for the total amounts owing under the *Income Tax Act*, the *Excise Tax Act* and/or the *Retail Sales Act*, *Canada Pension Plan* and the *Employment Insurance Act*, plus applicable interest and penalties.

**Penalties:** A variety of penalties are imposed by these laws for failure to file returns, failure to collect or failure to remit the full amounts owing. Daily financial penalties and interest may accrue on unpaid amounts, which may be significant. A FHT/NPLC may be dissolved if in default of complying with the *Retail Sales Act*. Board members who acquiesce or participate in the commission of an offence by the FHT/NPLC may be subject to stiff fines and/or prison terms of up to 2 years for serious offences.

**KEY QUESTIONS**

- Has the FHT/NPLC remitted its most recent taxes/premiums owed?
- Has a separate fund been established for tax/premium remittances?
- Does the FHT/NPLC remit its taxes/premiums and file its returns in a timely manner?
- Who is responsible for remitting taxes/premiums for the FHT/NPLC?
- Has the FHT/NPLC ever been cited for failure to pay its taxes/premiums? If yes, what was the outcome and is any amount still owing?
- Have you completed the annual Statutory Remittance Certificate? (See [Appendix 1](#))
- Is there an auditor who examines this independently?

**ADDITIONAL RESOURCES**

- The Ontario Ministry of Finance online book [Retail Sales Tax](#)
- The Canada Revenue Agency [Income Tax Information Circular on Director Liability under the Income Tax and Excise Act](#)

**SECTION II: THE 6 KEY DUTIES (AND 11 LAWS) THAT IMPACT BOARD MEMBERS**

**EMPLOYMENT – Duty to maintain minimum employment standards**

**Duty:** As an employer, every FHT or NPLC has a duty to maintain minimum employment standards

**Law:** [Employment Standards Act, 2000](#) (Ontario) (ESA)

**Enforcement Agency:** Ontario Ministry of Labour, Immigration, Training and Skills Development

**To whom the duty is owed:** Employees – unless the employee is excluded in whole or in part from the scope of the ESA

**Compliance Requirements:** Among other things, employers have a general obligation to ensure that the FHT/NPLC meets the minimum ESA standards regarding hours, breaks, wages, termination, holidays, vacation, and leaves of absence. There are also record-keeping obligations.

The ESA applies to any Ontario business or activity that employs people. For example, in a FHT or NPLC, typically allied health professionals and administrative staff would be employees. With some blended salary model FHTs, physicians may also be employees.

The ESA prescribes minimum standards for employee wages, termination notice, entitlements to vacation and leaves, etc. Physicians, medical students, physiotherapists, psychologists, massage therapists and naturopaths are exempt from ESA coverage except for provisions regarding personal emergency leave, notice of termination and severance pay. Other allied health professionals may also have exemptions or special rules under the ESA. The Ministry of Labour, Immigration, Training and Skills Development has an online guide for employers\* that provides information on exemptions and special rules that apply to various industries and jobs, including [EMS, healthcare, and health professionals](#).

**Potential Liability for Board Members:** In the event the FHT/NPLC goes bankrupt or is sued and does not pay, FHT/NPLC Board members are liable to employees for up to 6 months' unpaid wages and 12 months' vacation pay under the *Employment Standards Act (Ontario)* and *Not-for-Profit Corporations Act, 2010 (Ontario)*. Wages may include amounts owing under pay equity or minimum wage laws, including overtime pay and statutory holiday pay.

**Penalties:** It is an offence for a Board member to contravene the ESA or to acquiesce or participate in the FHT/NPLC's contravention of the ESA. Penalties applicable to Board members include a fine of up to \$100,000 and/or up to 12 months in prison plus amounts owing to an employee. The FHT/NPLC could be subject to a fine up to \$100,000 for a first offence and up to \$500,000 for multiple offences, plus amounts owing to an affected employee.

**KEY QUESTIONS**

- Does the FHT/NPLC have policies and procedures in place to ensure ESA compliance?
- Has the FHT/NPLC ever been cited by the Ministry of Labour?
- Have FHT/NPLC employees ever made complaints under the ESA? What was the outcome?
- How does the FHT/NPLC keep up with changing standards of the ESA?

- When did we last update our employee contracts and human resource policies to ensure ESA compliance?

**ADDITIONAL RESOURCES**

- \*The Ministry of Labour, Training and Skills Development's [Your Guide to the Employment Standards Act](#)
  - [Who is not covered by the ESA?](#)

**SECTION II: THE 6 KEY DUTIES (AND 11 LAWS) THAT IMPACT BOARD MEMBERS**

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**EMPLOYMENT – Duty to provide a safe workplace**

**Duty:** As an employer, every FHT or NPLC has a duty to provide a safe workplace

**Laws:** [Occupational Health and Safety Act](#) (Ontario) (OHSA) and the [Criminal Code](#) (Canada)

**Enforcement Agency:** Ontario Ministry of Labour, Immigration, Training and Skills Development

**To whom the duty is owed:** “Workers”, which is broadly interpreted to include employees and some independent contractors. FHTs and NPLCs are workplaces and are subject to the safety requirements prescribed by the OHSA.

**Compliance Requirements:** To comply with the OHSA, workplaces must implement certain policies and programs to promote workplace safety and to respond appropriately when incidents occur. The OHSA requirements may vary depending on the size of your workplace. Employers with more than 5 workers need to have a written occupational health and safety policy and a program to implement that policy; a workplace harassment policy; and a workplace violence policy.

**Potential Liability for Board Members:** Board members have a duty to ensure that their organization complies with the OHSA and its regulations. Board member liability can arise where the FHT/NPLC has failed to fulfill its duties.

Board members can be found criminally negligent under the *Criminal Code* where a workplace incident results in bodily harm or death.

**Penalties:** Non-compliance with the OHSA is an offense and, if the FHT/NPLC is convicted, it could be subject to a maximum fine of \$2,000,000. Stop work orders may be imposed until an unsafe worksite has been made safe. Individuals who fail to comply with the OHSA may be personally liable for a fine up to \$500,000 and/or imprisonment to a maximum of 12 months. There is also a penalty for directors and officers who contravene or fail to comply with their duty to take reasonable care to ensure compliance with OHSA. Directors and officers in breach of this duty are liable for a fine of up to \$1,500,000 and/or imprisonment for up to 12 months

Under the *Criminal Code*, an individual Board member could face imprisonment where a workplace accident has resulted in death or bodily harm.

**KEY QUESTIONS**

- Do we have a committee that reviews workplace safety
- When was the last time occupational health and safety policies and programs were reviewed/audited?
- Has the FHT/NPLC had any workplace incidents recently/in the past year/ever? If so, what steps have been taken to prevent recurrence?
- In the past year, are there/have there been any new requirements

of the FHT/NPLC under the OHSA? Has the FHT/NPLC met them?

- When did we last provide workplace safety training?

**ADDITIONAL RESOURCES**

- The Ministry of Labour, Training and Skills Development’s [Workplace health and safety](#) page
- [Guide to the Occupational Health and Safety Act](#)

**SECTION II: THE 6 KEY DUTIES (AND 11 LAWS) THAT IMPACT BOARD MEMBERS**

**CLINICAL – Duty to protect personal health information**

**Duty:** As a health information custodian (or agent), every FHT or NPLC has a duty to protect personal health information

**Laws:** [Personal Health Information Protection Act, 2004](#) (Ontario) (PHIPA)

**Enforcement Agency:** Office of the Information and Privacy Commissioner of Ontario (IPC)

**To whom the duty is owed:** Patients and any other individuals whose personal health information you hold

**Compliance Requirements:** Among other things, PHIPA establishes rules for health information custodians (HICs) to protect the personal health information they hold. Depending on your arrangements with your affiliated physicians or nurse practitioners, FHTs/NPLCs will either be HICs in their own right or agents of affiliated physicians or nurse practitioners under PHIPA. PHIPA requires that HICs implement policies and practices to prevent privacy breaches arising from the theft or loss of, or unauthorized access to, personal health information. Agents must follow those policies and practices.

**Potential Liability for Board Members:** A Board member may be liable for their own offence under PHIPA or for the acts and/or omissions of the FHT/NPLC if the Board member authorized an offence or had the authority to prevent the offence from being committed but knowingly refrained from doing so.

**Penalties:** The FHT or NPLC may be fined up to maximum of \$1,000,000 for an offence under PHIPA, while an individual Board member may face a maximum fine of up to \$200,000 and jail time. There may also be monetary awards to harmed individuals as a result of non-compliance. There can also be administrative monetary penalties for individuals up to \$50,000 and up to \$500,000 for organizations (and more if an economic benefit was derived).

**KEY QUESTIONS**

- Are we a HIC? Or are we an agent of a HIC – such as the affiliated physicians or nurse practitioners? Do we have an agreement that reflects our relationship?
- Does the FHT/NPLC have a Privacy Officer who reviews our compliance?
- What steps has the FHT/NPLC taken to ensure that it is PHIPA compliant?
- How does the FHT/NPLC protect against and monitor third party access to personal health information?
- When was the last review/audit of the FHT/NPLC's privacy policy and/or procedures?
- When did the FHT/NPLC last train the staff on privacy issues?
- Do we have adequate supports for IT security?

- Has the FHT/NPLC had any privacy breaches? If so, what steps have been taken to prevent recurrence?

