

### POLICY STATEMENT

eDOCSNL will work with the physician of any abandoned EMR data to ensure an understanding of custodianship obligations and support physicians in fulfilling these responsibilities for their EMR data. eDOCSNL will also work with The College of Physicians and Surgeons of Newfoundland and Labrador (CPSNL) or other health professional regulatory organization, TELUS and the Department of Health and Community Services (DHCS) to have any abandoned EMR data appropriately managed or will facilitate the transfer of ownership to another custodian as outlined under the *Personal Health Information Act* (PHIA) and By-Law 6 of The CPSNL.

### INTENT

The intent of this policy is to establish procedures in the event a physician or other health care provider who is a custodian abandons their EMR data. eDOCSNL will work with all applicable parties to ensure data is managed appropriately.

### POLICY SPECIFICS

In the event:

- (a) the physician or other health professional who is a custodian retires
- (b) the physician or other health professional who is a custodian has left the province,
- (c) the physician or other health professional who is a custodian has discontinued or changed his or her practice,
- (d) the doctor-patient relationship is terminated,

the physician or other health professional who is a custodian remains custodian and is responsible for their medical records/EMR data for a period designated by their regulatory college and medical-legal requirements. A physician or health care provider may terminate his or her personal responsibility as custodian of a patient's medical records by transferring complete custody and control of the records to another custodian, to a regional health authority or in case of death to another person who is legally authorized to hold the record, such as an executor. The physician or other health professional remains the custodian of records placed with a record storage company.

A physician or other health professional may choose to extract and retain their data in any format outlined in the eDOCSNL Program Termination/Withdrawal Notification Form which is to be completed prior to beginning the eDOCSNL Program Termination/Withdrawal Process. Any violation of responsibilities outlined under PHIA, By-law 6: Medical records or the eDOCSNL Physician Participation Agreement will be forwarded to CPSNL for necessary action.

In the event eDOCSNL is made aware that a physician or other health professional who is a custodian has abandoned their EMR data, the following steps will take place:

1. The Director, eDOCSNL, will make contact with physician or health professional to ensure they understand their legal obligations as a custodian.
2. Work with the custodian and TELUS to facilitate the transfer of data to another custodian.

3. If the custodian fails to meet their legal responsibilities the Director will contact the regulatory college,
4. eDOCSNL will deliver in writing to the physician an explanation of their responsibilities under, PHIA, their regulatory college and the eDOCSNL Physician Participation Agreement. If the Physician is still unable or unwilling to designate another custodian eDOCSNL will work with the DHCS, the CPSNL and the RHAs to have a new custodian for the records designated.
5. If all of the previous are unsuccessful, the Minister of Health has the authority to appoint a custodian and will be consulted.

In the event that the Physician agrees to take the data and retain custodianship, they will be subject to the fees detailed in Schedule C of the Telus Professional Services Agreement pertaining to the export of data by Telus and found on the Provider Termination Notification and Provider Transfer Notification documents located on the eDOCSNL website. The Program will assume the cost of transfer of the data to a new custodian, in the form of a data import into an existing or new Telus Med Access EMR instance in Newfoundland and Labrador, when a new custodian has to be appointed due to failure on the part of the Physician to find another voluntary custodian.

## BACKGROUND

Physicians and other health professionals are “custodians” of personal health information and are required to be knowledgeable of their responsibilities under the Personal Health Information Act (PHIA) and the by-laws set out by their regulatory college.

### Associated Resources:

eDOCSNL Physician Participation Agreement

eDOCSNL Program Termination/Withdrawal Notification

[Personal Health Information Act \(PHIA\)](#)

By-law 6: Medical records - The College of Physicians and Surgeons of Newfoundland and Labrador

## APPROVAL

**Approved by:** EMR Management Committee

### Revision History:

Initially Approved: December 3, 2019

Revised: