

Advanced Privacy Training

Apr 2025



Alliance for Healthier Communities
Alliance pour des communautés en santé

accesscss
Connect to Community Support Services



Land Acknowledgment



Disclaimer



The content of this presentation should not be considered a legal opinion. It is based on extensive research of publically available materials. If you need legal advice, please refer to your counsel.

This is a presentation on industry's best practices which may differ from the ones of your own organization. If that is the case, please consult your employer before changing your existing practices.

AGENDA

- PHIPA Basics (a very quick review)
- Where's the privacy issue?
- Privacy in the News
- IPC Updates
- Case Studies
- AI in healthcare

- Key Points





What is your current level of confidence for privacy?
(where '1' is a newbie and '5' is an expert)



1



2



3



4



5



Privacy and its Importance



Key Definitions



Aspect	Privacy	Confidentiality
Definition	A situation when a person is free from public interference.	A situation when information is kept secret from the reach of any other person.
Focus	Centers around a person.	It is concerned with information.
Protection	Restricts the public from accessing personal details about a person.	Protects the information from unauthorized persons.
Allowed Access	Everyone is generally disallowed from intruding into the personal affairs of an individual.	Only specific and trustworthy individuals are permitted to access the information.
Obligation	Voluntary and based on personal choice.	Often compulsory, especially in fiduciary relationships.
Nature	Considered a fundamental human right.	Typically, an agreement or understanding between parties to keep specific information secret.

Personal Health Information Protection Act, 2004

Sets out rules to protect a client's personal health information (PHI)/record across the health system. "Health information custodians" (healthcare providers and organizations) must follow these rules when collecting, using or sharing a client's PHI.



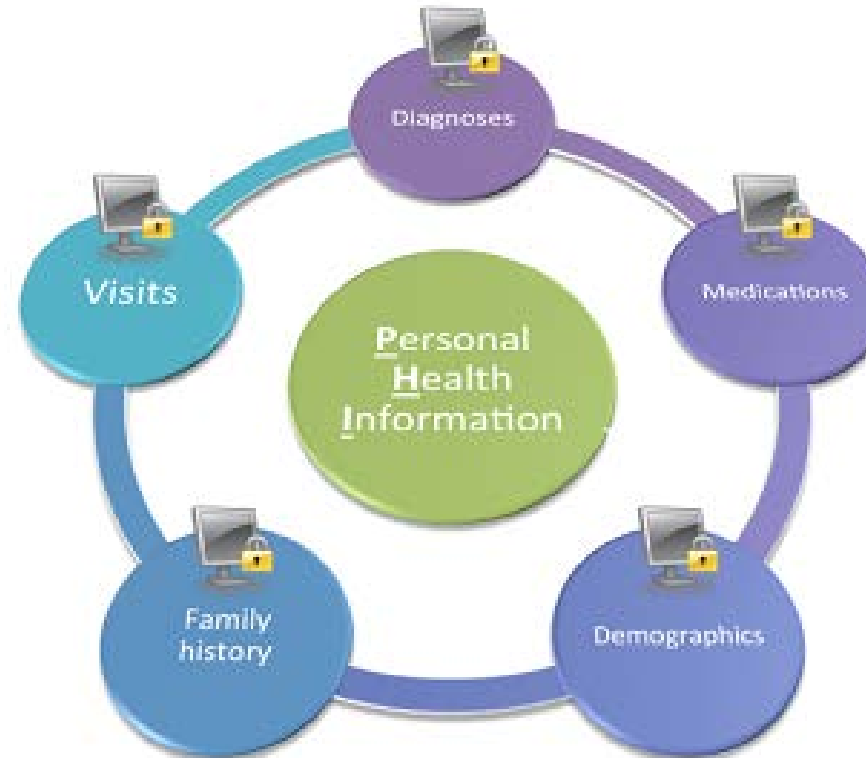
Personal Health Information



Verbal or recorded format

Any information related to one's health:

- Physical
- Mental
- Spiritual
- Emotional



HICs, Agents and the IPC



Health Information Custodian (HIC)

“...persons or organizations who have custody or control of **personal health information** as a result of or in connection with performing the person's or organization's powers or duties...”