**ADDITIONAL RESOURCES**

- [AFHTO Privacy Toolkit for the QIDSS Program in Family Health Teams](#)
- The Information and Privacy Commissioner of Ontario's [Guide to the Personal Health Information Protection Act](#) and [Privacy Management Handbook for Small Health Care Organizations](#)
- Ontario Caregiver Organization: [Understanding Health Privacy and Consent in Ontario](#)
- The Information and Privacy Commissioner of Ontario's [website](#)

**SECTION II: THE 6 KEY DUTIES (AND 11 LAWS) THAT IMPACT BOARD MEMBERS**

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**ACCESSIBILITY – Duty to comply with accessibility standards**

**Duty:** Every FHT or NPLC has a duty to comply with applicable accessibility standards

**Laws:** [Accessibility for Ontarians with Disabilities Act, 2005](#) (Ontario) (AODA)

**Enforcement Agency:**

**To whom the duty is owed:** Patients and other people who visit the clinic; employees

**Compliance Requirements:** AODA's accessibility standards set out requirements that depend on the organization's number of employees. Clinics with 1-49 employees are required to create a policy to achieve accessibility goals; notify the public and employees that it will make written information and other forms of communication accessible upon request; provide notice of temporary disruptions to services or facilities to people with disabilities; and provide accessible customer service training; training on AODA standards; and Human Rights Code training. An accessibility policy would address training; customer service (assistive devices, communication with people with disabilities, service animals, support persons, feedback process, notice of availability documents, and notice of temporary disruption); information and communication with persons with disabilities; employment (accommodation during recruitment and after hiring and emergency information for employees with disabilities); self-service kiosks (if applicable); and design of public spaces (if applicable). Clinics with more than 20 employees must file an accessibility compliance report every three years. Clinics with more than 49 employees must document and post their accessibility policy and a multi-year accessibility plan and make all public websites accessible.

**Potential Liability for Board Members:** Section 37 of the Act sets out offences, including furnishing false or misleading information in an accessibility report, or failing to comply with an order under the Act. Directors and officers have a duty to take all reasonable care to prevent the corporation from committing an offence and may be found guilty of an offence if they fail to carry out that duty.

**Penalties:** The penalty for persons found guilty of an offence is a fine of not more than \$50,000 for each day or part of a day on which the offence occurs or continues to occur; or for corporations, a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues to occur. Board members found guilty of an offence are liable to a fine of up to \$50,000 for each day or part of a day on which the offence occurs or continues to occur.

**KEY QUESTIONS**

- Does the FHT/NPLC have an Accessibility Policy covering training, client service, information and communications with persons with disabilities, and employment?
- Does the FHT/NPLC notify the public and employees that you will make written information and other forms of communication accessible upon request; provide notice of temporary disruptions to services or facilities to people with disabilities; and provide accessible customer service training;

- training on AODA standards; and Human Rights Code training
- Has the FHT/NPLC had any AODA-related audits?

**ADDITIONAL RESOURCES**

- [Accessibility for Ontarians with Disabilities Act \(AODA\)](#)
- [Accessibility in Ontario | ontario.ca](#)
- [Accessibility rules for businesses and non-profits | ontario.ca](#)

**SECTION II: THE 6 KEY DUTIES (AND 11 LAWS) THAT IMPACT BOARD MEMBERS**

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**FACILITIES & ENVIRONMENTAL – Duty to avoid discharging contaminants into the environment**

**Duty:** As a corporation, every FHT or NPLC has a duty to avoid discharging contaminants into the environment

**Laws:** [Canadian Environmental Protection Act, 1999](#) (Canada) or the [Environmental Protection Act](#) (Ontario) (EPA).

**Enforcement Agency:** Ministry of Environment, Conservation and Parks (Ontario) (It is more likely that a FHT/NPLC would encounter the Ontario EPA than the federal EPA, unless your FHT/NPLC operates on federal lands or under federal jurisdiction such as at an airport or on First Nations lands or you release “toxic substances” into the environment.)

**To whom the duty is owed:** The public and the environment

**Compliance Requirements:** Both the Ontario EPA and federal EPA apply to any person (including a FHT or NPLC) who discharges a contaminant into the environment above an allowable limit.

**Potential Liability for Board Members:** The Ontario EPA makes Board members liable where they have failed to take all reasonable care to prevent the organization from breaking the law. Board members can be fined or imprisoned, depending on the severity of the organizational breach.

Under the federal EPA, Board members who acquiesce or participate in the commission of an offence are liable to the penalty applicable to an individual for such offence.

**Penalties:** Under the Ontario EPA, the FHT/NPLC can be fined up to \$6,000,000 per day for a first conviction for certain offences, while directors may face fines of up to \$4,000,000 and/or imprisonment of up to five years on a first conviction for certain offences including breaching of directors’ or officers’ duties under section 194. Under the federal EPA, individual penalties for first offences are up to \$1 million and/or imprisonment of up to three years. Corporate penalties for first offences are up to \$6 million.

**KEY QUESTIONS**

- Is the FHT/NPLC at low or high risk for non-compliance with EPA laws?
- Does the FHT/NPLC have policies and procedures in place to ensure compliance with EPA laws?
- Has the FHT/NPLC ever been cited for violations under act of the EPA laws? If so, what action was taken?
- How does the FHT/NPLC dispose of toxic substances? Human waste? Hazardous materials?
- Does the FHT/NPLC use chemicals for cleaning that need to be reviewed?

**ADDITIONAL RESOURCES**

- The Ontario Ministry of the Environment, Conservation and Parks’ [website](#)
- Government of Canada’s *Guide to Understanding the Canadian Environmental Protection Act*

### SECTION III: THE CLINICAL FUNDAMENTALS

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The primary business of FHTs and NPLCs is to provide clinical health care services to patients/clients. If you are an Executive Director or Administrator or a Board member of either a FHT or NPLC, you should know about **2 key laws** that are fundamental to health care delivery in Ontario:

- *Health Care Consent Act, 1996*
- *Regulated Health Professions Act, 1991*

#### **Health Care Consent Act, 1996 (HCCA)**

Among other things, the [Health Care Consent Act, 1996](#) (Ontario) governs a patient's/client's right to consent to health treatment. These rules apply to all types of treatment, no matter where the treatment is given, including treatment offered in FHTs or NPLCs by regulated health professionals.

**KEY FACTS:**

- With the exception of certain emergency situations, every health care provider **must** obtain the consent of a patient/client prior to administering treatment
- Treatment means anything done for a therapeutic, preventative, palliative, diagnostic, cosmetic or other health related purpose, and includes a course of treatment, plan of treatment or community treatment plan
  - Treatment does not include assessments of a person's capacity, assessments or examinations to determine the general nature of a person's condition, history-taking, communication of an assessment or diagnosis, admission to hospital (or other facility), confining in a care facility (not in force yet), or personal assistance services
  - The HCCA does not apply to "a treatment that in the circumstances poses little or no risk of harm to the person"
- Consent to treatment must be informed (with adequate information about the nature, expected benefits, material risks, and material side effects of the treatment and any alternative courses of action, and the likely consequences of not having the treatment) and must be voluntary and not obtained through misrepresentation or fraud
- There is no age for consent to treatment in Ontario
- Everyone is presumed to be capable of making treatment decisions (unless it is unreasonable to make that presumption – such as for infants, very young children or people who are unconscious)
- A person is capable with respect to a treatment if the person is:
  - Able to understand the information that is relevant to making a decision about the treatment AND
  - Able to appreciate the reasonably foreseeable consequences of a decision or lack of decision about the treatment
- If the patient/client is incapable of making their own decisions about treatment, the decision must be made on their behalf by a substitute decision-maker, chosen from a ranked list under the HCCA
- Penalties include fines of up to \$10,000 for individuals who commit an offence under the HCCA

**ADDITIONAL RESOURCES:**

- College of Physicians and Surgeons of Ontario, Consent to Treatment  
<https://www.cpso.on.ca/en/Physicians/Policies-Guidance/Policies/Consent-to-Treatment>
- College of Nurses of Ontario, Consent  
[https://www.cno.org/globalassets/docs/policy/41020\\_consent.pdf](https://www.cno.org/globalassets/docs/policy/41020_consent.pdf)
- Ontario Caregiver Organization, Understanding Health Privacy and Consent in Ontario  
<https://ontariocaregiver.ca/wp-content/uploads/2021/08/Understanding-health-privacy-and-consent-in-Ontario-a-guide-for-caregivers-and-providers-Aug4.pdf>

## SECTION III: THE CLINICAL FUNDAMENTALS

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### ***Regulated Health Professions Act, 1991 (RHPA)***

The [Regulated Health Professions Act, 1991](#) (Ontario) governs delivery of health care to patients by self-regulated health professionals. For a list of self-governing health professions click [here](#).

Each self-regulated health profession is overseen by its own professional college, which develops and enforces standards of qualification, professional practice and ethics for its members.

The [Social Work and Social Service Work Act, 1998](#) (Ontario) creates similar self-regulatory obligations relating to social workers.

#### **KEY FACTS:**

- The RHPA requires FHTs or NPLCs to report an employed regulated health professional to their regulatory College in certain circumstances such as related to concerns with professional misconduct, incompetence or incapacity and allegations of sexual abuse of patients/clients.
- The RHPA requires regulated health professionals to either self-report or to report another health provider to the appropriate regulatory College in certain circumstances.
- Penalties for failing to report on a first offence under the RHPA include individual fines up to \$25,000 and for certain offences, up to 1 year in prison and corporate fines up to \$50,000.

