



WORKING WELL

A Guide to Return to Work and
Accommodation of Employees with Disabilities

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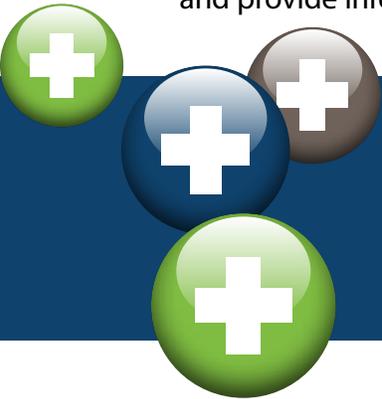
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WHY A GUIDE TO EARLY INTERVENTION & RETURN TO WORK?

Our Vision: Healthy Teams, Healthy People, Healthy Island Communities.

In this vision statement, Health PEI has made a commitment to support the health and safety of its employees. One of the most impactful ways to do this is to ensure that employees with disabilities (including short-term and temporary disabilities) have access to the necessary supports.

Having a comprehensive Return to Work (RTW) program means less disruption in the lives of employees while supporting a healthy and robust workforce. This program guide will outline pathways for supporting employees with disabilities, identify key roles and responsibilities, and provide information about benefits and resources.



Benefits of the Return to Work Program

- Decreased recovery time for employees
- Minimizes the financial impact to employees and employers
- Less uncertainty about the future
- Maintaining social contact with coworkers and clients





WHO IS THIS GUIDE FOR?

The process of returning to work can be confusing, especially when someone isn't feeling their best. This guide was developed for employees with disabilities - and the people who support them - as a tool to navigate the return to work (RTW) process. Employers and Union Partners have a shared responsibility with employees to support accommodation and to facilitate a return to work in a timely and safe manner.

Throughout this document, you'll find information on relevant legislation and the Health PEI policies that outline the RTW process. The guide can be a helpful place to start when you have questions, but it doesn't replace the expert advice of an Employee Abilities Consultant. The sooner you are connected with an Employee Abilities Consultant, the sooner you will have an individualized plan that is right for you.

Where there is a conflict between this guide and the applicable legislation and/or Collective Agreements, the legislation and/or Collective Agreements take precedence.

Who is an Employee?

For most people, being a healthcare worker and an employee is the same thing. However, some healthcare workers (like students, contractors, and some physicians) have a different employment relationship. Your employment status matters when considering the benefits and supports that are available to you.



KEY TERMS AND DEFINITIONS

There are a lot of words and phrases related to Return to Work and Accommodation that have a precise legal definition or mean something specific in this context. Having the right language can also help people to ask for the right kind of support.

Below are the definitions under Health PEI's Return to Work and Accommodation of Employees with Disabilities Policy, which set out the most common terms that you might hear when discussing Accommodation and Return-to-Work.

ACCOMMODATION

Means making changes to certain rules, standards, policies, and physical environments when they have a negative effect on a HCW because of a HCW's disability under the Human Rights Act. This may include, but is not limited to, the modification of an HCW's duties, hours of work, worksite and/or equipment, necessary to allow an employee to participate meaningfully in the workplace either temporarily or on a permanent basis. Accommodation may be required at any point during the employment relationship and may evolve depending on the HCW's circumstances as well as the operational requirements of the role.

DISABILITY

Means a previous or existing disability, infirmity, malformation or disfigurement, whether of a physical, mental or intellectual nature, that is caused by injury, birth defect or illness, and includes but is not limited to epilepsy, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on an assist animal, wheelchair or other remedial device.

DISABILITY MANAGEMENT

A process of proactively managing workplace resources, taking into consideration the abilities and limitations of a HCW, to carry out daily operations of the organization, to avoid discrimination against HCWs with disabilities, including a physical or mental health disability, and to demonstrate due diligence in business practices in order to meet legal obligations. This includes an individualized case management strategy to assist the HCW in returning to or maintaining employment.

DISCRIMINATION

Differential treatment on the basis of actual or presumed disability, not on the basis of individual merit. This includes the failure to make reasonable accommodation for the special needs of any individual or group.

EASE BACK

A program that supports HCWs in increasing their tolerances and functional abilities by gradually increasing their duties and/or time at work. HCWs who are completing an ease back facilitated by WCB or LTD may be considered above core staff.

