

Information and Privacy Commissioner,
Ontario, Canada



Commissaire à l'information et à la protection de la vie privée,
Ontario, Canada

PHIPA DECISION 288

Complaint HA24-00309

Medicine Shoppe Pharmacy #289

June 30, 2025

Summary: The complainant asked Medicine Shoppe Pharmacy #289 for their pharmacy records. The pharmacy issued a \$120 fee invoice for seven pages of records. The complainant paid the fees to obtain the records and then requested a review of the fees. In this decision, the decision-maker does not uphold the fee and orders the pharmacy to refund \$90 to the complainant.

Statutes Considered: *Personal Health Information Protection Act, 2004*, as amended, sections 54(10) and 54(11).

Orders/Decisions Considered: Orders HO-009, HO-014 and PHIPA Decisions 17 and 111.

BACKGROUND:

[1] On June 13, 2023, the complainant (through their representative) asked Medicine Shoppe Pharmacy #289 (the pharmacy) for access under the *Personal Health Information Protection Act, 2004* (the *Act* or PHIPA) to their pharmacy records for a specified period.

[2] On July 20, 2023, the pharmacy issued its initial fee invoice of \$120. In October 2023, the pharmacy then issued a revised fee invoice of \$762.75.

[3] On December 7, 2023, the complainant expressed their disagreement with the fee invoice to the pharmacy and proceeded to pay a \$30 deposit to obtain the records.

[4] On December 29, 2023, the pharmacy issued a final fee invoice to the complainant,

reducing the total fee to \$120 and requesting the remaining \$90 to release the records.

[5] On January 4, 2024, the complainant paid the remaining \$90.

[6] On November 26, 2024, the complainant asked the Information and Privacy Commissioner of Ontario (IPC) to review the fees.

[7] Attempts to resolve this matter informally were not successful. On May 7, 2025, I decided to conduct a review and issued a Notice of Expedited Review, requesting representations from the pharmacy on the issue of fee by May 28, 2025.

[8] The pharmacy did not respond or provide its representations by May 28, 2025.

[9] On May 29, 2025, I advised the pharmacy that I would proceed to a decision if I did not receive a response by June 2, 2025.

[10] On June 2, 2025, the pharmacy responded, but did not directly address the questions set out in the Notice of Expedited Review. I determined that I did not need representations from the complainant.

[11] In this decision, I do not uphold the pharmacy's fees, and I find that the fees exceed the amount of reasonable cost recovery under the *Act*. I order the pharmacy to issue a refund in the amount of \$90 to the complainant.

DISCUSSION:

Preliminary issues

[12] Based on the information before me in this complaint, I am satisfied that:

- the requested records are records of *personal health information*, as defined in sections 2 and 4 of the *Act*;¹ and
- the pharmacy is a *health information custodian* as defined in paragraph 4 of section 3(1) of the *Act*.²

Issue: Should the pharmacy's fee of \$120 for the records be upheld?

[13] The *Act* contains provisions about the payment of fees by a requester. Sections 54(10) and (11) of the *Act* allow a health information custodian to charge a fee for access,

¹ *Personal health information* is defined as identifying information about an individual if the information relates to physical or mental health of the individual or to the providing of health care to the individual under sections 4(1)(a) and (b) of the *Act*.

² *Health information custodian* is defined as a person who operates a pharmacy within the meaning of the *Drug and Pharmacies Regulation Act*.

after giving an estimate. These sections state:

54(10) A health information custodian that makes a record of personal health information or a part of it available to an individual under this Part or provides a copy of it to an individual under clause (1) (a) may charge the individual a fee for that purpose if the custodian first gives the individual an estimate of the fee.

54(11) The amount of the fee shall not exceed the prescribed amount or the amount of reasonable cost recovery, if no amount is prescribed.³

[14] The issue of the validity of a fee charged under the *Act* is reviewed in PHIPA Decision 17. In that decision, the fee provisions at sections 54(10) and (11) of the *Act* are discretionary and they “confer a discretion on the [custodian] to charge an individual who requests access to records of [their] own personal health information a fee for access that cannot exceed the ‘prescribed amount,’ if one exists, or the ‘amount of reasonable cost recovery.’”

[15] As there are currently no prescribed fee amounts under the *Act*, in this review, I must determine whether the fee charged by the pharmacy exceeds the “amount of reasonable cost recovery” as contemplated by section 54(11) of the *Act*. The “amount of reasonable cost recovery” is not defined in the *Act*. However, the IPC has previously considered the meaning of this phrase for the purposes of the fee provisions in the *Act*.⁴ Applying the purposive approach to statutory interpretation, the IPC has concluded that the phrase “reasonable cost recovery” in the *Act* does not mean “actual cost recovery”, or full recovery of all the costs borne by a custodian in fulfilling a request for access to an individual’s own personal health information. The IPC has also concluded that the use of the word “reasonably” to describe cost recovery suggests that costs should not be excessive, and that, as a whole, section 54(11) must be interpreted in a manner that avoids creating a financial barrier to the important purpose of the *Act* - to grant a right of access to one’s own personal health information.

