

Notice of Privacy Practices

V. 8

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Express Scripts Canada Notice of Privacy Practices

PURPOSE

- The Express Scripts Canada *Notice of Privacy Practices* describes Express Scripts Canada's¹ commitment to individuals who are patients and/or Plan Members receiving our services. Express Scripts Canada bases the *Notice of Privacy Practice* on applicable privacy laws in Canada, including the federal Personal Information Protection and Electronic Documents Act (PIPEDA) for the private sector, the Privacy Act for the federal public sector, and provincial and territorial privacy laws, as well as any privacy requirements that arise from specific contractual requirements.

SCOPE

- Express Scripts Canada honours the principles expressed in this Policy in order to protect an individual's personal information (PI) and their personal health information (PHI). Individuals may be Patients or Plan Members of benefits plans sponsored by Clients. The privacy principles enunciated here are consistent with the Canadian Standards Association (CSA) Model Code for the Protection of Personal Information (CAN/CSA-Q830-96) which is included in Canada's *Personal Information Protection and Electronic Documents Act* (PIPEDA).
- The *Notice of Privacy Practice* does not apply to business confidential information that is not personal information and which is associated with business activity of Express Scripts Canada and its Clients. Express Scripts Canada protects the confidentiality of such information in accordance with the law, applicable contracts and Express Scripts Canada's internal policies.

DEFINITIONS

- **Client:** means a client of Express Scripts Canada to whom benefit management services are provided; including claims adjudication and associated services. These clients are organizational clients to Express Scripts Canada, and typically are insurance companies, third party administrators (TPA), employers and government organizations having principal financial responsibility for payment of covered medications and/or dental services and/or extended health care services provided to Members under a benefit coverage plan.
- **Health Care Service Provider** is a health care practitioner who operates a sole practice or a group practice of health care practitioners. The health care service provider offers services within the regulatory framework of provincial health services laws and professional colleges regardless of whether a particular service is private or publicly funded. As such, they have specific obligations and privileges under provincial privacy laws for the collection, use and disclosure of personal health information in connection with the provision of health care services to Patients.
- **Health Information Custodian** means a Health Care Service Provider who has custody or control of personal health information as a result of or in connection with performing the person's or organization's powers or duties prescribed by their health care discipline. They may include drug, health or dental care professionals, clinical specialists, dentists, pharmacists and physiotherapy providers, among others. Express Scripts Canada Pharmacy and its staff operate the pharmacy as a Health Care Service Provider and as a Health Care Custodian under provincial health privacy law.
- **Patient:** means an individual person receiving or registered to receive health care services from an Express Scripts Canada pharmacy. In this relationship, Express Scripts Canada pharmacy and the staff are Health Information Custodians with specific obligations of privacy protection under provincial personal health information legislation and regulation.

¹ Express Scripts Canada includes ESC Services and the ESC Pharmacy.

- **Plan Member:** means an individual, their spouse or dependent, who participate in benefit coverage plans administered by a Client. Express Scripts Canada does not have a direct relationship with the Plan Member (unless contracted services to the Client specifically include terms by which ESC has contact with the Members). In this relationship, Express Scripts Canada is a service provider to Clients. The Client is accountable to obtain adequate release or consent from each Plan Member authorizing the collection, use, and disclosure of their personal information, including personal health information, by Express Scripts Canada, as required under their benefit coverage plan and in order for Express Scripts Canada to render the services contracted under the benefit management services agreement with Client.
- **Plan sponsor** means a designated party that is a client of a Client, usually a company or employer, for which a Client provides a benefit coverage plan.
- **Service Provider:** means vendors or suppliers who are contractually accountable to Express Scripts Canada. Service Providers have been engaged to support Express Scripts Canada in the delivery of benefit management services to Clients.

POLICY STATEMENT

Express Scripts Canada recognizes the sensitivity of the personal information and personal health information entrusted to us by Patients, Clients and Plan Members. As a result, Express Scripts Canada commits to manage personal information and personal health information with great care and in accordance with applicable laws and regulations.

PRINCIPLE 1: ACCOUNTABILITY

Express Scripts Canada is accountable for all personal information and personal health information in its possession. The meaning of accountability is laid out in the *ESC Privacy Program Governance and Oversight Policy, which governs the Notice of Privacy Practices*.