Agent

means a person that acts for or on behalf of the custodian in respect to PHI regardless of whether:

- the agent has the authority to bind the custodian
- the agent is employed by the custodian or not
- the agent is being remunerated or not.

Information and Privacy Commissioner (IPC)

An officer of the Legislature, appointed to oversee PHIPA , as well as the Freedom of Information and Protection of Privacy Act (FIPPA) and the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

Accessing PI & PHI

NEED TO KNOW



Need-to-know ≠ Nice-to-know

Consent (PHIPA)

A client needs to consent to the collection, use & disclosure of their PHI to receive services.



Express consent involves asking the client for his or her consent. Express consent can be obtained verbally, which should be documented. If obtained in writing, there is an actual proof that consent was given.

Implied consent involves a client expressing his or her consent through actions. It is premised on the client having received a notice outlining the purposes for information collection. Notice must be provided at or before the time the information is collected.

Consent to collect, use and disclose PHI **≠** Consent to treat
PHIPA (2004) HCCA (1996)

☒ Yes
☐ No



Consent - Few Considerations

- Consent must be informed
- Do the clients understand what they are asked to consent to?
- Is the information provided easy to understand or full of legalese?
- Do clients know they have a choice (to withhold and withdraw consent)?
- Are clients notified using suitable channels?



Lock Box (consent directive)

- An express instruction to a HIC to restrict access to the individual's PHI.
- It can be inclusionary and exclusionary
 - Restrict access to all but selected individuals within the organization;
 - Restrict access to selected individuals only within the organization.
- A HIC may also be asked to not disclose PHI to an external healthcare provider (some or all)
- Section 38(3) exception in PHIPA for releasing certain PHI to anyone

Educate clients who wish to apply “lockbox” on their record!



What could the privacy issue here be?



What could the privacy issue here be?



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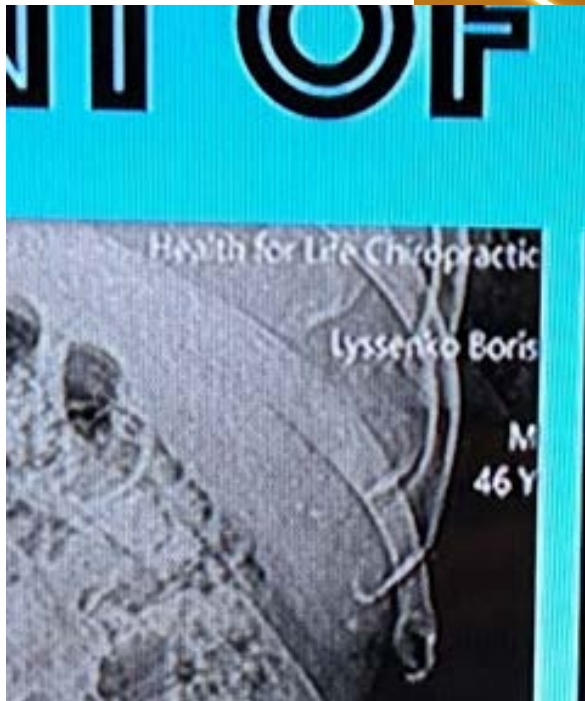
Alliance for Healthier Communities
Advancing Health Equity

What could the privacy issue here be?



What other good practices do you know for managing paper records?

What could the privacy issue here be?



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Boris Lyssenko, CPA, CA - KPMG Enterprise
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I am an Executive Director and Private Company Business Advisor at KPMG Canada's Enterprise practice in the Greater Toronto Area (GTA). In this leadership role ...

Images for boris lyssenko

Tags: kpmg enterprise, zark fatah, cpa ca

Images: A row of images including a portrait of Boris Lyssenko, a group photo, and a presentation slide titled "presenters at CBV CONNECT 2023".

Feedback

View all →

University of Toronto
https://www.utoronto.ca › news › boris-lyssenko-was-a...

Boris Lyssenko was an accomplished performer and ...
Mar 23, 2018 — Boris Lyssenko was a brilliant pianist and a riveting performer, but his greatest legacy was as a teacher, mentor and inspiration to dozens ...

