

## Federal Bill C-6: Personal Information Protection and Electronic Documents Act

*Similar in nature to legislation introduced in the province of Quebec in 1994, Bill C-6 governs the use and disclosure of personal information by private sector organizations.*

Some time ago, Federal legislation was enacted regarding government use of private information. Bill C-6 incorporates the ten guidelines of Canada's "Model Code for the Protection of Personal Information". Briefly, "personal information" must be handled as follows:

**ACCOUNTABILITY** – the organization must appoint an individual(s) responsible for compliance with the legislation;

**IDENTIFYING PURPOSES** – prior to its collection, the organization must identify the purpose(s) for which it is collected;

**CONSENT** – it can only be collected, used or disclosed with the knowledge and consent of the individual, where appropriate;

**LIMITING COLLECTION** – it can only be collected by fair and lawful means, for the purpose(s) identified by the organization;

**LIMITING USE, DISCLOSURE AND RETENTION** – it must only be used or disclosed for the stated purpose(s) of collection and shall be retained only as long as necessary and for that purpose(s), unless prior consent is obtained;

**ACCURACY** – it should as accurate, complete and up-to-date as necessary for the stated purpose(s) of its use;

**SAFEGUARDS** – it shall be protected by security safeguards, appropriate to its sensitivity;

**OPENNESS** – an organization shall make its policies regarding the information readily available to individuals;

**INDIVIDUAL ACCESS** – an individual shall have access to their information and be provided with knowledge regarding its existence, use and disclosure and the right to correct erroneous or incomplete information; and

**CHALLENGING COMPLIANCE** – in the event of a dispute, an individual shall have access to the individual(s) in an organization responsible for compliance.

### WHY SHOULD YOU CARE?

*Although Canadian Life and Health Insurance Association Privacy Guidelines have been in effect for several years, Bill C-6 will have a number of effects on how plan sponsors conduct benefits-related business, including:*



- How you collect and use employee information internally;
- Your ability to interpret and analyze insurance and administrator reports;
- How you manage benefit and disability claims; for example:
  - ♦ Without the detailed information provided in the past, disability claims may be more difficult to manage.
  - ♦ Identifying significant claimants who may be 'one time exceptions' (and therefore excluded from renewal experience analyses will also be more difficult).

Also affected by this legislation is how companies collect and use *non-benefits related* employee and customer information.



As this new legislation is being phased-in over a period of time, insurers and plan administrators are at various stages of compliance. Currently, all major insurers and plan administrators have indicated that they are in the process of reviewing their internal personal information guidelines and will be advising their clients of any changes that will impact their benefit plans.

Some carriers have indicated that they have (or will) change their policies well in advance of the January 1, 2004 effective date. It is likely that once carriers change their guidelines, they will be unwilling to provide the additional information allowed prior to the introduction of Bill C-6. For employee benefit plans, some areas that will likely be affected by this new legislation include:

- Health and Dental claims listings indicating amounts claimed by identifiable individual;
- Plan sponsor validation of employee eligibility for Health and Dental claim submission (a change to direct employee submission may be required); and
- Detailed disability claim information by identifiable individual.

What this means is that you may 1) receive less information with which to interpret and manage your benefit plans; or 2) receive the information but be limited in how you can use it.

Krieger & Associates is working with plan providers to ensure that the information required to effectively manage client benefit plans will be provided, to the fullest extent possible. For example, in many cases, specific knowledge of an underlying medical condition is not as important as the resulting consequences and/or limitations. In addition, plan sponsors are often aware of employees' circumstances. As this information can be beneficial in assisting employees, presumably it can be used in accordance with this legislation.

- Passed into federal law in April, 2000;
- **Effective January 1, 2001** for federally regulated organizations and for commercial activities involving the transfer of personal information inter-provincially or internationally, with respect to non-health related personal information;
- **Effective January 1, 2002** for the organizations identified above, with respect to health related personal information;
- **Effective January 1, 2004** for other private sector organizations, with respect to all personal information;
- Governs the use and disclosure of personal information, as follows:
  - ♦ When an organization collects, uses or discloses personal information, it requires an individual's consent; and
  - ♦ The organization can only use the information for the purpose for which consent was given.
- Personal information is considered information which can identify an individual in any way;
- Based on the Canadian Standards Association's "**Model Code for the Protection of Personal Information**", which was recognized as a national standard in 1996.



## your to-do list

- ✓ **Review internal processes** and employee and customer privacy guidelines with your legal advisors, to ensure compliance with Bill C-6 by the applicable date.
- ✓ **Review the authorizations** included in all employment and benefit applications and business documents with your legal advisors, to ensure the widest permissible legal consent for the use of personal information. With respect to benefit applications, plan sponsors should determine if consents are also required for all eligible dependents of legal age.
- ✓ **Review disability processes** and be vigilant about knowing employees and being "aware" of any unusual claim occurrences.
- ✓ **If you validate employee eligibility** for health and dental claims, you need to review your systems capabilities to provide employee eligibility to insurers and administrators. This would be required if a change to direct submission of claims by employees becomes necessary.

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