[16] These past IPC orders/decisions concluded that a fee scheme set out in a proposed regulation to the *Act*, published by the Minister of Health and Long-Term Care in 2006 (the 2006 framework),⁵ though never adopted, provides the best framework for determining the amount of “reasonable cost recovery” under the *Act*. The 2006 framework adopted in those orders/decisions and in this review reads as follows:

25.1(1) For the purposes of subsection 54(11) of the *Act*, the amount of the fee that may be charged to an individual shall not exceed \$30 for any or all of the following:

³ As of the date of this decision, there is no PHIPA regulation that prescribes fees for access.

⁴ Orders HO-009, HO-014 and PHIPA Decision 17.

⁵ [Notice of Proposed Regulation under PHIPA](#), published in *Ontario Gazette* Vol 139-10 (11 March 2006).

1. Receipt and clarification, if necessary, of a request for a record.
2. Providing an estimate of the fee that will be payable under subsection 54(1) of *PHIPA* in connection with the request.
3. Locating and retrieving the record.
4. Review of the contents of the record for not more than 15 minutes by the health information custodian or an agent of the custodian to determine if the record contains personal health information to which access may be refused.
5. Preparation of a response letter to the individual.
6. preparation of the record for photocopying, printing or electronic transfer.
7. Photocopying the record to a maximum of the first 20 pages or printing the record, if it is stored in electronic form, to a maximum of the first 20 pages, excluding the printing of photographs from photographs stored in electronic form.
8. Packaging of the photocopied or printed copy of the record for shipping or faxing.
9. If the record is stored in electronic form, electronically transmitting a copy of the electronic record instead of printing a copy of the record and shipping or faxing the printed copy.
10. The cost of faxing a copy of the record to a fax number in Ontario or mailing a copy of the record by ordinary mail to an address in Canada.
11. Supervising the individual's examination of the original record for not more than 15 minutes.

(2) In addition to the fee charged under subsection (1), fees for the services set out in Column 1 of Table 1⁶ shall not, for the purposes of subsection 54(11) of *PHIPA*, exceed the amounts set out opposite the service in Column 2 of the Table.

Application of the 2006 framework and the \$30 set fee

[17] In applying the 2006 framework, a custodian must first consider the set fee of \$30 set out in section 25.1(1) of the 2006 framework. Included in that \$30 charge are fees

⁶ Table 1 of the 2006 framework in the appendix at the end of this decision.

for several listed administrative tasks involved in processing the request, such as the first 15 minutes of review by the custodian to determine if the record contains personal health information to which access may be refused, and photocopying or printing of the first 20 pages of the responsive records. It also includes costs incurred for packaging the photocopied or printed copy of the record for shipping and for mailing a copy of the record by ordinary mail to an address in Canada.

[18] Section 25.1(2) of the 2006 framework references Table 1 which, as previously indicated, sets out fees that a custodian is permitted to charge, over and above the set \$30 fee, for several defined tasks. These include fees for making the records available to the requester on various mediums and fees for review.

Reasonable cost recovery for photocopying the records

[19] As set out in the 2006 framework, the fee for photocopying the first 20 pages of the complainant's records of personal health information is accounted for in the \$30 set fee. Under Item 1 of Table 1 of the 2006 framework, the custodian is permitted to charge \$0.25 per page for photocopying beyond those first 20 pages.

Reasonable cost recovery for reviewing the records

[20] Under the 2006 framework, the custodian is entitled to charge \$45 for every 15 minutes of review after the first 15 minutes, which is accounted for in the set fee of \$30. Under Item 12 of Table 1 of the 2006 framework, the custodian is entitled to charge \$45 for every 15 minutes of review after the first 15 minutes.

[21] Not every type of record containing personal health information subject to the *Act* requires the same amount of review time. For records with standard, predictable content requiring only a straightforward review, a review time of five seconds per page has been determined to be appropriate.⁷ For other records, which by their nature may contain information to which access may be refused and require a more detailed and lengthy review, a review time of two minutes per page has been determined to be appropriate.⁸

Pharmacy's representations

[22] During initial discussions, the pharmacy confirmed that there were seven pages of records. It also maintained that the fee was correct because it may charge \$45 for every 15 minutes of review, after the initial 15 minutes of review. Based on this statement and the \$120 fee, the pharmacy suggests it took 45 minutes to review 7 pages of records – the first 15 minutes included in the set fee of \$30, plus two additional blocks of 15 minutes at \$45 per block for a total of \$90. The pharmacy expressed its discontent with the complainant's request to have the fees revised after paying the fees and receiving the

⁷ PHIPA Decision 111.

⁸ PHIPA Decision 111.

records.