Headlines

CTV News Windsor LifeLabs customers can now apply for up to \$150 in compensation for data breach

Hundreds of customers have received notice that applications for compensation from the \$9.8 million settlement are open until April 6, 2024 in Ontario and P.E.I.

Update
Published

WOODSTOCK SENIOR NEWS

Opposition questions handling of P.E.I. health documents blown away in wind

Pa...
Hc... Employee knocked over by gust, some documents recovered from pond, says Health P.E.I.

Una
offic

Lee Gr



[Tony Davis](#) · CBC News · Posted: Nov 14, 2024 6:10 PM EST | Last Updated: November 14

Published Aug 01, 2024 • 6 minute read

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out

place over

Privacy News

In other news ...

Questions: What happens with the PI & PHI in case of merger and/or acquisition? Is that information protected by health privacy law? What are the obligations of the new owner? Can policies be modified?

Forbes

FORBES > INNOVATION > CYBERSECURITY

Did You Give Your DNA To 23andMe? Here's Why You Might Regret It Soon

Lars Daniel Contributor @

Lars Daniel covers digital evidence and cybersecurity in life and law.

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Oct 15, 2024, 07:09am EDT

Privacy in the News

- controversy traces back to July 2014 when a frequently activated unintentional recording feature on an iPhone 5s was discovered
- recordings were subsequently reviewed and found to contain sensitive information
- whistleblower noted that accidently activating a zipper being misinterpreted as a recording
- the settlement, which, pending judgment, could pay product owners up to \$20 per device
- the \$95 million payout equates to about 10% of Apple's annual income for the last year.

FORBES > INNOVATION > CONSUMER TECH

Siri Privacy Breach: Apple To Pay \$95 Million Settlement Amid Spying Claims

Moin Roberts-Islam Contributor

Moin is a tech innovator covering digital fashion, technology and Web3

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Jan 3, 2025, 02:09pm EST

Updated Jan 3, 2025, 05:24pm EST

Privacy News

In other news ...

Questions: What information is being generated? What can organizations do with it? Is this too much fear mongering?

Business

1st human has received Elon Musk's Neuralink brain implant, billionaire says

Patient 'recovering well,' Musk said, but no details have been shared by company

The Associated Press · Posted: Jan 30, 2024 1:21 PM EST | Last Updated: January 30



Billionaire Elon Musk, who co-founded the computer-brain interface company Neuralink, says the first human patient has received one of the company's brain implants. (Patrick Pleul/The Associated Press)



Privacy News (Cont'd)

In other developments ...

Questions: How do I know if the person in front of me wears those “smart glasses”? Can I ask them to take the glasses off? What if they are prescription glasses? If they tell me the cameras are off, shall I believe that? Is there a consent issue here?



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Ready for the next generation of smart glasses? The Ray-Ban Meta collection combines the latest in wearable tech with authentic Ray-Ban design, to keep you connected wherever you go. With the latest Ray-Ban smart glasses and smart sunglasses, you can take photos and videos, listen to music, make calls and even livestream direct to Facebook and Instagram – all without taking your phone out of your pocket. Choose your favourite tech glasses from a selection of iconic styles.

Privacy News (Cont'd)

In other developments ...

