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Health Information Privacy and Management Act (HIPMA)

Mandatory Privacy Breach Notice and Reporting

1) If a breach of privacy occurs and results in a risk of significant harm to one or more individuals, you must notify the individual(s) about the breach.

2) You must also notify the Information and Privacy Commissioner about the breach.

3) It is an offence in HIPMA for failing to notify an individual where required by HIPMA.

The HIPMA contains some specific requirements that you must follow when a privacy breach occurs.

What's a privacy breach?

A privacy breach, called a 'security breach' in HIPMA, means with respect to personal health information the theft or loss, or disposition or disclosure, or access by a person contrary to the requirements in HIPMA.

You are required to notify an individual about a security breach if there is a risk of significant harm to an individual as a result of the breach.

What's a risk of significant harm?

A risk of significant harm to an individual will exist where the harm that may be suffered by an individual as a result of a breach is significant and there is a risk that the harm could occur. 'Significant harm' includes things like identity theft, identity fraud, damage to reputation, and personal humiliation or embarrassment.

If you determine there is a risk of significant harm to one or more individuals as a result of a security breach, your notification to the individual(s) must contain certain information.

What must the notice contain?

The notice must contain a description of the circumstances of the breach and the personal health information involved, when the breach occurred, any measures taken to reduce the risk of harm to the individual as a result of the breach, and who to contact about the breach.

Once you have prepared the notification, you must provide it to the affected individuals and at the same time to the Office of the Information and Privacy Commissioner (OIPC).

Also, within a reasonable time after providing the notice to the affected individuals and the OIPC, you must provide the OIPC with a report containing certain information.

What must the report contain?

The report to the OIPC must contain an assessment of the risk of harm to the affected individual(s) as a result of the breach, an estimate of the number of individuals affected by the breach, and any measures taken by the custodian to reduce the risk of harm to the affected individual(s) as a result of the breach.

After reviewing the report, the OIPC may recommend the custodian take any measures necessary to prevent recurrence of a similar breach.

The provisions in HIPMA setting out the rules that custodians must follow when a security breach occurs are in sections 29 to 31.