[23] In its response to the Notice of Expedited Review,⁹ the pharmacy submits that the fees were not only for reviewing the seven pages of records, but for continuous communication with the complainant's representative about the records and fees. The pharmacy also submits that, once the fee was paid, it located, reviewed, printed and faxed the records, which totaled \$45.12. The pharmacy explained that, as a courtesy to the complainant, it did not charge its lawyer consultation fees, the full hourly rate of a manager's time or the monthly cost of its records software system – suggesting that \$120 is nominal.

Analysis and findings

[24] I do not uphold the pharmacy's fee of \$120. I find that the total fee should be \$30.

[25] As noted above, previous IPC orders/decisions have held that the 2006 framework provides the best method for determining the amount of "reasonable cost recovery" under the *Act*. The 2006 framework allows custodians to charge a set fee of \$30 for various administrative tasks involved in processing requests. This includes locating and retrieving the records and preparing a response and/or the records. As a result, any administrative tasks that are set out in the 2006 framework are to be included in the set fee of \$30 and not added as additional costs.

[26] The pharmacy is charging the complainant \$120 for seven pages of records. These seven pages fall within the first 20 pages set out in the \$30 set fee and no additional fees regarding making and/or providing copies of the records by fax should apply.

[27] Despite the pharmacy's claim that it may charge for certain administrative tasks, clarifying, locating, retrieving, producing, and providing copies of seven pages of records falls within the \$30 set fee. Fees for receipt, clarification, and providing an estimate or a response to the complainant and/or their representative are not accounted for in the 2006 framework and as a result, no additional fees can be accrued for these activities.

[28] The pharmacy advised that it may charge \$45 for every additional 15 minutes of review after the first 15 minutes. PHIPA Decision 111 states that for standard, predictable content, a review time of five seconds per page is appropriate. The pharmacy has not provided me with any details about the nature of the seven pages of records. Accordingly, I have no evidence before me that the requested pharmacy records require anything more than a straightforward review. A review time beyond the initial 15 minutes for the seven pages of records would appear to be excessive in the circumstances of this complaint.

⁹ The pharmacy did not address each question in the Notice of Expedited Review or provide a specific breakdown of the \$120 calculation. While I have reviewed the representations, only the relevant portions are summarized here.

[29] Even if the maximum amount of time to review lengthy records at two minutes per page was applied, seven pages of records with a review time of two minutes per page equates to 14 minutes, which is still within the 15 minutes of review time encompassed in the \$30 set fee. As a result, fees outside of the \$30 set fee regarding review time should not be accrued.

[30] Based on the above and the 2006 framework, I find that the \$120 fee exceeds the amount of reasonable cost recovery under the *Act* and that the total fee should be \$30. I will order the pharmacy to refund \$90 to the complainant.

ORDER:

1. I do not uphold the pharmacy's fee of \$120.
2. I order the pharmacy to provide the complainant (through their representative) with a refund of \$90 by **July 14, 2025**.
3. To verify compliance, the pharmacy shall provide me by email with documentation to confirm that the refund has been issued to the complainant by **July 14, 2025**.

Original Signed by: _____

Michael Cusato
Case Lead

June 30, 2025

APPENDIX

TABLE 1

ITEM	COLUMN 1	COLUMN 2
1.	For making and providing photocopies or computer printouts of a record	25 cents for each page after the first 20 pages
2.	For making and providing a paper copy of a record from microfilm or microfiche	50 cents per page
3.	For making and providing a floppy disk or a compact disk containing a copy of a record stored in electronic form	\$10
4.	For making and providing a microfiche copy of a record stored on microfiche	50 cents per sheet
5.	For making and providing a copy of a microfilm of a record stored on microfilm that is,	
	i. 16mm	\$25 per reel
	ii. 35mm	\$32 per reel
6.	For printing a photograph from a negative or from a photograph stored in electronic form, per print,	
	i. measuring 4" × 5"	\$10
	ii. measuring 5" × 7"	\$13
	iii. measuring 8" × 10"	\$19
	iv. measuring 11" × 20"	\$26
7.	For making and providing a copy of a 35mm slide	\$2
8.	For making and providing a copy of an audio cassette	\$5
9.	For making and providing a copy of a ¼", ½", or 8mm video cassette,	
	i. that is one hour or less in length	\$20

	ii. that is more than one hour but not more than two hours in length	\$25
10.	For making and providing a copy of a ¾" video cassette,	
	i. that is not more than 30 minutes in length	\$18
	ii. that is more than 30 minutes in length	\$23
11.	For producing a record stored on medical film, including x-ray, CT and MRI films	\$5 per film
12.	For the review by a health information custodian or an agent of the custodian of the contents of a record to determine if the record contains personal health information to which access or disclosure may or shall be refused	\$45 for every 15 minutes after the first 15 minutes
13.	For supervising examination of original records	\$6.75 for every 15 minutes