Health PEI

Privacy Breach Notification and Disclosure Requirements: Information for Employees
Prepared by: Health PEI Access to Information and Privacy (ATIP) Team

Privacy Breach:

- A privacy breach occurs when an individual's personal health information has been:
  - Lost
  - Stolen
  - Disposed of without authorization
  - Accessed without authorization
  - Disclosed without authorization

Personal Health Information:

- Personal Health Information (PHI) means identifying information about an individual in oral or recorded form that:
  - relates to the individual's physical or mental health, family health history or health care history, including genetic information about the individual;
  - relates to information about an individual that is collected for the purpose of registering the individual for the provision of health care, including a health number, medical record number and any other identifier assigned to an individual;
  - relates to the provision of health care to the individual;
  - relates to an individual's entitlement to benefits under or participation in a health care program or service;
  - is collected in the course of, and is incidental to, the provision of a health care program or service or payment for a health care program or service;
  - relates to a drug, a health care aid, device, product, equipment or other item provided to an individual under a prescription or other authorization issued by a health care provider;
  - relates to information about payments or eligibility for health care in respect of the individual, or eligibility for coverage for health care in respect of the individual;
  - relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any body part or bodily substance;
  - identifies the individual's substitute decision maker; or
  - identifies the individual's health care provider.

Reporting & Investigating:

- Staff members who discover or are involved in a suspected or confirmed privacy breach, must enter a privacy breach incident into the Provincial Safety Management System (PSMS) within 24 hours and notify their supervisor immediately.
- When completing the incident form, staff should include as many factual details as possible without casting blame or judgement.

- Staff may be asked for additional information about the incident during the course of the investigation.

Notification and Disclosure Requirements:

- Information and Privacy Commissioner:
    - In accordance with section 36 (1) (c) of the *Health Information Act*, Health PEI is required to notify the Information and Privacy Commissioner of a privacy breach, with very limited exceptions (this notification is completed by the ATIP team).
    - The Health PEI ATIP team assesses the details of the breach and makes a recommendation as to whether disclosure is required.
    - The identity of the employee involved in the privacy breach will not be disclosed by Health PEI to the Information and Privacy Commissioner.

- Affected Individuals:
    - In accordance with section 36 (1) (c) of the *Health Information Act*, Health PEI is required to notify affected individuals when their personal health information has been breached, with very limited exceptions. Disclosure is typically completed by the program manager under the guidance of ATIP.
    - The Health PEI ATIP team assesses the details of the breach and makes a recommendation as to whether disclosure is required.
    - While it is not Health PEI's practice to notify the affected individuals of the identity of the person who has breached their privacy, the affected individuals do have the right to that information if they request it. In that case, the ATIP team would provide the affected individual with a copy of their access audit with the name of the person who breached their information highlighted.

- Additional Notifications:
    - Depending on the specific breach situation, other parties may need to be notified of the privacy breach as well, including:
        - Police – if the privacy breach involves a crime (i.e. theft of a HPEI device).
        - ITSS - if the privacy breach involves HPEI devices and technology.
        - Public - mass communications, including news releases and memos, may be required for large-scale breaches or breaches involving unknown affected individuals.
        - Other – other notifications may be required.