



OFFICE OF THE
INFORMATION & PRIVACY
COMMISSIONER
for British Columbia

Protecting privacy. Promoting transparency.

AUTHORIZATION FOR INDIRECT COLLECTION OF PERSONAL INFORMATION

PROVINCIAL HEALTH SERVICES AUTHORITY

Elizabeth Denham, Information and Privacy Commissioner

December 31, 2013

SUMMARY

Under s. 42(1)(i) of the *Freedom of Information and Protection of Privacy Act* ("FIPPA"), I authorize the Provincial Health Services Authority ("PHSA") to indirectly collect the personal information of health sciences students participating in the Health Sciences Placement Network ("HSPnet") program for a one-time transfer of the HSPnet database when the PHSA acquires HSPnet from the British Columbia Academic Health Council ("BCAHC") and for a three month period afterward when the PHSA continues the operation of HSPnet.

BACKGROUND

Section 27 of FIPPA requires that public bodies collect personal information directly from the individual the information is about, with specific exceptions. Section 42(1)(i) of FIPPA gives the Information and Privacy Commissioner the authority to permit public bodies to collect personal information from other sources. On December 2, 2013, my office received an application from the PHSA, a "public body" under FIPPA, for an authorization to collect personal information under s. 42(1)(i) of FIPPA relating to the HSPnet program. The PHSA provided additional written submissions in support of their application on December 20, 2103.

HSPnet is designed to provide work placement services to health sciences students. Student participants are able to maintain a profile that allows them to be matched with agencies for work placements such as practicums and co-op terms. The system also provides other services, including monitoring of

placements, coordination of necessary paperwork, document management, report generation, and student employment tracking.

HSPnet has operated for 10 years and is currently run by the BCAHC, a not-for-profit society under the *Society Act*. The BCAHC is set to wind down at the end of 2013. The PHSA plans to acquire HSPnet on January 2, 2014, and continue operating the HSPnet program afterwards. This will require the one-time indirect collection of student participant personal information when the HSPnet database is transferred to the PHSA, and also the ongoing indirect collection of student personal information as new profiles are submitted by student participants through their educational institutions as intermediaries. The PHSA plans to continue the operation of the HSPnet program in its current form.

The HSPnet program operates within BC and currently BCAHC, through license agreements, also provides the HSPnet program in seven other Canadian provinces. The PHSA would assume the operation within BC and be assigned the license agreements to provide HSPnet in other provinces. There are currently 34,598 student participant profiles in the HSPnet database and the PHSA expects 2000-3000 new participants in the coming year.

A student profile will normally contain the following personal information about the student participant: name, student number, contact information, student photograph, and the student's resume and placement preferences. When required by the agency a student is to be placed with, gender and sensitive information such as immunization records and criminal records checks are collected by the PHSA and stored in the HSPnet database. Consent is obtained by the educational institution before the student participant's personal information is collected. The program is voluntary and the consent form used expressly gives students the option to not give consent for the collection of their personal information but instead have their placements processed manually by the student's educational institution. HSPnet policies restrict the use and disclosure of personal information to those that are necessary to place a student with an agency. Procedures are in place to allow student participants to review their own personal information in the HSPnet program and to request updates to their information. Student participants may revoke their consent for the use and disclosure of personal information at any time.

HSPnet is implemented through a third party service provider, Roberts Hendrickson Consulting Inc., under agreement with BCAHC. Student participant personal information is currently stored on a server operated by a third party, the BC Institute of Technology ("BCIT"), also through a service agreement with BCAHC. In acquiring HSPnet, the PHSA would gain custody or control of the student participant personal information in the HSPnet database through assignment of the agreement with BCIT. The PHSA would continue operating

HSPnet by assignment of the agreement with Roberts Hendrickson Consulting Inc.

DISCUSSION

The question that I must decide is whether to authorize the PHSA to indirectly collect the personal information of student participants in the HSPnet program.

PHSA's Submission

The PHSA submits that HSPnet, by facilitating placements for health science students, contributes to the training of needed qualified health care personnel. It further submits that HSPnet is unique in Canada in that if HSPnet cannot operate there is no entity able to replace it. If HSPnet is unable to operate, a shortage in health services personnel may result.

HSPnet is intended to be a central repository system for end users where the educational institutions, and not HSPnet, have direct contact with the student participants. Because of this decentralized collection model, the number of student profiles currently in the database, and the broad geographic scope of the HSPnet program, the PHSA submits that direct collection of student participant personal information currently contained in the database is not practical.

