

Welcome to CASLPO E-Forum

We will carry out **sound checks 15 minutes and 5 minutes** before the start of the webinar. Until then, you will not hear us.

Tips for good Adobe connection

1. Make sure this webinar is your only site up on your computer. Get out of Outlook and any other internet sites
2. Hard wire connection (blue cable) is better than Wi-Fi
3. Check your speakers are plugged in and switched on
4. If you have problems with sound, try going out of Adobe and re-entering



College of Audiologists and Speech Language Pathologists of Ontario



CASLPO e-Forum: Circle of Care

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Deputy Registrar



- The e-Forum recording and slides will be posted on the Events section of the website



The screenshot displays the CASLPO website's navigation and content. At the top left is the CASLPO logo, a stylized head profile with sound waves, and the text "College of Audiologists and Speech-Language Pathologists of Ontario" and "Ordre des audiologistes et des orthophonistes de l'Ontario". To the right are links for "Member Portal" (with a lock icon) and "Find an Audiologist or Speech-Language Pathologist" (with a magnifying glass icon). A secondary navigation bar includes "Home", "Employers", "Contact Us", "Search Site", "Online SAT", "Français", and "Accessibility". The main navigation bar features "WHO WE ARE", "PUBLIC PROTECTION", "EVENTS" (circled in red), "RESOURCES", and "TRANSPARENCY". Below this is a blue banner with a plus sign and the text "CASLPO Members Help You Hear & Communicate" over a photo of a child speaking into a microphone. The left sidebar lists "Events" with sub-categories: "UPCOMING EVENTS", "COUNCIL MEETINGS", "CASLPO FORUMS (IN-PERSON)", and "E-FORUMS (WEB-BASED)" (circled in red). The main content area is titled "CASLPO EVENTS" and contains text about educational events and forums, along with a note that the section will be updated frequently.

College of Audiologists and Speech-Language Pathologists of Ontario
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WHO WE ARE PUBLIC PROTECTION **EVENTS** RESOURCES TRANSPARENCY

+ CASLPO Members Help You Hear & Communicate

Events

UPCOMING EVENTS

COUNCIL MEETINGS

CASLPO FORUMS (IN-PERSON)

E-FORUMS (WEB-BASED)

CASLPO EVENTS

CASLPO regularly puts on educational events, CASLPO forums and other events for our members. These help support the College's mandate to protect the public's right to quality audiology and speech-language pathology services by providing leadership and education.

These events are typically provided in-person, via teleconference, webinar or as plenary sessions as part of a larger event hosted elsewhere.

This section of the website will be updated frequently.

Agenda

- What is the Circle of Care?
- When does the Circle of Care apply to me?
- When can I disclose personal health information?
- When must I not disclose personal health information?
- When can I disclose personal health info without consent?



PHIPA Circle of Care

Circle of Care

- This term is not found in the *Personal Health Information Protection Act* (PHIPA)
- 'Circle of Care' is a term created by the [Information and Privacy Commissioner of Ontario](#)
- The purpose is to help define [assumed, implied consent](#)