#### **ADDITIONAL RESOURCES:**

Every health professional regulatory college has its own website – for example:

- [College of Physicians and Surgeons of Ontario](#)
- [College of Nurses of Ontario](#)
- [College of Dietitians of Ontario](#)
- [College of Occupational Therapists of Ontario](#)
- [Ontario College of Pharmacists](#)
- [College of Physiotherapists of Ontario](#)
- [College of Psychologists and Behaviour Analysts of Ontario](#)
- [Ontario College of Social Workers and Social Service Workers](#)

#### SECTION IV: MANDATORY DISCLOSURES

Executive Directors/Administrators and Board members of FHTs/NPLCs should understand that all regulated health professionals (including physicians, nurses and all the interdisciplinary allied health care professionals) have mandatory reporting obligations they must fulfill.

The following is a quick reference table of the mandatory reporting obligations required in law.

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
Child in need of protection	Information about a “child in need of protection” (e.g., suffering abuse or neglect). Only information that is reasonably necessary to make the report is shared. Ongoing information sharing after the report has been made should only be done with express consent or as permitted or required by law (such as a court order for the patient health record)	Any person including all health professionals who work with children	Relevant Children’s Aid Society	<a href="http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes/90c11_e.htm">Child, Youth and Family Services Act, 2017</a> <a href="http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes/90c11_e.htm">http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes/90c11_e.htm</a> , s. 125.
Missing persons	Records that will assist in locating a missing person	Any person specified in an order to produce records made by a judge or justice of the peace  A person to whom an officer makes an urgent demand in writing	Members of a police force	<a href="#">Missing Persons Act, 2018</a> , ss. 4 and 5

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
Sexual abuse	<p>Where there are reasonable grounds to believe a health care professional has sexually abused a patient, details of the allegation, name of the health care professional and name of the allegedly abused patient</p> <ul style="list-style-type: none"> <li>• The patient's name can only be provided with consent</li> <li>• You must include your name as the individual filing the report</li> </ul>	All regulated health care providers	Registrar of the suspected health care professional's regulatory College	<p><a href="#">Regulated Health Professions Act</a>, Schedule 2, ss. 85.1, 85.3. See also, <a href="#">Social Work and Social Service Work Act, 1998</a> ss. 43 and 44</p>
Loss or theft of Benzodiazepines and other targeted substances	Any loss or theft of a targeted substance or of a licence or permit within 10 days of discovery	Pharmacists, physicians, dentists, nurse practitioners, midwives, podiatrists, and person in charge of a hospital (among others)	Minister of Health	<p><a href="#">Benzodiazepines and Other Targeted Substances Regulations</a>, s. 72(1), enacted under the <i>Controlled Drugs and Substances Act</i></p>

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
Loss or theft of narcotics	Any loss or theft of narcotics within 10 days of discovery	Pharmacists, physicians, dentists, nurse practitioners, midwives, podiatrists, and person in charge of a hospital	Minister of Health	<a href="#">Narcotic Control Regulations</a> , s. 55(g) and s. 63(c), enacted under the <i>Controlled Drugs and Substances Act</i>
Safe driving	Name, address and condition of a person (over the age of 16) who has a condition that may make it unsafe for them to drive	Physicians, nurse practitioners and optometrists	Registrar of Motor Vehicles	<a href="#">Highway Traffic Act</a> , s. 203(1).
Air crew	Information about flight crew members, air traffic controllers or other aviation license holders who have a condition that may impact their ability to perform their job in a safe manner (likely to constitute a hazard to aviation safety)	Physicians and optometrists	Medical advisor designated by the Minister of Transport	<a href="#">Aeronautics Act</a> , s. 6.5(1)
Seaman	Information about a seaman	Physicians	If requested by the seaman's employer	<a href="#">Merchant Seamen Compensation Act</a> , s. 48
Railway workers	Information about patients who work in the railway industry who have a condition that may put the safety of rail travel at risk	Physicians and optometrists	A railway designated organization	<a href="#">Railway Safety Act</a> , s. 35(2)

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
Fraud	Information about health care fraud, including an ineligible person receiving or attempting to receive an insured service; an ineligible person obtaining or attempting to obtain reimbursement by the Ontario Health Insurance Plan (OHIP) for money paid for an insured service; or an ineligible person in an application, return or statement made to OHIP or the General Manager giving false information regarding their residency	Physicians and registered nurses in the extended class	General Manager of OHIP	<a href="#">Health Insurance Act</a> , s.43.1(1) and <a href="#">Health Fraud Regulation</a> , s.1
Queue-jumping	Information about an individual offering to pay, confer, charge or accepting a benefit in exchange for improved access to health care	Physicians and registered nurses in the extended class	General Manager of OHIP	<a href="#">Commitment to the Future of Medicare Act, 2004</a> , ss. 17(1) and 17(2) and <a href="#">General Regulation</a> , s 7(1)
Reportable or communicable disease	Information about a patient who has (or may have) either a “reportable” or “communicable” disease. The report should include the patient’s: <ul style="list-style-type: none"> <li>• Name and address in full,</li> <li>• Date of birth in full,</li> <li>• Sex, and</li> <li>• Date of onset of symptoms</li> </ul>	Physicians and registered nurses in the extended class	Medical Officer of Health of the appropriate health unit	<a href="#">Health Protection and Promotion Act</a> , s. 26 and <a href="#">Reports Regulation</a> , s.1(1)
Communicable disease	Information about a child whose eye has become reddened, inflamed or swollen within two weeks of birth possibly due to a	Physicians or other health care professionals who	Medical Officer of Health	<a href="#">Health Protection and Promotion Act</a> , s. 33(1) and <a href="#">Communicable Diseases Regulation</a> , s. 1, para. 2

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
	<p>communicable disease. Report must be in writing and include:</p> <ul style="list-style-type: none"> <li>• The name, age and home address of child (or if not at home, where the child can be located)</li> <li>• The conditions of the eye that were observed</li> </ul>	have attended the birth of a child		
Communicable disease	Name, address of a patient receiving care and treatment for a communicable disease but who is neglecting or refusing to comply with the treatment regime	Physicians and registered nurses in the extended class	Medical Officer of Health	<a href="#">Health Protection and Promotion Act</a> , s. 34(1)
Rabies	Animal bites or animal contact that may result in humans contracting rabies	Physicians and registered nurses in the extended class (and other persons with information about animal bites)	Medical Officer of Health	<a href="#">Health Protection and Promotion Act</a> and <a href="#">Communicable Diseases Regulation</a> , s. 2(1)
Immunizations	Instances of adverse reactions to immunizations	Physicians, nurses, and pharmacists	Medical Officer of Health of the appropriate health unit	<a href="#">Health Protection and Promotion Act</a> , s.38(3)
Birth	Births	Physicians and midwives (or nurses if neither)	Registrar General	<a href="#">Vital Statistics Act</a> , ss. 8, 9.1 and <a href="#">General Regulation</a> , ss. 1(1) and 19(1)

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
		of the above are present at birth)		
Death	Facts surrounding the death of an individual in prescribed circumstances (e.g. violence, negligence or malpractice). Information requested for the purpose of an investigation	Any person with information about the circumstances of the death	Coroner or designated Police Officer	<a href="#">Coroners Act</a> , s. 10(1)
Death	Deaths	Physicians and registered nurses in the extended class		<a href="#">Vital Statistics Act</a> , s. 21(1) and <a href="#">General Regulation</a> , ss. 35(2) and 35(3)
Occupational assessments	Reasonable conclusions of an occupational illness	Physicians who conduct medical examinations or supervise clinical tests for workplace safety	The worker's employer, the joint health and safety committee and the Provincial Organization	<a href="#">Occupational Health and Safety Act</a> and the <a href="#">Designated Substances Regulation</a> , ss. 29(2), 29(3), 29(6) and 29(7)
WSIB	Information requested by the WSIB about workers claiming benefits under the <i>Workplace Safety and Insurance Act</i>	All health care providers	Workplace Safety and Insurance Board (WSIB)	<a href="#">Workplace Safety and Insurance Act, 1997</a> , s. 37(1)

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
Self-report of offence	<p>Information if you yourself are found guilty of an offence to include</p> <ul style="list-style-type: none"> <li>Your name</li> <li>The nature and description of the offence</li> <li>The date you were found guilty of the offence</li> <li>The name and location of the court where you were found guilty of the offence</li> <li>The status of any appeals</li> </ul>	All regulated health care providers	Registrar of your regulatory College	<a href="#">Regulated Health Professions Act, 1991</a> , Schedule 2, ss. 85.6.1(1) – (3)
Self-report of professional negligence or malpractice	<p>Information if you yourself are found guilty of professional negligence or malpractice to include</p> <ul style="list-style-type: none"> <li>Your name</li> <li>The nature and description of the finding</li> <li>The date the finding was made</li> <li>The status of any appeals</li> </ul>	All regulated health care providers	Registrar of your regulatory College	<a href="#">Regulated Health Professions Act, 1991</a> , Schedule 2, ss. 85.6.2(1) – (3)
Employer report if end of professional relationship	A written report, within 30 days, regarding revocation, suspension, termination or dissolution of a health care professionals' privileges, employment or practice for reasons of professional misconduct, incapacity or incompetence	Employer or person who offers privileges to a member	Registrar of the college of the regulated health care professional	<a href="#">Regulated Health Professions Act, 1991</a> , Schedule 2, s. 85.5(1), 85.5(3)