The PHSA also submits that this one-time indirect collection of existing personal information by the transfer of the HSPnet database will have no operational consequences because the transfer is to be effected by assignment of service agreements alone. In other words, the PHSA would simply take over from the BCAHC as "director" of the program. The personal information collected will not be used by the PHSA except for providing the HSPnet placement services. Further, the PHSA submits that if the BCAHC, whose membership includes several public bodies, was a public body itself under FIPPA, this one-time transfer would be authorized under ss. 27(1)(b) and 33.2(a) of FIPPA.

Regarding the on-going operation of HSPnet, the PHSA submits that they intend to modify the procedure used when collecting personal information from a student participant to include an authorization from the student for the PHSA to indirectly collect their personal information from their educational institution. This new procedure is not currently in place. Given the large number of educational institutions that would need to implement the new procedure, the PHSA has requested authorization to indirectly collect student participant personal information from educational institutions for three months after it assumes responsibility for HSPnet.

Finally, the PHSA submits it has authority to collect student personal information under s. 26(c) of FIPPA.

Reasons for Granting Authorization

The general rule in FIPPA is that personal information must be collected directly from the person the information is about. This rule protects and enhances the privacy principles contained in Part 3 of FIPPA, including the right of an individual to have control over their own personal information throughout its life-cycle, and the principle that the collection, use, and disclosure of personal information should be transparent. The discretion conferred in s. 42(1)(i) of FIPPA should be exercised with these principles in mind.

It is clear that the information being collected from student participants is “personal information” as defined by FIPPA. Some of the information, such as placement preferences, is less sensitive, but other information, such as criminal record checks, is highly sensitive. It is important to note that, while the collection of personal information described above is indirect, the source of student participants’ personal information is the student the information is about. This initial collection from the students themselves should be contrasted with collection from a third party because it presents less risk of an unreasonable invasion of privacy and helps to protect the principles of transparency and control.

In previous decisions where the exercise of the Commissioner’s discretion under s. 42(1)(i) was at issue¹, the following questions in assessing the application have been considered:

1. Has a clear and sufficiently compelling public interest or objective been identified that cannot reasonably be accomplished through direct collection of personal information?
2. Is the requested departure from FIPPA’s rule of direct collection clearly justified when judged against the nature of the personal information to be collected and the purpose for which (and to whom) it is to be disclosed or used?

I have chosen to consider these same questions in this application.

I accept that the PHSA has identified a clear and sufficiently compelling public interest or objective that cannot reasonably be accomplished through direct collection of personal information. The practical training of health services personnel is clearly in the public interest and the HSPnet program facilitates the important step of matching students with agencies for placements. Given the current size of the database, the scope of the program and HSPnet’s design as a central repository system, the one-time transfer of the program cannot be reasonably accomplished through the direct collection of student participant

¹ For example, see Auth (s. 42) 01-01, April 19, 2001: <http://www.oipc.bc.ca/decisions/155>.

personal information. Further, for reasons similar to those for the one-time transfer of the database, it is not practical for the PHSA to immediately begin obtaining student authorizations to indirectly collect their personal information; I find that a three month authorization for the on-going operation of HSPnet is appropriate. Absent either of these authorizations, the HSPnet program would not be able to operate for a significant period of time.

I also accept that the requested departure from FIPPA's rule of direct collection is clearly justified when judged against the nature of the personal information to be collected and the purpose for which (and to whom) it is to be disclosed or used. Although the personal information collected is very sensitive in some cases, the information is voluntarily provided by the person the information is about, and the individual has a viable alternative to consenting to participation, and consent to use and disclose the personal information is obtained. This model sufficiently protects the principles of control and transparency contained in Part 3 of FIPPA.

AUTHORIZATION

For the reasons noted above, under s. 42(1)(i) of FIPPA, I authorize the PHSA to indirectly collect personal information of student participants in the HSPnet program subject to the following:

1. This authorization extends only to:
 - a. the one-time indirect collection of personal information when the HSPnet database is transferred from the BCAHC to the PHSA; and
 - b. the indirect collection of personal information of student participants from educational institutions for a period of three months commencing January 2, 2014 and ending on April 2, 2014.
2. This authorization is limited to the indirect collection of personal information about student participants in the HSPnet program necessary for the operation of the program.
3. The PHSA must, as soon as practicable, provide appropriate notice to the student participants of the HSPnet program that are subject to the indirect collections of their personal information described above that their personal information has been transferred to the custody or control of the PHSA.



Elizabeth Denham
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for British Columbia