PHIPA Circle of Care

Circle of Care

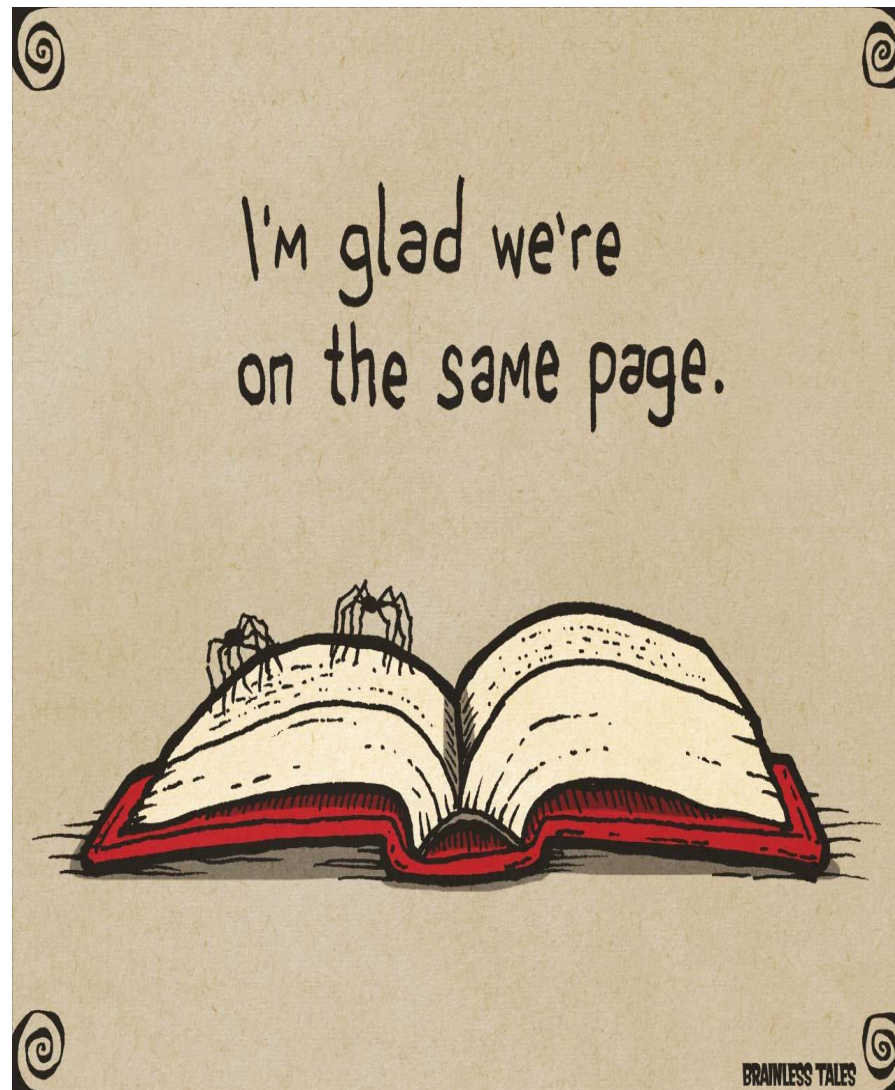
- The ability to **assume** an individual's implied consent to collect, use or disclose personal health information (PHI)
- **Health Information Custodians (HICs)** may share information with other HICs involved in the care of the individual without express consent, i.e. with **implied** consent for health care purposes

A Quick Step Back!



PHIPA Circle of Care

A few definitions



-
- *Personal Health Information Protection Act 2004* (PHIPA)
 - PHIPA is administered by the **Information and Privacy Commission of Ontario**

PHIPA: Personal Health Information

What is Personal Health Information (PHI)?

- Physical or mental health of the individual
- Health history of the individual's family
- Identification of a health care professional providing service to the individual
- A plan of service for the individual
- Payments or eligibility for healthcare funding
- Individual's health card number
- Identification of a substitute decision maker (SDM)





PHIPA Health Information Custodians

Who is a Health Information Custodian (HIC)?

- A person or organization who has **custody** or **control** of personal health information that the person collects, uses or discloses while performing the person's powers or duties (health care)
- Health care practitioners
- All SLPs and Audiologists are potentially **HICs**
- Hospitals, Children's Treatment Centres, CCACs , Rehab Centres, Long Term Care Homes & LHINs are **HICs**



PHIPA Consent

What are the elements of consent?

Express Consent

- 18. (1) If this Act requires the consent of an individual for the collection, use or disclosure of personal health information by a HIC, the consent,
 - (a) must be a consent of the **individual**;
 - (b) must be **knowledgeable**;
 - (c) must **relate** to the information; and
 - (d) must not be obtained through **deception** or **coercion**.

2004, c. 3, Sched. A, s. 18 (1).
- Express Consent must be documented

PHIPA Consent

Implied consent

- In the case of implied consent, HICs must ensure that all the required elements of consent have been obtained before collecting, using and disclosing your personal health information.

