

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)

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

Resources (continued)

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

Questions ??

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