

# Overview of Privacy Legislation in Ontario

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# Objectives

- Understand what compliance with the *Personal Health Information Protection Act (PHIPA)* means
- Understand obligations introduced with Bill 119
- Understand what it means for Privacy Readiness

# Overview of Privacy Legislation

- In Ontario, the *Personal Health Information Protection Act, 2004* (PHIPA) governs the collection, use and disclosure of personal health information (PHI) by health information custodians (HICs)
- Came into force November 1, 2004
- Ontario's health-specific privacy law

# Overview of Privacy Legislation

- Governs manner in which personal health information (PHI) may be handled (collected, used and disclosed)
- One of the purposes of PHIPA was to establish rules for PHI that protect the privacy of individuals with respect to their PHI, while facilitating the effective provision of safe quality health care

# Overview of Privacy Legislation

- The Information and Privacy Commissioner of Ontario (IPC) oversees PHIPA compliance and enforces the law.

# Overview of Privacy Legislation

- PHI is a defined term under PHIPA.  
Information about a patient that is:
  - identifying information about an individual
  - relates to physical or mental health
  - relates to providing health care or identifies the provider of the health care

# Compliance with PHIPA

- PHIPA is based on Ten Privacy Principles, modeled on the “Canadian Standards Association Model Code for the Protection of Personal Information”. These Principles provide a privacy roadmap for HICs.

# Privacy Principles

- 1. Accountability
- 2. Identifying Purposes
- 3. Consent
- 4. Limiting Collection
- 5. Limiting Use and Disclosure and Retention



# Privacy Principles

- 6. Accuracy
- 7. Safeguards
- 8. Openness
- 9. Individual Access
- 10. Challenging Compliance

# Overview of Privacy Legislation

- Under PHIPA the Person, Group, Organization ultimately responsible to protect the PHI it holds is the health information custodian (HIC)
- HIC is a defined term in PHIPA

# Compliance with PHIPA

Health Information Custodians required to:

- ✓ Have in place information practices
- ✓ Prepare a Notice describing purposes of the HIC's collections, uses and disclosures of PHI

# Compliance with PHIPA

- Designate a contact person whose role is to:
  - ✓ ensure compliance with PHIPA
  - ✓ ensure agents informed of their duties
  - ✓ respond to inquires from public about information practices
  - ✓ respond to requests from patients for access to or correction of a record of PHI
  - ✓ receive and respond to complaints



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# Written Public Statement

- PHIPA 16(1) – a HIC **shall** in a manner that is practical in the circumstances, make available, a written statement that, among other things, provides a general description of its Information Practices

# Health Information Privacy in our Facility



## PERSONAL HEALTH INFORMATION AND PRIVACY

Ontario has a law that protects your personal health information, including information about you at this facility. We are required to keep your personal health information safe and secure. You have the right to know how we may use and give it out and how you can get access to it. Please ask to see our *Brochure or Privacy Statement* for more details on our privacy practices.

## WHO CAN USE AND SEE YOUR PERSONAL HEALTH INFORMATION

Your personal health information must be kept private and secure. You or a person who can legally make decisions for you about your personal health information can use and see it. Your personal health information is shared among your doctors, nurses, care givers, and all other team members who provide care and assistance to you.

We may collect, use and give out your personal health information to others, as reasonably necessary to:

- provide you with health care and assistance, both within and outside our care facility;
- communicate or consult about your health care with your doctor(s) and other health care providers;
- get payment for your health care, including from OHIP and private insurance;
- do health system planning and research; and
- report as required or permitted by law.

There are certain other circumstances where we may be required to give out some of your personal health information. If you want to know more, please see our *Brochure*.

## YOUR RIGHTS AND CHOICES

You or a person who can make decisions for you about your personal health information have the right:

- to see and get a copy of your personal health information;
- to ask us to make corrections to inaccurate or incomplete personal health information;
- to ask us not to give out your personal health information to other health care providers – we will not give out this information unless permitted or required by law to do so; and
- to be told if your personal health information is stolen, lost or improperly accessed.

