

Bill 89 – Personal Health Information Act
Ensuring Patient Privacy & Maximizing Health System Resources
Better Healthcare for Nova Scotians

Philanthropic Impact on our Health System

Hospital foundations are an integral part of this country's health system. Each year in Canada, over \$1 billion is raised by hospital foundations for patient care, education and research. In 2008, Nova Scotia hospital foundations raised \$56.5 million for patient care equipment, infrastructure, research and programs, which otherwise would have gone unfunded.

Grateful Patient Fundraising – Benefiting 70% of Canadians

A full 70% of Canadians live with the benefit of patient privacy legislation that enables both the protection of sensitive patient information and "grateful patient" fundraising which helps to fund new patient care equipment and programs. Ontario, Quebec, Manitoba and Saskatchewan all have health information legislation with an "implied access" model, as opposed to the "express consent" model contained in Nova Scotia's Bill 89.

Express consent requires hospitals to ask patients for their consent to provide information to that hospital's foundation for fundraising purposes. Where utilized in express consent jurisdictions, patients are asked for their consent at the time of admission.

We believe that requesting express consent in the hospital setting is less appropriate and a greater intrusion on patients when they are most vulnerable for reasons including:

- (a) unintended appearance of coercion by the hospital;
- (b) insensitivity to the vulnerability of patients at that time.

Implied access, by contrast:

- (a) avoids direct solicitation of patients during their hospital stay;
- (b) includes a process for comprehensive screening out of sensitive and vulnerable patients (such as long term care cases, death, social work cases, negative outcomes and many other categories);
- (c) provides to the hospital's foundation only name and mailing address (no health records or telephone number) for patients who have not opted out of receiving information;
- (d) information is provided to foundations no earlier than 60 days following admission;
- (e) due to screening process, provides better patient protection than non-screened mail-outs which occur today;
- (f) includes well advertised right of patients to easily opt-out of receiving fundraising material at any time.

The implied access model better respects patient privacy rights and protects patient vulnerabilities while allowing patients to make informed decisions about making donations in support of our healthcare system. It has been proven to work well in other provinces which have used it for several years. Most hospitals and foundations in those provinces report that less than 1% of patients choose to opt out.

Projected Benefits of Implied Access Model

With an implied access model similar to Ontario's, the QEII Foundation projects a potential additional \$40 million that could be raised by hospital foundations across Nova Scotia over the next five years. It will not be possible to raise this additional amount with the express consent model in Bill 89. We know of no replacement source of funding for this lost opportunity.

Information in Response to Minister of Health's Concerns

In response to certain concerns raised by the Minister of Health at the time of moving Bill 89 for second reading we offer the following information:

1. Regarding the concern that healthcare workers would be too busy to undertake the necessary screening processes, we are advised by Ontario hospitals that the information necessary for them to make the screening process is already being collected and the screening process is highly automated and therefore is not an additional burden on healthcare workers.
2. The Minister expressed concern about fundraising foundations not being subject to the same legal requirements as hospitals. While this is true under Bill 89, as drafted, it is not true under the Ontario Act implied access model we are recommending. That act imposes, by regulation, obligations on the entities conducting fundraising on behalf of the hospital (to, for example, prohibit the disclosure of any patient healthcare or state of health information and to require all fundraising communications to include an easy opt-out method in respect of future contact). So this is a concern which can be easily addressed in the legislation itself as it has been in Ontario.

The Future

The gap between the increasing capital cost requirements of the healthcare system and the Province's ability to fund this from tax dollars is widening. Hospital foundations in Nova Scotia cannot keep up with this widening gap without additional tools to increase fundraising results.

We believe that Nova Scotians should be given the same opportunity for access to state of the art patient care equipment and programs that other "implied access" provinces provide to their residents. Nova Scotia's hospital foundations can be an even more significant part of the solution to the funding crisis in healthcare if we are given the necessary tools to work with.

Bruce Marchand
Vice-Chair, Board of Trustees
QEII Foundation