



Executive Summary of PHIPA Report relating to Initiate Systems

On the afternoon of Friday, August 11, 2006, the Information and Privacy Commissioner of Ontario (IPC) was alerted to an article appearing that day in the publication "Government Health IT" with the headline "Privacy Advocates Concerned about CIA Investment in e-health Firm." In the article, privacy advocates expressed concerns that In-Q-Tel, the venture capital arm of the Central Intelligence Agency (CIA), may gain access to the personal health information of Canadians due to their March 2006 investment in the software company, Initiate Systems Inc. In Ontario, they cannot.

Ontario's Personal Health Information Protection Act (PHIPA), was enacted in November 2004 to establish rules for the collection, use and disclosure of personal health information in order to protect the confidentiality of that information and the privacy of individuals with respect to that information. PHIPA designates the IPC as the body responsible for overseeing compliance with the provisions of PHIPA.

Given the concerns expressed in the Government Health IT article and her responsibility for overseeing compliance with PHIPA, the Commissioner launched an investigation into the article's allegations to determine if personal health information is being collected, used or disclosed in contravention of PHIPA through the use of the Initiate™ Software in Ontario.

Initiate™ Software is used in the Enterprise Master Person Index (EMPI) in Ontario. The EMPI is a directory of identifiers pertaining to individuals that have been assigned by one or more different organizations, including laboratories, hospitals, clinics, and the MOHLTC. The rationale for creating the EMPI is to ensure that personal health information for an individual that is held by various health care custodians can be consistently linked to the correct individual. The long-term goal of this project is to provide the cornerstone for an electronic health record in the Province of Ontario.

In-Q-Tel is a private, independent, not-for-profit venture capital group established by the CIA that invests in companies in order to help make innovative technology already available in the commercial market, available to the intelligence community.

The Commissioner identified three primary questions to be addressed in the investigation:

- (A) Is the information contained in the EMPI "personal health information" as defined in section 4 of PHIPA?
- (B) Is the "personal health information" contained in the EMPI being provided to Initiate Systems Inc. in accordance with PHIPA?

- (C) Does the relationship between Initiate Systems Inc. and In-Q-Tel allow In-Q-Tel to access any personal health information contained in the EMPI?

The Commissioner has determined through her investigation that:

- Information contained in the EMPI is considered to be “personal health information” as defined in section 4 of PHIPA;
- The “personal health information” contained in the EMPI is being provided to Initiate Systems Inc. in accordance with PHIPA and;
- The relationship between Initiate Systems Inc. and In-Q-Tel does not allow In-Q-Tel to access any personal health information contained in the EMPI.

The Commissioner determined that Initiate Systems is only provided access to personal health information on-site and under very restricted conditions, for narrowly defined technical support purposes. Initiate Systems does not have any remote access to the EMPI. Initiate Systems is only able to view personal health information under direct supervision at certain locations in Ontario and is not able to view any health information remotely. Further, there is no “backdoor” or “gated” access to personal health information in the EMPI. The relationship between Initiate Systems and In-Q-Tel does not allow In-Q-Tel to access any personal health information contained in the EMPI.

Accordingly, the Commissioner has determined that no personal health information is being collected, used or disclosed in contravention of PHIPA through the use of Initiate Software in Ontario, nor does any personal health information leave the province.

As a result of the findings in her investigation, the Commissioner makes the following recommendations:

- (1) The Commissioner should be consulted concerning any proposed amendments or changes to the confidentiality or privacy obligations contained in the agreement between CCO and Initiate Systems.
- (2) The MOHLTC or any other person who operates the EMPI in the future should advise the Commissioner if there is a breach of the confidentiality or privacy obligations of the agreement by Initiate Systems, and the steps taken to mitigate the breach, the measures taken to prevent subsequent breaches, and the manner and nature of the notification provided to individuals whose personal health information is contained in the EMPI.
- (3) The MOHLTC or any other person who operates the EMPI in the future using the Initiate Software should advise the Commissioner when changes will be made to the source code for the Initiate Software, as well as the nature and rationale for these changes.



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