There are certain exceptions to these rights; please see our *Brochure* for more information.

## WHO YOU CAN TALK TO ABOUT YOUR DECISIONS

When you give us permission to use or give out your information, you may change your mind at any time. However, sometimes the law permits or requires us to share your information without your permission. For more information please see our *Brochure*. To make your choices, please speak to our *Contact Person* below.

## FAMILY, FRIENDS AND CLERGY

Your family and friends can be told general information about you, such as your location in the facility and your health condition, unless you tell us not to give out this information. If you give us information about your religion, we may give your name and location in the facility to a member of the clergy, unless you tell us not to do so.

## FUNDRAISING AND MARKETING

Our facility relies on patient and community support for a part of our funding. Unless you tell us not to do so, we or others such as our Foundation may use your name and address to contact you to ask for your support. Sometimes, because of your condition or the treatment you have received, we or others may contact you about special projects, or products or services that may help you. We will ask you before using your personal health information for this purpose, and you have the right to tell us not to contact you.

## RESEARCH, EDUCATION AND PLANNING

We may be asked to give your personal health information to a research project. We will get your permission before we use or give out your personal health information for these projects. (There are also other types of research projects which do not require your consent, these must have safeguards in place to protect your privacy.) We may use your personal health information without your consent for our own education, planning and management. We may also give out your personal health information to certain listed organizations for use in the planning and management of the health care system. Please see our *Brochure* for more details.

## HOW TO REACH US

If you have questions or concerns about our privacy practices, please speak to our *Contact Person*:  
Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_



The Information and Privacy Commissioner of Ontario is responsible for making sure that privacy law is followed. For more information about your privacy rights, or if you are not able to resolve a problem directly with our facility and wish to make a complaint, contact: Information and Privacy Commissioner of Ontario, 2 Floor, Street East, Suite 1400, Toronto, Ontario, M4W 1A8, Toll Free: 1-800-387-0073; www.ipc.on.ca.



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# Compliance with PHIPA

- HIC shall ensure Security of PHI by implementing reasonable safeguards to protect PHI against theft, loss and unauthorized use or disclosure

# Security: What is Reasonable

- Strong Passwords
- Every User their Own Password
- No storing of PHI on Unencrypted Devices
- Education and Training
- Auditing
- Need to Know



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# HICs Responsibilities for Agents

- HIC shall take reasonable steps to ensure that their agents do not collect, use, disclose, retain or dispose of PHI unless it is in accordance with PHIPA
- Equates to education and training about obligations with respect to appropriate collection, use, disclosure, retention and disposal of PHI

# Reporting Privacy Incidents

- Patients must be notified if their PHI is lost, stolen or inappropriately accessed
- Includes if PHI is accessed by a User who is not permitted to view it – Not providing or assisting in the provision of health care

# Is Express Consent Required?

- Express Consent required where PHI is disclosed to a person who is not a HIC (e.g. insurance company) or is not disclosed for the purpose of providing or assisting in the provision of health care
- Patient care place a Consent Directive

# Failing to Comply with PHIPA

- Patient must be Notified
- IPC Notified
- Notification to Regulatory College
- IPC authority to make Orders
- Legal Actions for Damages
- Fines

# Bill 119

- June 1, 2016 parts of Bill 119, the *Health Information Protection Act* (HIPA) came into force
- Changes intended to strengthen privacy protection for all PHI including Electronic Health Record solutions

# Bill 119 – Key Changes

- Expand duties and responsibilities for HICs and Clarify New and Unique Rules for eHealth Solutions
- Revised Definition of Use
- Increased Fines
- Mandatory Reporting to the IPC
- Reporting to Regulatory Colleges
- Notice Requirements

# Bill 119 - Privacy Landscape

- Continuing to evolve particularly as eHealth solutions evolve
- In an electronic world PHI operates within a large-scale shared environment
- PHI becomes more interconnected and available to treat patients across the continuum of care