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
Employee death or critical injury at workplace	Immediate notice of death or critical injury and within forty-eight hours after the occurrence, a written report of the circumstances of the occurrence containing such information and particulars as the regulations prescribe: <ul style="list-style-type: none"> <li>(a) the name and address of the employer;</li> <li>(b) the nature and circumstances of the occurrence and of the bodily injury sustained;</li> <li>(c) a description of the machinery or thing involved, if any;</li> <li>(d) the time and place of the occurrence;</li> <li>(e) the name and address of the person who was critically injured or killed;</li> <li>(f) the names and addresses of all witnesses to the occurrence;</li> <li>(g) the name and address of the physician or surgeon, if any, who is attending to or attended to the injured or deceased person;</li> <li>and</li> <li>(h) the steps taken to prevent a recurrence</li> </ul>	Employer	Immediate notice to an inspector under the Act, the joint health and safety committee, health and safety representative, and the trade union, if any; report within 48 hrs to Director	<a href="#">Occupational Health and Safety Act</a> , s. 51 and <a href="#">Regulation 67/93, Health Care and Residential Facilities</a> , s. 5(1)
Employee involved in accident, explosion, fire or violence causing injury at workplace	Within four days of the occurrence, written notice of the occurrence containing the prescribed information and particulars: <ul style="list-style-type: none"> <li>(a) the name and address of the employer;</li> <li>(b) the nature and circumstances of the occurrence and of the bodily injury sustained by the worker;</li> </ul>	Employer	1. The joint health and safety committee, the health and safety representative and the trade union, if any.	<a href="#">Occupational Health and Safety Act</a> , s. 52 and <a href="#">Regulation 67/93, Health Care and Residential Facilities</a> , s. 5(2)

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
	(c) a description of the machinery or thing involved, if any; (d) the time and place of the occurrence; (e) the name and address of the worker who was injured; (f) the names and addresses of all witnesses to the occurrence; (g) the name and address of the physician or surgeon, if any, who is attending to or attended to the worker for the injury; and (h) the steps taken to prevent a recurrence		2. The Director, if an inspector requires notification of the Director	
Allegations of privacy breach by staff member or agent	1. The employee or agent is terminated, suspended or subject to disciplinary action as a result of the unauthorized collection, use, disclosure, retention or disposal of personal health information by the employee  2. The employee or agent resigns and the health information custodian has reasonable grounds to believe that the resignation is related to an investigation or other action by the custodian with respect to an alleged unauthorized collection, use, disclosure, retention or disposal of personal health information by the employee	Health information custodian	The College of the health care practitioner under the <i>Regulated Health Professions Act, 1991</i> and the Information and Privacy Commissioner of Ontario	<a href="#"><u>Personal Health Information Protection Act, 2004</u></a> , s.17.1(2) and (4), and <a href="#"><u>General Regulation</u></a> , s. 6.3(1)5-6

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
Allegation of privacy breach	Theft or loss or the unauthorized use or disclosure of personal health information	Health information custodian	Individual whose personal health information was compromised and Information and Privacy Commissioner of Ontario	<a href="#">Personal Health Information Protection Act, 2004</a> , ss.12(2)(a) and 12(3) and <a href="#">General Regulation</a> , s. 6.3(1)2

**SECTION V: OTHER IMPORTANT LAWS**


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**CLINICAL**

NAME OF LAW	BRIEF DESCRIPTION
<a href="#"><u>Apology Act, 2009</u></a> (Ontario)	Allows professional organizations and individuals such as physicians and nurse practitioners to apologize in most but not all circumstances without the apology being used as evidence of fault or liability.
<a href="#"><u>Connecting Care Act, 2019</u></a> (Ontario)	Creates Ontario Health Teams (OHTs). Requires the identification of opportunities to integrate health services. Requires health service providers to establish mechanisms for engaging with patients, families, caregivers, and employees. Requires health service providers that provide home and community care to have a complaints and appeals process. Allows Ontario Health to appoint investigators to investigate and report on the quality of the management, quality of care and treatment of persons, or any other matter relating to a health service provider or OHT.
<a href="#"><u>Controlled Drugs and Substances Act</u></a> (Canada)	Federal law governing the ordering and dispensing of narcotics and other controlled substances.
<a href="#"><u>Coroners Act</u></a> (Ontario)	Sets out the types of deaths that must be reported to the Coroner. More information is available <a href="#"><u>here</u></a> .
<a href="#"><u>Drug and Pharmacies Regulation Act</u></a> (Ontario)	Regulates the practice of pharmacy and the distribution of drugs.
<a href="#"><u>French Language Services Act</u></a> (Ontario)	Sets out an individual's right to receive services in French from government agencies, including ministries, as defined in the Act, and institutions of the Legislature. "Government agency" under the Act includes "a non-profit corporation or similar entity that provides a service to the public, is subsidized in whole or in part by public money and is designated as a public service agency by the regulations." No FHTs or NPLCs are designated as a public service agency by the regulations. However, the <i>Connecting Care Act, 2019</i> states that the public health system should "recognize the diversity within all of Ontario's communities and respect the requirements of the <i>French Language Services Act</i> in serving Ontario's French speaking community." Ontario Health and Ontario Health atHome are subject to the Act. FHTs/NPLCs may have obligations (e.g. to demonstrate capacity to deliver services in French and to submit Quality Improvement Plans) under agreements with the province. More information is available <a href="#"><u>here</u></a> .
<a href="#"><u>Healing Arts Radiation Protection Act</u></a> (Ontario)	Regulates the use of x-ray machines (and CT scanners), and outlines safety information for use. This would only apply if your FHT/NPLC operates these machines.

**SECTION V: OTHER IMPORTANT LAWS**

**CLINICAL (cont'd)**

NAME OF LAW	BRIEF DESCRIPTION
<a href="#"><u>Health Insurance Act</u></a> (Ontario)	Outlines the rules governing the Ontario Health Insurance Plan (OHIP). Must prepare accounts for all insured services, ensuring proper documentation. Must not charge insured persons for services they are entitled to without charge.
<a href="#"><u>Mandatory Blood Testing Act, 2006</u></a> (Ontario)	Establishes a process for persons who may have been exposed to a communicable disease to be treated and to get access to a blood sample of the person who they believe may have infected them (in certain circumstances).
<a href="#"><u>Mental Health Act</u></a> (Ontario)	Allows physicians to do psychiatric assessments for involuntary admission to designated psychiatric facilities (Form 1). Provides for community treatment orders under which physicians may provide clinical treatment.
<a href="#"><u>Narcotics Safety and Awareness Act, 2010</u></a> (Ontario)	Applies primarily to “prescribers” and “dispensers” of monitored drugs; applies to “operators of a pharmacy.” Permits the monitoring, analyzing and reporting of information, including personal information, related to the prescribing and dispensing of monitored drugs.
<a href="#"><u>Safeguarding our Communities Act (Patch for Patch Return Policy), 2015</u></a> (Ontario)	Applies to prescribers and dispensers of fentanyl patches. Establishes rules for the dispensing of fentanyl patches.

**SECTION V: OTHER IMPORTANT LAWS**


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**EMPLOYMENT**

NAME OF LAW	BRIEF DESCRIPTION
<a href="#"><u>Employer Health Tax Act</u></a> (Ontario)	<p>Establishes the payroll tax on remuneration paid to current and former employees by eligible employers. More information can be found <a href="#"><u>here</u></a>.</p> <p>* Board members and officers who direct, authorize, assent to, acquiesce in or participate in the commission of an offence by the FHT/NPLC under this law are themselves guilty of an offence and are liable to the punishment provided for the offence. Directors may be liable on conviction to pay a fine of not less than the greater of \$500 and 25% of the amount of the tax that should have been shown to be payable and not more than double the amount of the tax which should have been shown to be payable. Directors may also face imprisonment for a term of not more than 2 years.</p>
<a href="#"><u>Human Rights Code</u></a> (Ontario)	<p>Obliges FHTs and NPLCs to provide equal rights and opportunities without discrimination in areas such as employment, services, and contracts, including keeping the workplace free of discrimination and harassment on prohibited grounds (race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability).</p> <p>* There are no limits on the monetary penalties that can be imposed by the Human Rights Tribunal for breach of the Code. The Tribunal can also make non-financial orders such as mandatory and public apologies and reinstatement of employee.</p>
<a href="#"><u>Pay Equity Act</u></a> (Ontario)	<p>Creates rules and a complaints process to ensure equity in remuneration of employees. More information can be found <a href="#"><u>here</u></a>.</p> <p>* Board members may be fined up to \$5,000 if they authorize, permit or acquiesce in the contravention of the Act, including a reprisal against an employee who attempted to exercise rights under the Act, a contravention of confidentiality obligations, interference with an investigation or failure to comply with an order.</p>
<a href="#"><u>Public Salary Disclosure Act, 1996</u></a> (Ontario)	<p>Requires the disclosure of names, positions, salaries and taxable benefits of employees who are paid \$100,000 or more annually. More information can be found <a href="#"><u>here</u></a>.</p> <p>Applies to organizations receiving \$1 million in government funding or more. Organizations receiving between \$120,000 and \$1 million in government funding are included if the funding they receive is 10% or more of their gross revenues.</p>

