

**Preparing Your Community Pharmacy
For HIPA and PIPEDA**

Top Ten To-Do List

Background

On September 1, 2003, *The Health Information Protection Act* (“HIPA”) was proclaimed into force in Saskatchewan. On January 1, 2004, the *Personal Information Protection and Electronic Documents Act* (“PIPEDA”) came into effect throughout Canada. Both HIPA and PIPEDA require Saskatchewan community pharmacies to take action. During February of this past year, lawyers from the law firm MacPherson Leslie & Tyerman LLP (“MLT”) conducted Privacy Law sessions at the Continuing Education meetings in Regina and Saskatoon. At those sessions, it was stressed that all community pharmacies must take, at a minimum, certain basic steps in order to address HIPA and PIPEDA.

The following is a list of the top ten “to-do’s” recommended by MLT at those sessions.

It is very important for community pharmacists to note that HIPA and PIPEDA do not necessarily replace or change existing ethical requirements related to the practice of pharmacy. Practices that were, prior to HIPA and PIPEDA, unethical, but now appear to be permissible under HIPA or PIPEDA, continue to be unethical (For example, HIPA and PIPEDA make it **optional** for personal information to be disclosed without consent in a number of situations. In some circumstances Pharmacists may not exercise that option as to do so might violate an underlying ethical obligation). Conversely, where previously permissible practices are now illegal under PIPEDA or HIPA, those practices must cease.

| Top Ten To-Do’s | ✓ |
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| <p>1. Designate one or more individuals within your pharmacy who will be responsible for implementing and overseeing privacy compliance.</p> <ul style="list-style-type: none"> ➤ This is a mandatory requirement under PIPEDA and, although not formally required under HIPA, it will be very difficult for a pharmacy to ensure HIPA compliance without taking this step. ➤ It will be important to ensure that the individual(s) is well trained and has adequate managerial support and resources for doing the job. | |

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| <p>2. Ensure that proper confidentiality agreements are in place with service providers, affiliates, etc.</p> <ul style="list-style-type: none"> ➤ Pharmacies remain responsible for personal information they provide to services providers. ➤ This should also involve having employees sign a short privacy pledge. A sample form is attached. ➤ Where existing agreements are in place with service providers, they should be reviewed to ensure they have proper confidentiality clauses. | |
| <p>3. Identify the various purposes for which the pharmacy collects, uses and discloses personal information.</p> <ul style="list-style-type: none"> ➤ It is important to distinguish between primary purposes and any secondary purposes for which the personal information is being used. ➤ The pharmacy must ensure that each of the purposes for which it is collecting, using or disclosing personal information is authorized. | |
| <p>4. Develop an external communications plan that will provide patients with reasonable notice of the pharmacy’s privacy practices.</p> <ul style="list-style-type: none"> ➤ Options to consider include privacy brochures, website policies, posters, etc. ➤ Sample privacy brochures and posters can be found at the following Industry Canada web site: http://e-com.ic.gc.ca/epic/internet/inecic-ceac.nsf/en/gv00230e.html | |
| <p>5. Develop and implement privacy policies and practices for the pharmacy.</p> <ul style="list-style-type: none"> ➤ This is specifically required by both PIPEDA and HIPA | |
| <p>6. Implement privacy awareness training for employees</p> | |
| <p>7. Obtain express consent from patients where the patient’s consent cannot be implied in the circumstances.</p> <ul style="list-style-type: none"> ➤ Legal advice should be obtained to help determine when express consent is required and when implied consent can be relied upon. ➤ For general discussion on the consent issue in the context of health care, please refer to the following Industry Canada web site:http://e-com.ic.gc.ca/epic/internet/inecic-ceac.nsf/en/h_gv00207e.html | |

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| <p>8. Review existing security safeguards to ensure personal information under the control of the pharmacy is properly protected.</p> <ul style="list-style-type: none"> ➤ Having proper security is now required by law. ➤ This should include implementing proper document retention and destruction policies. On this point, this is very important to remember that all documents must be retained for any minimum periods prescribed by law. | |
| <p>9. Develop policies and procedures for dealing with requests by individuals for access to their personal information.</p> <ul style="list-style-type: none"> ➤ Both HIPA and PIPEDA contain detailed rules and procedures for allowing individuals to access their personal information. | |
| <p>10. Develop policies and procedures for dealing with privacy related complaints.</p> <ul style="list-style-type: none"> ➤ A good complaint handling process can help prevent privacy related problems from escalating. | |

SAMPLE EMPLOYEE PRIVACY PLEDGE

The confidentiality of its client's personal health information is a key concern of _____ [insert name of pharmacy] (the "Pharmacy") and accordingly the Pharmacy has policies, procedures and practices in place to protect the confidentiality of its client's personal health information. One way to protect the confidentiality of personal health information is to require employees to sign a confidentiality pledge. Therefore, based on the above, I the undersigned agree as follows:

- (a) That I will only access personal health information on a need-to-know basis for performing services on behalf of the Pharmacy;
- (b) That I will keep all personal health information in my possession in the strictest of confidence and only use such information for the purposes of performing services on behalf of the Pharmacy;
- (c) That upon no longer requiring the personal health information for the purposes of providing services on behalf of the Pharmacy, I will return or destroy all copies of the personal health information in my possession as instructed by the Pharmacy;
- (d) That I will follow all applicable Pharmacy security and confidentiality policies, procedures and practices;
- (e) I acknowledge that I have read this Confidentiality Pledge and understand that a breach of it may be in contravention of the *Health Information Protection Act* or other applicable laws.

Name (Please Print): _____

Position: _____

Signature: _____ Date: _____

Witness: _____ Date: _____