- Express Scripts Canada has established internal procedures to comply with this *Notice of Privacy Practices* and has designated a Chief Privacy Officer who is accountable for privacy compliance. Express Scripts Canada is also accountable for personal information and/or personal health information that it transfers to a Service Provider to process on behalf of Express Scripts Canada. Service Providers commit contractually to protecting personal information and personal health information in accordance with the Express Scripts Canada privacy policies and applicable laws.

To implement the principles of this *Notice of Privacy Practices*, Express Scripts Canada has established:

- a comprehensive privacy management program;
- policies to direct privacy operations and incident management;
- procedures to protect the privacy of personal information and personal health information;
- procedures to receive and respond to privacy inquiries and complaints; and
- a privacy training policy and a training program which is annually refreshed and mandatory for all employees and Service Providers.

Express Scripts Canada publishes its privacy policies and makes them available to Patients, Plan Members, Clients and employees and contingent workers.

PRINCIPLE 2: IDENTIFY PURPOSES

Express Scripts Canada works on behalf of its Clients to conduct benefit management, including claims adjudication services. Our fraud, waste and abuse detection services conduct audits of claims submitted by pharmacy, dental and extended Health Care Service Providers to ensure accurate and timely reimbursement of claims. Express Scripts Canada Pharmacy also delivers pharmacy products and services to Pharmacy patients. Therefore, any further reference to “identified purposes” includes these purposes.

- 2.1 Express Scripts Canada uses personal information and personal health information according to the terms of agreements with Clients or Patients, which may include:
- To properly adjudicate plan member claims for pharmacy products, services and manage benefit coverage plans under contract with Clients;
 - To enable claims to be accurately adjudicated and processed for claim payment and reimbursement;
 - To enable the verification of the integrity of claims;
 - To provide Clients with the information they require in order to evaluate our services or audit the administration of their benefit coverage plans;
 - To meet legal and regulatory requirements; and to permit the Contact Centre to interact with Health Care Service Providers, Plan Members and Pharmacy patients in relation to services that Express Scripts Canada provides which may include contracted adjudicated services or pharmacy services.
- 2.2 As part of plan delivery, Clients are expected to communicate these purposes to Plan Members. Purposes could be communicated to Plan Members who participate in benefit coverage plans in several ways including:
- In benefit management programs, terms of use may be provided in the enrolment forms of our Clients;
 - Purposes for collection of personal information are summarized on the Plan Members' benefit cards or on a benefit card application form or on other publications available to the Plan Members;
 - Plan sponsors may be provided with a communication to send to all Plan Members identifying how their information is used by Client and/or Express Scripts Canada
- 2.3 Express Scripts Canada collects personal information from Patients who enroll with an Express Scripts Pharmacy for purposes that include the processing and delivery of prescriptions and related pharmacy services and benefits, in accordance with applicable laws and regulations.
- 2.4 To the extent that Express Scripts Canada directly collects personal information and personal health information from a Patient, purposes are identified by Express Scripts Canada before or at the time of the enrolment.
- 2.5 Unless required by law, Express Scripts Canada will not collect personal information or personal health information for any purposes that have not been identified to the Patient without first identifying and documenting the new purpose, and then, consulting with the Plan Member (via the Client or Health Care Provider as applicable).
- 2.6 Where Express Scripts Canada provides personal information or personal health information to a Client or a Service Provider, Express Scripts Canada requires that the Client or Service Provider agrees to use that information for specified purposes and in accordance with required contractual and/or legislative safeguards. In the event that the Client or Service Provider proposes additional purposes, they must attest that they have directly obtained additional consents where appropriate or required.

PRINCIPLE 3: OBTAIN CONSENT

3. The knowledge and consent of the Patient is required for the collection, use or disclosure of personal information and personal health information. Accordingly, Express Scripts Canada requires evidence of consent for any collection, use or disclosure of personal information and personal health information.
- 3.1 Where obtaining consent is inappropriate in the circumstances, the law may permit personal information and personal health information to be collected, used or disclosed without the knowledge and consent of the Patient or Plan Member. Express Scripts Canada reviews these circumstances in advance of any collection, use or disclosure of personal information or and personal health information by the Privacy Office. Actions to collect, use or disclose without consent are authorized according to law in such circumstances as when legal

or security reasons make it unreasonable or impractical to obtain consent.