**SECTION V: OTHER IMPORTANT LAWS**


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**EMPLOYMENT (cont'd)**

NAME OF LAW	BRIEF DESCRIPTION
<a href="#"><u>Workplace Safety and Insurance Act</u></a> (Ontario)	<p>Establishes a “no-fault” insurance scheme for employees injured on the job. Under the WSIA certain workplaces, including hospitals, must register under the WSIA and pay employer premiums. Other workplaces, including private health care practices, such as most FHTs and NPLCs, are <u>not required</u> to register under the WSIA. FHTs and NPLCs may voluntarily apply for coverage under WSIA. Consult legal counsel for advice to assess the risks of participating prior to applying.</p> <p>In addition, if the FHT or NPLC hires a contractor to undertake construction work, it must obtain a clearance certificate number from the contractor to minimize exposure to liability if a worker is injured. Failure to do so is an offence, and the FHT or NPLC could be subject to a fine of up to \$500,000.</p> <p>* A Board member who acquiesces or participates in the commission of an offence under the WSIA by the FHT or NPLC that has registered under the WSIA is guilty of an offence. Offences include making false representations and non-compliance with certain other provisions and are subject to fines of up to \$25,000 for individual Board members and/or 6 months imprisonment, or up to \$500,000 in fines for the FHT/NPLC.</p>

**TAX, CORPORATE & CHARITY**

NAME OF LAW	BRIEF DESCRIPTION
<a href="#"><u>Auditor General Act</u></a> (Ontario)	<p>Requires the Auditor to assess whether government and broader public sector activities operate with due regard for economy and efficiency, and whether procedures to measure and report on the effectiveness of programs and organizations exist and function properly. Duty to give the Auditor General information that the Auditor General believes to be necessary to perform his or her duties. It is an offence to obstruct the Auditor General in the performance of their duties. Directors or officers who knowingly concur in a contravention are liable on conviction to a fine of up to \$2,000 or imprisonment for up to 1 year, or both. The maximum penalty for a corporation is \$25,000.</p>
<a href="#"><u>Building Ontario Businesses Initiative Act, 2022</u></a> (Ontario)	<p>Establishes circumstances in which public sector entities are required to give Ontario businesses preference when conducting procurement processes for goods and services under a specified threshold amount.</p>

**SECTION V: OTHER IMPORTANT LAWS**
**TAX, CORPORATE & CHARITY (cont'd)**

NAME OF LAW	BRIEF DESCRIPTION
<a href="#"><u>Canada Pension Plan</u></a> (Canada)	<p>Requires the employer to deduct Canada Pension Plan (CPP) contributions from remuneration or other types of income paid to employees and to pay its own portion of CPP contributions.</p> <p>* Where the FHT/NPLC fails to remit or pay these contributions, individuals who were Board members at the time that the failure occurred are jointly and severally liable with the FHT/NPLC to pay the unremitted amount plus any interest or penalties.</p>
<a href="#"><u>Corporations Information Act</u></a> (Ontario)	<p>Obliges corporations such as Clinics to submit annual filings of certain prescribed information.</p> <p>* Board members who make false or misleading statements in the information are liable under this law. Penalties for individuals for false or misleading statements include fines of up to \$2,000 or to imprisonment for up to one year, or to both, or, for corporations, fines of up to \$25,000.</p>
<a href="#"><u>Employment Insurance Act</u></a> (Canada)	<p>Requires employers to deduct Employment insurance (EI) contributions from remuneration or other types of income paid to employees and to pay its own portion of EI contributions.</p> <p>* Where the FHT/NPLC fails to remit or pay these contributions, individuals who were Board members at the time that the failure occurred are jointly and severally liable with the FHT/NPLC to pay the unremitted amount plus any interest or penalties.</p>
<a href="#"><u>Health Sector Payment Transparency Act, 2017</u></a> (Ontario) – not yet in force	<p>Requires the reporting of certain transfers of value by the pharmaceutical and medical device industry to recipients including health professionals. Recipients are required to retain records of transactions.</p>
<a href="#"><u>Pension Benefits Act</u></a> (Ontario)	<p>For Clinics that offer pension plans to their employees, this law sets out the minimum standards for administering and funding pension plans and pension benefits.</p> <p>* Every director, officer, official or agent of a corporation is guilty of an offence, if he or she causes, authorizes, permits or acquiesces in the pension plan or pension fund: (a) not being administered correctly; (b) not complying with the Act and the regulations; or (c) does not take reasonable care in the circumstances to prevent the corporation from contravening the Act or regulations. Punishment on a first conviction is a fine of not more than \$100,000, and \$200,000 on each subsequent</p>

conviction, whether or not the corporation has been prosecuted or convicted of an offence arising from the same facts or circumstances.

**SECTION V: OTHER IMPORTANT LAWS**


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**FACILITIES & ENVIRONMENTAL**

NAME OF LAW	BRIEF DESCRIPTION
<a href="#"><u>Commercial Tenancies Act</u></a> (Ontario)	Sets out rights and obligations between commercial landlords and tenants. However, it is important to note that a lease agreement may take precedence over the law. More information can be found <a href="#"><u>here</u></a> .
<a href="#"><u>Hazardous Products Act</u></a> (Canada)	Clinics may use potentially dangerous substances in the course of providing care. This law applies to FHT/NPLC suppliers and defines which materials (i.e., controlled products) are included in the Workplace Hazardous Materials Information System (WHMIS). This law also mandates what information those suppliers must provide to employers for controlled products used in the workplace.
<a href="#"><u>Occupiers Liability Act</u></a> (Ontario)	Clinics that are either landlords or tenants in a building may be “occupiers”, depending in part on who is responsible for repair and maintenance. The OLA defines an occupier as a person who is either in physical possession of premises or has the responsibility for and control over the condition of the premises, the activities carried on there, or the entry of persons onto the premises (includes land). The FHT/NPLC would be the “occupier” of premises which would include at minimum its office space, but which could extend to area around the FHT/NPLC (such as sidewalks and parking lots). The OLA outlines the occupier’s duty to ensure that persons entering the premises are reasonably safe while on the premises.
<a href="#"><u>Ontario Water Resources Act</u></a> (Ontario)	Prohibits discharge of materials into bodies of water, including groundwater, in a manner that would contaminate them. May be of limited application to Clinics.  * There is potential liability for Board members who do not exercise reasonable care in preventing the FHT/NPLC from causing or permitting discharge of contaminants.
<a href="#"><u>Pesticides Act</u></a> (Ontario)	Regulates the use of pesticides. May apply to a FHT/NPLC where it has oversight of landscaping and maintenance of premises.  * There is potential liability for Board members who do not exercise reasonable care in preventing the FHT/NPLC from causing or permitting adverse effects contrary to the Act.

**SECTION V: OTHER IMPORTANT LAWS**

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**FACILITIES & ENVIRONMENTAL (cont'd)**

NAME OF LAW	BRIEF DESCRIPTION
<p><a href="#"><u>Private Security and Investigative Services Act, 2005</u></a> (Ontario)</p>	<p>Establishes the legal framework for private security and investigative services. If the FHT/NPLC employs a private investigator or security guard, it must: (a) register as an employer; and (b) provide the Registrar with a mailing address for service in Ontario and notify the Registrar of any change in its mailing address within five days of the change.</p> <p>*Directors who authorize, permit, or acquiesce in a failure to comply with the Act or regulations, knowingly provide false information, or fail to comply with any order under the Act, are guilty of an offence and liable to a fine of up to \$25,000, imprisonment for a term of not more than a year, or both.</p>
<p><a href="#"><u>Smoke-Free Ontario Act, 2017</u></a> (Ontario)</p>	<p>Prohibits smoking and vaping in all enclosed workplaces and enclosed public places in Ontario. In addition, it imposes certain obligations on employers and workers. More information can be found <a href="#"><u>here</u></a>.</p>
<p><a href="#"><u>Technical Standards and Safety Act, 2000</u></a> (Ontario)</p>	<p>Establishes minimum operational and maintenance standards for specific devices including elevators, boilers and pressure valves. This law is enforced by the Technical Standards and Safety Authority. More information can be found <a href="#"><u>here</u></a>.</p> <p>* Every Board member has a duty to take all reasonable care to prevent the FHT/NPLC from committing an offence under the Act.</p>
<p><a href="#"><u>Trespass to Property Act</u></a> (Ontario)</p>	<p>Prohibits unauthorized entry onto private and public property.</p>

**SECTION VI: LAWS THAT APPLY TO PARTICULAR KINDS OF CLINICS OR TO ACTIVITIES OUT OF THE ORDINARY**

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Below are **additional laws** that apply to particular kinds of FHTs and NPLCs or to activities that are out of the ordinary course for most FHTs and NPLCs but may be carried out by some. If they apply to your FHT/NPLC, you must be aware of them (as with the “Top 11 Laws” from Section II) as they impose risks of liability for Board members either personally or for the acts and/or omissions of the FHT/NPLC.

**IF THE FHT/NPLC RECEIVES \$10 MILLION OR MORE OF PUBLIC FUNDING ...**

Name of Act:	<a href="#"><u>Broader Public Sector Accountability Act, 2010</u></a> (Ontario) (BPSAA)
Background:	The BPSAA establishes rules and accountability standards for hospitals and broader public sector organizations. Enables 5 directives relating to <a href="#"><u>expense claims</u></a> , <a href="#"><u>perquisites</u></a> , <a href="#"><u>procurements</u></a> , <a href="#"><u>business documents</u></a> , and <a href="#"><u>compliance reports</u></a> and 1 policy – the <a href="#"><u>Procurement Restriction Policy</u></a> . Rules related to procurement and expense reporting are among the most important.  Most FHTs and NPLCs are not subject to the BPSAA. But, if your FHT/NPLC received more than \$10 million in public funds in the prior fiscal year, it is a “designated broader public sector organization” and the BPSAA will apply and most of the directives and the policy will apply.
Compliance Requirements:	Adherence to various directives made under the BPSAA, among the most important of which are the procurement directive and policy. Must prepare and publish business plans and other business and financial documents.
Liability and Penalties:	A breach of the BPSAA is a breach of the FHT/NPLC’s funding agreement with the Ministry of Health. As such, any penalties for breach will be prescribed in that agreement.

