March 28, 2018

Dear [Redacted],

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: HCS/035/2018]

On March 15, 2018, the Department of Health and Community Services (the Department) received your request for access to the following records: [Redacted]

“We feel as a group of [Redacted] that we have been misinformed, and possibly the government has been misinformed regarding the Pharmacy Technician legislation that has been recently passed. As a result, there are numerous employees facing job loss in our region and we are looking to determine who has misinformed government in passing this Bill. Our NAPE union has also been misinformed or have not done the proper ground work, so we have taken this into our own hands. We are wondering where Steve Kent got his Pharmacy information in order to pass legislation in our province. We have contacted Mr. Kent, and his response was to go this route. Please advise”

I am pleased to inform you that a decision has been made by John G. Abbott, Deputy Minister for the Department, to provide access to some of the requested information. Access to the remaining information contained within the records, has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act (the Act):

Section 40(1): Disclosure Harmful to Personal Privacy
40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party's personal privacy.

The Access to Information and Protection of Privacy Act requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed prior to day 10, this letter also serves as our Advisory Response.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the Access to Information and Protection of Privacy Act (the Act). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.
The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John’s, NL. A1B 3V8
Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact the undersigned by telephone at 709-729-7010 or by email at MichaelCook@gov.nl.ca.

Sincerely,

Michael Cook
ATIPP Coordinator
/Enclosures
Disclosure harmful to personal privacy

40. (1) The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy.

    (2) A disclosure of personal information is not an unreasonable invasion of a third party’s personal privacy where

       (a) the applicant is the individual to whom the information relates;

       (b) the third party to whom the information relates has, in writing, consented to or requested the disclosure;

       (c) there are compelling circumstances affecting a person’s health or safety and notice of disclosure is given in the form appropriate in the circumstances to the third party to whom the information relates;

       (d) an Act or regulation of the province or of Canada authorizes the disclosure;

       (e) the disclosure is for a research or statistical purpose and is in accordance with section 70;

       (f) the information is about a third party’s position, functions or remuneration as an officer, employee or member of a public body or as a member of a minister’s staff;

       (g) the disclosure reveals financial and other details of a contract to supply goods or services to a public body;

       (h) the disclosure reveals the opinions or views of a third party given in the course of performing services for a public body, except where they are given in respect of another individual;

       (i) public access to the information is provided under the Financial Administration Act;

       (j) the information is about expenses incurred by a third party while travelling at the expense of a public body;
(k) the disclosure reveals details of a licence, permit or a similar discretionary benefit granted to a third party by a public body, not including personal information supplied in support of the application for the benefit;

(l) the disclosure reveals details of a discretionary benefit of a financial nature granted to a third party by a public body, not including

(i) personal information that is supplied in support of the application for the benefit, or

(ii) personal information that relates to eligibility for income and employment support under the Income and Employment Support Act or to the determination of income or employment support levels; or

(m) the disclosure is not contrary to the public interest as described in subsection (3) and reveals only the following personal information about a third party:

(i) attendance at or participation in a public event or activity related to a public body, including a graduation ceremony, sporting event, cultural program or club, or field trip, or

(ii) receipt of an honour or award granted by or through a public body.

(3) The disclosure of personal information under paragraph (2)(m) is an unreasonable invasion of personal privacy where the third party whom the information is about has requested that the information not be disclosed.

(4) A disclosure of personal information is presumed to be an unreasonable invasion of a third party's personal privacy where

(a) the personal information relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation;

(b) the personal information is an identifiable part of a law enforcement record, except to the extent that the disclosure is necessary to dispose of the law enforcement matter or to continue an investigation;

(c) the personal information relates to employment or educational history;

(d) the personal information was collected on a tax return or gathered for the purpose of collecting a tax;

(e) the personal information consists of an individual's bank account information or credit card information;

(f) the personal information consists of personal recommendations or evaluations, character references or personnel evaluations;
(g) the personal information consists of the third party's name where

(i) it appears with other personal information about the third party, or

(ii) the disclosure of the name itself would reveal personal information about the third party; or

(h) the personal information indicates the third party’s racial or ethnic origin or religious or political beliefs or associations.

