



May 31, 2016

Dear Sir or Madame:

Re: Amendments to *The Health Information Protection Act*

The Health Information Protection Amendment Act, 2015 was proclaimed on June 1, 2016. The Act includes four amendments resulting from the April 2014 report of the Health Records Protection Working Group (Working Group), formed in response to the discovery of a large number of patient records abandoned in a recycling bin behind the Albert Park Medical Clinic (in Regina) in March 2011.

The task of the Working Group was to examine the mechanisms for enforcement of trustee responsibilities to protect patient records, as well as to comment on specific changes that could clarify trustee responsibilities and encourage trustee compliance with *The Health Information Protection Act* (HIPA). The Working Group was comprised of representatives from the College of Physicians and Surgeons of Saskatchewan, the Saskatchewan Registered Nurses Association, the Saskatchewan College of Pharmacists (now the Saskatchewan College of Pharmacy Professionals), the Saskatchewan Medical Association, a patient interest representative, the Ministry of Health, as well as the Ministry of Justice and Attorney General.

The Working Group made 11 recommendations in their final report, which was presented to the Deputy Minister of Health in April 2014. Four of the recommendations highlighted deficiencies that could be addressed through legislative amendments to HIPA.

The amendments included in *The Health Information Protection Amendment Act, 2015* are:

1. The addition of a strict liability offence under new subsection 64(1.1). Currently, it is necessary to establish that a trustee “knowingly” violated the Act to be guilty of an offence. However, in the case of abandoned records, the amendment places the onus on the trustee or Information Management Service Provider (IMSP) to show that all reasonable steps were taken to protect the records and prevent abandonment. Where they cannot demonstrate that reasonable steps were taken, an offence may exist.
2. The addition of an offence under subsection 64(3.1) that clarifies the ability to lay a charge against an employee of a trustee or IMSP where that employee has knowingly disclosed personal health information. This clarifies that it is not just the trustee or IMSP who can be held accountable, but the employee as well.

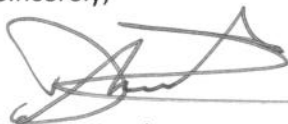
3. The snooping offence in subsection 64(3.2) is for employees of trustees and subsection 64(3.3) is for employees of IMSPs. The snooping offence would apply in instances where personal health information is intentionally accessed by a party who knows that the information is not reasonably required to carry out a purpose authorized under HIPA.
4. The addition of a provision where the Minister is allowed to appoint a person or body to take control or custody of records where an active trustee has failed to secure the records. Existing subsection 22(1) of HIPA allows the Minister to appoint a person or body to take control or custody of patient records where a former trustee has failed to secure the records. The addition of this provision allows for a quicker response to the discovery of abandoned patient records by foregoing the necessity to establish if a trustee exists before action can be taken to secure the abandoned records.

These amendments to HIPA support government's commitment to patient-centered care. The amendments strengthen and clarify the requirements of trustees, IMSPs and their employees in protecting personal health information, and provide the mechanism through which swift action can be taken to secure personal health information if found abandoned.

The Health Information Privacy Unit at the Ministry of Health has developed a Questions and Answers document as well as a Fact Sheet outlining the changes to HIPA. These documents can be shared with staff and healthcare providers at your discretion. Electronic versions of both documents have been included with this communication.

Please contact Lisa Dietrich, Director, Health Information Privacy at (306) 787-2137 or by email at lisa.dietrich@health.gov.sk.ca if you have questions or concerns.

Sincerely,



Duane Mombourquette
Executive Director

Enclosures

cc: Lisa Dietrich, Health Information Privacy, Health