Privacy for IPCT members

Guelph Wellington OHT

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This is not legal advice

This is for general information purposes only

We want to improve flow of patient information between providers and organizations and achieve seamless care and secure transfer of PHI within the OHT

Our future state envisions care coordination as a set of functions that are integrated within and across partners of Integrated Primary Care Teams (IPCTs)

IPCT Model

- 24/7 support
- Caregiver support
- Seamless transitions between settings
- Needs based assertive/proactive support to ensure seamless coordination & navigation of care
- System navigation
- Primary medical, psychological, wellness, prevention care
- Coordination of an invitation and on-boarding of additional members to the primary care team when a patient's needs exceed the capacity or capability of the IPCT
- Issues management including complex problem solving, collaborative solution finding, cross ministerial advocacy etc.
- Support access to specialized services e.g. housing, addictions beds, ABI programs etc.
- Assess client need for in-home services
- Coordination of primary and secondary in-home care
- Delivery of all primary care (in-office & in-home)
- Determine eligibility for secondary/specialized in home services
- Determine the type(s) and amount of secondary/specialized in home service(s)
- Order secondary/specialized in home services i.e. invite secondary/specialized service to join IPCT
- Reassess clients and adjust in-home services

Working across organizations to coordinate care and service as a "team"

Qs in an IPCT model

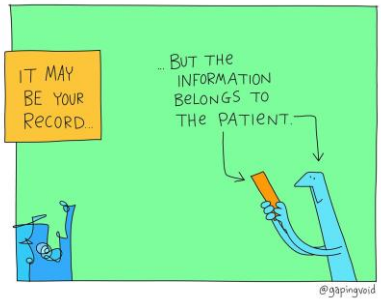
1. Who owns the information in the chart?
2. Whose responsibility is it to address information that automatically populates in the EMR in a shared care model?
3. Who is in the circle of care? With whom can IPCT clinicians assume they can share health information?
4. What consent is required in an IPCT model? When do you need express consent? When can you rely on implied consent? When is no consent needed?

Question 1: In an IPCT model …

Who owns the information in the chart?

GW Ontario Health Team will not own the health record in the IPCT Model

So who does?



Who owns the information in the IPCT chart?

- A health information custodian must be identified for every IPCT record
- The information belongs to the patient
- The records belong to a custodian
- There will be/may be multiple copies of same records

Are you a Health Information Custodian (HIC)?

Are you an agent?

Health information custodians (HICs)

- Health care practitioners
- Hospitals
- Psychiatric facilities
- Independent health facilities
- Community health or mental health centres, programs or services
- Long-term care homes
- Placement coordinators
- Retirement homes
- Pharmacies
- Laboratories
- Specimen collection centre
- Ambulance services
- Operators of care homes (residential tenancies)
- Homes for special care
- Community support services provider
- Medical Officer of Health
- Home and Community Care Support Services

If you are an employee, you are likely (but not always) an "agent" and your employer is the custodian

✓Community Health Centre
✓Family Health Team/NPLC
✓Home care (HCCSS)
✓Hospice
✓Hospital
✓Laboratory
✓Long-term care home
✓Mental health agency
✓Municipality
✓Pharmacy
✓Public Health Unit
✓Retirement Home
✓Seniors service
✓School Board
✓University

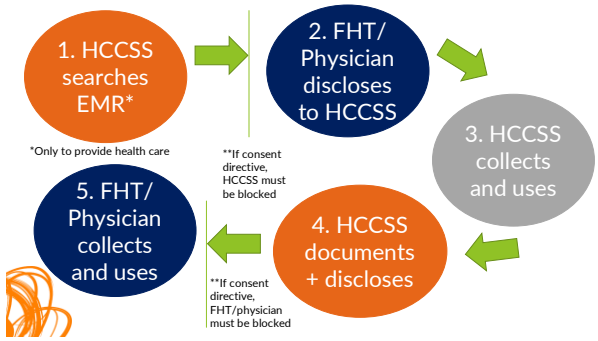
If you have your own practice you are a health information custodian

If you work in a group - the group has to decide whether there is a single custodian or multiple custodians

What does it mean to "own" information in a chart as a HIC?