# Bill 119 - Privacy Landscape

- Electronic health record gives multiple HICs greater access to more PHI
- With greater capacity to access and share PHI, need for Privacy rules and protections is paramount
- Full implementation of all amendments set out in Bill 119 depends on development of Regulations coming into force



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# About the cSWO Program

- cSWO is the regional eHealth program
- Enabling better care for people across south west Ontario by coordinating development and implementation of eHealth solutions
- Each SW Ontario LHIN has a cSWO Change Management and Adoption Delivery Partner
- Support adoption of cSWO EHR Program into the regular delivery of care



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# How ClinicalConnect™ Fits In

- ClinicalConnect - Regional Clinical Viewer for cSWO Program, funded by eHealth Ontario
- Hamilton Health Sciences is the solution provider deploying ClinicalConnect across south west Ontario
- cSWO Program is foundational to eHealth Ontario's commitment to integrate electronic health information for all Ontarians



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# What is ClinicalConnect?

- Secure, web-based portal that provides clinicians with real-time access to a patients' electronic health information
- Currently integrates data from:
  - 67 acute care hospital sites
  - 4 community care access centres (CCACs)
  - Regional Cancer Programs
  - 2 Provincial Data Repositories



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# Data Consumers

- Typical users of ClinicalConnect include:
  - Physicians
  - Nurses
  - Clinical support staff
  - Dietitians
  - Infectious Diseases Staff
  - Midwives
  - Occupational Therapists
  - Physiotherapists
  - Pharmacists
  - Psychologists
  - Social Workers
  - CCAC Care Coordinators
- Complete list of organizations authorized to view data:  
<http://info.clinicalconnect.ca/CC/participating-organizations>

# Key Benefits of ClinicalConnect

## Transitions of Care:

- Improves transitions across continuum of care, and improves repatriation of patients back into community by enabling better supports
- Reduces miscommunication with access to real-time electronic information
- Provides ability to screen for infectious diseases so staff can take appropriate precautions to protect other patients and staff



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# Who's Using ClinicalConnect?

- Hospitals
- Community Care Access Centres
- Community Health Centres
- Community/Homecare Services
- Family Health Teams/Organizations/Groups
- Long Term Care Facilities
- Retirement Homes
- Mental Health & Addiction Programs
- Primary Care Providers



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# Becoming ClinicalConnect Participating Organization

- Complete Agreement Request
- Complete Privacy Pre-Assessment
- Complete Privacy and Security Self-Assessment



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# Becoming ClinicalConnect Participating Organization:

1. Must be a health information custodian
2. Must have implied consent model
3. Must have a designated privacy contact person
4. Access, Use and Disclosure of PHI for providing or assisting in the provision of health care only



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# CCAC Service Providers

- Defined in the *Home Care and Community Services Act*
- Prequalified organizations that have a signed service agreement with a CCAC to provide home care services
- Relationship between a CCAC and a Service Provider when delivering services

# Non CCAC Service Providers

- HIC under PHIPA
- Centre, program or service for community health or mental health



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# Implied Consent

- HIC who receives PHI from a patient, for purpose of providing or assisting in the provision of health care, may assume **implied consent** to collect, use or disclose PHI for purpose of providing or assisting in the provision of health care (circle of care), unless HIC aware patient expressly withdrawn consent (Consent Directive)

# Confirmation of Implied Consent

## How we Collect, Use and Disclose Personal Health Information

This office will collect, use and disclose personal health information about you for the following purposes:

- To provide you with health care and assist with providing you with health care, both within and outside our care facility

\_\_\_\_\_

Print Name                      Signature                      Date

\_\_\_\_\_

Witness Name                      Signature of Witness                      Date

# Overview of Privacy Pre-Assessment

- Legal Name
- Site/Services/Programs
- Category of “health information custodian”
- Process for ensuring regulated health professionals remain in good standing with their respective Regulated Health Professions College

