



College of Medical
Laboratory Technologists
of Ontario

Professional Practice Learning Program

Confidentiality and privacy

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Introduction

This resource describes the concepts of confidentiality and privacy, including privacy principles, relevant legislation, and a case study for medical laboratory technologists (MLTs) to self-reflect on their practice.

Privacy principles

The *Personal Information Protection and Electronic Documents Act, 2000* (PIPEDA) is the federal privacy law that governs how organizations collect, use, and/or disclose personal information. This privacy legislation is based on the following ten key principles:

1. **Accountability:** An organization is responsible for personal information under its control. It must appoint someone to be accountable for its compliance with these fair information principles.
2. **Identifying purposes:** The purposes for which the personal information is being collected must be identified by the organization before or at the time of collection.
3. **Consent:** The knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate.
4. **Limiting collection:** The collection of personal information must be limited to that which is needed for the purposes identified by the organization. Information must be collected by fair and lawful means.
5. **Limiting use, disclosure, and retention:** Unless the individual consents otherwise or it is required by law, personal information can only be used or disclosed for the purposes for which it was collected. Personal information must only be kept as long as required to serve those purposes.
6. **Accuracy:** Personal information must be accurate, complete, and as up-to-date as possible in order to properly satisfy the purposes for which it is to be used.



7. **Safeguards:** Personal information must be protected by appropriate security relative to the sensitivity of the information.
8. **Openness:** An organization must make detailed information about its policies and practices relating to the management of personal information publicly and readily available.
9. **Individual access:** Upon request, an individual must be informed of the existence, use, and disclosure of their personal information and be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.
10. **Challenging compliance:** An individual shall be able to challenge an organization's compliance with the above principles. Their challenge should be addressed to the person accountable for the organization's compliance with PIPEDA, usually their Chief Privacy Office.

Provincial Privacy Legislation

The Personal Health Information Protection Act, 2004

The *Personal Health Information Protection Act, 2004* (PHIPA) is the provincial privacy law that governs how personal health information may be collected, used, and disclosed within the health sector. In Section 4(1) of PHIPA, personal health information is defined to include but is not limited to any **identifying information** about an individual, such as their physical or mental condition, their healthcare services or service plans, health coverage payments or eligibility, health card number, etc. This information may be in any verbal, written, or electronic form. It refers to any data that can be used alone or combined with other information to identify an individual.

Section 26(2)(b) of PIPEDA provides an exemption for organizations or entities governed by PHIPA, allowing them to be exempt from PIPEDA with respect to the collection, use, or disclosure of personal information within Ontario, as PHIPA is considered substantially similar to PIPEDA. Health information custodians (HIC), healthcare providers, and healthcare organizations must



follow these rules when managing patient health information. Additionally, PHIPA grants patients the right to access their health records and to correct any inaccuracies.

Key Concepts

Privacy: An individual's right to control the collection, use, and disclosure of their personal health information. Access to patient information is restricted to those within a patient's circle of care and must not be accessed by an MLT out of curiosity or interest.

Example

You control who has access to your Social Insurance Number and may refuse to provide it to a retailer if it is not required to complete your transaction.

Confidentiality: The obligation of a person (such as an MLT) or an organization (such as a hospital or clinic) to protect that personal health information and prevent the unauthorized disclosure of it (such as sharing personal health information without consent). MLTs maintain confidentiality by not discussing patients when patient care is not involved, even if names are not mentioned. Note that information such as age, gender, or health condition could potentially identify a patient.

Example

An MLT discussing abnormal test results in a crowded elevator has failed to maintain patient confidentiality.

PHIPA requires that:

- A) HICs have established information practices for the collection, use, and disclosure of personal health information and must designate a privacy contact person.

Example

A hospital develops information management policies that follow PHIPA and appoints a Privacy Officer as its contact person for privacy questions or concerns.



- B) Agents of an HIC (i.e., employees and others acting on behalf of the HIC) comply with PHIPA by following the HIC's information practices.

