



# 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](http://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  
COLLÈGE CANADIEN DES  
LEADERS EN SANTÉ



# 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

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## 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**

**Anne Trafford**, Vice President, Quality, Performance, Information Management & CIO, Unity Health Care

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

**Mary Jane Dykeman**, DDO Health Law

- 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)

**Gail Czukar**, Former CEO Addictions and Mental Health Ontario and General Counsel, CAMH

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

## 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

Gail Czukar  
Former CEO Addictions and  
Mental Health Ontario and  
General Counsel, CAMH

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

Mary Jane Dykeman  
DDO Health Law

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

Anne Trafford  
Vice President, Quality,  
Performance, Information  
Management & CIO, Unity  
Health Care

## 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](http://www.osgoodepd.ca/group-discounts) for details. Please inquire about financial assistance.

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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.



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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.



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