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Fact Sheet

Fundraising under *PHIPA*

Introduction

In recognition of the need to facilitate the collection, use and disclosure of personal health information for fundraising purposes, the *Personal Health Information Protection Act, 2004* (the *Act*) contains special rules that relate to fundraising activities.

What is fundraising?

The term “fundraising” is used to refer to any activity undertaken for a charitable or philanthropic purpose related to the operations of the health information custodian (“custodian”). In practice, fundraising most often will involve custodians contacting patients, or former patients, through mailings.

General Compliance Requirements

While custodians are generally only permitted to disclose personal health information for non-health care related purposes with the *express consent* of the individual, the *Act* and its regulations provide special rules for fundraising. Specifically, the collection, use or disclosure of an individual’s name and mailing address for fundraising may take place with the *implied consent* of the individual, as long as the following requirements are met:

- the fundraising activities are undertaken for a charitable or philanthropic purpose related to the custodian’s operations;
- at the time the service has been provided to the individual, the custodian has posted, or has made available to the individual, a notice informing that individual of the custodian’s intention to use or disclose the information for fundraising purposes and providing information on how the individual can easily opt-out of receiving future fundraising solicitations;
- the individual had not opted-out within 60 days from the time the notice had been provided to him or her;
- all solicitations contain an easy opt-out from any further solicitations; and
- no solicitations or communications contain information about an individual’s health or health care.

It is important to note that only the individual’s name and mailing address may be collected, used or disclosed without the express consent of the individual. Custodians may collect, use or disclose additional information only where the individual provides express consent.



E-mail Address and Telephone Number Appending

Since telephone numbers and e-mail addresses are readily available through publicly available sources, custodians or their agents may be tempted to use this information to solicit funds. However, it should be noted that the *Act* prohibits custodians and their agents from collecting and using this type of contact information, without the express consent of the individual. In addition, as a general rule, third party fundraisers (who are not agents of the custodian) who receive personal health information from custodians may only use or disclose the information for the purpose for which the custodian was authorized to disclose the information under the *Act*. Since custodians are not permitted, without express consent, to collect, use or disclose telephone numbers or e-mail addresses for fundraising purposes, custodians would not be permitted to authorize recipients of personal health information to do so on their behalf.

Complaint Process

Any individual who believes a custodian is collecting, using or disclosing personal health information for fundraising purposes, in a manner that is contrary to the *Act*, may make a complaint to the contact person designated by the custodian. In addition, individuals have the right to make a complaint to the Information and Privacy Commissioner.

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If you have any comments regarding this newsletter, wish to advise of a change of address, or be added to the mailing list, contact:

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