



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

October 30, 2007

William M. Albino
Chief Executive Officer
Smart Systems for Health Agency

Michael Power
Vice President, Privacy and Security
Smart Systems for Health Agency

Dear Sirs:

Re: Follow-up Review of Smart Systems for Health Agency (SSHA)

I am writing to follow up to my letter of July 30, 2007 in which I responded to your request for a letter of support for the transfer of the Enterprise Master Person Index (EMPI) from Cancer Care Ontario (CCO) to Smart Systems for Health Agency (SSHA). At that time the transfer of the EMPI was scheduled to take place on September 30, 2007. It is my understanding that the transfer is now scheduled to take place on December 30, 2007.

Your intention is to have SSHA act on behalf of the Ministry of Health and Long-Term Care in operating the EMPI. Existing staff from Cancer Care Ontario (CCO) will be hired by SSHA and housed within a single location at SSHA's offices. All staff involved with the EMPI will be physically separated from staff of other program areas of SSHA. You have also committed to adopting the existing privacy and security policies and procedures developed by CCO in the context of the EMPI. Where SSHA's privacy and security standards differ from the standards developed by CCO, you indicated that the higher standard will be adopted.

In addition to the above measures, you indicated that SSHA was in the process of conducting two privacy impact assessments (PIAs) in relation to the EMPI. Robert Parker was contracted to conduct a privacy impact assessment on the transfer of the EMPI from CCO to SSHA. Ross Fraser was contracted to conduct a privacy impact assessment on the EMPI application itself.

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With respect to the implementation of the recommendations made by the Information and Privacy Commissioner (IPC) in our report on the *Review of the Smart Systems for Health Agency (SSHA)* dated March 16, 2007, you indicated that 10 per cent of the IPC's recommendations have already been implemented; 90 per cent are in progress; 70 per cent were to be completed by September 30, 2007; and 84 per cent will be completed by March 31, 2008. You also said that the remaining recommendations which involve consultations with third parties have been initiated.

Before providing the requested letter of support, I indicated that my office would need to review both PIAs to ensure that all privacy issues have been adequately addressed. In addition, we would also need confirmation from a trusted, independent third party that SSHA is on target for satisfactorily completing the implementation of the IPC's recommendations within the promised timeframe and that, once the transfer has taken place, the privacy and security safeguards for the EMPI will be equivalent to those currently in place at CCO.

We retained David Flaherty, former Privacy Commissioner of British Columbia, to act as our trusted, independent third party, to provide us with the above assurances. Dr. Flaherty has completed his review of the two PIAs and the evidence of the progress that SSHA has made in implementing the IPC's recommendations. In his report on this comprehensive review, Dr. Flaherty has concluded that SSHA has made very good progress toward full compliance with the privacy and security recommendations made by the IPC and that, with respect to the transfer of the EMPI to SSHA, there are no privacy or security reasons to hinder this transfer. A copy of Dr. Flaherty's report is attached for your convenience. The report and a copy of this letter will be posted on the IPC website at www.ipc.on.ca.

I appreciate the fact that SSHA has made good progress in developing policies, processes and procedures to address the recommendations made by the IPC. However, Dr. Flaherty has expressed some concern about SSHA's current capacity to implement these policies, processes and procedures. I share Dr. Flaherty's concerns. In my view, the successful operationalization of these policies, processes and procedures will require SSHA to maintain a strong focus on privacy and security.

Another outstanding issue that remains of grave concern to me is SSHA's continued lack of transparency about its policies and procedures with respect to privacy and security. This issue was noted in the IPC's report. Dr. Flaherty flagged this as an unresolved issue. A quick visit to your website revealed that your Enterprise Privacy Policy and Enterprise Security Policy are no longer available to the public. Similarly, summaries of SSHA's privacy impact assessments and threat risk assessments have yet to be posted. I simply cannot understand why this information is not being made publicly available. In my view, this lack of transparency is unacceptable and should have been relatively easy for SSHA to remedy.

It is my understanding that SSHA intends to update its website in November and the relevant privacy and security documentation will be posted at that time. It is my view that the posting of this information must be completed before the operation of the EMPI is transferred from CCO to SSHA.

Provided that this transparency issue can be resolved in a timely manner, I am generally satisfied that sufficient privacy and security safeguards will be in place and maintained to support the transfer operation of the EMPI from CCO to SSHA.

Thank you for your organization's cooperation in conducting the follow-up review. If you have any questions about the contents of this letter, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ann Cavoukian". The signature is fluid and cursive, with a long horizontal stroke at the end.

Ann Cavoukian, Ph.D.
Commissioner

Enclosure

cc: Gail Paech (Assistant Deputy Minister, Lead, e-Health Program, Ministry of Health and Long-Term Care)
Adalsteinn Brown (Assistant Deputy Minister, Health System Strategy Division, Ministry of Health and Long-Term Care)