- 3.2 When the Patient consents to the collection, use or disclosure of personal information and personal health information by Express Scripts Canada Pharmacy they also assert that the Patient has obtained, from the Patient's spouse and eligible dependents, consent for Express Scripts Canada to collect, use and disclose the personal information for the identified purposes.
- 3.3 The Patient's 's assertion, that they have the consent of their spouse and dependants, permits the card holding Patient to access, through Express Scripts Canada, the prescription history and integrated claims data of any spouse and eligible dependants that use Express Scripts Canada Pharmacy's services. Patients who are adult dependants who are may request that Express Scripts Canada maintain their pharmacy records privately.
- 3.4 Express Scripts Canada Pharmacy is unable to demarcate partial purposes within identified purposes associated with adjudication services, administration of benefit plans or certain pharmacy services.

PRINCIPLE 4: LIMITED COLLECTION

- 4 Express Scripts Canada limits the collection of personal information and personal health information to that which is necessary for the identified purposes.
 - 4.1 Patients, Plan Members and/or unrelated individuals are responsible to ensure that they provide only the information necessary for Express Scripts Canada to provide services to them.
 - 4.2 Patients submit enrolment information by approved means using website information capture, enrolment forms and other means provided for this purpose.
 - 4.3 Plan Members provide information to the Plan Sponsor and/or Client who collects it with the consent of the Plan Member. Express Scripts Canada obtains the information as a service provider for purposes identified by the Plan Sponsor and/or Client.

PRINCIPLE 5: LIMITED USE, DISCLOSURE, AND RETENTION

- 5 Express Scripts Canada limits the use, disclosure and retention of personal information and personal health information to that which is necessary for the identified purposes.
 - 5.1 Express Scripts Canada limits uses in accordance with Client agreements for benefit management services including adjudication processing or in accordance with the direct consent of the Patient during the course of providing pharmacy services via the Express Scripts Canada pharmacies.
 - 5.2 Express Scripts Canada retains personal information and personal health information as long as directed by a Client for the purposes contracted by the Client and in accordance with the requirements of applicable laws.
 - 5.3 Express Scripts Canada Pharmacy retains personal information and personal health information as long as necessary for the fulfillment of the identified purposes or as required by law.
 - 5.4 If personal information and personal health information is no longer required for the identified purposes, or to be retained according to law, Express Scripts Canada may follow Client or Patient directives to destroy personal information using secure methods.
 - 5.5 Express Scripts Canada may transfer a Plan Member's personal information and personal health information to Service Providers. When using personal information and personal health information in this manner, Express Scripts Canada provides only the limited personal information and personal health information required by the third party to complete assigned services, and in accordance with the security terms of the contract with the Service Provider.

- 5.6 Express Scripts Canada does not sell identifiable Plan Member or Patient data. An exception could be made for debt collection of Patient Accounts Receivable when debt is extended past a defined time period in circumstances where all internal processes for notification of the debt have been exhausted and the debt remains unpaid.
- 5.7 Express Scripts Canada engages Service Providers to provide services/products to Clients and Plan Members. The use of any information is governed by contractual terms that require their uses to be consistent with the purpose for which the consent was obtained and only use such information for the purposes outlined in its service contracts with Express Scripts Canada.
- 5.8 De-identified and aggregate statistical information, obtained in accordance with Express Scripts Canada's Deidentification Privacy and Practice Policy, may be used for testing or for historical or research purposes, cost comparison or other business purpose of Express Scripts Canada; including analyzing trends and assisting Clients with business planning.
- 5.9 Clients may request only the personal information and personal health information of Plan Members that they require to manage their benefit coverage plans. Once the information has been disclosed back to the Client and thereby leaves Express Scripts Canada's control, the Client is fully responsible for protecting the information.
- 5.10 In the event that Express Scripts Canada is required to disclose personal information or personal health information pursuant to any applicable law, regulation, an order of any court, tribunal or administrative body having competent jurisdiction, Express Scripts Canada will promptly notify the responsible Client or Patient.
- 5.11 Depending on the circumstances, if Express Scripts Canada is informed that certain personal information or personal health information is the subject of a legal dispute or an access request, the information may be retained until Express Scripts Canada is notified that the issue is resolved.

