

THE 2019 LEGAL GUIDE TO PRIVACY AND INFORMATION MANAGEMENT IN HEALTHCARE

Privacy laws in healthcare are complex. Missteps can lead to regulatory investigations, costly litigation and reputational damage.

Spend a day with Canada's leading health and privacy law experts – using sample files you get the knowledge and practical tools your organization needs, including:

- What steps do you take to contain and investigate a breach?
- Consequences for unauthorized access, including prosecutions for offences
- Understanding the duty to consult under the *Substitute Decisions Act*
- How protection of privacy and security can work together

Keynote Speaker:

Brian Beamish, Commissioner, Office of the Information & Privacy Commissioner of Ontario

“An Update on PHIPA from the IPC”

Register today at:

osgoodepd.ca/privacy-healthcare

Program Chair

Mary Jane Dykeman
DDO Health Law

Date and Time

April 9, 2019
9:00 a.m. – 4:15 p.m. EDT
In Person or Webcast

Online Replay:
May 7, 2019

Location

Osgoode Professional
Development
1 Dundas St. West, 26th Floor
Toronto, ON



Health Leadership
& Learning Network



CANADIAN COLLEGE OF
HEALTH LEADERS
COLLEGE CANADIEN DES
LEADERS EN SANTÉ



afhto association of family
health teams of ontario



THE 2019 LEGAL GUIDE TO Privacy and Information Management in Healthcare

Recent high-profile cases dealing with personal health information highlight how critical this issue has become for healthcare professionals and organizations.

If you are a healthcare risk manager, privacy officer, director of care/professional practice, lawyer advising on privacy and information management issues, nurse or nurse educator, allied health professional or other healthcare worker, it is more important than ever that you keep on top of the latest legal developments, and have a solid, current understanding of the key issues.

Using a sample case scenario, you will learn practical compliance strategies, including:

- How access to personal health information for educational purposes and quality of care should be documented and logged
- Practical suggestions for harmonizing privacy programs across multiple sites
- The impact of LHIN-sponsored integration of programs within primary care and hospital outpatient care
- Obligations/limitations of parties in various proceedings to disclose personal health information

Who Should Attend?

- Privacy officers and other privacy professionals working in healthcare settings
- Family health teams
- Nurses; Nurse Educators; Unit administrators; Managers
- Directors/VPs of Nursing
- Patient Care Managers
- Health Care Risk Managers
- Directors of Professional Practice
- Directors of Care
- In-house counsel
- Lawyers advising on privacy issues and information technology
- Human resources professionals in healthcare
- Marketing and communications executives in healthcare
- Privacy officers in healthcare

Register today at:

osgoodepd.ca/privacy-healthcare

Agenda

8:30 a.m.

Registration

9:00 a.m.

Welcome and Case Study Introduction from the Chair

Mary Jane Dykeman, DDO Health Law

A complex fact scenario that brings critical issues to life and woven throughout the program will be introduced.

9:15 a.m.

Unauthorized Access, Quality Improvement and the Use of Personal Health Information for Educational Purposes

Manuela Di Re, Director of Legal Services and General Counsel, Office of the Information and Privacy Commissioner of Ontario

Learn from the Director of Legal Services, Office of the Privacy Commission of Ontario how to remain compliant. In particular, the session will discuss unauthorized access to records of personal health information by agents, with a particular focus on instances where the access is claimed to be for educational purposes or to improve the quality of care delivered.

- The policies that should be implemented by custodians when permitting agents to use personal health information for purposes other than providing health care
- How access to personal health information for educational purposes and quality of care should be documented and logged
- How custodians should make agents aware of what uses are and are not permitted
- Consequences for unauthorized access, including prosecutions for offences

10:00 a.m.

How Protection of Privacy and Security Can Work Together: Perspectives from a HIC as PHIPA Evolves

Monica Jacobs, Senior Director, Enterprise Risk, Emergency Preparedness & Chief Privacy Officer, St. Joseph's, St. Michael's and Providence Health Care

- Practical suggestions for harmonizing privacy programs across multiple sites

- Creating a system to better use personal health information (PHI) for care, quality analytics and business intelligence
- Determining research versus quality improvement – who decides what uses can be made of PHI?
- How should privacy and security work together
- What if there is a breach? Does that trigger security? What data/systems are impacted?
- Auditing, cyber hacks, ransomware
- Lessons learned in IPC decisions
- Training and awareness initiatives

11:00 a.m.

Refreshment Break

11:15 a.m.

Assessing a Proactive Approach to Patient Privacy: How Far Have We Come? How Far to go?

Nyranne Martin, General Counsel and Chief Privacy Officer, The Ottawa Hospital

- Staging the advancement of privacy program maturity
- Leveraging communications to enhance a positive privacy culture
- Strengths and challenges of automating privacy audits
- Re-framing privacy breach investigation and action through a ‘Just Culture’

12:00 p.m.