**KEY QUESTIONS BOARD MEMBERS SHOULD ASK THE EXECUTIVE DIRECTOR/ADMINISTRATOR**

- Does the FHT/NPLC receive more than \$10 million in public funding in a single fiscal year?
- Has the FHT/NPLC complied with the directives of the BPSAA?
- Does the FHT/NPLC have policies and procedures in place to ensure compliance?

- Are business plan and required business and financial documents on website?
- Has the FHT/NPLC ever been cited from non-compliance with the BPSAA? If so, what were the consequences and what action was subsequently taken?

**ADDITIONAL RESOURCES**

- [Broader Public Sector Procurement Directive Implementation Guidebook](#)
- Information about [other directives](#) under the BPSAA

**SECTION VI: LAWS THAT APPLY TO PARTICULAR KINDS OF CLINICS OR TO ACTIVITIES OUT OF THE ORDINARY**

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**IF THE FHT/NPLC IS PROVINCIALLY INCORPORATED ...**

Name of Act:	<a href="#"><u>Not-for-Profit Corporations Act, 2010</u></a> (Ontario) (ONCA)
Background:	<p>Most FHTs and NPLCs were incorporated under Ontario’s <i>Corporations Act</i> (OCA), which became outdated non-profit corporate legislation. The OCA has been replaced by ONCA, which came into effect in October 2021.</p> <p>ONCA now applies to all not-for-profit and charitable corporations that do not have “shares,” with some exceptions (though these mainly fall outside of the health care sector).</p>
Compliance Requirements:	<p>If the FHT/NPLC was a corporation under the OCA and is a not-for-profit or charity (which most are), the FHT/NPLC had until October 2024 to make any necessary changes to their incorporating and other documents, policies and procedures to transition under the ONCA rules. Transition requires applying for Articles of Amendment that set out the classes of corporate members and other required information and updating the by-laws to conform to new ONCA rules. Failure to take proactive steps to transition under ONCA during the 3-year transition period would have resulted in ONCA “deeming” the FHT’s/NPLC’s incorporating documents and by-laws to have been amended to comply with the new requirements. If the FHT/NPLC has no by-laws, ONCA imposes default by-laws on the corporation.</p>
Liabilities and Penalties:	<p>Penalties for non-compliance under ONCA include fines of up to \$5000 and potential imprisonment of 6 months. Improper use of member information can lead to a fine of \$25,000.</p>

**KEY QUESTIONS BOARD MEMBERS SHOULD ASK THE EXECUTIVE DIRECTOR/ADMINISTRATOR**

- Have our letters patent and by-laws undergone legal review in the last 3-5 years?
- Have we sought professional tax advice regarding tax status and requirements?

**ADDITIONAL RESOURCES**

- [Guide to the Not-for-Profit Corporations Act, 2010](#)
- [Rules for not-for-profit and charitable corporations](#)
- [Not-for-Profit Corporations Act, 2010 – Transition Considerations](#)

**SECTION VI: LAWS THAT APPLY TO PARTICULAR KINDS OF CLINICS OR TO ACTIVITIES OUT OF THE ORDINARY**

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**IF THE FHT/NPLC IS FEDERALLY INCORPORATED...**

Name of Act:	<a href="#"><u>Canada Not-for-profit Corporations Act</u></a> (Canada) (CNPCA)
Background:	The CNPCA (and its regulations) establishes a framework for the federal incorporation of not-for-profit corporations. The goal of the CNPCA is to promote accountability, transparency and good corporate governance for the not-for-profit sector.
Compliance Requirements:	Very few FHTs and NPLCs are federally incorporated – but some are. Those that are federally incorporated must fulfill ongoing reporting obligations (file an annual return every year; file any change of registered office address; report changes regarding directors; file financial statements and public accountant’s report; keep your articles up-to-date; send copies of new, amended or repealed by-laws) and duties imposed under the CNPCA.
Liabilities and Penalties:	A contravention of the CNPCA can result in a fine of up to \$5,000 and imprisonment up to 6 months, although for certain offences the maximum fine is \$25,000. Upon application by a complainant, the court may, among other things, order compensation to a person or dissolution of the FHT/NPLC.

**KEY QUESTIONS BOARD MEMBERS SHOULD ASK THE EXECUTIVE DIRECTOR/ADMINISTRATOR**

- Has the FHT/NPLC met its annual reporting obligations?

**ADDITIONAL RESOURCES**

- *Corporations Canada*
  - [Reporting obligations under the CNPCA](#)
  - [Resources – Not-for-profit corporations](#)

**SECTION VI: LAWS THAT APPLY TO PARTICULAR KINDS OF CLINICS OR TO ACTIVITIES OUT OF THE ORDINARY**

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**IF THE FHT/NPLC IS AFFILIATED WITH A UNIVERSITY OR HOSPITAL OR MUNICIPALITY ...**

If your FHT/NPLC is a department of a university or hospital or municipality, you may be subject to the *Freedom of Information and Protection of Privacy Act* (FIPPA) or the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA). If your FHT/NPLC is affiliated with a university, hospital, or municipality but is its own, separate corporate entity, then you will not be directly subject to FIPPA/MFIPPA, but you should be aware that your communications with the university/hospital/municipality are subject to FIPPA/MFIPPA.

Name of Act:	<a href="#"><u>Freedom of Information and Protection of Privacy Act</u></a> (FIPPA) <a href="#"><u>Municipal Freedom of Information and Protection of Privacy Act</u></a> (MFIPPA)
Background:	FIPPA applies to provincial ministries, most provincial agencies, boards and commissions, community colleges, universities, and hospitals. MFIPPA applies to local government institutions, including municipalities, police services boards, school boards, conservation authorities, boards of health and transit commissions. FIPPA/MFIPPA require the protection of the privacy of an individual's personal information in government records, setting rules for the collection, retention, use, disclosure and disposal of personal information.
Compliance Requirements:	Public institutions subject to FIPPA/MFIPPA must ensure their records systems adequately protect personal privacy; assist individuals by searching for requested records (either general government or personal information); determine if a record contains personal information or third party information and allow an affected person to make representations about the disclosure of the information; respond to requests within 30 days; give written reasons for a denial; inform a person being denied access of their right to appeal to the IPC. All institutions under FIPPA/MFIPPA are required to submit annual statistics to the Information and Privacy Commissioner of Ontario (IPC). As of July 1, 2025, FIPPA requires provincial institutions to report breaches to the IPC and notify affected individuals, where it is reasonable in the circumstances to believe that there is a real risk of significant harm resulting from the breach.
Liability and Penalties:	Offences under FIPPA/MFIPPA (which include wilfully disclosing personal information in contravention of the Acts) can result in fines of up to \$5,000.

**KEY QUESTIONS BOARD MEMBERS SHOULD ASK THE EXECUTIVE DIRECTOR/ADMINISTRATOR**

- Is the FHT/NPLC a department of a university, hospital or municipality?
- If yes, does the FHT/NPLC have a plan in place for ensuring FIPPA/MFIPPA compliance?
- Does the FHT/NPLC have policies or procedures regarding communications that may be subject to FIPPA/MFIPPA because their partner is subject to FIPPA/MFIPPA?

**ADDITIONAL RESOURCES**

- IPC, [Ontario's Freedom of Information and Protection of Privacy Act, A Mini Guide](#) and [Ontario's Municipal Freedom of Information and Protection of Privacy Act, A Mini Guide](#)
- [Ontario Freedom of Information and Protection of Privacy Manual](#)

**SECTION VI: LAWS THAT APPLY TO PARTICULAR KINDS OF CLINICS OR TO ACTIVITIES OUT OF THE ORDINARY**

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**IF THE FHT/NPLC IS INVOLVED IN REVENUE-GENERATING ACTIVITIES ...**

If your FHT/NPLC is engaged in selling products or commercial activities – for example, operating a parking lot, running a training company, or owning a building with commercial tenancies – you may be subject to the requirements of *Canada’s Anti-Spam Legislation* for email marketing and the *Personal Information Protection and Electronic Documents Act’s* requirements for personal information handling.

Name of Act: [Canada’s Anti-Spam Legislation](#) (Canada) (CASL)

Background: CASL regulates communications using commercial electronic messages (CEMs). A “commercial electronic message” is any electronic message (such as an e-mail or a text) that encourages participation in a “commercial activity”. “Commercial activity” is broadly defined to include almost any activity of a commercial character, whether or not there is any expectation of profit. CASL also regulates malware and spyware.

CASL applies to a FHT/NPLC that is involved in revenue-generating activities and that markets, promotes and/or sells its products and ancillary services using CEMs, unless the FHT/NPLC is subject to an exclusion or exemption under CASL. “Electronic message” is broadly defined to include any message sent by any means of telecommunication, including a text, sound, voice or image message.

Compliance Requirements: Ensuring that the FHT/NPLC has consent to send CEMs to recipients and that it adheres to the CASL form and content requirements for CEMs, specifically the CEM must include identification information about the sender and must have a readily performed (i.e. easy to use) unsubscribe mechanism. If the FHT/NPLC is a charity, there is a broad exemption for fundraising where the primary purpose of the CEM is to raise funds for the charity. If not, it must be very careful to comply with CASL requirements.

