



Information and Privacy
Commissioner of Ontario

Commissaire à l'information et à la
protection de la vie privée de l'Ontario

October 31, 2023

VIA ELECTRONIC MAIL

Dr. Michael Schull
Chief Executive Officer
Institute for Clinical Evaluative Sciences
V1 06, 2075 Bayview Avenue
Toronto, ON M4N 3M5

Dear Michael Schull:

RE: Review of the Practices and Procedures of the Institute for Clinical Evaluative Sciences under the *Coroners Act*

Pursuant to subsection 52.1(3) of the *Coroners Act* ("the *Act*"), the Office of the Information and Privacy Commissioner of Ontario (IPC) is responsible for reviewing and approving, every three years, the practices and procedures implemented by an organization designated as a prescribed entity under subsection 52.1(1) of the *Act*. Such practices and procedures are required for the purposes of protecting the privacy of individuals whose personal information prescribed entities receive, and maintaining the confidentiality of that information.

As you are aware, the practices and procedures of the Institute for Clinical Evaluative Sciences (ICES) as a prescribed entity under the *Act* were last approved on May 18, 2022. In order to synchronize the timing of the IPC's next review of ICES under the *Act* with the next scheduled review of ICES as a prescribed entity under the *Personal Health Information Protection Act, 2004*, this approval remained in effect only until October 31, 2023. Thus, the IPC was required to review these practices and procedures again and advise whether they continue to meet the requirements of the *Act* on or before October 31, 2023.

Based on this review, I am satisfied that ICES has in place practices and procedures to protect the privacy of individuals whose personal information it receives and to maintain the confidentiality of that information in accordance with the requirements of the *Act*.

Accordingly, effective October 31, 2023, I hereby advise that the practices and procedures of ICES continue to be approved for a further three-year period.

Appendix I to this letter contains my recommendations to further enhance the practices and procedures of ICES. My staff will continue to monitor ICES' implementation of these recommendations. Please be advised that these recommendations are to be addressed by August 1, 2025, or as otherwise indicated in Appendix I.



2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel/Tél : (416) 326-3333
1 (800) 387-0073
TTY/ATS : (416) 325-7539
Web : www.ipc.on.ca

This three-year review cycle was marked by an unprecedented challenge for the health sector: the COVID-19 pandemic. The pandemic laid bare the importance of planning for business continuity and disaster recovery, and allocating resources to privacy and security programs so that they can continue to operate effectively throughout such situations. At the same time, the pandemic has been a time of dramatic health sector transformation, providing an opportunity for prescribed persons, entities, and organizations to re-examine and improve their practices. Given the lessons learned from the pandemic, the Business Continuity and Disaster Recovery Plan of each prescribed person, entity, and organization may be one of our areas of focus in the next three-year review.

As you know, the IPC has revised its *Manual for the Review and Approval of Prescribed Persons and Prescribed Entities* (the “*New Manual*”) and will be revising the *Coroners Act Addendum to the Manual for the Review and Approval of Prescribed Persons and Prescribed Entities* (“the *Coroners Act Addendum*”) to ensure it is appropriately consistent with the *New Manual*. ICES, as a prescribed entity under *the Act*, will be assessed for compliance with the revised version of the *Coroners Act Addendum* during the next three-year review. Additionally, based on lessons learned from the current review, I expect that the mandatory indicators ICES submits on August 1, 2025 for the next three-year review will contain the required level of detail and accuracy to ensure a robust, meaningful and efficient review.

I would like to extend my gratitude to you and your staff for your cooperation during the course of the review, including your diligence and timeliness in submitting the requested documentation, in responding to requests by my office for further information, and in making the amendments requested. My office will continue to monitor your implementation of the recommendations made during this review period and we look forward to the next review cycle.

Through your ongoing collaboration with my office and your demonstrable commitment to continuous improvement, these three-year reviews help reassure Ontarians in the policies, procedures and practices you have in place to protect the privacy and confidentiality of the personal information they have entrusted in you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Patricia Kosseim', with a stylized flourish underneath.

Patricia Kosseim
Commissioner

cc: Rosario Cartagena, Chief Privacy and Legal Officer, ICES
Ash-Lei Lewandoski, Legal Counsel, ICES
Dr. Dirk Huyer, Chief Coroner for Ontario

Appendix I: Recommendations

1. It is recommended that ICES do the following by December 31, 2023:
 - complete the Business Continuity Plan test referenced in its indicator submission; and
 - inform the IPC when the test is completed, whether any amendments are made to the Business Continuity Plan as a result of the testing, and if so, provide the IPC a brief description of the amendments made.
2. It is recommended that, in consultation with the IPC, ICES amend the *Collection of ICES Data Policy* to provide greater clarity and rigor regarding the roles and responsibilities of the parties involved in the process of reviewing and determining whether to approve the collection of personal information, including by separating the role of the reviewer from the role of the decider who determines whether to approve the collection of personal information. I ask that you initiate this consultation with the IPC by December 31, 2023.
3. It is recommended that ICES standardize the scope, method, and process for the audit of agents granted approval to access and use personal information in a policy, standard, or procedure by July 31, 2024, and notify the IPC when completed. It is also recommended that ICES promptly notify the IPC each time it completes such an audit during the calendar years 2024, 2025, and 2026.
4. Recognizing that ICES has already amended its *Collection of ICES Data Policy* to clarify that it cannot approve any exception to the requirements established under the *Act* or the *Coroners Act Addendum*, it is recommended that ICES further amend the *Collection of ICES Data Policy* and/or *ICES Exceptions Policy* by August 31, 2024 to:
 - a. identify the kinds of cases in which exceptions to the policy may be granted;
 - b. specify criteria by which exceptions can be granted;
 - c. set out the level of approval authority;
 - d. require that all granted exceptions be documented with details about the case, the grounds on which the exception was granted, the approval authority, conditions (if any), the date of the approval, and the duration of the exception granted; and
 - e. require that such documentation be retained consistent with ICES' authorized retention policy, with updates to that policy as needed.
5. It is recommended that ICES ensure that its agents, on an annual basis as required by the *Coroners Act Addendum*, complete privacy training and sign an Agent Confidentiality Agreement covering requirements arising from ICES' prescribed entity status under the *Act*.