



## CONTACT INFORMATION

Office of the Information and Privacy Commissioner  
3<sup>rd</sup> Floor, 2 Canada Drive  
Sir Brian Dunfield Building  
P.O. Box 13004, Station A  
St. John's, NL A1B 3V8  
Tel: (709) 729-6309  
Fax: (709) 729-6500  
Toll Free in Newfoundland and Labrador:  
1-877-729-6309  
E-mail:  
[commissioner@oipc.nl.ca](mailto:commissioner@oipc.nl.ca)  
[www.oipc.nl.ca](http://www.oipc.nl.ca)

“Thus, at least in part, medical records contain information about the patient revealed by the patient, and information that is acquired and recorded on behalf of the patient. Of primary significance is the fact that the records consist of information that is highly private and personal to the individual. It is information that goes to the personal integrity and autonomy of the patient.”

- Justice La Forest  
*McInerney v. MacDonald*, [1992] 2 SCR 138 (SCC)

# SAFEGUARD

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## Privacy Management Programs

The OIPC [Privacy Management Program framework](#) and related [training](#) delivered at a recent OIPC Workshop are now available on our website.

If you have any questions or would like to arrange for an education session for your organization contact: [commissioner@oipc.nl.ca](mailto:commissioner@oipc.nl.ca).

## Tip of the Hat — Churchill Square Dental

The OIPC has been offering training to custodians upon request since *PHIA* came into force in 2011. Recently, the OIPC was asked to deliver a training session to the staff of Churchill Square Dental.

Dr. Belinda Meade and her staff requested this training as a refresher to previous *PHIA* training they had received. During the training session, Churchill Square Dental was able to point to various privacy policies and documents it had created to meet its obligations under *PHIA*. Churchill Square Dental was also able to show how it implemented various compliance essentials within its protocols, practices and documentation. Churchill Square Dental indicated its ongoing commitment to abiding by *PHIA* and continuing its education and training in that regard.

We would like to thank Churchill Square Dental for their commitment to privacy protection and for inviting us in for a visit. We encourage all custodians to take advantage of the training being made available by this Office; we are here to help.

## Practice Tip — Responding to the OIPC

Although it may not always be requested, if the OIPC requests personal health information related to a Complaint which it has received, you must provide that information to the OIPC. Information received by this Office in response to a Complaint is generally not disclosed outside this Office, except in accordance with section 78 of *PHIA*.

## WHO IS THE PERSONAL REPRESENTATIVE OF A DECEASED INDIVIDUAL?

Section 7 of *PHIA* prescribes who may exercise the rights or powers of an individual under *PHIA*, where the individual themselves is unable, unwilling or incapable of doing so.

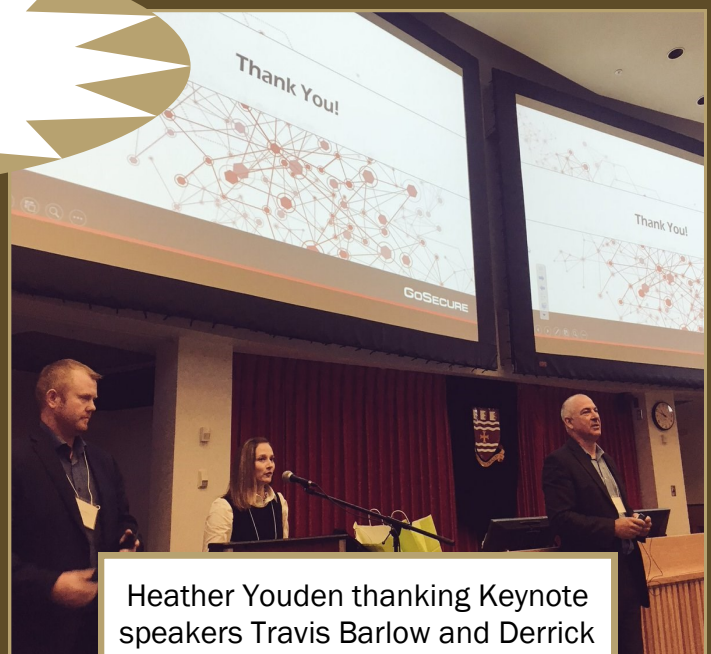
Where the individual to whom the personal health information relates passes away, and a personal representative has already been identified in accordance with section 7, then that person shall continue as the deceased's personal representative. If no person has been identified in accordance with section 7, then the custodian must look to section 10 of the *Advance Health Care Directives Act* to determine the deceased's nearest relative and that person shall be the deceased's personal representative.