ERGONOMIC ASSESSMENTS

An ergonomic assessment is an assessment of a worker at their workstation to ensure correct working postures and workstation set up.

FRAUD

The misrepresentation of truth or concealment of information for the purposes of altering the benefits or supports a HCW would be entitled to.

HEALTHCARE WORKER (HCW)

A person involved in providing care and/or services within Health PEI facilities and programs. This also includes health care providers as well as managers, support workers, students, contract workers, etc.

JOB DEMANDS ANALYSIS (JDA)

A job demands analysis aims to systematically quantify and evaluate the demands of a task or job. A JDA includes both a physical jobs demands analysis which evaluates the physical components of a job, while a cognitive demands analysis evaluates the cognitive, emotional and psychological skills required to perform a job.

LIMITATION

A work-related activity that exceeds the demonstrated, objective limits of someone's abilities as a result of their disability.

PROGRAM ABUSE

A practice that uses the Workers Compensation system or another service related to disability in a way that is contrary to its intended purpose or the law. This behaviour may also be fraud.

REMAIN-AT-WORK (R@W)

The practice of supporting a HCW in remaining at work during a period of disability through the modification and/or reduction of work and/or temporary or permanent accommodation.

RETURN-TO-WORK (RTW)

The practice of supporting a HCW in returning to work after a period of disability through ease-back and/or temporary or permanent accommodation.

RESTRICTION

A work-related activity which poses an immediate risk to the health and/or safety of a HCW, coworker, client or member of the public.

UNDUE HARDSHIP

The point in the accommodation process where all reasonable options for accommodation have been exhausted and only unreasonable or impractical options remain. Undue Hardship is assessed on a case-by-case basis, as the facts of each situation are different. Undue hardship is determined by reviewing financial costs, size and resources of Health PEI, disruption of operations, and substantial interference with the rights of other individuals or groups, interchangeability of workforce and facilities, and health and safety concerns.

KEY ROLES AND RESPONSIBILITIES

Everyone has a role to play in safe and successful accommodations and Return to Work. Below are some plain-language explanations of the responsibilities of each party who is involved. For more information, read the roles and responsibilities as they're written in Health PEI's *Return to Work and Accommodation of Employees with Disabilities Policy*.

Employee:

If an employee has a disability that affects their ability to perform their job, that employee should notify their supervisor or manager of their accommodation needs and their functional limitations or restrictions, as soon as they are known. When Health PEI needs more information in order to determine whether the employee has a disability, whether and how it can accommodate an employee's disability-related needs, or ensure a safe workplace for everyone, the employee is expected to participate in the collection of further medical and/or functional information.

When an employee is off work, they are responsible to stay in regular communication with their supervisor and/or manager. Employees are expected to participate in discussions about possible accommodation solutions, take steps to facilitate accommodation, cooperate with experts whose assistance is required to facilitate the accommodation process, and accept a reasonable accommodation proposal (in their own position or in another role) that meets the employee's disability-related needs, even if it is not the employee's perfect, preferred, or ideal solution. Following implementation of the accommodation, the employee must meet agreed-upon performance standards and requirements, and work with the Employer on an ongoing basis to manage the accommodation process.



Check out the “Privacy and Confidentiality” section of this guide for more information about how an employer requests, uses and stores an employee’s private medical information.



Manager:

Managers are often the first person that becomes aware that an employee requires support. They are responsible to maintain the confidentiality of all employees' medical and functional information. That means storing documents appropriately and only sharing information on a "Need-to-Know" basis. Managers are also responsible for making the referral to an Employee Abilities Consultant so that their employee receives the appropriate support.

Managers are responsible to maintain regular communication with employees who are recovering at work/returning to work. They are also expected to help identify solutions for accommodation. When an employee is injured at work, Managers are expected to fill out the necessary Workers Compensation forms and to work with the Occupational Health, Safety & Wellness team to prevent similar injuries in the future.

Employee Abilities Consultant:

The Employee Abilities Consultant will maintain the confidentiality of all employees' medical and functional information and lead the process of requesting and collecting appropriate information in order to support adjudication and Return to Work processes. They will also facilitate the development of a Return to Work/Remain at Work plan that minimizes the human and financial costs of a workplace disability and provides additional support to the healthcare worker to make use of available leave(s) and/or third party services.