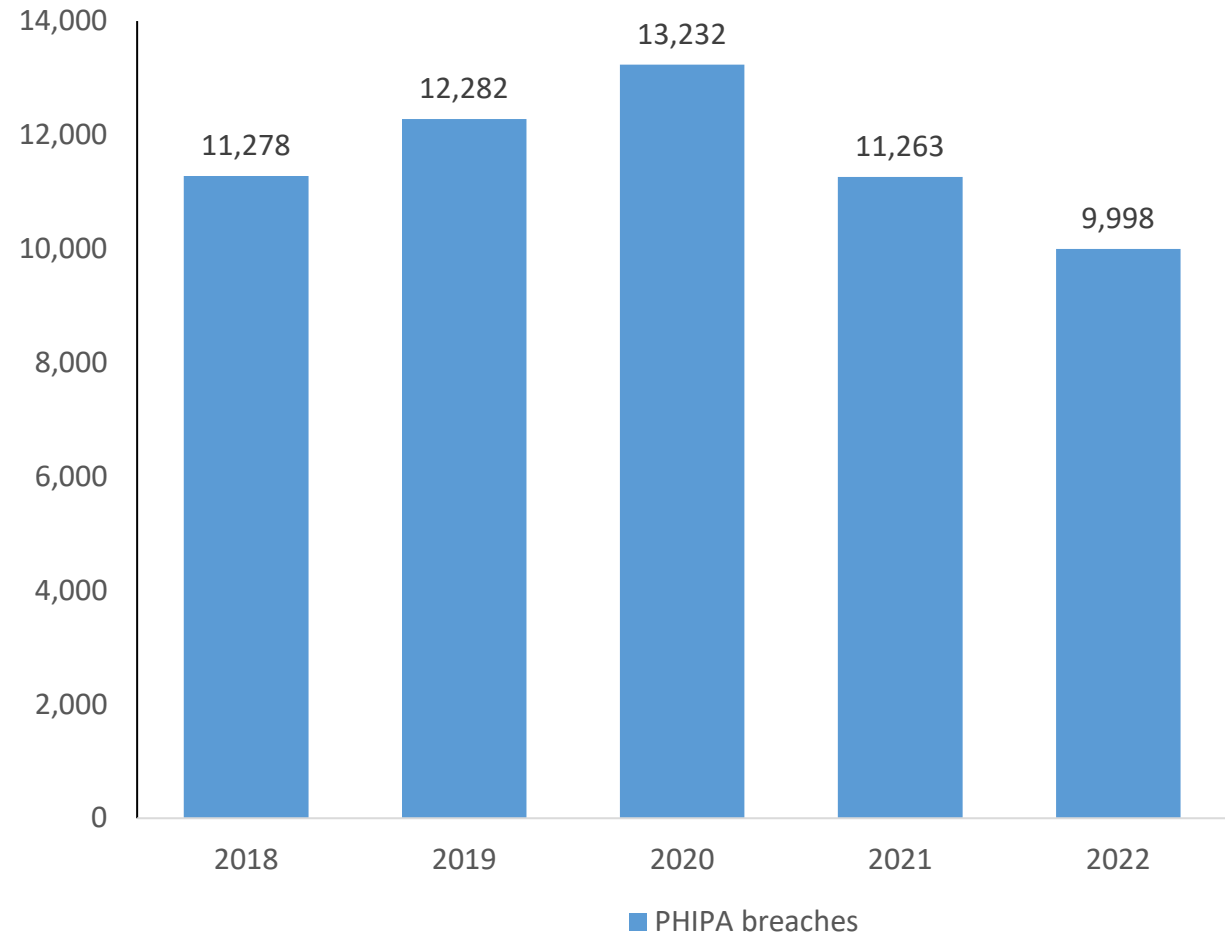
CANADIAN Healthcare Technology

Jane Meadus, a lawyer at the Advocacy Centre for the Elderly in Toronto, said she regularly fields calls from residents and their relatives about the use of video cameras. The advice she typically gives is that there are no laws prohibiting them in resident rooms, so long as they are placed with the consent of the occupant (or by someone with the authority to consent on their behalf). In instances of shared rooms, she said, the cameras must be focused on the device's owner only and maintain the privacy of others.



TORONTO – Employees at the Chester Village Long-Term Care Centre, Scarborough, Ont., had been finding an increasing number of surveillance devices installed without their knowledge. Sometimes a person on the other end would even surprise an employee by talking to them using two-way audio.

IPC Statistics for PHIPA Breaches





IPC 2023 Annual Privacy Breaches Report

10,770 reported breaches in 2023 (9,998 in 2022)

- 56% of health privacy breaches due to misdirected faxes (40% in 2022)
- 74 collected in eHR without authority (31 in 2022)
- 83 theft (compared to 63 last year)
- 372 lost records (compared to 354)
- 1,222 unauthorized use (up from 799)
- 9,019 unauthorized disclosure (up from 8,751)

You Still With Me?





