

# Privacy Handout

Adapted from presentation from Liz Keay, Ministry of Health, November 20<sup>th</sup>, 2014

## Overview: When should you consider privacy issues?

- Consider privacy issues in the evaluation planning stage when you are determining which data you'd like to access
  - Determine which information is covered by Privacy regulations
    - Any information about an individual that can identify the individual, including a name or diagnosis is considered personal information, and is covered by Privacy Legislation
  - Determine what type of consent you need
    - For example, if you have patients accessing a primary clinic and you would like to know if their use of the ED has decreased or increased, this would involve linking personal information to administrative data. This will require patient consent. It is unlikely that you will be able to get individual level data from the Health Authority of Ministry of Health if you have not obtained patient consent from the start.
- Once you've identified your privacy needs, determine the process for getting consent for evaluation purposes
  - Determine which Privacy Requirements you are required to follow
    - For example, if you are a Division of Family Practice, you are a private organization and must follow regulations under PIPA. But even though you are from a private body, if you are requesting information from a public body, such as a patient's use of the ED, you will also be required to adhere to requirements under FOIPPA.
  - Create a data collection plan that shows who will collect the information and how it will be stored, used and maintained/destroyed over time.
  - Ensure that you list "evaluation" as a use when you request consent. Having consent from a patient to share information for the purpose of providing care is not sufficient to allow the data collected to be used for evaluation.
- Connect with your privacy officer or other privacy resources in your health authority or at the Ministry of Health (See Privacy Resources handout for contact information)

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## What types of activities trigger the need for action related to privacy?

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

## Personal Information

- The collection of information is governed by privacy legislation (FOIPPA/PIPA)
- Personal Information 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., i.e. all test results, personal opinions)

## Privacy Requirements

- Must have a *clear* evaluation question
- The *least amount* of Personal Information 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)

## Privacy Environment

- Public body (Freedom of Information and Protection of Privacy Act- FOIPPA): health authorities and ministry and their service providers
  - 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 i.e. authorized/legal to do what they want
  - Information about FOIPPA requirements:  
[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/96165\\_00](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96165_00)
- Private organization (Personal Information Protection Act- PIPA): Doctors of BC, Divisions of Family Practice, physicians and their service providers

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- Information about PIPA requirements:  
[http://www.bclaws.ca/EPLibraries/bclaws\\_new/document/ID/freeside/00\\_03063\\_01](http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_03063_01)

- Oversight: BC Privacy Commissioner has powers to review and investigate
- Office of Chief Information Officer has PIPA guides especially note: Tool 4: 10 Principles to protect privacy, Tool 6: Privacy Compliance Assessment Tool  
[http://www.cio.gov.bc.ca/cio/priv\\_leg/pipa/impl\\_tools/tool\\_index.page](http://www.cio.gov.bc.ca/cio/priv_leg/pipa/impl_tools/tool_index.page)

**Note:** If you would like to request data from an organization in a different privacy environment, you will need to go through their process (i.e. a Division is under PIPA but if they request data from a Health Authority, governed by FOIPPA, they must adhere to the FOIPPA legislation)

## Consent

- 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
- Requirements are listed in the FOIPPA or PIPA Regulation
- Evaluation must be listed as a use for the information (i.e. if you have a consent form that says you will share information for care, this is not sufficient)

## 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](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>
- 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?](http://www.cio.gov.bc.ca/cio/priv_leg/pipa/impl_tools/tool_index.page?)