# Overview of Privacy Pre-Assessment

- Primary Purpose/Services
- Category of “health care” ClinicalConnect will be used for
- If organization, a centre, program or service for community health or mental health, services provided

# Overview of Privacy Pre-Assessment

- Purpose for requesting access
- Roles/Staff to have access
- Staff employed/contracted - privacy training, good standing with Regulated Health Professions Colleges, use restricted to work within organization
- Information that roles/staff will be accessing

# Overview of Privacy Pre-Assessment

- Frequency of access and type of PHI
- Access to Organization's own systems that hold PHI
- Implied or Express Consent
- Privacy Notice
- Privacy contact person



# Privacy and Security Self-Assessment

- All privacy and security requirements must be met
- Based on the ten privacy principles, modeled on the “Canadian Standards Association Model Code for the Protection of Personal Information”

# Privacy Policies

1. Access & Correction
2. Assurance
3. Consent Management
4. Inquiries and Complaints
5. Logging and Auditing
6. Privacy Breach Management
7. Privacy and Security Training



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# Access and Correction Policy

- Purpose/Objective: Defines policies and procedures that apply in receiving and responding to Requests for Access and Requests for Correction in respect of PHI viewable through ClinicalConnect made by the individual to whom the PHI relates

# Assurance Policy

- Purpose/Objective: Defines policies, procedures and practices that HICs and must have in place to provide assurance that HICs are complying with their obligations under PHIPA, ClinicalConnect Agreement, and the policies, procedures and practices implemented in respect of ClinicalConnect

# Consent Management Policy

- Purpose/Objective: Defines policies, procedures and practices that apply in implementing Consent Directives (Lock-box) and in overriding Consent Directives

# Inquiries and Complaints Policy

- Purpose/Objective: Defines policies, procedures and practices that apply in receiving, documenting, tracking, addressing and responding to Inquiries and Complaints in respect of ClinicalConnect

# Logging and Auditing Policy

- Purpose/Objective: Defines policies, procedures and practices that apply in logging, auditing and monitoring all instances where:
  - PHI in ClinicalConnect is viewed
  - PHI in ClinicalConnect is viewed by a HIC as a result of an override of a Consent Directive
  - Consent Directive is made, modified or withdrawn in Clinical Connect

# Privacy Breach Management Policy

- Purpose/Objective: Defines policies, procedures and practices that apply in identifying, reporting, containing, notifying, investigating, and remediating Privacy Breaches in respect of PHI in ClinicalConnect



# Privacy and Security Training Policy

- Purpose/Objective: Defines policies, procedures and practices for ensuring agents are appropriately informed of their duties under PHIPA, ClinicalConnect Agreement and the policies, procedures and practices in respect of privacy and security implemented in relation to ClinicalConnect

# Privacy Officer Obligations

- Complete Privacy Pre-Assessment
- Complete Privacy & Security Self-Assessment
- Responsible for all privacy-related matters as outlined in ClinicalConnect Agreement
- Ensure compliance with PHIPA and ClinicalConnect Privacy Policies
- Ensure agents informed of duties under PHIPA and ClinicalConnect Agreement

# Closing Remarks

- PHIPA put in place to enable safe quality health care
- Patients First
- Privacy an Enabler not a Disabler

# Stay Connected...

Visit the ClinicalConnect website for more information <http://info.clinicalconnect.ca>

Follow us on Social Media!

Join the conversation –  
visit our online forum at

<http://info.clinicalconnect.ca/forum>



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[@clinicalconnect](https://twitter.com/clinicalconnect)



[clinicalconnect1](https://www.youtube.com/clinicalconnect1)

Visit the cSWO Program website for more information:  
<http://www.ehealthontario.on.ca/en/regional-partners/view/csw/>



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# Questions?

Contact: [privacy@clinicalconnect.ca](mailto:privacy@clinicalconnect.ca)



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