Liability and Penalties: The FHT/NPLC can face a maximum fine of \$10 million for violation of CASL. As well, Board members could be found liable if they acquiesced or participated in the commission of the offence. Individual fines can be up to a maximum of \$1 million. In addition, the offender could be required to pay damages and penalties to an applicant under CASL. Fines for certain offences are calculated on a “per day” basis.

**KEY QUESTIONS BOARD MEMBERS SHOULD ASK THE EXECUTIVE DIRECTOR/ADMINISTRATOR**

- Does the FHT/NPLC engage in revenue generating activities?
- Does the FHT/NPLC have a plan in place for ensuring CASL compliance?

**ADDITIONAL RESOURCES**

- [CASL website](#)
- [CRTC’s FAQs about CASL](#)

**SECTION VI: LAWS THAT APPLY TO PARTICULAR KINDS OF CLINICS OR ACTIVITIES OUT OF THE  
ORDINARY**

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**IF THE FHT/NPLC IS INVOLVED IN REVENUE-GENERATING ACTIVITIES ... (cont'd)**

Name of Act: [Personal Information Protection and Electronic Documents Act](#) (Canada) (PIPEDA)

Background: PIPEDA regulates the handling of personal information in the course of commercial activities. It is generally aimed at private-sector organizations (i.e. businesses) but can apply to non-profits if they collect, use or disclose personal information in the course of commercial activities. PIPEDA defines commercial activity as “any particular transaction, act or conduct or any regular course of conduct that is of a commercial character, including the selling, bartering or leasing of donor, membership or other fundraising lists.”

PIPEDA applies to a FHT/NPLC that is involved in commercial activities that are subject to the Act.

Compliance Requirements: Ensuring that the FHT/NPLC obtains consent when it collects, uses, or discloses personal information in the course of a commercial activity; allowing people to access their personal information; and having a process for addressing challenges to accuracy of personal information. Only using personal information for the purposes for which it was collected, unless consent is obtained for a new purpose. Protecting personal information with appropriate safeguards.

Liability and Penalties: The FHT/NPLC can face a maximum fine of \$100,000 for committing an offence under PIPEDA. Offences under PIPEDA include knowingly destroying or otherwise destroying personal information that is the subject of an access request; knowingly contravening reporting and notification requirements related to breaches of security safeguards; knowingly contravening requirements to maintain records of breaches of security safeguards; knowingly retaliating against an employee who discloses a potential contravention to the Commissioner; and obstructing the Commissioner or his delegate in the investigation of a complaint or in conducting an audit.

**KEY QUESTIONS BOARD MEMBERS  
SHOULD ASK THE EXECUTIVE  
DIRECTOR/ADMINISTRATOR**

- Does the FHT/NPLC collect, use or disclose personal information in the course of commercial activities?
- Does the FHT/NPLC have a PIPEDA compliance plan?

**ADDITIONAL RESOURCES**

- Office of the Privacy Commissioner of Canada
  - [The Personal Information Protection and Electronic Documents Act \(PIPEDA\)](#)
  - [How PIPEDA applies to charitable and non-profit organizations](#)

**SECTION VI: LAWS THAT APPLY TO PARTICULAR KINDS OF CLINICS OR ACTIVITIES OUT OF THE  
ORDINARY**

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**IF THE FHT/NPLC IS CONSTRUCTING OR RENOVATING A BUILDING ...**

Name of Act:	<a href="#"><u>Building Code Act, 1992</u></a> (Ontario) (BCA) and the <a href="#"><u>2012 Building Code</u></a>
Background:	The <i>Building Code Act, 1992</i> and its regulation, the <i>2012 Building Code</i> , establish rules for property owners to enhance building standards and processes to protect public health and safety.
Compliance Requirements:	If a FHT/NPLC engages in construction or renovations, it must obtain the appropriate building permits before beginning construction. It must also ensure that contractors adhere to the standards established by the law, with qualifications and insurance. Must ensure that buildings are maintained, repaired, and evaluated in accordance with the Act and Building Code.
Liability and Penalties:	Board members can be fined up to a maximum of \$50,000 for a first offence and the FHT/NPLC can be fined up to \$500,000 for a first offence. Failure to comply with an order on time can result in a fine of up to \$10,000 per day.

**KEY QUESTIONS BOARD MEMBERS  
SHOULD ASK THE EXECUTIVE  
DIRECTOR/ADMINISTRATOR**

- Has the FHT/NPLC ensured that all required building permits have been obtained when necessary?
- Does the FHT/NPLC ensure that documents, records, and other information about buildings are kept and provided in accordance with the Act and Building Code?
- Has a construction or renovation project been stopped or halted because of an offense under the BCA? If so, what action was taken?
- How does the FHT/NPLC ensure that contractors comply with the Code?

**ADDITIONAL RESOURCES**

- [Ontario's Building Code](#)
- [Building Code updates](#)
- [Ontario Ministry of Municipal Affairs and Housing](#)

**SECTION VI: LAWS THAT APPLY TO PARTICULAR KINDS OF CLINICS OR ACTIVITIES OUT OF THE ORDINARY**

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**IF THE FHT/NPLC IS THE “OWNER” OF A BUILDING ...**

Name of Act: [Fire Protection and Prevention Act, 1997](#) (Ontario) (FPPA) and its regulation, the [Fire Code](#)

Background: The Fire Code is a set of minimum requirements for fire safety within and around buildings and facilities. The “owner” is responsible for complying with the Fire Code, except where otherwise specified. The term “owner” is so broadly defined in the Fire Code that it includes any person, firm or corporation having control over any portion of the building and includes the persons in the building. The FHT/NPLC and likely the Board members could be found liable for a breach. The municipal fire department enforces the Fire Code.

Compliance Requirements: Adherence to the standards and procedures established by the FPPA and the Fire Code. Anyone, including a Board member, can be found guilty of an offence for contravening the FPPA or the Fire Code; hindering, obstructing or interfering with the Fire Marshal, an assistant to the Fire Marshal or a fire chief in the exercise of their powers; preventing an inspector from entering, refusing to answer questions, or providing false or misleading information to an inspector; or refusing or neglecting to obey or carry out the directives of the Fire marshal, an assistant to the Fire Marshal, or a fire chief given under the authority of the FPPA. It is an offence for a director or officer to know that the corporation is violating or has violated a provision of the Fire Code.

Liability and Penalties: Board members can face fines up to a maximum of \$50,000 for a first offence and \$100,000 for subsequent offences, imprisonment for up to one year, or both if convicted of knowing that the FHT/NPLC violated a provision of the Fire Code. Additionally, a Board member who hinders the Fire Marshall or inspector in their duties can also be subject to the penalties described above. The FHT/NPLC can be subject to a fine up to \$500,000 for a first offence and \$1,500,000 for a subsequent offence. Failure to comply with an inspection order can result in a fine of up to \$20,000 per day.

**KEY QUESTIONS BOARD MEMBERS SHOULD ASK THE EXECUTIVE DIRECTOR/ADMINISTRATOR**

- Has the FHT/NPLC established an approved fire safety plan?
- When was the last time the building was inspected/audited for *Fire Code* compliance?
- Does the FHT/NPLC conduct fire drills?
- Has the FHT/NPLC ever been cited for a violation under the FPPA? If so, what action was taken?

ADDITIONAL RESOURCES

- [Ministry of the Solicitor General](#)
- [Office of the Fire Marshall](#)

**SECTION VI: LAWS THAT APPLY TO PARTICULAR KINDS OF CLINICS OR ACTIVITIES OUT OF THE  
ORDINARY**

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**IF THE FHT/NPLC IS A CHARITABLE CORPORATION ...**

Name of Act: [Charities Accounting Act](#) (Ontario) (CAA)

Background: The CAA applies to registered charities (a subset of not-for-profit corporations) and imposes reporting and other obligations on trustees in regard to property acquired by the trustee. A corporation incorporated for a charitable purpose is deemed by the CAA to be a trustee.

Compliance Requirements: The CAA requires charities to apply trust funds for the purposes for which they were donated. The Public Trustee may require reporting on trust funds.

Liability and Penalties: The FHT/NPLC and its Board members may face penalties including fines and/or imprisonment up to 12 months if they do not abide by specific directions about a donation made by a testator in a will or by a donor in a gift agreement. The Public Guardian and Trustee can bring the matter to court, either on its own initiative or as a result of a complaint received from a donor or beneficiary. The court may order the charity to comply with the terms of the directions given by the donor, or remove the FHT/NPLC as the trustee and appoint a new trustee.

If you believe your FHT or NPLC may be a charitable corporation, you should ensure you and your organization have sufficient legal advice and accounting advice to carry out your duties in accordance with the various laws specific to charities. Charities are highly regulated.

**KEY QUESTIONS BOARD MEMBERS  
SHOULD ASK THE EXECUTIVE DIRECTOR/  
ADMINISTRATOR**

- Has the FHT/NPLC received any charitable donations as contemplated by the CAA?
- If yes, has the gift been disposed of in accordance with the wishes of the donee?
- Have we complied with mandatory requirements for our operations, reporting, disbursement of funds and receipting of donations?
- Are we engaged in fundraising? If so, have we received legal advice or accounting advice?

**SECTION VII: COMPLIANCE DEADLINES**

Please note that the table below includes deadlines identified in legislation; FHTs/NPLCs must comply with other deadlines that are not tied to specific dates.

