



Disclosure of Personal Health Information to Third Parties – Position Statement

This Position Statement is intended to supplement the Saskatchewan College of Pharmacy Professionals' document, *Guidelines for Use and Disclosure of Personal Health Information for Secondary Purposes*.

Council has approved the position statement citing a trustee's obligations under *The Health Information Protection Act* (SK) ("HIPA") and the *Personal Information Protection and Electronic Documents Act* (Canada) ("PIPEDA") on disclosure of personal health information to third parties (e.g., medication incident reporting to head office, prescription reminder and synchronization call centres). It includes new policy based upon our Privacy Commissioner's recommendations on best practices to stakeholders.

The new policy expects trustees to conduct Privacy Impact Assessments to examine, amongst other important factors, the existence of appropriate data sharing agreements with such third parties.

SCPP Position

It is the SCPP's position that:

- A. Prior to implementing any programs or services that involve disclosure of patient personal health information (PHI) to third parties, and/or the use of patient PHI by third parties, the trustee responsible for the PHI of the pharmacy's patients should conduct a privacy impact assessment (which can be informed by a legal opinion) to, amongst other things:
 - Confirm who is the trustee of the PHI (See the Saskatchewan College of Pharmacy Professionals' document *Pharmacy Privacy Officer Bylaw and Interpretive Guidelines* for further guidance on who constitutes the "trustee");
 - Define the program or services and, in the case of a program, determine if it is a program of the trustee;
 - Determine whether the use and/or disclosure of patient PHI pursuant to that program or service is an authorized secondary purpose under HIPA;
 - Determine whether de-identified information could be used or disclosed instead of identifiable PHI;
 - Assess any potential privacy, security and any other legal risks associated with the program or service;

- Develop appropriate policies and procedures that will be made readily available to patients;
 - Develop appropriate communication materials to inform patients about the anticipated uses and disclosures of their PHI; and
 - Ensure that data sharing agreements with appropriate provision regarding confidentiality, custody and control, and data retention and destruction are entered into with the third parties to which the PHI will be disclosed.
- B. Prior to disclosing PHI of patients to third parties pursuant to the programs and services offered by the pharmacy, members should:
- Determine that the disclosure is actually required to meet the secondary purpose;
 - Minimize the amount of PHI disclosed or de-identify information wherever possible; and,
 - In the case of a disclosure that is merely authorized, (as is the case under section 27(4)(k)(ii) of HIPA) rather than required, by law, exercise professional judgment as to whether or not the disclosure should be made. Such an exercise should take professional ethics and standards of practice into consideration.
- C. After disclosing PHI of patients to third parties pursuant to the programs and services offered by the pharmacy, the trustee, or members on behalf of the trustee, should document:
- What PHI has been disclosed;
 - The purpose for the disclosure; and
 - What steps have been taken to verify the identity of the recipient and inform the recipient that the PHI is not to be used or disclosed for any further purpose.

Guidelines for Use and Disclosure of Personal Health Information for Secondary Purposes may be accessed on the College website www.saskpharm.ca under the *Reference Manual* tab (look under Privacy). The document includes background information as well as the College's position. Also available is a separate document for use by a trustee: *Data Sharing Agreement Template*.

SCPP provides general guidance on privacy matters. Members requiring more information or specific advice on disclosure of PHI to third parties are encouraged to speak with their Privacy Officer, to refer to the Office of the Saskatchewan Information and Privacy Commissioner website: <https://oipc.sk.ca/>, and/or to seek advice from their legal counsel.