PRINCIPLE 6: APPROPRIATE SAFEGUARDS

- 6 Express Scripts Canada protects personal information and personal health information with physical, organizational and technological safeguards in accordance with industry standards and applicable laws.
- 6.1 Express Scripts Canada maintains reasonable systemic controls, schedules and practices for the security, retention and destruction of personal information and personal health information. At Express Scripts Canada, authorized supervisors grant users access to personal information and personal health information about Plan Members or Patients when duties reasonably require. The level of access is determined on a need to know basis.
- 6.2 Client or Health Care Provider inquiries regarding the payment of specific claims are resolved with the least number of Express Scripts Canada staff members possible in the circumstance. Express Scripts Canada has established formal safeguarding procedures for these communications.
- 6.3 Express Scripts Canada treats personal information and personal health information confidentially in accordance with its formal data classification policy and procedures.
- 6.4 Service Providers are required to provide security safeguards for personal information and personal health information that are equivalent or better than the safeguards provided at Express Scripts Canada. Express Scripts Canada may conduct formal privacy and/or security practice surveys of Service Providers' privacy protections for personal information.
- 6.5 Physical safeguards implemented by Express Scripts Canada include but are not limited to measures described in the Safeguarding Procedures, the Clean Desk Policy, the Internet Use Policy and the Information Security Policy. These protections may include:
- Locks on desk drawers, office doors and filing cabinets as appropriate
 - Lock-down cables for laptop computers

- Controlled entry to data centres and role based limits on access to storage areas and information systems
- Locked and controlled entrances to all office locations
- Programs to secure and shred discarded personal information and personal health information

6.6 Organizational safeguards implemented by Express Scripts Canada include but are not limited to:

- Regular privacy process reviews and practice audits
- Privacy and Security Incident Management program
- Programs to conduct training according to the Privacy Training Policy
- Clean Desk audits as conducted by the Privacy Office
- User activity audits and investigations related to PI/PHI

6.7 Express Scripts Canada has documented technological safeguards as implemented in the Information Security Policy. They include but are not limited to:

- Enhanced network and systems security procedures and policies
- Secure password selection criteria
- Role based access controls to information applications and systems
- Password-protected screen savers are automatically activated
- Encrypting transfers via e-mail internally and to third parties
- Procedures are in place to establish, document, modify and terminate a user's access to Express Scripts Canada's information systems
- User access audits and monitoring of access controls
- Counts of user activities when tracking traffic patterns on internet web sites

6.8 Clients who access Express Scripts Canada's electronic claims administration systems for adjudication services are required to follow specific security protocols in order to uphold the integrity of personal information and personal health information processed in adjudication applications.

PRINCIPLE 7: ACCURACY OF PERSONAL INFORMATION

7 Express Scripts Canada has processes in place to keep personal information and personal health information as accurate, complete and current as is reasonably necessary and appropriate for its identified purposes.

7.1 Express Scripts Canada will update personal information as necessary only if authorized by the Client for approved processes. Patients may contact the Express Canada Pharmacy and Plan Members may contact the Client or Health Care Services Provider who collected the information regarding the accuracy and completeness of their personal information and have it amended as appropriate.

7.2 If a Patient or a Plan Member asserts that personal information is inaccurate, incomplete, out of date or irrelevant, Express Scripts Canada may direct the Plan Member or Patient so that they can request amendments to their record. Referrals are first to the Client, Plan Sponsor, and then the Health Care Provider, or the relevant Express Scripts Canada contact as appropriate. Express Scripts Canada will collaborate with these parties to make any appropriate or required corrections.

7.3 Express Scripts Canada relies on its Clients with respect to adjudication and its Patients with respect to pharmacy services to be able to use accurate eligibility and enrolment personal information and to keep such information current.