Union:

Union partners are responsible to maintain confidentiality of all employees' medical and functional information. When requested by the employee seeking accommodation, they are expected to provide timely representation at meetings between the employee and Health PEI.

Unions share the duty to accommodate and participate in the exploration of creative Return to Work/Remain at Work solutions. They provide ongoing education to members regarding the Duty to Accommodate and protect the rights of other members to ensure that accommodations don't disrupt the equity of a work environment.



Muskuloskeletal Injury Prevention (MSIP)

While maintaining the confidentiality of all employee's medical and functional information, MSIP team members will be asked to consult when assessing how an employee's restrictions or limitations might impact their job. The MSIP team leads the work of completing physical and cognitive demands analyses for positions across Health PEI. They also provide support with injury prevention by making recommendations for safer approaches to specific tasks.

Human Resources / Labour Relations

The Labour Relations team is responsible to maintain the confidentiality of all employee's medical and functional information. They provide consultation and assistance with regard to the employee-employer relationship, such as approaches for backfilling absences, making suggestions on workload distribution, as well as, an employee's benefits and compensation throughout the process.

Sometimes the Labour Relations team will make a referral to an Employee Abilities Consultant when the need arises during an investigation, or when there is an intersection between an employee's performance and their medical or functional information.

All Employees:

All Employees are expected to maintain the confidentiality of any medical and functional information that is shared with them and to respect the privacy of employees who are off work or returning to work. If an employee is concerned about the safety of a coworker, they are responsible to report it to their supervisor or manager respectfully and in a way that maintains the privacy and dignity of everyone.

Sometimes, the accommodation of a coworker means that work must be redistributed among members of a team. When this happens, all employees are expected to maintain a sense of professionalism and respect in the workplace.





ACCOMMODATION

Health PEI is committed to supporting employees with disabilities by conducting an individualized assessment to determine whether and how it can accommodate an employee's disability-related needs to allow them to remain at work or safely return to work. Employers and Unions have a **Duty to Accommodate** that arises from Human Rights legislation with supporting language in collective agreements. The information here is intended to be an introduction to the concept of accommodation - keep in mind that accommodation can be a very complex process and each situation is as unique as the individuals involved.

An **accommodation** is a temporary or permanent modification of an employee's duties, role, hours of work, worksite and/or equipment to remove barriers created by the intersection of an employee's role and their unique disability-related needs, restrictions, or limitations. An accommodation can be as simple as purchasing alternate equipment, or as complex as identifying another role within Health PEI.

Accommodation may be required at any point during the employment relationship and can evolve depending on the employee's circumstances as well as the operational requirements of the role. An employee's disability can be temporary or permanent in nature, but all accommodations are temporary and are reviewed regularly to make sure that they are safe and appropriate.

The **Duty to Accommodate** means the legal responsibility of the Employer to accommodate the needs of employees with disabilities who are negatively impacted by an employment requirement, rule, or standard. The duty to accommodate has a procedural and substantive component. The procedural component requires the Employer, upon becoming aware of an employee's disability-related needs, to make inquiries with respect to the employee's situation and to conduct an individualized assessment to determine whether and how it can accommodate the employee's disability-related needs. The substantive component requires the Employer to provide, if it can do so without undue hardship, a reasonable accommodation.



The Duty to Accommodate, in the context of this policy, exists when two criteria are confirmed:

1. The employee has a disability as defined under the *Prince Edward Island Human Rights Act*.
2. The employee has disability-related functional restrictions or limitations that prevent the employee from performing the essential functions of their role.

Undue Hardship refers to the point in the accommodation process where all reasonable options for accommodation have been exhausted and only unreasonable or impractical options remain. Examples of undue hardship include, but are not limited to: accommodations which require the creation of work, assignment of work that is not funded, infringement of the fundamental rights of other employees or health and safety concerns.



It's important to keep in mind that all accommodations impose some level of hardship on the employer, union and/or other parties. The term "undue" means that some hardship is acceptable. Although they require time and effort, accommodations are an important part of ensuring that our workplaces are safe and equitable for all!