(5) In determining under subsections (1) and (4) whether a disclosure of personal information constitutes an unreasonable invasion of a third party's personal privacy, the head of a public body shall consider all the relevant circumstances, including whether

(a) the disclosure is desirable for the purpose of subjecting the activities of the province or a public body to public scrutiny;

(b) the disclosure is likely to promote public health and safety or the protection of the environment;

(c) the personal information is relevant to a fair determination of the applicant's rights;

(d) the disclosure will assist in researching or validating the claims, disputes or grievances of aboriginal people;

(e) the third party will be exposed unfairly to financial or other harm;

(f) the personal information has been supplied in confidence;

(g) the personal information is likely to be inaccurate or unreliable;

(h) the disclosure may unfairly damage the reputation of a person referred to in the record requested by the applicant;

(i) the personal information was originally provided to the applicant; and

(j) the information is about a deceased person and, if so, whether the length of time the person has been deceased indicates the disclosure is not an unreasonable invasion of the deceased person’s personal privacy.
Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52 (1) or 53 (1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21 ;

(b) a decision respecting an extension of time under section 23 ;

(c) a variation of a procedure under section 24 ; or
(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16 (2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45 (2).
Information Note
Department of Health and Community Services

Title: The regulation of pharmacy technicians by the Newfoundland and Labrador Pharmacy Board.

Background and Current Status:

- When the Pharmacy Act, 2012 came into force, it included registration requirements for the new category of pharmacy technicians. Additional registration requirements for pharmacy technicians were added to the Pharmacy Regulations, 2014 which came into force in November 2014. In February of 2015, the Newfoundland and Labrador Pharmacy Board (NLPB) began registering applicants as pharmacy technicians. There are currently six pharmacy technicians registered with NLPB.

- As outlined in Subsection 17(1) of the Pharmacy Act, 2012, applicants will be registered if they:
  - have graduated from a pharmacy technician or pharmacy educational program accredited by the Canadian Council for the Accreditation of Pharmacy Programs (CCAPP) or another accreditation body approved by NLPB; or
  - are a registered member in good standing and practicing as a pharmacy technician under the laws of another province or territory of Canada; and
  - meet certain other criteria.

- Alternatively, an applicant can be registered by providing proof of required work experience, completion of a bridging program, and other requirements outlined in the Act.

- See Annex A for a pictorial depiction of the process to become eligible for registration.

- There is only one CCAPP accredited pharmacy technician program in the province offered by Keyin College in Grand Falls-Windsor. The program is 72 weeks in duration and the tuition for this program is currently $20,000. The program started in August 2015 with nine students and will have its first graduating class in December 2016. All pharmacy technician education programs offered in NL prior to this Keyin program were not CCAPP accredited. There are more than 40 CCAPP accredited pharmacy technician programs in Canada.

- Regulated pharmacy technician duties include, but are not limited to:
  - performing the “technical check” on any given prescription. In general terms, pharmacy technicians can be accountable and responsible for the technical aspects of both new and refill prescriptions (i.e. the correct patient, drug dosage form/route, dose, doctor);
  - receiving and transcribing verbal prescriptions from authorized prescribers;
  - transferring prescriptions to and receiving prescriptions from other pharmacies; and
  - providing information and educating patients, as long as the information is not clinical in nature (e.g. a technician could demonstrate the use of an EpiPen or Aerochamber as a device, but not discuss the effects of the drug specifically).
Prior to their designation under the Pharmacy Act, 2012, pharmacy technicians did complete these same duties but only under the supervision of a pharmacist. Registration allows pharmacy technician to work to their scope of practice with minimal supervision. Anyone currently working as a pharmacy technician who does not or cannot register, will be likely called “pharmacy assistants”, and will be unable to perform the duties of a pharmacy technician without supervision.