Luncheon and Keynote Address

“An Update on PHIPA from the IPC”

Brian Beamish, Commissioner, Office of the Information and Privacy Commissioner of Ontario

1:00 p.m.

Privacy & Protection of Personal Health Information in Community Health Settings

Rodney Burns, Chief Information Officer, Alliance for Healthier Communities

Kavita Mehta, Chief Executive Officer, Association of Family Health Teams of Ontario (AFHTO)

A panel of industry experts will outline privacy and information management concerns specific to community health organizations, including:

- Cross-sector integration and the associated privacy implications
- IPC annual breach reporting obligations
- Access rights under the *Children’s Law Reform Act*
- Differentiating between Health Care Consent and PHIPA consent
- The need to retain and use audit logs for forensic purposes and record retention purposes
- Management of PHI: unique challenges and strategies for the community health team
- The impact of LHIN-sponsored integration of programs within primary care and hospital outpatient care
- The challenges to the sharing of PHI with so many systems in place
- Lack of integration between sectors as an ongoing challenge
- Is there an appetite for setting up electronic shared care solutions? Why? Why not?
- Strategies and tools for detecting and deterring privacy breaches
- Legal challenges around documentation
- What lies ahead? Areas of focus for change

2:00 p.m.

Substitute Decisions Act and the Duty to Consult?

Mary Jane Dykeman, DDO Health Law

Using the sample case file to guide the discussion, you will look at the potential for conflict between the *Substitute Decisions Act* (SDA) and the *Personal Health Information Protection Act* (PHIPA) and how this impacts privacy law protections including:

- Tensions between the two statutes
- The duty to foster relationships of importance for the incapable person versus a substitute decision-maker’s authority to restrict the flow of information to third parties
- Practical strategies to reduce family tensions, as well as to equip staff when faced with conflict
- What can be done when privacy is being used as a sword/shield?

2:45 p.m.

Refreshment Break

3:00 p.m.

Disclosing Personal Health Information in Proceedings: If, How and When?

Lonny J. Rosen, CS, Rosen Sunshine LLP

- Review of PHIPA provisions that permit disclosure of PHI in proceedings: when and under what circumstances?
- Obligations and limitations of the parties in various proceedings to disclose PHI including in civil litigation and family law matters and WSIB complaints
- Interplay of the Mental Health Act and PHIPA with respect to proceedings involving a patient in a psychiatric facility
- Analysis of issues counsel may face in disclosing PHI
- Review of recent case law where PHI records were sought & the outcomes: professional regulation, medical malpractice, tort law, labour law, class actions

3:45 p.m.

Case Study Wrap-Up/Q&A

This interactive session will integrate principles learned through the day. Group discussions will reinforce your understanding of the issues and provide you best practices and tools you can immediately put to use.

4:15 p.m.

Program Concludes

“I thoroughly enjoyed all of the presentations. I appreciated that the presentations were more informal and that there was plenty of opportunity to ask questions. Having access to the Commissioner and being engaged in discussion with him was very informative.”

Mary Gavel
Privacy Lead, CritiCall Ontario, 2018

Chair

Mary Jane Dykeman
DDO Health Law

Keynote Speaker

Brian Beamish
Commissioner, Office of the Information &
Privacy Commissioner of Ontario

Faculty Includes

Rodney Burns
Chief Information Officer,
Alliance for Healthier
Communities

Manuela Di Re
Director of Legal Services
and General Counsel,
Information & Privacy
Commissioner of Ontario

Monica Jacobs
Senior Director, Enterprise Risk,
Emergency Preparedness &
Chief Privacy Officer, St. Joseph's,
St. Michael's and Providence
Health Care

Nyranne Martin
General Counsel and
Chief Privacy Officer,
The Ottawa Hospital

Kavita Mehta
Chief Executive Officer,
Association of Family Health
Teams of Ontario (AFHTO)

Lonny J. Rosen, CS
Rosen Sunshine LLP

Registration Details

Fee per Delegate
\$545 plus HST

Fees include attendance, program materials, lunch and break refreshments. Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details. Please inquire about financial assistance.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.



Eligible CPD/MCLE Hours: LSO (ON): 6h 45m CPD (5h 35m Substantive; 1h 10m Professionalism)

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca






The presentation, The 2019 Legal Guide to Privacy and Information Management in Healthcare, is eligible for 7.0 CHIMA CPE credits.



Attendance at this program entitles certified **Canadian College of Health Leaders** members (CHE / Fellow) to 3.5 Category II credits towards their maintenance of certification requirement.



This program is approved for **LAWPRO** Risk Management Credit.

 osgoodepd.ca **Osgoode Professional Development**
 **416.597.9724** **1 Dundas Street West, Suite 2600**
 **@OsgoodePD** **Toronto, ON Canada M5G 1Z3**



The 2019 Legal Guide to Privacy and Information Management in Healthcare

Register today at:
osgoodepd.ca/privacy-healthcare