
Privacy Topics

GP for Me Evaluation Capacity Building

November 20, 2014

Liz Keay



Outline

- Privacy is a Right
- A GP for Me Initiatives
- Basics: BC Legislation
- Basics: Public Bodies
- Basics: Private Organizations
- Basics: Personal Information
- Basics: Collection and Use of PI
- Basics: PI & Circle of Care
- Basics: PI & Secondary Use
- Basics: Data



Outline

- Q 1. What triggers the need for action related to privacy
- Q 2. What are the privacy requirements ie PIA
- Q 3. What is the process for applying
- A Source: Health Authority Data
- Q 4. What is the process for determining consent is required
- Data Analysis
- References



Privacy is a Right

- A patient has a right to *control* what happens to their personal information
- Based on a Supreme Court decision: *McInerney v. MacDonald*, [1992] 2 S.C.R. 138
- This is important for circle of care and Division evaluations



A GP for Me Initiatives

- Funding: \$40 million through March 2016 to enable Divisions to:
- Perform a wide variety of evaluations
- Evaluation is collecting and using personal information outside the circle of care, so called secondary use



A GP for Me Initiatives

- Must have a *clear* evaluation question
- The *least amount* of PI you need to answer the question-not more just because it is nice to have!
- Type of data: qualitative survey with opinions vs quantitative data
- Then you go to the data sources: patient record, health authority, ministry, individual for opinion(s)



Basics: BC Legislation

- Based on the type of organization
- Public body (FOIPPA): health authorities and ministry and their service providers
- Private organization (PIPA): Doctors of BC, Divisions of Family Practice, physicians and their service providers
- Oversight: BC Privacy Commissioner has powers to review and investigate



Basics: Public Bodies

- Under FOIPPA 69(1) public bodies must do Privacy Impact Assessment (PIA) to see if the collection use and disclosure meets part 3 of FOIPPA ie authorized/legal to do what they want
- Notify or get consent before collecting directly from a person
- FOIPPA consent requirements listed in the Regulation
- List of all the public bodies in the FOIPPA schedule



Basics: Private Organizations

- Consent-based legislation
- The organization must tell a person verbally or in writing the purpose for collecting the information-notification
- PIPA Regulation for collection, use and disclosure
- Do not need to do a PIA but....



Basics: Personal Information

- PIPA applies to personal information (PI)
- Means both information that can identify an individual (e.g., name, home address, home phone number, College ID numbers, PHN, MSP Pract Number, photos) etc, and
- Information about an identifiable individual (e.g., physical description, educational qualifications, blood type etc ie all test results, personal opinions)



Basics: Collection and Use of PI

- BC's Privacy Commissioner:
- The core principle of PIPA that is relevant to physicians is that personal information should not be collected, used, or disclosed without the prior knowledge and consent of the patient, which may be implicit.
- And...



Basics: PI & Circle of Care

- The consent for collection, use, and disclosure of personal information for direct health care purposes in BC operates primarily on an “implied consent” model.
- Individuals who form part of a patient’s “circle of care” (e.g., specialists, referring physicians, lab technologists) can access, use, disclose, and retain patient information for the purposes of ongoing care and treatment.



Basics: PI & Secondary Use

- But....
- Expressed consent from a patient (or other individual(s)) *is required* when identifiable personal information is intended to be collected, used, or disclosed *outside of the circle of care*, or for *secondary purposes* such as Division evaluation eg getting MSP pract number or PHN for evaluation or an opinion about something
- The consent can be given verbally or in writing



Basics: Data

- Need to Know: A privacy principle where access is restricted to authorized individuals whose duties require such access not because of status, rank or office
- *Least amount* of data you need to answer the evaluation question
- OCIO has PIPA guides especially note:
 - Tool 4: 10 Principles to protect privacy
 - Tool 6: Privacy Compliance Assessment Tool



Q 1. What triggers the need for action related to privacy

- All projects and evaluations that are collecting using and disclosing PI
- By definition these are outside the circle of care
- Use also includes linkage analysis
- Disclosure of PI outside the circle of care



Q 2. What are the privacy requirements ie PIA

- PIPA does not require a PIA but...
- The PIPA privacy compliance assessment tool is a Risk Assessment tool that shows an organization has done its due diligence in case the Privacy Commissioner comes calling
- Suggest use PIPA Privacy Compliance Assessment Tool [Tool 6] for every evaluation
- Can always consult the Privacy Commissioner if in doubt-that is what her office is for!



Q 3. What is the process for applying

- The PIPA privacy compliance assessment will give you an idea of the *least amount* of personal information data elements you want, where you are going to collect them from and what you are going to use them for-what is the evaluation question you want answered?
- Do a detailed information flow diagram
- Then go to data sources



A Source: Health Authority Data

- If an evaluation or project must have HA PI then suggest contact the health authority privacy office early along with the relevant health authority program area
- Should not rely on the health authority program to contact their own HA privacy office-they may not!
- The health authority may need to do a PIA on the disclosure of their PI to the Division evaluator



Q 4. What is the process for determining consent is required

- Any time you are planning to collect, use and disclose patient or other personal information *outside the circle of care*
- The PIPA privacy compliance assessment process will help you!
- The PIPA privacy compliance assessment is a minimum-may need to get more detail depending on the evaluation eg collecting from a health authority




Data Analysis


- Can be identifiable such as collecting PI so can *link* by PHN, DOB, Name etc to other data
- Can be made non identifiable if the identifiers are replaced by Study ID after it is linked.
- The crosswalk file records the identifiers for that Study ID
- This crosswalk file is personal information!



Data Analysis

- Individual data can be rolled up into aggregate data
- Common rule for reporting cell size:
- Cell size ≥ 5 for any variable or combination of variables
- There is always the potential to re-identify (the so-called Mosaic Effect)
- Can always roll up to  or HSDA level

References

- **McInerney v. MacDonald**, [1992] 2 S.C.R. 138
<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/884/index.do>
- **BC Laws**: <http://www.bclaws.ca/>
- **Privacy and Security in the BC Health Care System Today** <https://www.oipc.bc.ca/guidance-documents/1470>
- **Consents for Disclosure of Personal Information**
http://www.cio.gov.bc.ca/local/cio/priv_leg/documents/foippa/Consent%20Tip%20Sheet.pdf
- **GP for Me**
 <https://www.divisionsbc.ca/provincial/unattached>

References

- Office of the Information and Privacy Commissioner for British Columbia
<https://www.oipc.bc.ca/about/contact-us.aspx>
- OCIO: Private Sector Privacy Legislation - Implementation Tools
http://www.cio.gov.bc.ca/cio/priv_leg/pipa/impl_tools/tool_index.page?



Questions?

- Thank you!