Date	To do	Legislation
<b>February 28</b> *See note 1	File Canada Pension Plan Annual Information Returns and provide copy to employees	<a href="#">Canada Pension Plan</a>
<b>February 28</b>	File EI Annual Information Returns and provide copy to employees	<a href="#">Employment Insurance Act</a>
<b>February 28</b>	File Income Tax Annual Information Returns	<a href="#">Income Tax Act</a>
<b>March 1</b>	Submit Health Privacy Breach Statistical Report to Information and Privacy Commissioner	<a href="#">Personal Health Information Protection Act, 2004</a>
<b>March 5</b> *See note 2	Disclose Public Sector Salary Records to funding Ministry	<a href="#">Public Sector Salary Disclosure Act, 1996</a>
<b>March 15</b>	File Employer Health Tax (EHT) Annual Return	<a href="#">Employer Health Tax Act</a>
<b>March 31</b>	Submit Public Sector Salary Disclosure	<a href="#">Public Sector Salary Disclosure Act, 1996</a>
<b>September 30</b> *See note 3	Post Business Plans	<a href="#">Broader Public Sector Accountability Act, 2010</a> (Business Documents Directive)
<b>September 30</b> *See note 4	File Corporate Information Annual Return	<a href="#">Corporations Information Act</a>
<b>September 30</b> *See note 5	File Registered Charity Information Return	<a href="#">Income Tax Act</a>
<b>December 31, 2026</b> *See note 6	File Accessibility Compliance Report	<a href="#">Accessibility for Ontarians with Disabilities Act, 2005</a>

**Notes:**

- Section 10(1) of the Canada Pension Plan Regulation sets the deadline as the last day of February.
- The March 5 deadline is based on the fifth business day of March. This may fall on March 5, 6, or 7.
- The posting of Business Plans is only required if the FHT/NPLC is subject to the BPSAA (receives more than \$10 million in public funding per year). The deadline is within six months of the beginning of their fiscal year.
- The Corporate Information Annual Return is due within six months after the end of the corporation's taxation year, which will be September 30 for corporations with a March 31 year end.
- The Registered Charity Information Return is only required for FHTs/NPLCs that are registered charities.
- Accessibility Compliance Reports are due every three years for non-profits with 20 or more employees. The deadline to file an Accessibility Compliance Report was December 31, 2023, so the next deadline is December 31, 2026. A FHT/NPLC with fewer than 20 employees is not required to file Accessibility Compliance Reports but is still required to create accessibility policies, train staff and volunteers, provide accessible service, implement accessible employment practices, and provide accessible information

**SECTION VIII: STATUTES THAT GENERALLY DO NOT APPLY TO FHTs/NPLCs**

It can be confusing when community partners are subject to laws that are FHTs/NPLCs do not have to follow. Here are some examples of laws you may hear about – but that do not apply to you.

Statute	Why it doesn't apply	Notes
<a href="#"><u>Broader Public Sector Executive Compensation Act, 2014</u></a> , S.O. 2014, c. 13, Sched. 1	Applies to public sector employers including hospitals and prescribed public bodies and other entities. FHTs/NPLCs are not prescribed as a public body or an entity to which the Act applies.	Hospitals are subject to the Act.
<a href="#"><u>Canada Not-for-profit Corporations Act (Canada)</u></a>	Applies if federally incorporated. Does not apply if provincially incorporated.	
<a href="#"><u>Election Act</u></a> , R.S.O. 1990, c. E.6	Applies to hospitals and other settings with 20 beds or more, in which chronically ill or infirm persons reside. Requires a polling place.	Hospitals are subject to this Act.
<a href="#"><u>Electricity Act, 1998</u></a> , S.O. 1998, c. 15, Sched. A	Applies to “public agencies” including municipalities; municipal service boards; post-secondary institutions; public hospitals; and school boards.	Hospitals are subject to this Act and must submit an annual summary report on energy use and greenhouse gas emissions to the Ministry of Energy and Electrification.
<a href="#"><u>Excellent Care for All Act, 2010</u></a> , S.O. 2010, c. 14	FHTs/NPLCs are not a “health care organization” or “health sector organization” under the Act or regulations.  The Act applies to hospitals, home and community care service providers, integrated community health services centres, long-term care homes, and Ontario Health in relation to certain functions.	Requires hospitals to have a publicly available patient declaration of values, a patient relations process, a Quality Committee, and quality improvement plans. Requires hospitals to ensure that executive compensation is linked to achievement.
<a href="#"><u>Fighting Against Forced Labour and Child Labour in Supply Chains Act</u></a> , S.C. 2023, c. 9 [federal]	To be an entity subject to the Act, an organization must have 2/3: at least \$20 million in assets; generate at least \$40 million in revenue; or employ at least 250 employees. An entity has an obligation to report if it is a) producing, selling, or distributing goods in Canada or elsewhere; b) importing goods into Canada; or c) controlling another entity that does (a) or (b).	Hospitals may be subject to the Act.
<a href="#"><u>Food and Drugs Act</u></a> , R.S.C., 1985, c. F-27 [federal]	Applies generally to persons (including organizations); also has	Hospitals are subject to the Act.

Statute	Why it doesn't apply	Notes
	specific hospital requirements. Framework to ensure the safety, quality, and proper labelling of food, drugs, medical devices, and therapeutic products in Canada.  <a href="#">(Mandatory reporting of serious adverse drug reactions and medical device incidents by hospitals)</a>	
<a href="#">Freedom of Information and Protection of Privacy Act</a> , R.S.O. 1990, c. F.31	FIPPA applies to provincial “institutions” – ministries, most provincial agencies, boards and commissions, community colleges, universities, Ontario Health atHome and hospitals.  FHTs/NPLCs are not an “institution” under FIPPA like hospitals.	Hospitals are subject to the Act.
<a href="#">Hospital Labour Disputes Arbitration Act</a> , R.S.O. 1990, c. H.14	Applies to hospital employees to whom the <i>Labour Relations Act, 1995</i> applies, to the trade unions and councils of trade unions that act on behalf of such employees, and to the employers of such employees.	Hospitals are subject to the Act.
<a href="#">Human Pathogens and Toxins Act</a> , S.C. 2009, c. 24 [federal]	Establishes a “national safety and security program to protect the health and safety of the public against risks posed by human pathogens”.	Could apply if FHT/NPLC conducts a “controlled activity” under the Act. Controlled activities require licensing and include: possession, handling, use, production, storing, releasing, transferring, disposing of, importing or exporting, or permitting access to a human pathogen.
<a href="#">Labour Relations Act, 1995</a> , S.O. 1995, c. 1, Sched. A	Applies with respect to employees who may become members of a trade union.	
<a href="#">Laboratory and Specimen Collection Centre Licensing Act</a> , R.S.O. 1990, c. L.1	Only applies if FHT/NPLC has a laboratory or specimen collection centre.	
<a href="#">Mandatory Gunshot Wounds Reporting Act, 2005</a> , S.O. 2005, c. 9	A hospital that treats a person for a gunshot wound must disclose to police.	Hospitals are subject to the Act.
<a href="#">Municipal Freedom of Information and Protection of Privacy Act</a> , R.S.O. 1990, c.M.56	MFIPPA applies to local government institutions, including municipalities, police services boards, school boards, conservation authorities, boards of health and transit commissions.  FHTs/NPLCs are not an institution under the Act.	Hospitals are not subject to the Act.  Municipalities and school boards are subject to the Act.

Statute	Why it doesn't apply	Notes
<a href="#"><i>Nuclear Safety and Control Act</i></a> , S.C. 1997, c. 9 [federal]	Applies to entities (including hospitals) if they possess or use nuclear substances and/or radiation devices. FHTs/NPLCs do not likely undertake licensed activities.	Hospitals may be subject to the Act.
<a href="#"><i>Patient Restraints Minimization Act</i></a> , 2001, S.O. 2001, c. 16	Applies to hospitals and facilities and organizations prescribed by regulation (there are no regulations).	Hospitals are subject to the Act.
<a href="#"><i>Quality of Care Information Protection Act</i></a> , 2016, S.O. 2016, c. 6, Sched. 2	A “health facility” under the Act includes a hospital within the meaning of the <i>Public Hospitals Act</i> .	Hospitals are subject to the Act.
<a href="#"><i>Resource Recovery and Circular Economy Act</i></a> , 2016, S.O. 2016, c. 12, Sched. 1	Applies to producers. There is an exemption in the Blue Box regulation for producers whose gross annual revenue generated from products and services in Ontario is less than \$2 million. Charitable donations do not count towards the \$2 million.	
<a href="#"><i>Supply Chain Management Act (Government, Broader Public Sector and Health Sector Entities)</i></a> , 2019, S.O. 2019, c. 15, Sched. 37	FHTs/NPLCs not within prescribed health sector entities.	Hospitals are prescribed as “health sector entities” to which this Act applies.
<a href="#"><i>Transportation of Dangerous Goods Act</i></a> , 1992, S.C. 1992, c. 34 [federal]	Applies to anyone handling dangerous goods (explosives; gases; flammable and combustible liquids; flammable solids; oxidizing substances; poisonous (toxic) and infectious substances; nuclear substances; corrosives; substances dangerous to life, health, property or the environment). Handling is defined as “loading, unloading, packing or unpacking dangerous goods in a means of containment for the purposes of, in the course of or following transportation and includes storing them in the course of transportation”.	
<a href="#"><i>Workers Day of Mourning Act</i></a> , 2016, S.O. 2016, c. 14	Applies to hospitals – they (along with others identified in Act) must fly flags at half mast on Workers Day of Mourning (April 28).	Hospitals are subject to the Act.