

## Privacy and Access Odds & Ends: 'Need to Know' Edition

### The 'Circle of Care' is Out...

- The *Health Information Act* (HIA) is a piece of legislation on PEI that governs the collection, access, use, and disclosure of personal health information (PHI).
- The HIA establishes a 'Need to Know' principle when it comes to collecting, accessing, using, and disclosing PHI.
- It is a common misconception that being part of a patient/client/resident's 'Circle of Care' at some point in time means permitted access to that person's information at any time for any reason. This is **NOT** the case and in fact is **NOT PERMITTED** by legislation.
- We need to transition our Health PEI way of thinking to follow the 'Need to Know' principle, as per the HIA.



### Bring On the 'Need to Know'!

- The 'Need to Know' means we should always operate by considering the minimum amount of information that will serve the purpose. For example:
  - Only collecting the information that is relevant to the purpose for which you are collecting it.
  - Only accessing the information that is necessary to provide care in that moment.
  - Only disclosing the information that is required or permitted to serve the purpose.
- Use professional judgment and do a case-by-case assessment to determine what information is necessary in each scenario. If you are initiating the use or disclosure of PHI, you are responsible for ensuring the appropriate level of PHI is accessed or shared.
- Remember, just because the PHI is requested of you, does not always mean that amount of PHI is needed.

### Need help deciding if the 'Need to Know' exists? Ask yourself:



- ✓ Do I need to know this information for the purposes of my role on the client's care team?
- ✓ What is the trigger or reason for my 'need to know'?
- ✓ Will I be taking action or making a recommendation or decision as a result of accessing this information?

### HUMBOLDT: A LESSON IN THE 'NEED TO KNOW'

- Many of us remember hearing or reading about the Humboldt tragedy, when a hockey team from Saskatchewan was involved in a horrific car crash that resulted in numerous serious injuries and fatalities.
- Following the crash, the health authority began monitoring access to the electronic health records of the victims, which resulted in the discovery of multiple privacy breaches related to unauthorized accessing of records.
- The privacy breaches were appropriately reported to the Information and Privacy Commissioner (IPC) and investigations into the breaches were initiated.
- The ensuing investigations determined that the 'Circle of Care' misconception was a major factor in the privacy breaches and the requirement for training in the 'Need to Know' principle was identified.
- Ultimately the IPC published multiple investigative reports and made several recommendations, including regular audits of the health care professionals who inappropriately accessed PHI and regular mandatory privacy training.
- For more details on these privacy breaches and resulting recommendations, you can search for the reports [here](#).