Administrative Monetary Penalties (AMPs)

Up to \$50,000 for individuals
Up to \$500,000 for organizations



Case Studies - Group Work



Breakout rooms will divide you in different groups for each of the 3 cases;

Take your time to think of the issues at stake and take notes;

Participation is key for this activity to be meaningful;

No wrong answers.

Case Study #1

Adult Day Program van driver arrives at a client's home for a pickup service to the adult day program facility. While on route, the client takes a call on their phone from a case manager and puts it on speaker to hear better. The van driver, unable to isolate from the phone call on speaker, hears the whole discussion which includes lots of details about the client's living conditions and health. At one point, the driver recognizes the name of a person as a very close friend of his spouse. Additional sensitive details are stated including a chronic condition. The van driver is seriously contemplating sharing these details afterwards with his spouse.

What questions are you thinking of at this time?

Case Study #2

Meals on Wheels has been contracted to deliver meals to a new client. During the first delivery, the volunteer driver goes into the home as asked by the client due to mobility issues rather than the standard drop off at the front door. While inside the home, the volunteer sees medical equipment that suggests a specific health condition. Because it looks “cool”, the volunteer snaps a quick picture of it with his phone with the idea of putting the picture on social media. In addition to that, volunteer observes client being verbally abusive to their elderly and fragile parent who also lives at the address.

What privacy considerations are there? What questions are you thinking of at this time?

Case Study #3

A Personal Support Worker (PSW) is hired to attend to a senior client who has several comorbidities and can be a rather challenging client to deal with. During a service, the client becomes violent and hits the PSW in an effort to get out of the bath. The hit causes skin to break and draws blood from PSW who now becomes concerned about a potential exposure to conditions the client might have. After completion of the service, still shaken up from the experience, the PSW files a report and using their access to the electronic documentation system, combs through the client's chart to find any medical condition that might require specific action.

Is this access to the record be justified? What potential issues could there be for this PSW?

Case Studies - Debrief



AI in Health Care

What is AI?

Artificial Intelligence System” means a technological system that, autonomously or partly autonomously, processes data related to human activities through the use of a genetic algorithm, a neural network, machine learning, or another technique in order to generate content, make decisions, recommendations or predictions”

- AI has the potential to make care delivery way more efficient
- Almost every provider utilizes some form of AI
- Do you utilize AI in your organization?
- Do you have policy/policies related to AI use?



AI in Health Care – Some Challenges

- Ensuring accuracy and completeness of AI-supported records
- Asking consent from clients to use AI
- Evaluation of solutions in relation to privacy and security



Disclosure of PHI with(out) consent



- a) Lawyer representing the client
- b) Children Aid Society (CAS)
- c) Police
- d) Power of Attorney for the client
- e) WSIB
- f) Requester on behalf of a deceased client
- g) Coroner
- h) Insurance companies
- i) Accreditation Surveyors
- j) Public Guardian and Trustee (PGT)



Safeguards

Physical Safeguards

- locked filing cabinets, shredders/ shredding boxes, private/scheduled printing, disposal of printed PI/PHI when not needed, key access to restricted areas, cable locks, etc.



Technological Safeguards

- login names and (hard-to-guess) passwords; encrypted mobile devices; update anti-virus and other computer software/hardware protection, etc.



Administrative Safeguards

- privacy/confidentiality policies, procedures and protocols; training sessions, establishing a designated staff (Privacy Officer), etc.



Confidentiality/Privacy Agreement

All staff sign a confidentiality agreement at the start of their employment.

Important Note: employees **MUST** maintain confidentiality...

- During employment
 - ✓ Disclosing confidential information
 - ✓ Use of inside information for own benefit
 - ✓ Staff disclosing personal matters
- Post employment
 - ✓ No sharing or publishing confidential information after leaving

All staff will be asked to sign a new confidentiality agreement sometime after this training. You can find it on Sharepoint, in the Mandatory Training folder

Summary / Takeaways



- Privacy is on everyone's mind these days;
- Education and awareness are key;
- All staff have an obligation to keep information confidential, during and post employment.
- If in doubt, ask.



Thank you
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Privacy Training - Option # 3-
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