PRINCIPLE 8: INDIVIDUAL ACCESS

- 8 Express Scripts Canada will provide Plan Members and Patients with access to their information using the following guidance:
- 8.1 Express Scripts Canada will direct the Plan Member or Patient to the Health Information Custodian who collected that information in order to request access. Express Scripts Canada may engage the relevant Express Scripts Canada department or representative, the Client, the Plan Sponsor or the Health Care Provider as applicable.
 - 8.2 In cases where Express Scripts Canada is unable to provide access to or correct the Plan Member information, Express Scripts Canada will refer the Plan Member to obtain access directly from the Client. Patients may access their prescription history and integrated claims data of any eligible dependents, for which they have asserted consent and which are included in Express Scripts Canada's services, in accordance with applicable laws and Express Scripts Canada policy.
 - 8.3 Third parties who make requests for personal information - including lawyers acting on behalf of Patients, Clients seeking pharmacy health records, supporting consultants, family members and substitute decision makers must provide written proof of consent).
 - 8.4 Express Scripts Canada will process requests for personal information and personal health information from third parties, such as law offices on behalf of litigants through the Privacy Office. Processing includes validation checks against the signatory of the consent, validity of the requesting office and a review to confirm any disclosure is in accordance with applicable laws.
 - 8.5 In certain situations, Express Scripts Canada may not be able to provide access to the personal information or personal health information requested. Where the Privacy Office must deny access, in consultation with the applicable parties, Express Scripts Canada will provide the Client (for the Plan Member) or Patient with the reasons for denying access. For example, where personal information:
 - Is prohibitively costly to provide;
 - Contains references to other individuals in a form that cannot be severed;
 - Is subject to Solicitor-Plan Member or litigation privilege; or
 - Information not disclosed for legal, security or commercial proprietary reasons.
 - 8.6 In the event of a request for access to personal information or personal health information, in order to safeguard personal information and personal health information, a Patient may be required to sufficiently identify themselves so that Express Scripts Canada can authenticate the requestor and authorize access to the individual's information.
 - 8.7 To the extent that Express Scripts Canada is involved in fulfilling an access request, the Privacy Office retains records of all access requests, actions taken and the response provided to the requestor.

PRINCIPLE 9: OPENNESS

- 9 Express Scripts Canada will make readily available to Plan Members and/or Patients, Clients, employees and contingent workers and contractors specific information about its policies and practices relating to the management of personal information and personal health information.
- 9.1 Express Scripts Canada makes this *Notice of Privacy Practices* available to the public through the corporate website and by request to the Privacy Office.
 - 9.2 The Express Scripts Canada website will announce any changes to this *Notice of Privacy Practices* on the public website at [express-scripts.ca](https://www.express-scripts.ca). Interested parties may request more detailed privacy policies from the Privacy Office.

9.3 In the event of a privacy incident, where the Chief Privacy Officer has determined that loss of custody and control did occur and/or where there may be evidence of harm, Express Scripts Canada will notify the impacted Client or Patient of the privacy breach.

PRINCIPLE 10: CHALLENGING COMPLIANCE

10 A Patient or Plan Member, Health Care Provider, Service Provider or Client may challenge Express Scripts Canada's compliance with these privacy principles by directing inquiries to the Privacy Office.

10.1 Express Scripts Canada has a formal Privacy Program that includes processes to receive, investigate, and respond to complaints or concerns relating to our privacy practice conducted in accordance with the *Privacy Program Governance and Oversight Policy* and this *Notice of Privacy Practices*.

10.2 Express Scripts Canada will investigate all privacy complaints. If an investigation determines that a complaint has merit, Express Scripts Canada will resolve the complaint including, if necessary, amending its policies and procedures.

10.3 If an individual is not satisfied with the way in which Express Scripts Canada responds to their matter, they may contact the following:

- the offices of their provincial Information Privacy Commission (for health information),
- the federal office of the Information Privacy Commissioner (for personal information in general)
- the relevant Express Scripts Canada Client, any of whom will work with Express Scripts Canada to resolve the issue to the individual's satisfaction.

For more information, please contact Express Scripts at these co-ordinates:

Website: express-scripts.ca and then select the privacy link at the bottom of the page.

Email: ExpressScriptsCanada_Privacy@Express-scripts.com

Telephone: 905-712-8615 or 1 (888) 677-0111 and ask to speak to the Privacy Officer

Direct Mail:

The Privacy Office
Express Scripts Canada (ESC)
5770 Hurontario Street, 10th Floor
Mississauga, ON L5R 3G5