Accommodations are about ensuring a fair and equitable workplace. Accommodations are always explored in the following order:

- Within the current position
- Within the current work unit
- At the current worksite or within the same area
- Within the current union (with preference to geographically similar worksites)
- Within all suitable jobs in Health PEI

DUTY TO INQUIRE

When changes in our health and wellbeing occur, work can be one of the first places impacted. As part of our commitment to safe workplaces, we consider the help or support someone needs to be successful.

Although employees with disabilities generally bear the initial obligation of coming forward and identifying the nature of their disability and any resulting medical restrictions on their ability to perform the essential functions of their role to engage the duty to accommodate, it is recognized that this may be challenging for employees who are unaware at the time that they have a disability that requires accommodation or where the employee's failure to inform is due to the nature of the ability (e.g., substance use disorder, since denial is a symptom of the disability). In recognition of this, if the Employer is aware, or reasonably ought to be aware, that an employee is suffering from a possible medical or mental health condition affecting the employee's performance and/or conduct in the workplace, the Employer has a **duty to inquire** about the potential need for accommodation. It is important that we don't make assumptions or jump to conclusions about the presence of a disability. Instead, we want to create an environment where people feel safe to ask for the help they need.

For Managers and Supervisors

If you find yourself in a situation where you believe an employee's work performance is impacted by disability, the first step is to ensure immediate safety of the employee, their coworkers and their clients. Reach out to the Employee Abilities Team or your HR Labour Relations contact as soon as possible. The safety and privacy of the employee is our priority.

For Employees

If you are struggling to meet work demands due to a diagnosed, or undiagnosed disability, please reach out to your manager, supervisor or the Employee Abilities Team for support.



SUBSTANCE USE DISORDERS AND ADDICTIONS



When it comes to substance use disorders and addiction, our approach to employees is the same as our approach to our clients: Addiction is an illness that requires appropriate support. Employees with addictions are entitled to the same support as those with other disabilities.

The safety of our employees and clients is our top priority. If an employee believes that a substance use disorder or addiction may impact their ability to perform their role, they must inform their supervisor immediately.

Employees with substance use disorders and addictions are still required to comply with the Health PEI Drug, Alcohol and Medication Policy. In broad terms, this means that all employees are required to report for work fit for duty, and to confidentially report to their supervisor if they suspect that another employee is not compliant with this policy.

Employees who are concerned about their ability to comply with the Drug, Alcohol and Medication Policy, as well as those who are seeking treatment for a substance use disorder or addiction are invited to speak to their manager, their HR Labour Relations contact, or a member of the Employee Abilities Team for confidential support.

For more information and support for individuals and families living with addictions, call the Toll-Free Mental Health and Addictions Access line at **1-833-553-6983** or visit **princeedwardisland.ca/mha**.



SICK LEAVE

Having a bank of paid leave for illness is one benefit of working for Health PEI. Employees earn sick time at a rate described by their Collective Agreement or Excluded Terms and Conditions. When a disability prevents an employee from working, they can access accrued sick leave benefits.

Employees who have exhausted their paid sick leave can access an unpaid sick leave, which is sometimes called a disability leave. The terms of this leave are laid out in each Collective Agreement. Employees on an unpaid disability leave retain certain employment benefits. Depending on their Collective Agreement, these benefits can include:

- Seniority
- Years of service
- Participation in the health, dental, LTD and pension programs
- Protection of their permanent position

These leaves must be approved by the Employer and longer sick leaves may require a note or medical certificate from the employee's healthcare provider.

EMPLOYMENT INSURANCE (EI) SICKNESS BENEFITS

The Employment Insurance Sickness benefit is a federally funded program to support employees in Canada who are experiencing worklessness as a result of a disability. The information here is intended to educate Health PEI employees on the support available. Please contact Service Canada for the most accurate and up-to-date information.

In order to receive EI Sick Benefits, you will need to demonstrate:

- You are unable to work for medical reasons
- You have no remaining paid sick leave time from your employer (Health PEI will provide a Record of Employment)

If your illness, injury or disability is work-related but you have not received a decision from the Workers Compensation Board, you can apply for EI Sick benefits in the interim. If your claim is accepted, WCB will reimburse the EI Sick Benefit program on your behalf.