There are approximately 160 people working as pharmacy technicians in regional health authorities (RHAs) now and approximately 85 per cent are currently completing components of the bridging program. The remaining 15 per cent have chosen not to pursue registration for a number of reasons. RHAs do not anticipate there will be a role for pharmacy assistants but are waiting for further clarification from the NLPB under the Standards for Hospital Pharmacies. These individuals will likely either apply for other positions within the organization or leave the organization.

Pharmacy technicians are now regulated through legislation in Newfoundland and Labrador, Nova Scotia, New Brunswick, Ontario, Alberta and British Columbia. Saskatchewan and Prince Edward Island are in the process of establishing regulation for pharmacy technicians.

The regulatory framework adopted by NLPB and other jurisdictions, based on the work of National Association of Pharmacy Regulatory Authorities (NAPRA), allows the pharmacy technician to better support the pharmacist, allowing the pharmacist to focus more on the clinical aspects of patient care, and work to their full scope of practice which has been increased in recent years.

Nationally, all jurisdictions, whether regulated or not, agreed that grand-fathering provisions should not be included in legislation for pharmacy technicians. It was decided that it would be difficult to ensure the competency level of applicants against the new registration requirements and standards of practice.

The National Pharmacy Bridging Program was developed in 2008 and includes four courses delivered through on-line delivery in NL. It allows existing pharmacy technicians without CCAPP accredited education to write an exam to become an eligible applicant, so long as they meet certain experience criteria.

The option to complete the bridging program and exam to become eligible for registration with NLPB is only available until December 31, 2017. The NLPB has been communicating current unregistered pharmacy technicians for the last number of years about the timelines and process for bridging. Informal communications have been ongoing since 2007. After the legislation and regulations came into effect the NLPB did targeted communications through email lists, on-site presentation at the RHAs and at conferences, through working groups and through pharmacists.
• The estimated costs to complete the bridging courses and required exams are outlined below.
  o PEBC Evaluating Exam - $350;
  o Bridging Program - $1650 per person to complete four modules;
  o PEBC Qualifying Exam - $1275;
  o Total cost per individual - $3,275

• Funding up to $3,275 per employee is available for RHA employees. Employees are required to pay for incidentals such as books, tutorials and NLPB registration fees.

• NLPB recognizes that current unregistered pharmacy technicians within RHAs do not meet registration requirements and must work instead as pharmacy assistants. In a letter to the Directors of Pharmacy at RHAs, dated March 3, 2015, the NLPB outlined its commitment to working with the RHAs to ensure an efficient transition and alignment to registered pharmacy technician practice.

• It is possible that private pharmacies may employ a mixture of both pharmacy assistants and technicians depending on the individual needs of the pharmacy.

• NLPB has advised HCS that given the workflow of private pharmacies, direct supervision of pharmacy assistants is possible. NLPB also advised that private pharmacies are working to determine the role of regulated pharmacy technicians into their business model. NLPB also advised that in some instances, employers are providing financial assistance to employees to complete the bridging program.

Next Steps:

• HCS continues to work with RHAs to ensure pharmacy assistants become eligible for registration as pharmacy technicians.

• A working group comprised of the RHA Directors of Pharmacy, RHA Human Resource representatives and HCS Health Workforce Planning Division meet regularly to oversee the process and address any issues. This working group is also working with PEBC to support the pharmacy assistants in their bridging program studies. While Keyin College does not offer the bridging program, it has developed tutorials to help the assistants with the bridging program. NLPB is consulted by the working group as needed.

Prepared by/Approved By: J. O’Malley, D. Coffin/A. Wells, G. Smith, H. Hanrahan, M. Harvey
Deputy Minister Approval: [Signature]
Minister Approval: [Signature]
March 7, 2016
Annex A: NLPB Process for Eligibility for Registration

Current Assistants or
Graduates of non-CCAPP-
Accredited Programs

Graduates of CCAPP-Accredited
Programs

In Effect Until
Dec 31, 2017

2000 hours in the practice of
pharmacy in the 3 years prior to
application

PEBC Evaluating Exam

Bridging Education Program

Practical Training

PEBC Qualifying Exam (2 parts)

NLPB Registration Exam

Register with NLPB
Please see the attached response to your 30 April 2015 e-mail.
Thank you for your email to Minister Darin King, I am responding on his behalf. The Newfoundland and Labrador Pharmacy Board (NLPB) is the regulatory body for the practice of pharmacy in our province. To fulfill its obligation of public protection, the Board currently registers pharmacists, pharmacy technicians, students and interns. It also licenses pharmacies, establishes and maintains a quality assurance program to promote high standards for the practice of pharmacy, develops standards, guidelines and policies for the practice of pharmacy, and responds to and manages complaints and discipline relating to the practice of pharmacy.