Assumed Implied Consent

- In the case of assumed implied consent, HICs may assume that all the elements of consent have been obtained.



PHIPA Consent

Exception

- (3) consent to the disclosure of personal health information must be **express**, and **not** implied, if,
 - (a) a HIC makes the disclosure to a person that is **not a HIC**; or
 - (b) a HIC makes the disclosure to another HIC and the disclosure is **not** for the purposes of **providing health care**. 2004, c. 3, Sched. A, s. 18 (3).

PHIPA Consent

Withdrawal of Consent

- [19. \(1\)](#) If an individual consents to have a HIC collect, use or disclose personal health information about the individual, the individual may **withdraw** the consent, whether the consent is express or implied, by providing notice to the HIC, but the [withdrawal of the consent shall not have retroactive effect](#). 2004, c. 3, Sched. A, s. 19 (1).



PHIPA Circle of Care

Circle of Care - assumed, implied consent

[Circle of Care: Sharing Personal Health Information for Health-Care Purposes](#)



PHIPA Circle of Care

Circle of Care

- There are **six** criteria to help you determine if you are in the Circle of Care.
- All six must be met



PHIPA Circle of Care

Circle of Care: criteria

1. The HIC is entitled to rely on assumed, implied consent
 - You are a health care practitioner (SLP or audiologist), and therefore a HIC who is **entitled** to rely on assumed, implied consent

PHIPA Circle of Care

Circle of Care: criteria

2. The PHI must have been received from the individual, SDM or another HIC
 - If the PHI was collected, used or disclosed by a **third party** (employer, insurance company, educational institution), consent cannot be assumed or implied



PHIPA Circle of Care

Circle of Care: criteria

3. The PHI was collected, used and disclosed for the purposes of providing health care to the individual
- This does NOT include PHI collected, used and disclosed for research, fund raising or marketing



PHIPA Circle of Care

Circle of Care: criteria

4. The HIC must use the PHI for the purposes of providing health care to the individual
- You cannot rely on assumed, implied consent to collect, use and disclose PHI for research, fundraising, or marketing



PHIPA Circle of Care

Circle of Care: criteria

5. Disclosure of PHI from one HIC must be to another HIC
- You need express consent to collect, use and disclose PHI to a person or organization who is not a HIC, regardless of the purpose of the disclosure



PHIPA Circle of Care

Circle of Care: criteria

6. The receiving HIC must **not** be aware that the individual has expressly **withheld** or **withdrawn** consent

Individuals have the right to withhold or withdraw consent to collect, use and disclose their PHI. However, this must be expressed by the individual or SDM to the HIC.

It is the responsibility of the HIC to communicate the disclosure restrictions with other HICs.

[Lock-Box Fact Sheet](#)

Disclosing PHI without consent and outside the circle of care

- PHI may be disclosed, without consent, by a HIC, if the HIC:

“believes on reasonable grounds that the information is needed to eliminate or reduce a significant risk of serious bodily harm to the client, another individual or a group of persons.” PHIPA 36.1.i



Disclosing PHI without consent and outside the circle of care

- If you believe that your patient or family member is at significant risk of serious bodily harm, you can make a report to the police or another agency involved with the care of the child or adult without the patient's or SDM's consent to disclose that information.



Scenarios



SLP – Hospital

- You meet with the wife of a stroke patient with aphasia to teach her 'supportive conversation' techniques
- She breaks down and says that she has just been diagnosed with breast cancer, you provide support
- You attend interdisciplinary rounds later that afternoon

Does the Circle of Care apply?



SLP – Hospital

NO (Circle of Care Criteria 3, 4, 5)

- The wife is not your patient, you are not the HIC for the wife
- The information relates to the wife's health, but it is not considered PHI under PHIPA
- If you are a custodian in your professional life, it does not mean you have custody or control of personal health information for individuals who are not your patients



SLP – Hospital

- Exercise discretion, if you think that it is important for the healthcare team to know, ask the wife for permission to share it

Audiology – Clinic

- You have received a referral from an ENT for a patient with hearing loss and balance issues
- Your audiological assessment shows a marked unilateral hearing loss and you want to discuss your findings with the ENT



Does the Circle of Care apply?