For more information on EI Sick Benefits, please visit:

<https://www.canada.ca/en/services/benefits/ei/ei-sickness.html>



OCCUPATIONAL INJURY, ILLNESS AND DISABILITY

Health PEI and the Employee Abilities Team support employees in remaining at work or returning to work regardless of whether their disability is a result of their employment. However, when someone has a work-related disability, there are some additional things to consider.

Whenever an employee is injured at work, they should complete a Form 6 - Workers Report and submit it to the Workers Compensation Board (WCB). It's important that they notify their supervisor as soon as possible that they were injured so that they can receive the appropriate support, and to make sure that Health PEI submits the necessary information for their claim to be adjudicated. All work-related injuries need to be entered into the Provincial Safety Management System (PSMS) employee incident reporting portal, so that the Occupational Health & Safety team can work to prevent a similar incident in the future.

Employees who are off of work for a work-related injury or illness are entitled to Injury on Duty (IOD) leave. The terms of IOD leave are different among unions and are described in each collective agreement. It's important to review these terms carefully so you understand what benefits are paid by your employer while you are on IOD Leave and which you will need to make payments on yourself.

Employees who are off work and receiving benefits from WCB will have a Case Coordinator assigned to their claim. The Case Coordinator will pay Temporary Wage Loss (TWL) benefits to replace a portion the employee's income. They will also approve Healthcare Benefits to cover the cost of treatment and related expenses to assist in the recovery of their injury or illness. For more information on the Workers Compensation System, visit wcb.pe.ca.

LONG TERM DISABILITY (LTD)

Long Term Disability insurance is a part of the benefit package available to Health PEI employees. Employees are eligible for LTD when their disability prevents them from earning 75% of their income in their role, and when no suitable accommodations are available.

The waiting period for LTD eligibility is 4 months. In addition, the employee must have exhausted all of their employer-paid sick time. If the employee does not have enough Paid sick leave to satisfy the waiting period, they can apply for EI Sick benefits. Paid vacation leave does not count towards the waiting period.

For the first 24 months, eligibility is based on the employee's ability to return to their own occupation. After the first 24 months, eligibility is considered based on the employee's ability to return to any occupation that would replace at least 75% of their pre-disability earnings.

Note: Canada Life may require the employee to apply for WCB benefits and provide them with a copy of the claim denial letter if there is a question of work-relatedness.



How to apply:

Go to:
https://www.mybenefitplan.ca/groupPSGIP/docs/PSGIP_How_to_Apply_for_Long-Term_Disability_Benefits.pdf

or scan this
QR code:



RETURN TO WORK PROGRAMMING

A Return to Work program helps employees remain at work (R@W) or return to work (RTW) following the identification a disability that requires accommodation by identifying meaningful and suitable work that is within their restrictions and limitations. A well-supported, early and safe RTW/R@W benefits the employee, their coworkers, the employer and our clients.



Every person's experience is unique, so each accommodation plan is developed considering their situation. Based on the limitations and restrictions provided by the employee's treating health care provider, an employee can return to the workplace on full duties, through an ease back or to modified or alternate duties.

Return to full duties

An employee can return to full duties if they have no identified limitations or restrictions and are able to complete the full scope of their role. A plan like this requires clearance from the treating healthcare provider, which should be shared with the manager or supervisor as soon as the employee knows the anticipated RTW date.

Return through an ease back

An ease back allows an employee to build up their strength and endurance by increasing their hours and duties over a specified period of time. The Employee Abilities Consultant will develop an ease back plan using the functional information provided by the treating healthcare provider and the operational requirements shared by the employee and the manager. The employee can review their ease back plan with their treating healthcare provider before it begins to help inform the best start date. When an employee is on WCB or LTD, their ease back shifts are paid by those services. Employees on Employer-funded ease backs are paid for the hours they work and can access appropriate leave for the remainder of the missed time.

Return to modified or alternate duties

An employee may be unable to complete all of the duties of their position due to their disability, or may have restrictions while awaiting treatment. The employee's treating health care provider can recommend a return to modified or alternate work by providing temporary or permanent limitations and/or restrictions. When this happens, Health PEI will explore Modified Duties (accommodations within their position) or Alternate Duties (accommodation to another position). When information is presented in a timely manner, sometimes employees with injuries, illnesses or disabilities aren't required to miss any time at all!



