OMD EDUCATES

PRIVACY AND CYBERSECURITY FOR CLINICIANS

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DISCLOSURE

PRESENTER: ARIANE SIEGEL
### General Counsel & Chief Privacy Officer, OntarioMD

- ***No*** Relationship with Commercial Interests
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  - There are no potential sources of bias – apart from the perspective of the health care provider
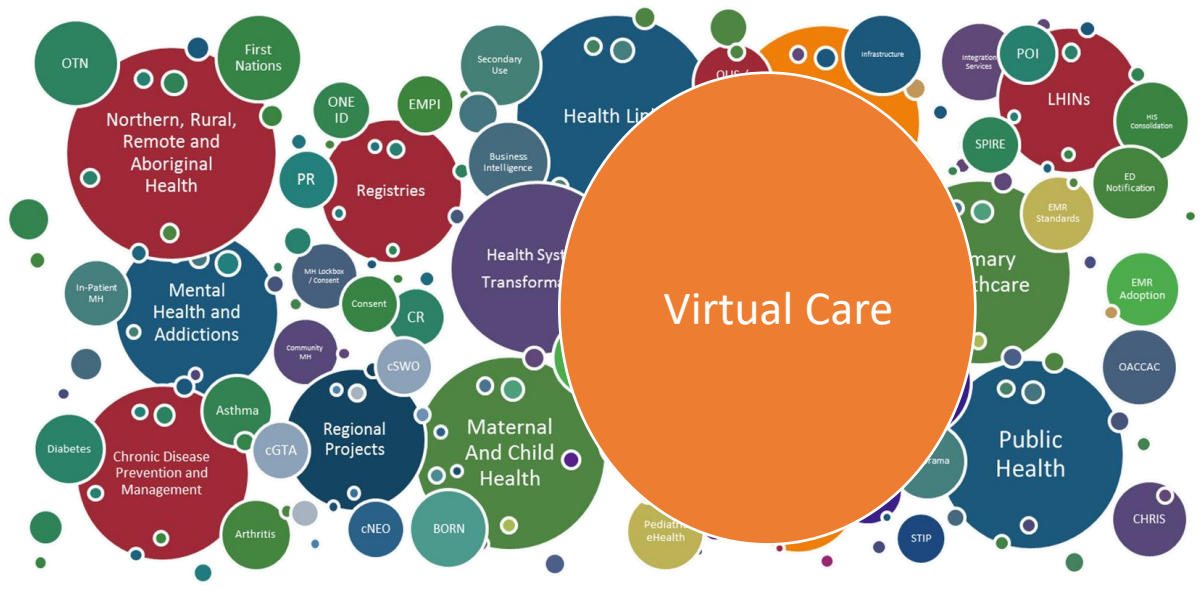
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AGENDA

- LEGAL REQUIREMENTS

- CPSO

- THE TOOLS

- CLINICIAN OBLIGATIONS

- DATA PROTECTION

- RESOURCES

- Q&A

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WHAT A DIFFERENCE A YEAR MAKES

2019

2020

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DOMINANT THEME

2021

PRIVACY AND CYBERSECURITY
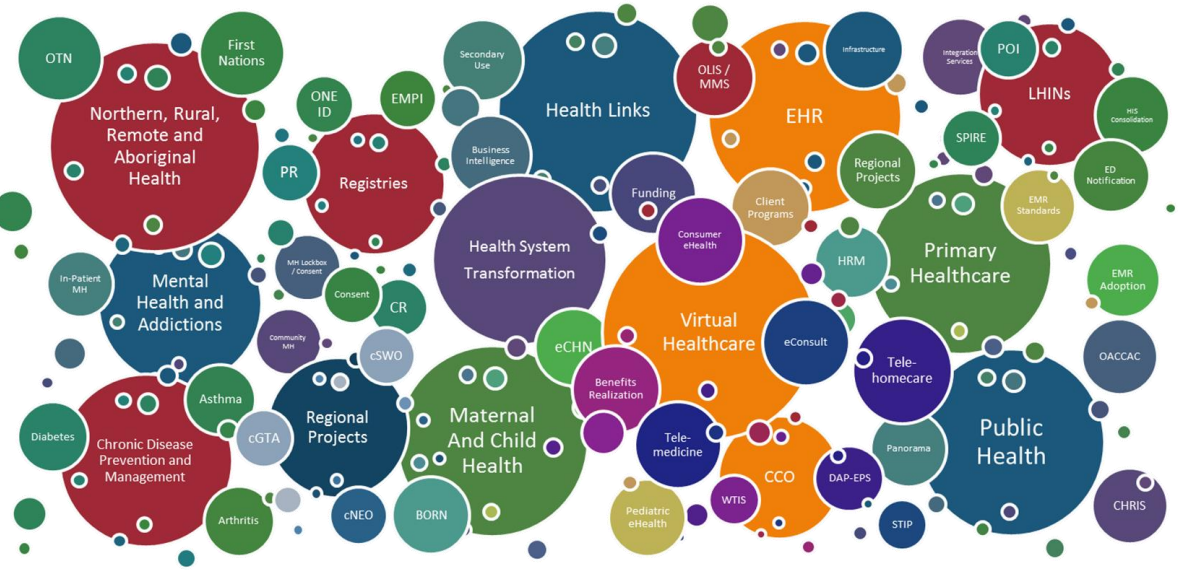
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A HISTORY OF PRIVACY UNDER PHIPA IN ONTARIO
2005

