

# Strategies for Compliance with *Health Information Protection Act*

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# Background

- 5 years of HIPA experience
- 11 years of Manitoba PHIA experience
- 8 years of Alberta HIA experience
- 4 years of Ontario PHIPA experience
- 27 years of Canadian public sector privacy experience

# Agenda

- Handouts
- Opportunity for health regulatory bodies
- Orientation of members
  - Role of colleges/regulatory bodies
  - Building capacity for compliance
- Investigations/mediation of disputes
  - HIPA s. 43(2)(f) in practice
  - Privacy Commissioner of Canada & PIPEDA
  - Privacy and administrative tribunals

# Agenda (cont'd)

- Common and emerging issues
  - Transparency requirements
  - Abandoned patient/client records
  - Organization – best practices
  - Security issues
  - Quality assurance
  - EHR considerations
- Tools and resources
  - Annotated Section Index for HIPA
  - Annotated Section Index for IR H2005-002
  - Privacy Breach Guidelines

# Agenda (cont'd)

- Tools and resources (cont'd)
  - FOIP FOLIO
  - OIPC Annual Reports
  - OIPC Review and Investigation Reports
  - Advice and commentary reports to Legislative Assembly
  - Summary advice

# Handouts

- Privacy Breach Guidelines
- Annotated Section Index HIPA
- Annotated Section Index IR H-2005-002
- Glossary
- Your Privacy and Access to Information Rights in Saskatchewan

# Opportunity for health regulatory bodies

- Evident need for leadership and support in terms of HIPA compliance
- Rising public expectations in terms of privacy protection
- Empowerment of patients/clients
- Health regulatory bodies need public confidence to be effective

# Orientation of members

- To what extent do educational programs prepare graduates for HIPA compliance?
- Does the orientation available for new immigrant health workers equip them to achieve HIPA compliance?
- Do new members have an appropriate familiarity with HIPA requirements and best practices to be compliant?

# Orientation (cont'd)

- Are all members provided with tools and resources to achieve HIPA compliance?
  - E.g. FAQs, Sample forms, sample section 16 policies and procedures, newsletter updates, quick tips on topical issues, conferences and annual meetings.
  - Is there a HIPA conversant individual in your office or at least available by phone your members can contact?

# Investigations/mediation

- 43(2)(f) HIPA (a) theory and (b) practice
- Ideally, there should rarely be a need for OIPC to intervene or investigate
- Privacy Commissioner of Canada & PIPEDA
  - PARTS document
  - Section 13(2) PIPEDA reference to OIPC
  - Collaborative approach by oversight offices

# Privacy & Administrative tribunals

- To extent that a regulatory body is an “administrative tribunal” must consider privacy requirements for patient phi in disciplinary/competence reviews
- *Privacy, Administrative Tribunals and the Net* (available online at [www.oipc.sk.ca](http://www.oipc.sk.ca))

# Common & emerging issues

- Transparency requirements
- Abandoned patient/client records
- Organization - best practices
- Security issues
- Quality Assurance
- EHR generally

# Transparency requirements

- Section 9 – proactive transparency
- Section 10 – retrospective transparency
- Section 16 - policies and procedures to achieve compliance

# Abandoned Patient files

- Responsibility for patient records continues until section 22 operates to end that responsibility
- What to do with 'orphaned records' that antedate HIPA?
- Lessons learned from OIPC experience in 2008

# Organization – best practices

- Who is the privacy guru in your regulatory body?
- How can you help your members organize to best achieve compliance?

# Security Issues

- Are busy healthcare providers too casual with phi of their patients/clients?
- Physical arrangements
- Technical safeguards
- Administrative safeguards
- Encryption on portable devices, laptops
- Fax practices
- Use of email and corresponding risks

# Quality assurance

- Recalibrating the balance between effective investigations/research and the public's right to know
- Do we need Research Ethics Boards for quality assurance activities not covered by section 29?

# Electronic Health Records

- How do we manage accountability to the individual in an EHR world?
- How can we use the EHR to empower patients?
- How can we ensure the system SK is building will be embraced by residents?
- What legislative change will the EHR require?

# Tools for HIPA Compliance

- In addition to materials in slide # 4 other tools include:
  - FOIP FOLIO – monthly e-newsletter (archived issues on website)
  - OIPC Annual Reports (include HIPA section)
  - OIPC Review and Investigation Reports
  - Advice & commentary to Leg. Assembly (including *Gunshot and Stab Wound Mandatory Reporting Act*, *Youth Drug Detoxification and Stabilization Act*, HIPA regulations for Disclosure to Police, *Public Health Act*, etc)
  - Summary advice (2300 requests  $\frac{3}{4}$  of 2008-09)

# Additional Resources

- [www.oipc.sk.ca](http://www.oipc.sk.ca) (Sask. OIPC)
- [www.health.gov.sk.ca](http://www.health.gov.sk.ca) (Saskatchewan Health)
- [www.gov.mb.ca/health/phia](http://www.gov.mb.ca/health/phia) (Manitoba Health):
  - Questions and Answers About PHIA
- [www.ombudsman.mb.ca](http://www.ombudsman.mb.ca) (Manitoba Ombudsman-Access & Privacy Division)
  - Privacy Compliance Tool
  - Case Summaries
- [www.health.gov.ab.ca](http://www.health.gov.ab.ca) (Publications)
  - HIA Guidelines and Practices Manual
  - How the Health Information Act will work

# Resources (continued)

- [www.oipc.ab.ca](http://www.oipc.ab.ca)
  - HIA at a Glance for Custodians
  - Health Information: A Personal Matter
  - OIPC Survey Results on Albertans' attitudes
- [www.albertadoctors.org/bem/ama](http://www.albertadoctors.org/bem/ama)
  - Templates for HIA policies
  - HIA Guide to Policies for Dr. offices
  - HIA Guide to PIA for Dr. offices
  - AMA/CPSA Guide for medical office staff

# Resources (continued)

- [www.ipc.on.ca](http://www.ipc.on.ca) (Ontario OIPC)
- [www.hc-sc.gc.ca/ohih](http://www.hc-sc.gc.ca/ohih) (Office of Health and the Information Highway-Health Canada)
- [www.canadahealthinfoway.ca](http://www.canadahealthinfoway.ca)
- <http://strategis.ic.gc.ca/privacy/health> (Industry Canada for health sector subject to PIPEDA)

# Questions ??

- Saskatchewan Information and Privacy Commissioner
  - Phone: 1-877-748-2298
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