QUESTION:
I am the chair of a hospital board and I understand that I have various powers and duties under FIPPA. Can I delegate my powers and duties?

ANSWER: Yes.
Pursuant to section 62(1) of FIPPA, the “head” of a hospital may delegate in writing any power or duty to an officer or officers of the hospital.

POWERS AND DUTIES OF THE HEAD
For public hospitals, the “head” is the chair of the board. The powers and duties of the head include:

• exercising the mandatory exemptions;
• making decisions in regard to requests for access, including whether a request is frivolous and vexatious;
• disclosing/providing access to information;
• making decisions on charging fees in connection with access;
• compiling the data and making the required annual report to the Information and Privacy Commissioner; and
• complying with the personal information rules under FIPPA.

DELEGATION BY THE HEAD
Recognizing that the chair of a hospital board is a volunteer director, most chairs will decide to delegate some or all of their powers and duties. Delegation must be in writing to an “officer” or “officers” of the institution. We recommend that the chair delegate to two or more of: a FIPPA Co-ordinator; Privacy Officer; Manager of Health Records; CEO; and Risk Manager.

Thought should be given to whether the chair’s delegate(s) will be authorized to make decisions under FIPPA, or whether their role will be administrative only.
for example to process requests for access and investigate complaints under FIPPA. The chair remains responsible for decisions made by his or her delegates, and for this and other reasons, guidelines should be established as to when the board chair is consulted, even where all of the head’s powers and duties have been delegated. There is a requirement, where access to information is refused, to give the requestor notice of the name and office of the person responsible for making the decision.

There are a number of Orders of the Information and Privacy Commissioner/Ontario considering the delegation of the head’s powers and duties, which suggest that a hospital should ensure that a delegation under FIPPA:

- is signed and dated by the chair;
- specifies the powers and duties that are to be delegated (the head may delegate some or all of his or her powers and duties, and if the former, it must be clear which powers and duties are being delegated);
- is to an office rather than an individual filling the office, so that the delegation remains effective as individuals leave or change positions within the hospital; and
- is to more than one office, so that there is always someone available to exercise the powers and perform the duties (sub-delegation is not permitted).

Hospitals should identify or establish a team to process access requests under FIPPA and a reporting protocol to ensure that the head or his or her delegates receive timely notice of access requests. We will discuss these matters in more detail in our next Bulletin.

**PRACTICAL TIPS**

- Decide with the board chair whether some or all of his or her powers and duties under FIPPA are to be delegated.
- Clearly set out in writing the powers and duties to be delegated and the title of the officer(s) to whom the powers and duties are to be delegated and have the board chair sign and date the delegation.

  - You can search the term “head” in an electronic version of FIPPA to identify all of the powers and duties of the head.
  - Identify the team responsible for processing requests for access and correction under FIPPA and post this information internally (for example, on the hospital’s intranet).

**NEW FACTSHEET FROM IPC ONTARIO**
The Information and Privacy Commissioner of Ontario has just released a new Fact Sheet: “Applying PHIPA and FIPPA/MFIPPA to Personal Health Information”. The Fact Sheet can be found on the IPC’s website [www.ipc.on.ca](http://www.ipc.on.ca).

**COMMENTS OR QUESTIONS**
Please contact the BLG Personal Health Information Privacy and Access to Information Team:

- Patrick Hawkins | Toronto | 416.367.6065 | phawkins@blg.com
- Bonnie Freedman | Toronto | 416.367.6239 | bofreedman@blg.com
- Heather Pessone | Toronto | 416.367.6589 | hpessione@blg.com
- Michele Warner | Toronto | 416.367.6738 | miwarner@blg.com
- Barbara McIsaac | Ottawa | 613.369.4781 | bmci@blg.com

To be added to the BLG FIPPA “FOI-ables” Bulletin mailing list, please [click here](http://www.blg.com/c/2).