H O -001 – FI R S T P H I P A O R D E R On Saturday, October 1, 2005, Information and Privacy Commissioner Ann Cavoukian was contacted by a newspaper reporter who advised her that sensitive patient health records had been scattered across the streets of downtown Toronto. The location was being used for a film shoot about the September 11, 2001 terrorist attack on New York City's World Trade Centre.

LEGAL REQUIREMENTS

PRIVACY
PIPEDA (FEDERAL)
PHIPA
FIPPA
COMMON LAW
CONTRACTS/UNION
TORTS-INTRUSION UPON SECLUSION
CRIMINAL CODE

OTHER
MEDICINE ACT
CPSO GUIDELINES
COURT ORDERS

LEGAL REQUIREMENTS

- College Requirements

- Medical Records

- Privacy and Security

- Consent

WHERE DO OHT's FIT IN?

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YOUR PRACTICE

What do OHTs mean for care?

What does they mean for practice

==Governance Agreements-== OMA templates

Who is a HIC – right to records now and later

Impact on your practices now and in the future

Data Sharing

CPSO REQUIREMENTS- VIRTUAL CARE

The CPSO policies set out requirements and provide guidelines

- ✓ STRIKE A BALANCE BETWEEN IN PERSON AND VIRTUAL CARE – technically possible and appropriate

- ✓ SAME STANDARD OF PRACTICE TO IN-PERSON VISIT

- ✓ (SEE TELEMEDICINE POLICY)

VIRTUAL CARE IS JUST CARE

CPSO REQUIREMENTS
TELEMEDICINE POLICY: 2007,2014

Physicians who practise telemedicine must continue to meet the existing legal and professional obligations that apply to care that is provided in person. ...

Physicians must:

- ✓ consider the patient's existing health status, specific health-care needs and specific circumstances...use only if in patient's best interest;

- ✓ identify resources (e.g. information and communication technology, equipment, support staff, etc.) required

- ✓ ensure that the reliability, quality, and timeliness of the patient information obtained via telemedicine is sufficient, and that the patient is accurately identified;

- ✓ **protect the privacy and confidentiality** of the patient's personal health information:

    Does information and communication technology and physical setting being used by the physician has reasonable security protocols in place to ensure compliance with legal and professional obligations to protect the privacy and confidentiality of PHI? and

    Did you take reasonable steps to confirm the information and communication technology and physical setting being used by the patient permits the sharing of the patient's personal health information in a private and secure manner? and

