



Information and Privacy
Commissioner of Ontario
Commissaire à l'information
et à la protection de la vie privée de l'Ontario

October 31, 2014

VIA ELECTRONIC AND REGULAR MAIL

Dr. Michael Schull, President and CEO
Institute for Clinical Evaluative Sciences
2025 Bayview Avenue
Toronto, Ontario
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Dear Dr. Schull:

RE: Review of the Report on the Policies and Procedures of the Institute for Clinical Evaluative Sciences

Pursuant to subsection 45(4) of the *Personal Health Information Protection Act, 2004* ("the *Act*"), the Office of the Information and Privacy Commissioner of Ontario (IPC) is responsible for reviewing the practices and procedures implemented by each prescribed entity to protect the privacy of individuals whose personal health information it receives, and to protect the confidentiality of that information.

Given the practices and procedures of the Institute for Clinical Evaluative Sciences (ICES), a prescribed entity within the meaning of the *Act*, were last approved on October 31, 2011, the IPC was again required to review these practices and procedures and advise whether they continue to meet the requirements of the *Act* on or before October 31, 2014.

In accordance with the process set out in the *Manual for the Review and Approval of Prescribed Persons and Prescribed Entities* ("the *Manual*"), ICES, as a prescribed entity seeking the continued approval of its practices and procedures, submitted a detailed written report and sworn affidavit to the IPC. These documents were to conform to the requirements of the *Manual*.

The IPC has now completed its review of your report and affidavit. It is noted that, despite the recommendations from the IPC review of the report on the practices and procedures of ICES in 2011, several of the policies and procedures recommended for development remained non-compliant with the *Manual* at the start of the 2014 review period. For example, ICES was directed to develop and implement a business continuity and disaster recovery plan in compliance with the *Manual*. This was only developed in the months leading up to the end of the review period and it is not yet implemented.

I am otherwise satisfied that ICES continues to have in place practices and procedures that sufficiently protect the privacy of individuals whose personal health information it receives, that

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sufficiently maintain the confidentiality of that information and that continue to meet the requirements of the *Act*.

Effective October 31, 2014, the practices and procedures of ICES continue to be approved for a further three-year period, with the expectation that ICES will report back to my office on the successful development and implementation of policies and procedures in the time frame specified in the corresponding recommendations in the Appendix.

The attached Appendix contains recommendations to further enhance the practices and procedures of ICES, which must be implemented prior to the next legislated review.

Sincerely,

A handwritten signature in black ink, appearing to read 'B Beamish', with a large, sweeping flourish extending from the end.

Brian Beamish
Commissioner (Acting)

Attach.

cc: Laura Davison, Chief Privacy Officer

Appendix

1. It is recommended that ICES ensure that a review of its privacy and security policies and procedures are conducted, at a minimum, on an annual basis, as required by the *Manual for the Review and Approval of Prescribed Persons and Prescribed Entities* ("the *Manual*").
2. It is recommended that ICES conduct an audit of agents granted approval to access and use personal health information, at a minimum, on an annual basis, as required by the *Manual*.
3. It is recommended that ICES ensure adequate tracking of the number of its agents who have attended and who have not attended ongoing privacy and security training each year, as required by the *Manual*.
4. It is recommended that ICES complete the development of its business continuity and disaster recovery plan as soon as reasonably possible, providing written confirmation to the Information and Privacy Commissioner of Ontario of this, no later than December 31, 2014. It is further recommended that implementation of the business continuity and disaster recovery plan be complete, and that written confirmation be provided to the IPC, no later than June 1, 2015.
5. It is recommended that ICES review its data sharing agreements with other prescribed entities for full compliance with the *Manual* and amend those data sharing agreements accordingly, providing written confirmation to the IPC no later than March 31, 2015.
6. It is recommended that ICES ensure its Policy and Procedures with Respect to De-Identification and Aggregation are implemented in full compliance with the *Manual*, providing written confirmation of this to the IPC no later than Dec. 31, 2014.
7. It is recommended that ICES ensure its revised Policy & Procedures for Secure Disposal of Records of Personal Health Information is implemented in full compliance with the *Manual*, providing written confirmation of this to the IPC no later than Dec. 31, 2014.
8. It is recommended that ICES track the number of agents granted approval to access and use personal health information for purposes other than research to enable accurate reporting, as required by the *Manual*.
9. It is recommended that ICES complete the development and implementation of its revised procedure for the linkage of records of personal health information in compliance with *Manual*, providing written confirmation of this to the IPC no later than Dec 31, 2014.

General Note to All Prescribed Persons and Prescribed Entities

The IPC wishes to clarify its expectations regarding the process for the three-year review and approval of prescribed entities and prescribed persons. For future reviews, the IPC will require that you provide your reports for the period spanning from one year prior to the previous approval up to and including October 31st of the year prior to the next expected approval date. Therefore, for the next expected approval date (October 31, 2017), the IPC requires that your reports, especially with regard to your indicators, cover the period from November 1, 2013 up to and including October 31, 2016.

If, at the time of delivering your report, some of the indicators for more recent months are not yet compiled, you will be expected to provide amendments to include the missing data within a reasonable time period after the initial submission of your report. For those prescribed entities and prescribed persons which have provided indicators beyond October 31, 2013 for the current approval, the IPC requires you to simply resubmit, on October 31, 2016, those portions of your indicators which went beyond October 31, 2013 along with new, previously unreported data, as required.