

Notice of Privacy Practices

v. 7

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Express Scripts Canada Notice of Privacy Practices

PURPOSE

- This Policy describes Express Scripts Canada's¹ commitment to individuals who are patients and/or Plan Members receiving our services. Express Scripts Canada bases the policy 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 and their personal health information. Individuals may be Patients of pharmacy services or Plan Members of benefits plans sponsored by insurance carriers, employers or other clients of Express Scripts Canada. 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).
- This Policy 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 commercial and corporate 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

- **Patient:** A patient is an individual person receiving or registered to receive medical treatment or health care services under the auspices of Express Scripts Canada Pharmacy services through the pharmacy benefits management program or directly by 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.
- **Plan Member:** Plan Members are individuals, their spouse and their dependents, who participate in benefit coverage plans sponsored by a Client. Express Scripts Canada does not have a direct relationship with the Plan Member. 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 health information, by Express Scripts Canada, as required under their benefit coverage plan according to a contractual agreement.
- **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 carriers, 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 plan.

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



- **Health Care Provider and Health Information Custodians:**
Health Care Providers 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 Custodians follow the formal definitions in the respective legislation for their jurisdiction. They may include drug, health or dental care professional, clinical specialists, dentists, pharmacies, pharmacists and physiotherapy providers, among others. Express Scripts Canada Pharmacy and its staff operate the pharmacy as a Health Care Provider.
- **Service Provider:**
Service Providers are 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 dental, extended health care and pharmacy claims adjudication services to insurance carriers and plan sponsors (i.e., Clients).
- **Plan sponsor** is a designated party that is a client of a Client, usually a company or employer that provides a plan for healthcare insurance benefit for the organization's employees.

POLICY STATEMENT

Express Scripts Canada recognizes the sensitivity of the personal information entrusted to us by Patients, Clients and Plan Members. As a result, Express Scripts Canada commits to manage personal 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 Practice* policy.

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

To implement the principles of this Policy, 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 staff.

PRINCIPLE 2: IDENTIFY PURPOSES

Express Scripts Canada works on behalf of its Clients to conduct claims adjudication services. Our business integrity services conduct audits of claims submitted by pharmacy and dental service providers to ensure accurate and timely reimbursement of claims. Express Scripts Canada also delivers pharmacy products and services as part of the pharmacy benefit plan package. Therefore, any further reference to “identified purposes” includes these purposes.

- 2.1 Express Scripts Canada uses personal information according to the terms of agreements with Clients or Patients, which may include:

- To properly administer adjudication and pharmacy products, services and benefit plans under contract with Plan Members and 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 plans; and
- To meet legal and regulatory requirements.

2.2 As part of plan delivery, Clients must communicate these purposes to their Plan Members. Purposes are communicated to Plan Members who participate in benefit 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 Express Scripts Canada; and
- Agreements made by health care providers who use Express Scripts Canada's reimbursement infrastructure require that they communicate these purposes to Plan Members.

2.3 Express Scripts Canada collects personal information from Patients who enroll in the Pharmacy Benefits Management program offered through their benefits program 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 from a Plan Member, 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 for any purposes that have not been identified to the Plan Member 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 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 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 or Plan Member is required for the collection, use or disclosure of personal information. Accordingly, Express Scripts Canada is required to ensure it has obtained consent for any collection, use or disclosure of personal information.

3.1 Where obtaining consent is inappropriate in the circumstances, the law may permit personal 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 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 Plan Member consents to the collection, use or disclosure of personal information by Express Scripts Canada they also assert that the Plan Member has obtained, from the Plan Member'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's services through their card holder's membership. Adult dependants who are Patients may request that Express Scripts Canada maintain their pharmacy records privately.
- 3.4 Express Scripts Canada 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 to that which is necessary for the identified purposes.
 - 4.1 Patients and Plan Members are responsible to ensure that they provide only the enrolment information necessary for Express Scripts Canada to administer the benefit plan on their behalf.
 - 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 to that which is necessary for the identified purposes.
 - 5.1 Express Scripts Canada limits uses in accordance with Client agreements for adjudication processing or in accordance with the direct consent of the Patient during the course of providing pharmacy services.
 - 5.2 Express Scripts Canada retains personal information as long as directed by a Client and in accordance with the requirements of applicable laws. Express Scripts Canada only retains personal information as long as necessary for the fulfillment of the identified purposes or as required by law.
 - 5.3 If personal 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.
 - 5.4 Express Scripts Canada may transfer a Plan Member's personal information to Service Providers. When using personal information in this manner, Express Scripts Canada provides only the limited personal information required by the third party to complete assigned services, and in accordance with the security terms of the contract with the Service Provider.
 - 5.5 Express Scripts Canada does not sell Plan Member or Patient data for any purpose.
 - 5.6 Express Scripts Canada engages Service Providers to provide 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.
 - 5.7 De-identified and aggregate statistical information, as approved by the Privacy Office, may be used for testing of or for historical or research purposes, including analyzing trends and assisting Clients with business planning.

- 5.8 Clients may request only the personal information they require to manage their benefit 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.

Required Disclosures

- 5.9 In the event that Express Scripts Canada is required to disclose personal 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 Plan Member or Patient.
- 5.10 Depending on the circumstances, if Express Scripts Canada is informed that certain personal information is the subject of a legal dispute or an access request, the information may be retained until the issue is resolved.

PRINCIPLE 6: APPROPRIATE SAFEGUARDS

- 6 Express Scripts Canada protects personal 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. At Express Scripts Canada, authorized supervisors grant users access to personal 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 confidentially according to formal data classification policy and procedures.
- 6.4 Service Providers are required to provide security safeguards for personal information that are equivalent or better than the safeguards provided at Express Scripts Canada. The Privacy Office conducts formal privacy audits 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
- 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 processed in adjudication applications.

PRINCIPLE 7: ACCURACY OF PERSONAL INFORMATION

7 Express Scripts Canada has processes in place to keep personal 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 Pharmacy and Plan Members may contact the custodian 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 Plan Sponsor or Client, 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 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 of Government Clients, Express Scripts Canada will refer the Plan Member to obtain access directly from the sponsoring government institution.

- 8.3 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.
- 8.4 Express Scripts Canada will process requests for personal 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 requested. Where the Privacy Office must deny access, in consultation with the applicable parties, Express Scripts Canada will provide 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, in order to safeguard personal information, a Plan Member or 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 contractors specific information about its policies and practices relating to the management of personal information.
- 9.1 Express Scripts Canada makes this policy 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 Policy 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 Patient or Plan Member, 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 in accordance with the *Privacy Program Governance and Oversight Policy* and this privacy policy.
- 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