    ensure the physical setting in which the care is being delivered is appropriate and safe, including having a plan in place to manage adverse events and/or emergencies.
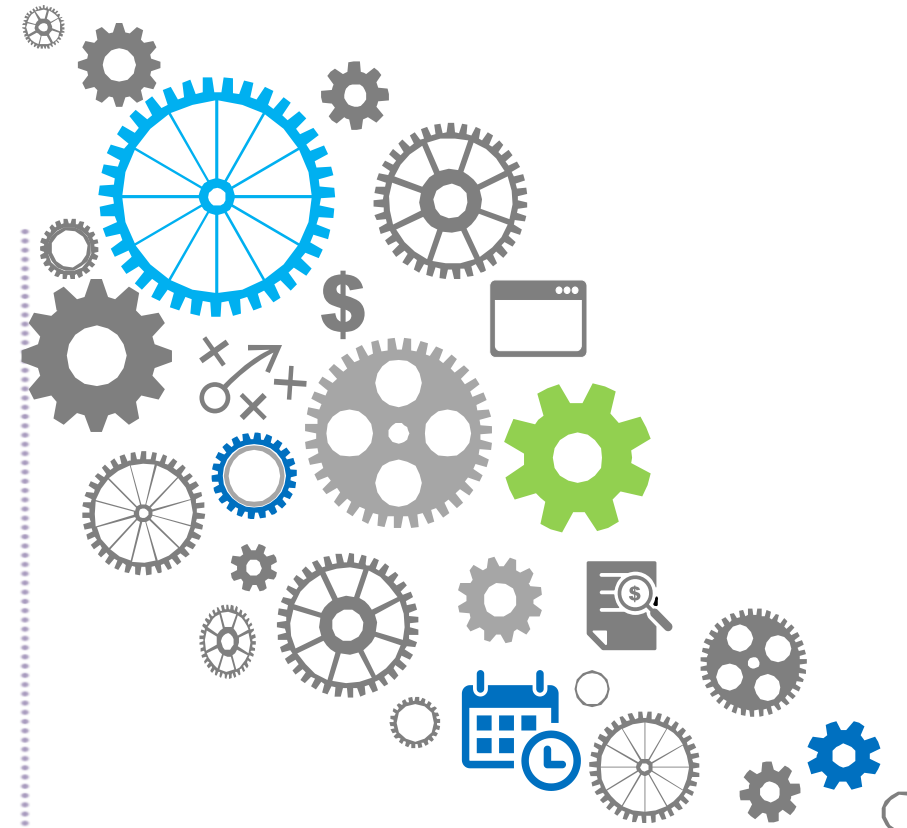
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THE TOOLS

YOUR EMR

- Platforms built in

- Consent

- Secure messaging

- Prescribing

THE PHONE, ZOOM, OTN

- Moving information to your EMR

- Video quality

- User Interface

- Registration

- Toggle between screens (EMR, ZOOM)

- Storage location -check

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CLINICIAN OBLIGATIONS- ACCOUNTABILITY

MEET & GREET

- Is virtual appropriate?
- Identify patient
- Consent depends on platform/Reminder
- Practice documents
- Consent for use of email- Not secure https://ontariomd.vc/
- Patient environment

RECORDS

- Integrated products -Move information to your EMR
- Toggle between screens (EMR, ZOOM)
- Do you create your own record-your own practice?
- Ensure records kept/available
- Electronic Audit Logs

PRIVACY

- Password
- Private environment, consent
- Encrypted tool/jurisdiction
- Auditing
- Records Deletion email/trash bin –deleted pictures bin

- **Back up**

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LEGAL REQUIREMENTS

- ## PRESCRIBING

- Platforms built in

- Consent

- Use established channels phone, fax, or e-prescribing systems to issue prescriptions

- Exception during COVID - If using unencrypted means - consent

In exceptional circumstances, if you find yourself needing to work outside these established channels, make sure your prescriptions are complete, spe*cific* to your patient, include your and your patient's identifying information, and coordinate in advance with your pharmacy colleagues as much as possible. If you are using unencrypted means of sharing prescriptions, ensure you have patient consent to do so as pharmacists may confirm with you that consent was obtained before they dispense the drugs prescribed

CLINICIAN OBLIGATIONS

PROBLEMS

- What kind of virtual care?

- Episodic/return/perception of patient

- Difficult encounters

- Record of past encounters and access

- Document objectively - facts

MORE PROBLEMS...

- Patients can only be banned from entering if there has been criminal activity (threats of harm or attempted harm/assault)-emergency services, referrals, records

- Recording: Alberta Investigation

PRACTICAL TIPS FOR DATA PROTECTION 🚨

TRAINING

IPC Decision 64 – Annual Online Privacy Training Course

Launch Privacy and Security Training Now

IMPLEMENT SAFEGUARDS

- DELETE EMAILS AND TRASH BIN
- Updated software and hardware (i.e. operating system, firewalls etc.)
- Encryption – at rest and in transit
- Transmit PHI through encrypted messages
- Two-factor authentication
- Have audit Logs
- **BACK UP**

PRIVACY POLICIES

RESPONSE PLAN

CYBERLIABILITY INSURANCE

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RESOURCES

- https://ontariomd.vc/

- https://www.cpso.on.ca/Physicians/Your-Practice/Physician-Advisory-Services/COVID-19-FAQs-for-Physicians

- https://www.cpso.on.ca/Physicians/Policies-Guidance/Policies/Telemedicine

- https://www.cmpa-acpm.ca/en/advice-publications/browse-articles/2020/providing-virtual-care-during-the-covid-19-pandemic