Example

MLTs employed by hospitals and laboratories must comply with PHIPA by adhering to their employer's information management and privacy policies.

- C) HICs obtain patient consent for the collection, use, and disclosure of personal health information, which can be either expressed or implied. If an HIC receives a patient's personal health information to provide care, they can assume informed consent. The information can be used or disclosed unless they are informed that the patient has expressly withheld or withdrawn consent.

Example

When an MLT receives a patient requisition and sample, they can assume that the patient has given consent to the ordering practitioner to proceed with laboratory analysis.

- D) HICs provide patients with access to their personal health information and the opportunity to challenge its accuracy and completeness.

Example

A hospital develops a process through its patient records department, allowing patients to access their personal health information and challenge its accuracy.

- E) HICs have appropriate security measures to protect the personal health information for which they are responsible.

Example

A hospital requires employees to use individual passwords to access electronic patient information and requires hard copy records to be stored securely under lock and key.

PHIPA permits the disclosure of personal health information amongst professionals involved in a patient's care or within the patient's "circle of care." Other permitted disclosures may include emergency situations if the HIC

believes, on reasonable grounds, that disclosure is necessary, for legal proceedings, for inspections, investigations or similar procedures authorized by a warrant, PHIPA or another Act, etc. An MLT's employer may also have specific policies or procedures for disclosing health information.

Information and Privacy Commissioner of Ontario

The Ontario's Information and Privacy Commissioner (IPC) role has several roles, but is not limited to:

- resolve access to information appeals
- investigate privacy complaints
- provide comment on proposed government legislation and programs
- review privacy policies and information management practices
- conducting research on access and privacy issues
- educate the public, media and other stakeholders about Ontario's access and privacy laws and current issues affecting access and privacy⁴.

Individuals can file a complaint with the IPC if they believe there are reasonable grounds that PHIPA has been or will be breached. Complaints may involve a HIC's information practices, the processes for collection, use, and disclosure of personal health information, or the HIC's refusal to grant access to or correct an individual's personal health information. The IPC is responsible for investigating these complaints and reported privacy breaches. HICs must report privacy breaches that may include unauthorized use or disclosure, stolen or lost information, and disciplinary actions against a College Registrant, etc.

The IPC website provides a wealth of resources including guides, fact sheets, and webinars to help both the public and HIC to understand privacy requirements.



Key Concepts

Health information custodian:

A person or organization that has custody or control of personal health information as a result of their power, duties, or work. This may include a hospital or community laboratory, or a private health care facility such as a healthcare practitioner's office.

Circle of care: While not defined in PHIPA, it is a term used to describe healthcare professionals who must provide care to a patient and who require access to personal health information to do so. This may include MLTs, physicians, nurses, clinical clerks, and social workers.

Confidentiality and privacy case study

Case studies allow MLTs to critically analyze situations and identify opportunities for learning and development. By applying the learnings achieved in this module to situations they encounter in their own practice, MLTs can enhance their professional behaviours and share their knowledge and expertise with other health professionals contributing to better patient care.

Case study: Confidentiality of results

One of your colleagues, who is very ill, had their sample drawn at the collection centre you work in. Another colleague, aware of this situation, is very curious about the ill colleague's results and asks you to look them up.

Reflect on the confidentiality and privacy concepts described in this resource and consider how you would deal with some of the potential issues in this case study.

Conclusion

MLTs must adhere to these confidentiality and privacy principles due to their regular and direct access to patient information including, but not limited to, laboratory results. While medical laboratory results can be shared with health



professionals involved in the patient's care, they must not be accessed or viewed by staff not directly involved in the patient's care. MLTs are only entitled to view laboratory results as necessary for their professional duties and must not access patient information without a valid reason or outside of the established protocols of their work setting.

Protecting everyone's privacy and maintaining confidentiality is a non-negotiable standard of MLT practice.

References

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