In December 2012, the Pharmacy Act was changed to include regulation of pharmacy technicians. On November 25, 2014, the Pharmacy Regulations were signed to include the designation “pharmacy technician” as a protected title. Effective January 1, 2015, the NLPB recognized pharmacy technicians as a new class of registrant under these regulations.

Becoming a regulated pharmacy technician is voluntary; however, the title of “pharmacy technician” is restricted under the Pharmacy Act and therefore, those who choose not to register with the NLPB, or are unsuccessful in the process to become regulated, will no longer be able to refer to themselves as pharmacy technicians or perform the duties of a pharmacy technician.

As a government, it is our responsibility to ensure the provision of safe, quality health care services for our residents. Regulating pharmacy technicians will ensure that practicing technicians have the appropriate training, qualifications and, liability insurance. Regional health authorities are required to ensure that employees working in the role of pharmacy technicians meet the regulatory requirements. My Department has been working with the regional health authorities to develop a transition plan for pharmacy technicians, based on the availability of courses and exams for current employees wishing to obtain registration with the NLPB. Communications on this issue from employers to all employees will be forthcoming.

I appreciate you bringing your concerns forward. I assure you as Minister, and as Deputy Premier, that Government recognizes the important contribution that pharmacy technicians make to the health and well-being of the people of our province.

Sincerely,

STEVE KENT, M.H.A.
Mount Pearl North
Minister
Power, Colleen (HCS)

From: [Redacted]
Sent: Tuesday, March 27, 2012 9:35 PM
To: Sullivan, Susan
Subject: Bill 12 An Act to Amend the Pharmaceutical Services Act (A Student's View)

Dear Minister Sullivan,

My name is [Redacted] and I am a student, and I would like to comment on Bill 12 An Act to Amend the Pharmaceutical Services Act. Based on Monday’s discourse in the House of Assembly, there were two prevailing comments from members on both sides of the House, namely that health care costs are very high, and that this is largely due to chronic disease. These chronic diseases, such as diabetes and high blood pressure, are the reasons why drug expenditures are so high, and are generally caused by unhealthy lifestyles. Throughout the course of my work experiences, I have seen firsthand the hospitalizations, suffering and death that these conditions cause.

The way to reduce healthcare costs in the long term is through preventative treatment that encourages healthier lifestyles and better disease management. Pharmacists can play an invaluable role in providing these preventative treatments. For example, if a pharmacist provides education on how to better manage their diabetes, this can help the patient avoid developing the complications of diabetes and prevent costly hospitalizations in the future. As well, pharmacists are very knowledgeable in smoking cessation, and if they help a patient quit smoking, this can prevent the many costly diseases that smoking causes. This is the care that we as pharmacists are trained to provide in school, but in order to provide it, we will need to be adequately compensated for them. As a future pharmacist, I urge you to provide substantial funding for these services. It is both necessary to ensure
the viability of pharmacies in the province, and to help reduce the province's health care costs.

Sincerely,

s. 40(1)
Dear [REDACTED],

Thank you for your correspondence dated March 27, 2012 regarding comments in the House of Assembly pertaining to Bill 12, An Act to Amend the Pharmaceutical Services Act, which is now in force.

You note that chronic disease is a key challenge facing the health care system. As you may be aware, Government recently launched its framework document entitled “Improving Health Together - A Policy Framework for Chronic Disease Prevention and Management in Newfoundland and Labrador”. This document provides a comprehensive and coordinated approach that considers the common issues and needs of all those living with or at risk for chronic disease.