PRIVACY AND CONFIDENTIALITY

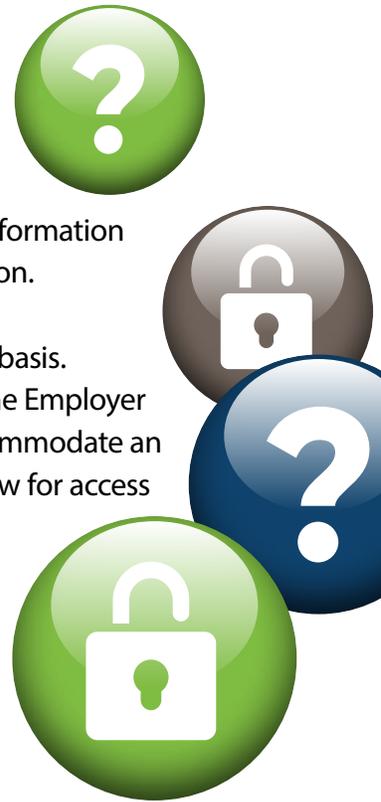
Disclosing your personal health information can be intimidating. Below is some information about when and how Health PEI will request, collect, store and use your information.

Health PEI collects and shares information about employees on a “need to know” basis. Employees may be asked to provide supporting medical information to enable the Employer to determine whether the employee has a disability, whether and how it can accommodate an employee’s disability-related needs, that will contribute to safe workplaces, or allow for access to benefits. This information may include:

- The nature of an illness, injury or disability
- The functional limitations and restrictions as they relate to an employee’s ability to perform their role
- Any treatment or medication that might impact an employee’s ability to attend work or perform their role
- Whether the restrictions and/or limitations are temporary or permanent in nature
- The next planned assessment of the condition as it relates to work

Sometimes employees and healthcare providers feel that particularly sensitive information is relevant but are uncomfortable sharing it with managers or supervisors due to their close working relationships. If the information required is particularly sensitive, employees can ask that it be read only by the Employee Abilities Consultant, who will draft a summary as it relates to the employee’s work. They will then seal the information in an envelope and place it in the personnel file where it cannot be accessed except at the employee’s request.

Employee’s private health information is considered with the same degree of confidentiality as patient health information. It is everyone’s responsibility to respect that privacy.



SOME HELPFUL CONTACTS

If you have any questions about how an injury, illness or disability might impact your employment at Health PEI, or if you're wondering about what supports might be available to you, there are people that can help.

Some Internal (Health PEI) resources include:

- The Employee Abilities Team:
<https://src.healthpei.ca/employee-abilities-return-work-and-accommodation>
- The HR Labour Relations Team:
https://src.healthpei.ca/sites/src.healthpei.ca/files/HR/HR_Labour_Relations_.pdf

To connect with a member of your union:

- Canadian Union of Public Employees (CUPE PEI)
 - **(902) 315-0525**
 - cupepei@gmail.com
- International Union of Operating Engineers (IUOE 942)
 - **(902) 566-3255**
 - mlarsen@iuoe942.com
- PEI Nurses' Union (PEINU)
 - **(902) 892-7152**
 - admin@peinu.com
- PEI Union of Public Sector Employees (PEI UPSE)
 - **(902) 892-5335**
 - peiupse@peiupse.ca

Physicians may find it helpful to speak with someone from the Medical Society of PEI:

- **(902) 368-7303**
- admin@mspei.org



For questions about Workers Compensation Benefits and for help filing a claim:

- The Workers Compensation Board of PEI
 - **(902) 368-5680**
 - workerservices@wcb.pe.ca

For help with Long Term Disability applications or questions about your health benefits:

- Johnson Insurance PEI
 - **1 (800) 371-9516**
 - https://www.mybenefitplan.ca/groupPSGIP/docs/PSGIP_How_to_Apply_for_Long-Term_Disability_Benefits.pdf

Other services that might be helpful:

- ResourceAbilities
 - **(902) 436-9259** (Summerside)
 - **(902) 892-9149** (Charlottetown)
 - **(902) 838-5880** (Montague)
 - www.resourceabilities.ca
- Mental Health & Addictions Access line
 - **1-833-552-6983** (Toll Free)
 - princeedwardisland.ca/mha
 - MHApatientnavigator@ihis.org



Health PEI

PO Box 2000, Charlottetown, PE
Canada C1A 7N8