Can you disclose the assessment information to the ENT?



Audiology – Clinic

- Yes (all Circle of Care criteria are met)
- Both you and the ENT, as regulated health care professionals and HICs, may rely on assumed, implied consent
- It is for the purposes of providing health care for your patient
- You are not aware of the patient withdrawing consent



SLP – Private

- You are providing private therapy to a grade one child
- The child receives speech language therapy services from a school board SLP as well
- The mother asks you not to discuss her child's progress with the school board SLP



Does the Circle of Care apply?

Can you disclose the information to the School Board SLP?



SLP – Private

- No (Circle of Care Criteria 6)
- You are aware that the individual (SDM/mother) has expressly **withheld** or **withdrawn** consent
- Discuss with the mother that it is in the child's best interests to disclose information
- Refer to [Position Statement on Concurrent Intervention by CASLPO Members](#)



SLP – Preschool

- You work at a children’s treatment centre providing pre-school SLP services
- You run a small group, and all of the children will require ongoing SLP intervention when they go to kindergarten in September
- You write a discharge report for each child to send to the school boards



Does the Circle of Care apply?

Can you disclose the information (report) to the School Board SLP?

SLP – Preschool

It depends!!!!

- Yes, if all Circle of Care criteria are met
- The PHI (report) must go from one HIC to another HIC
- You must not be aware of any concerns that the parent may have about disclosing PHI to the school



SLP – Preschool

It depends!!!!

- No, if any of Circle of Care criteria are NOT met
- If the PHI (report) is going to a school or a special education department, i.e. not a HIC, then you need express consent from the parent (SDM)
- The best way to ensure that the parent does not have concerns about PHI (report) being disclosed to the school board is to ask them and get express consent



SLP – School Board

- You work on contract for a school board
- You learn that another agency is also providing contract SLP services to the school board
- You want to cross reference names of students to make sure that you are not duplicating services



Does the Circle of Care apply?

Can you disclose student names to the other contract SLP?



SLP – School Board

- No (Circle of Care Criteria 3 & 4)
- You will be giving and receiving PHI (list of student names associated with SLP services) not pertaining to your patients.
- Ask for express consent to disclose names or exchange the names of schools



SLP – Rehab

- You are in a session with a young man who has sustained a head injury
- He talks about suicide, but then says that you must not tell anyone
- You attend interdisciplinary rounds immediately after the session



Can you disclose the information to the healthcare team at rounds?



SLP – Rehab

- YES, if you as the HIC:
- “believes on reasonable grounds that the information is needed to eliminate or reduce a significant risk of serious bodily harm to the client, another individual or a group of persons.” PHIPA 36.1.i

When in doubt

- Get and document **express** consent
- Call [Practice Advice](#) at CASLPO
- Call the Information and Privacy Commission
www.ipc.on.ca
E-mail: info@ipc.on.ca
Telephone: 416-326-3333

Questions



Question

- Is an Hearing Instrument Specialist (HIS) is a health information custodian? For example, a patient takes my hearing aid prescription to an HIS to be filled and the HIS calls me to discuss the individual. Can I assume implied consent or do I need express consent from the patient to discuss their situation with the HIS?



YES – if:

- “health information custodian”, means a health care practitioner, person or organization who has custody or control of PHI as a result of, or in connection with, performing the person’s or organization’s powers or duties or the work
- “health care practitioner” means,
 - (a) a person who is a member within the meaning of the RHPA, 1991 and who provides health care,
 - (c) a person who is a member of the Ontario College of Social Workers and Social Service Workers and who provides health care, or
 - (d) any other person whose primary function is to provide health care for payment

-
- Thank you

PHIPA Purpose

- (a) to establish rules for the **collection, use** and **disclosure** of personal health information (PHI) that protects the **confidentiality** of that information and the **privacy** of individuals facilitating the effective provision of health care
- (b) to provide individuals with a **right of access** to personal health information about themselves
- (c) to provide individuals with a right to require the **correction or amendment** of personal health information about themselves

