

aIPHa RESOLUTION A10-2

TITLE: Privacy and Security of Personal Health Information

SPONSOR: Durham Regional Council's Health & Social Services Committee

WHEREAS on December 16, 2009, an unencrypted USB key, which stored the personal health information of over 83,000 Durham Region Flu Immunization Clinics clients, was lost; and

WHEREAS the Information and Privacy Commissioner/Ontario (IPC) launched a section 58 review under the *Personal Health Information Protection Act, 2004* (PHIPA); and

WHEREAS the IPC issued PHIPA Order HO-007 (the Order) on January 14, 2010; and

WHEREAS the IPC concluded that:

- The Corporate Information Services (CIS) employee who provided unencrypted memory sticks to the H1N1 immunization clinics was acting as an "agent" of the Health Information Custodian (Custodian) pursuant to section 2 of PHIPA,
- The Custodian did not comply with section 30(2) of PHIPA and did not limit the collection of personal health information, including health card numbers, to that which was necessary to fulfill the identified purposes as required,
- The Custodian did not comply with section 15(3)(b) of PHIPA as the agent involved in administering the Niagara System was not adequately trained in his role or his obligations under the Act,
- The Custodian did not comply with sections 13(1) {secure retention, transfer and disposal}; 10(1) and 10(2) {information practices}; and 12(1) {protection against theft, loss and unauthorized use} of PHIPA, and

WHEREAS the Order contained 4 provisions directed at the Custodian and 4 recommendations directed at the Custodian (1), Regional Municipality of Durham (1), and the Ministry of Health and Long-Term Care (2); and

WHEREAS the Custodian provided the IPC with proof of compliance on February 16, 2010 and the IPC confirmed such compliance on March 14, 2010; and

WHEREAS Ontario's public health system needs to urgently address some systemic issues to improve the privacy and security of personal health information that is collected, used, disclosed, stored and disposed by local public health agencies, the Ontario Ministries of Children and Youth Services, Health and Long-Term Care, and Health Promotion, and e-Health Ontario;

continued

NOW THEREFORE BE IT RESOLVED that the Government of Ontario takes the following steps, as soon as possible, to improve the privacy and security of personal health information (PHI) that is collected, used, disclosed, stored and disposed by Ontario's public health system, including local public health agencies and the Ontario Ministry of Health and Long-Term Care:

- Ensures that Health Information Custodians continually use secure and encrypted mobile devices and media for the collection and storage of PHI and that Custodians' corresponding information practices and privacy and security policies and procedures are properly aligned with this requirement,
- Ensures that Custodians limit the collection of PHI, including health card numbers, to that which is necessary to fulfill the identified purposes under the Act, in consultation with the IPC and other key stakeholders,
- Ensures there is greater clarity respecting the role of Custodians who use provincial information systems that collect and store PHI that can be accessed by local public health agencies and provincial ministries, in consultation with the IPC and/or other key stakeholders,
- Ensures that provincial Custodians conduct privacy impact assessments, on current and new provincial public health information systems, in consultation with the IPC and other key stakeholders, and that such assessments are shared with local Custodians, so that they can determine whether PHIPA requirements regarding their information systems, have been met,
- Ensures that the *Health Protection and Promotion Act* and PHIPA are strengthened such that Custodians are empowered to give clear directions to their agents with respect to the privacy and security of PHI, including the completion of privacy and security training and an attestation to that effect, and agents are required to comply with such directions,
- Ensures that Custodians and their agents receive ongoing education and training with respect to their powers and duties under PHIPA, in consultation with the IPC, Ontario Agency for Health Protection and Promotion and other key stakeholders,
- Ensures that Custodians share PHI related privacy and security best practices, including information practice notices, policies, procedures and templates, across the public health system,
- Ensures Custodians receive ongoing adequate resources to ensure that they and their agents are able to fulfill their duties under PHIPA;

AND FURTHER that the Premier of Ontario, Ministers of Children and Youth Services, Health and Long-Term Care, and Health Promotion, Chief Medical Officer of Health, Assistant Deputy Minister, Public Health, Information and Privacy Commissioner/Ontario, President & CEO, Ontario Agency for Health Protection and Promotion, and the President & CEO, e-Health Ontario are so advised.

ACTION FROM CONFERENCE:

Resolution CARRIED