
Persons with Developmental Disabilities (PDD)**Background:**

There are different provincial and federal privacy laws that govern the collection, use and disclosure of personal and/or health information needed to deliver, monitor, evaluate and audit social-based programs and services. Through a contract with a public body or a custodian of health information, the *Freedom of Information and Protection of Privacy Act (FOIP Act)* or the *Health Information Act (HIA)* apply to the social service provider or agency. Alberta's *Personal Information Protection Act (PIPA)* applies to private sector organizations, but most non-profits are excluded from the act unless they are collecting personal information while conducting commercial activities.

In some situations, public bodies such as Alberta government departments or custodians of health information such as Alberta Health Services may extend authority to service providers through a contract. This gives service providers authority to collect, use and disclose an individual's personal information or manage health information according to the contract.

Service providers involved in delivering programs and services are responsible for understanding their own governing legislation, regulations and policies. Understanding each service provider's role and responsibilities within the service delivery model will assist in mapping out how information needs to flow to meet the outcomes. Determining what legislation applies and the authority for each service provider in relation to their role is required. Service providers need to be able to make and justify their decisions regarding the sharing/disclosure of information.

When reviewing the scenarios below please refer to the information sharing (IS) critical considerations, IS decision tree, and legal authority template in the [Information Sharing Guide and toolkit for social-based service design and delivery](#).

Scenario #1

Bill is 19 years old and has a developmental delay. Bill's mother, who is also his legally appointed guardian, has applied on his behalf to the Persons with Developmental Disabilities (PDD) program to receive home living supports. To help determine Bill's eligibility his mother has provided PDD regional staff with the name of Bill's high school teacher. If Bill is determined to be eligible for the PDD program, PDD regional staff will then refer Bill to potential service providers.

Question #1: Can PDD regional staff contact Bill's teacher to obtain information regarding his intellectual abilities as part of determining his eligibility for the PDD program?

Answer:

Yes, the *FOIP Act* provides PDD regional staff with legislative authority to collect information about Bill's intellectual abilities indirectly (i.e. from someone other than Bill) in this case from Bill's teacher, in order to determine Bill's eligibility for the PDD program. [*FOIP Act* 33(c), 34(1)(k)(i)] That is, PDD regional staff can contact Bill's teacher to obtain the information to determine eligibility for the PDD program. Bill or his mother do not have to obtain the information from Bill's teacher and then pass it on to PDD regional staff.

Question #2: Can the teacher disclose Bill's personal information to the PDD program?

Answer:

Yes, the *FOIP Act* provides that programs operated by a public body, such as a school or PDD, may disclose personal information to the extent necessary to enable the public body to determine or verify suitability or eligibility for a program or benefit. [*FOIP Act* 40(4) & (1)(l)]

Question #3: If Bill is determined to be eligible for the PDD program, can PDD regional staff contact potential service providers to discuss Bill's needs prior to referring him to a service provider?

Answer:

Yes, the *FOIP Act* provides PDD regional staff with authority to disclose Bill's personal information regarding his needs to potential service providers in order to find a service that will meet Bill's needs. [*FOIP Act* 40(1)(l)]

Note: Consent is not required for PDD staff to discuss Bill's needs with service providers; disclosing the necessary information will assist with determining the appropriate services required.

Scenario #2

Kimberly is 35 years old and has a severe developmental disability, mental illness, and complex behavioural support needs. She receives home living supports from a service provider funded by the PDD program. Kimberly was recently admitted to Alberta Hospital, as she was posing imminent danger to herself and others through self-harming and violent outbursts towards her caregiver. A mental health worker employed by Alberta Hospital has contacted PDD regional staff to request a copy of her adaptive skills inventory and risk assessment information that was conducted for the purpose of determining Kimberly's eligibility for the PDD program.

Question #1: Can PDD regional staff provide Kimberly's adaptive skills inventory and risk assessment information to the mental health worker without Kimberly's consent?

Answer:

Yes, the PDD regional staff can release this information without Kimberly's consent to the mental health worker in order to receive treatment at the mental health facility to avert an imminent danger to the health and safety of any person. [*FOIP Act* 40(1)(ee)(ii)]

Question #2: Following treatment the mental health provider has determined that behavior has improved and Kimberly no longer poses a significant risk of harm to herself or others. Prior to discharging Kimberly from Alberta Hospital back into community care, can the mental health provider disclose Kimberly's mental health evaluation to PDD regional staff in order to support collaborative service planning, coordination of care, safety and enhance outcomes?

Answer:

Yes, the *Health Information Act (HIA)* provides that the mental health provider can release information of Kimberly's mental health evaluation information to PDD regional staff without Kimberly's consent to a person responsible for providing continuing treatment and care. [*HIA* 35(1)(b)] The mental health provider can disclose the information necessary to determine appropriate supports and services.

Question #3: Can the PDD regional staff use Kimberly's mental health evaluation information to update and revise her service and support planning?

Answer:

Yes, the PDD regional staff can use the information to provide Kimberly with the most appropriate support plan and services for her health, safety and wellbeing. [FOIP Act 39(1)(a)]

Scenario #3

Mary is 28 years old with a developmental delay. She is living in a residential facility funded by the PDD program. Mary has expressed to staff at the residential facility that she would like more independence and involvement in the community. Staff at the residential facility contacted PDD regional staff to see if there are community supports for potential volunteer opportunities for Mary. The PDD program applies an outcomes-focused approach to promote independence and meaningful inclusion in the community through employment and volunteer work.

PDD regional staff have found two suitable volunteer opportunities that would be a good fit with Mary's interests and abilities. The Good Samaritan Society (GSS) and the Canadian Red Cross (CRC) are both non-profit organizations. GSS has a contractual relationship with the PDD program, whereas CRC does not.

Question: Can PDD regional staff share Mary's personal information with the GSS and/or CRC to sign on for a volunteer position with either non-profit organization?

Answer #1:

Yes, GSS is in a contractual relationship with the PDD program which outlines the services they can provide and through the contract GSS is deemed an employee subject to the *FOIP Act*. Under the contract, the employee must adhere to the *FOIP Act* in its collection, use and disclosure of any personal information required to fulfill its obligations to perform services.

PDD staff do not need consent from Mary but will inform her that sharing information with GSS is required to find her a suitable volunteer opportunity. GSS can use Mary's information for a purpose consistent to the reason her information was collected, in this case to be used to provide services or programs to benefit Mary's wellbeing. [FOIP 39(1)(a)]

Answer #2:

Yes, PDD regional staff can disclose Mary's information to CRC but only after Mary has identified the information and consented to share her information with CRC. [FOIP 40(1)(d)] PDD staff can share the information required to find Mary a suitable volunteer opportunity.