July 26, 2018
COR/2018/073671

Dear Applicant:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: HCS/089/2018]

On June 27, 2018, the Department of Health and Community Services (the Department) received your request for access to the following records:

“From the period of March 1, 2017 to February 5, 2018 – all records of communication, including but not limited to, emails, draft reports, reports, notes, notes from phone calls, memos regarding, including communication with the Newfoundland and Labrador Pharmacy Board and the Pharmacists’ Association of Newfoundland and Labrador, regarding: discussions around restrictions on rebates or professional allowances to pharmacists from generic drug companies. Not limited to, but could be related to discussions around the pan-Canadian Pharmaceutical Alliance (pCPA) and the “Canadian Generic Pharmaceutical Association (CGPA) five-year initiative to reduce generic drug costs.”

I am pleased to inform you that a decision has been made by the Department to provide access to some 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):

Policy advice or recommendations
29. (1)(a) The head of a public body may refuse to disclose to an applicant information that would reveal advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister.

Disclosure harmful to intergovernmental relations or negotiations
34. (1)(a)(i) The head of a public body may refuse to disclose information to an applicant if the disclosure could reasonably be expected to harm the conduct by the government of the province of relations between that government and the following or their agencies: the government of Canada or a province; or
(b) reveal information received in confidence from a government, council or organization listed in paragraph (a) or their agencies.

Disclosure harmful to the financial or economic interests of a public body
35. (1) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose:
(d) information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party; or
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
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).
NL Position Note  
PT Deputy Ministers of Health Meeting  
April 21, 2017  
Agenda Item: pCPA Generics Initiative

Issue & Purpose:
- The Deputy Ministers (DMs) will be asked to endorse a mandate for negotiating a new generics pricing agreement with the Canadian Generic Pharmaceutical Association (CGPA). The temporary bridging arrangement between pCPA and CGPA ends March 31, 2018.

Suggested Speaking Points:
- We agree with the release of the KPMG report to the CGPA to initiate and inform discussions on the negotiation of a new agreement.
- We agree with targeting an aggressive reduction in annual expenditures on generics within the next 3 years, recognizing that baseline variation in savings between jurisdictions may range between 20-40% depending on a number of factors including utilization patterns. Initial focus to be on the highest volume generic drugs to align with international prices reported by PMPRB, with further revisions of the Tiered Pricing Framework (TPF) to meet longer term objectives.
- To mitigate risk for implementation, NL agrees with the need to engage and manage potential impacts to stakeholders across the supply chain.
- We support the establishment of a more efficient pCPA process, and the development of a common price list of the lowest prices in Canada that will be applicable to all jurisdictions and payers.

Background:
Generic Drugs
- In January 2014 Health Ministers approved the three year generic pricing framework as follows:

| Pan-Canadian Generic Value Price Initiative – Tiered Generic Pricing Framework* |
|---|---|---|
| **Category**** Description | **% of Brand** | **Notes** |
| Single source (i.e., only one manufacturer of a generic drug) | 75% of brand if product listing agreement (PLA) for brand exists in any jurisdiction (option for PT to retain PLA if provides better value) Other single source: 85% (products at this level will be | Overall only a small percentage of generic products are single source  
• Over 95% of brand products listed in Ontario are supported by a PLA agreement  
• An Ontario analysis, based on a 5 yr. time period, indicated that 75% of new products were single source for a period of less than 2 years |
This agreement expired on March 31, 2017. The temporary bridging arrangement would see 2017-18 as a transition year for negotiation of a new agreement to commence April 1, 2018.

To continue the trend of generic savings during the bridging period, six of the generic drugs that were previously reduced to 18% of brand price were selected to be further reduced to 15% of brand price effective April 1, 2017.

An evaluation of this Initiative was completed by KPMG in December 2016 to inform the negotiation of a new agreement with the CGPA. Highlights of the report include:

- An estimated $763M in savings were achieved through the Initiative from 2013-2015.
- The bulk of the savings (90%) were generated by the 18% molecules, additional savings from the TPF were eroded by price increases in non-Initiative drugs (approx. $85M).
- While Canada has made significant reductions in the price of generics in the past few years, there is room for further reductions given that average international pricing levels are still lower (even for the 18% and TPF drugs).
- Pricing consistency has improved in Canada; however, more savings are possible if prices of TPF drugs converge to the lowest Canadian price.
- A number of administrative improvements could be made by implementing some new business processes, leveraging technology and increasing the administrative support for the initiative, which is likely warranted given the level of savings.

It is expected that the current price confirmation process will continue to operate until March 31, 2018. At the same time the pCPA members will continue to address outstanding issues such a price increases on generics and how older/single source generic drugs should be addressed under the framework.

Provincial/Territorial Position:

- The issue of negotiations with CGPA has been discussed by pCPA members as part of the regular meeting process, including a review and feedback on the KPMG report. There should be general agreement on the targeted savings and the approaches to reduce generic prices to align with international prices.

NL Assessment/Position:

s. 29(1)(a)
The risks/impact to the supply chain stakeholders (e.g. wholesalers, pharmacies, etc.) will need to be carefully considered with successful negotiation of aggressive savings.

The current price confirmation process that is being coordinated through Saskatchewan is working well from our perspective, and has replaced the price submission/confirmation process we previously used for new generic drug submissions. This has required a significant resource commitment by Saskatchewan to date, and we would support allocating the additional funding to assist them in supporting this function until a decision is made on moving the price confirmation process to the pCPA Office.

Prepared/Approved by: K. Kavanagh/P. Clark/S. Maloney/M. Jewer

April 11, 2017
Issue & Purpose:
- PT DMs will be asked to endorse a mandate for negotiating a new generics pricing agreement with the Canadian Generic Pharmaceutical Association (CGPA) with an aggressive savings target.

Suggested Speaking Points:
- [Provide suggested speaking points for DM that summarizes NL’s position-do we endorse the mandate? Why or why not?]
- [Pose any questions NL may have]

Background:
- Provide any pertinent background information on the issue. Reference the CBN and any other attachments that were provided. Below are some points from an old note as an example.

- It is expected that the current price confirmation process will continue to operate until March 31, 2018. At the same time the pCPA members will continue to address outstanding issues such as a price increases on generics and how older / single source generic drugs should be addressed under the framework.

  s. 34(1)(a)(i), s. 34(1)(b)

- Saskatchewan has provided the resources to serve as a central point for generic price confirmation under tiered pricing framework and has completed over 362 price confirmations.

Provincial /Territorial Position:
- Provide what we know about the views of other PTs. Below is a sample from an old note.

- The issue of the bridging strategy and the allocation of funding to Saskatchewan has been discussed between the PCPA members as part of the regular meeting process, including a review and feedback on the bridging strategy. There should be general agreement on both matters.

NL Assessment/Position:
- Include here any analysis specific to NL and how the mandate would positively and/or negatively impact this province. Below are some samples from a previous note.