Section 10 of the *Advance Health Care Directives Act* sets the following list which must be followed, in succession, to determine the next nearest relative: spouse; children; parents; siblings; grandchildren; grandparents; uncles and aunts; nephews or nieces; another relative of the deceased; and the deceased's health care professional who was responsible for the deceased's health care.

Custodians must take reasonable steps to satisfy themselves of the identity of the individual presenting as the deceased's personal representative and that no other relative with higher standing wishes to be the deceased's personal representative.

[#APSIM2018](#)  
Check out more [photos](#)

Secondary Use of Data for Research Purposes Panelists



Heather Youden thanking Keynote speakers Travis Barlow and Derrick Westhaver at the 2018 APSIM Conference

## PRIVACY TRAINING EXPECTATIONS

Custodians cannot expect to properly collect, use, disclose and protect the personal health information in their custody or control if they do not educate themselves and their employees on the obligations and responsibilities set out in the *Act*.

This responsibility for privacy training and education is continuous. Custodians should provide training to incoming employees and continuing education throughout the course of employment. Ongoing training should serve as both a refresher and an opportunity to ensure that new developments are known and understood. Custodians should not simply rely on general external training, but instead must adapt such training to the particular circumstances of the custodian and provide practical applications and considerations.

Simple directions to protect personal health information and not to improperly collect, use, access or disclose that information are insufficient. Equally, developing and disseminating privacy policies and procedures without corresponding training is not enough. Custodians must ensure that their privacy policies are fully understood and that employees have the tools necessary to implement those policies and procedures. For example, it is ineffective to have a policy requiring employees to lock personal health information in filing cabinets if employees do not have access to locked cabinets or drawers.

Effective privacy training should instill a culture of privacy. Executive should promote and highlight the value placed on privacy and provide resources to ensure that all employees, agents, volunteers, and contractors of the custodian understand and appreciate that value.

There are various education and training tools available including training from the OIPC and online training from the Department of Health and Community Services.

## THE IMPORTANCE OF AUDITING ACCESS

In circumstances where employees are permitted access to personal health information in order to carry out their employment duties, custodians should have the ability to: i) monitor such access and ii) assess or audit whether instances of access are authorized.

In consultation with information management, IT and records management staff, custodians should develop policies and procedures for monitoring and assessing access to personal health information. These policies and procedures should address such things as:

- who should conduct audits;
- when audits should be conducted (consider both random and planned audits);
- what information is being accessed/what areas will need to be audited; and
- what circumstances will require additional investigation (consider common areas of concern such as: accessing personal health information of persons with the same last name or address; accessing the information of well-recognized members of the public; and repeated accesses to the same file or information).

An important part of being able to conduct thorough audits is maintaining a detailed listing of all personal health information in the custody and control of the custodian – a personal health information inventory – including the location and format of that information.

## REFLECTING ON APSIM 2018

The 2018 APSIM Conference concluded on May 2, 2018. The Conference was an overwhelming success and was well attended on each of the three days.

Keynote speakers Nora Young, from CBC's Spark, and Derrick Westhaver and Travis Barlow, from GoSecure Inc., provided very thought-provoking discussions.

In relation to healthcare, registrants heard presentations relating to the *PHIA* legislative review; telehealth; healthcare in a digital age; indigenous perspectives on health and privacy; and the secondary use of personal health information for research purposes.

On behalf of the Steering Committee, the OIPC would like to extend thanks to everyone who presented at the Conference and the Faculty of Medicine for allowing us the use of their incredible facility.



## EXPANDING TELEHEALTH IN NEWFOUNDLAND AND LABRADOR

Ashley Dinn and Suzette Doyle of the Newfoundland and Labrador Centre for Health Information ("NLCHI") spoke at the 2018 APSIM Conference in relation to the expansion of the provincial telehealth program and the importance of privacy and security in the provincial telehealth infrastructure.

The presentation discussed how telehealth enables the delivery of equitable health services to patients in Newfoundland and Labrador regardless of location. The presenters outlined how telehealth enhances the continuity and capacity of care throughout the healthcare system. As they explained, in a province like ours, with its vast geography, dispersed and aging population, harsh weather conditions and growing health care demands, telehealth

works to close the gaps resulting from these challenging realities.

Telehealth enables many residents to avail of specialized and critical health care services without leaving their communities. Medical specialists can consult, treat and manage care without having to be in the same room with their patients.

The provincial telehealth program is currently expanding to bring these services into primary health care and within the client's home. NLCHI is establishing a provincial telehealth infrastructure to meet the growing demands on the health care systems and allow new ways to deliver health care across the Province.

A full copy of the presentation is available [here](#).