The objective of the recent changes to the Pharmaceutical Services Act is to lower the cost of generic drugs in Newfoundland and Labrador. This will provide savings for Government, through the Newfoundland and Labrador Prescription Drug Program (NLPDP), employers through drug benefit plans provided to employees, and to residents who pay for medications out-of-pocket. A portion of the savings realized by Government will be reinvested into the pharmacy community in recognition of the need to protect the viability of pharmacies while a portion will be reinvested in overall healthcare.

Government recognizes the important role of pharmacists as part of the healthcare team and for this reason the reinvestment of a portion of the savings into cognitive services such as medication management and review were negotiated with the Pharmacists’ Association of Newfoundland and Labrador (PANL) and came into effect on April 16, 2012.

I appreciate your feedback on this important policy.

Sincerely,

[SIGNATURE]

SUSAN SULLIVAN
Minister
Dear [Redacted]

Thank you for your correspondence dated March 27, 2012 regarding comments in the House of Assembly pertaining to Bill 12, An Act to Amend the Pharmaceutical Services Act, which is now in force.

You note that chronic disease is a key challenge facing the health care system. As you may be aware, Government recently launched its framework document entitled "Improving Health Together - A Policy Framework for Chronic Disease Prevention and Management in Newfoundland and Labrador". This document provides a comprehensive and coordinated approach that considers the common issues and needs of all those living with or at risk for chronic disease.

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I appreciate your feedback on this important policy.

Sincerely,

SUSAN SULLIVAN
Minister
Mr. John Abbott  
Deputy Minister  
Department of Health and Community Services  
P. O. Box 8700  
St. John's, NL  
A1B 4J6  

Dear Mr. Abbott:

This is a follow-up to discussions about pharmacy technicians and transfer of function that has occurred between our senior staff over the past year. Eastern Health is currently experiencing a significant problem in recruiting pharmacists, and this is expected to worsen. One of the measures we are pursuing to mitigate against this is to implement a “tech check tech” program. More specifically, we are seeking approval to implement the transfer of functions as intended by the applicable draft regulations as soon as possible, even though the regulations have not yet been through the final legislative process.

In September of 2005 the Newfoundland & Labrador Pharmacy Board (NLPB) formally suggested the wording for such regulations. The NLPB has suggested that the delegation of functions to technicians be in keeping with the standards and guidelines set out by the Canadian Society of Hospital Pharmacists. These regulations need to be drafted by personnel in the Legislative and Regulatory Affairs branch of the Department of Health and Community Services. Our understanding is that while these regulations are in the queue, they are not likely to be completed in the near future. Unfortunately, time is critical for us.

Historically, we have been able to attract pharmacists by offering them clinical pharmacy practice opportunities; this being seen by many as more challenging than the opportunities available in the private sector. The provision of clinical pharmacy opportunities is not only a powerful recruitment tool but also proven to enhance patient safety and improve patient care.
Unfortunately at this point in time, we are at a critical point, and we require these regulations or, in lieu, be given approval to proceed in the intended manner now in order to provide a minimum level of pharmacy services and not just as a measure to enhance clinical pharmacy services as was the main intent. We look forward to hearing from you on this request.

Sincerely,

George Tilley
President and Chief Executive Officer

c  Dr. Robert Williams
  VP
  Quality, Diagnostic & Medical Services
Mr. Donald F. Rowe, Ph.C.
Secretary-Registrar
Newfoundland and Labrador Pharmacy Board
Apothecary Hall, 488 Water Street
St. John’s, NL
A1E 1B3

Dear Mr. Rowe:

Thank you for your letter of December 12th, 2005 concerning your request to develop regulations respecting pharmacy technicians. I have forwarded your package of information to Ms. Karen Stone, with our Legislative & Regulatory Affairs Division, for review and assessment. Ms. Stone may be reached at 729-1603 or via email at KarenS@gov.nl.ca.

Yours sincerely,

JOHN OTTENHEIMER, Q.C., M.H.A.
St. John’s East District
Minister

cc: Karen Stone