PHIPA Purpose

- But:

not to be a **barrier** for the provision of healthcare in a medical setting



PHIPA Principles

Personal health information is sensitive

- Respect and protect confidentiality
- Declare the purpose of obtaining information
- Obtain consent
- Collect only what you need



Accuracy

- [11. \(1\)](#) A HIC that uses personal health information about an individual shall take reasonable steps to ensure that the information is as **accurate, complete and up-to-date**. 2004, c. 3, Sched. A, s. 11 (1).

PHIPA Consent

Limited consent (Lockbox)

- [\(3\)](#) If a HIC discloses, with the consent of an individual, personal health information about the individual to another HIC for the purpose of the provision of health care, and if the disclosing HIC does not have the consent of the individual to disclose **all** the personal health information about the individual that it considers reasonably necessary for that purpose, the disclosing HIC shall **notify the custodian to whom it disclosed the information of that fact.** 2004, c. 3, Sched. A, s. 20 (3).

PHIPA Consent

Conditional consent (Lockbox)

- [\(2\)](#) If an individual places a **condition** on his or her consent to have a HIC collect, use or disclose personal health information about the individual, the condition **cannot prohibit** or **restrict any recording** of personal health information by a HIC that is required by law or by established standards of professional practice or institutional practice. 2004, c. 3, Sched. A, s. 19 (2).



Security

- **12. (1)** A HIC shall take steps that are reasonable in the circumstances to ensure that personal health information in the custodian's custody or control is:
 - protected against **theft, loss** and
 - protected against **unauthorized use** or **disclosure** and
 - protected against unauthorized **copying, modification or disposal**. 2004, c. 3, Sched. A, s. 12 (1).

PHIPA Information Practices

Notice of Loss

- a HIC that has custody or control of personal health information about an individual shall **notify the individual** at the first reasonable opportunity if the information is **stolen, lost, or accessed** by **unauthorized** persons. 2004, c. 3, Sched. A, s. 12 (2).

PHIPA Records

Handling of records

- [13. \(1\)](#) A HIC shall ensure that the records of personal health information that it has in its custody or under its control are **retained, transferred and disposed** of in a **secure** manner and in accordance with the prescribed requirements, if any. 2004, c. 3, Sched. A, s. 13 (1).



Retention of records subject to a request

- [\(2\)](#) a HIC that has custody or control of personal health information that is the subject of a request for access under section 53 shall **retain** the information for as long as necessary to allow the individual to exhaust any recourse under this Act that he or she may have with respect to the request. 2004, c. 3, Sched. A, s. 13 (2).

PHIPA Records

Records kept in other places

- [\(2\)](#) A HIC may keep a record of personal health information about an individual in a place other than the individual's home and **other** than a place in the control of the practitioner if,
 - (a) the record is kept in a **reasonable manner**;
 - (b) the **individual consents**;
 - (c) the health care practitioner is permitted to keep the record in the place in accordance with a **regulation**, by-law or published guideline under the *Regulated Health Professions Act, 1991*,

PHIPA Privacy Breach

Required Action

1. Respond immediately
 - Notify staff – chief privacy officer or designate
 - Inform Information and Privacy Commission (IPC)
2. Contain
 - Retrieve what you can
 - Safeguard any copies
3. Notify
 - Notify individuals at first opportunity
 - Determine sensitivity of information
4. Investigate & Remediate
 - Ensure breach will not be repeated

PHIPA Consent

Capacity to consent

- [21. \(1\)](#) An individual is capable of consenting to the collection, use or disclosure of personal health information if the individual is able,
 - (a) to **understand** the information that is relevant to deciding whether to consent to the collection, use or disclosure, as the case may be; and
 - (b) to **appreciate** the reasonably foreseeable consequences of giving, not giving, withholding or withdrawing the consent. 2004, c. 3, Sched. A, s. 21 (1).