

Communicating PHI by Email

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Communicating PHI by Email

- The *Personal Health Information Protection Act* sets out rules for protecting the privacy of individuals and the confidentiality of their personal health information (PHI), while at the same time facilitates effective and timely care.
- Any communication of PHI involves risk, but communicating PHI by email has its own set of unique risks that must be considered by health information custodians and their agents in order to protect the privacy and confidentiality of their patients.



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Technical, Physical & Administrative Safeguards

- Under PHIPA, custodians are obligated to implement technical, physical and administrative safeguards to protect the PHI of their patients.
- Technical Safeguards:
 - Encrypting portable devices
 - Strong passwords
 - Firewalls and anti-malware scanners
- Physical Safeguards:
 - Restricting access, locking rooms where email is sent
 - Keeping portable devices in secure location



Technical, Physical & Administrative Safeguards

- Administrative Safeguards:
 - Notice in emails that information is confidential
 - Providing instructions for when email is received in error
 - Communicate by professional vs personal accounts
 - Confirming recipient email address is current
 - Checking that email address is typed correctly
 - Restricting access to email system and content on need-to-know basis
 - Informing individuals of email changes
 - Acknowledging receipt of emails
 - Recommending that recipients implement these safeguards



Email Among Custodians

- The IPC expects emailing of PHI among custodians to be secured by use of encryption.
- There may be exceptional circumstances where communication of PHI between custodians through encrypted email may not be practical (e.g. emergencies)
- Custodians should look to their health regulatory colleges for applicable guidelines, standards or regulations on the use of unencrypted email to communicate PHI.



Email Between Custodians & Patients

- Where feasible, custodians should use encryption for communicating with their patients.
- Where it is not feasible, custodians should consider whether it is reasonable to communicate through unencrypted email.
 - Are there alternative methods?
 - Is it an emergency?
 - Would the patient expect you to communicate with him or her in this way?
 - How sensitive is the PHI to be communicated?
 - How much and how frequently will be PHI be communicated?



Policy, Notice and Consent

Policy

- Custodians are expected to develop and implement a written policy for sending and receiving PHI by email

Notice and Consent

- Custodians are expected to notify their patients about this policy and obtain their consent prior to communicating via email that is not encrypted
- Consent may be provided in verbally or in writing



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Data Minimization, Retention and Disposal of PHI

Data Minimization

- Custodians have a duty to limit the amount and type of personal health information included in an email

Retention and Disposal

- Custodians are required to retain and dispose of PHI in a secure manner
- PHI should only be stored on email servers and portable devices for as long as is necessary to serve the intended purpose



Training and Privacy Breach Management

Training & Education

- Comprehensive privacy and security training is essential for reducing the risk of unauthorized collection, use and disclosure of PHI

Privacy Breach Management

- Custodians are expected to have a privacy breach management protocol in place that identifies the reporting, containment, notification, investigation and remediation of actual and suspected privacy breaches



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Question?

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