- Must protect it
- Must give a patient a right of access to it
- Must give a patient a right of correction to it
- Must maintain a copy of it according to guidelines
- Must respect consent directives
- Must respond to mandatory disclosure requests
- Can use it for secondary purposes without consent (planning, risk management, quality improvement, teaching, research)
- Can share relying on implied consent
- Can exercise discretion to share with third parties

I'm a care co-ordinator working for HCCSS. I have access to a family doctor's EMR to go in the EMR remotely and see their notes in order to do planning for home care, mental health referrals and placements in long-term care.
If I write a note in the family doctor's EMR - who owns that note?



Answer

- The patient owns the information
- There would be an agreement that would explain the relationship and HIC status
- The FHT or the physician owns the record and is the HIC for the record
- HCCSS can only search the FHT/Physician EMR for health care
- If there is a lockbox – automation must prevent disclosure PRO TIP: listen for requests not to share and document

Answer

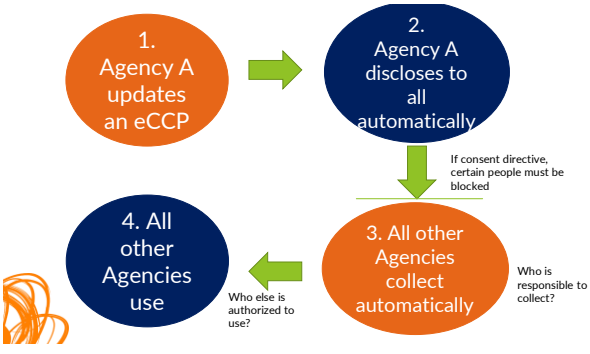
- If HCCSS documents in Physician's record – need to understand:
  - Who can give access/correction
  - HCCSS must be able to use and disclose their authored records for reasonable business purposes and compliance
  - What happens if HCCSS must lockout physician
  - Rules on termination

Q1: Who owns the information in the chart?

A1: The patient
+ the health information custodian who has ultimate responsibility for maintenance of that chart (the EMR)

Question 2: In an IPCT model …

Whose responsibility is it to address information that automatically populates in the EMR in a shared care model?



When information comes into an EMR - someone has to receive it

Who will that be within your team?

If not you … then who?

Just like with labs, prescription renewals, intake forms, referrals, discharge summaries and consultation reports we need a "MRC" Most Responsible Clinician to review material updates in their EMR for shared care such as changes to an eCCP

Why?

1. Continuity of care
2. Risk

In an IPCT Model we need to:

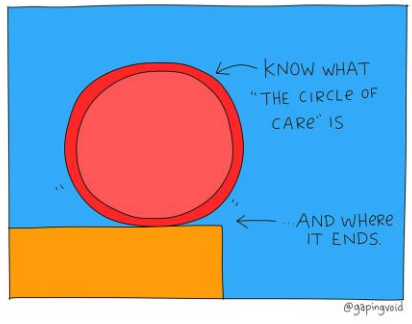
- Identify who will receive the updated information for each participating IPCT member
- Distinguish "minor" versus "material" changes that require attention – not everything needs to be reviewed immediately
- Avoid data dumps
- Use technology to assist us and decide our preferences for how updates will be indicated such as a "ping" or email
- Ensure consent directives are kept up to date
- Ensure incapacity determinations/SDM info is kept up to date

Q2: Whose responsibility is it to address information that automatically populates in the EMR?

A2: There will need to be a MRC + a way to identify "material" updates

Question 3: In an IPCT model …

Who is in the circle of care? With whom can IPCT clinicians assume they can share health information?



Circle of Care

When your patient wants their information shared with their other health care providers so they can provide health care – can be done assuming implied consent

Lockbox – Consent Directive

When your patient does not want their information shared with their other health care providers – that is a lockbox request

1. Disclosing to a direct health care provider AND
2. For providing or assisting in providing health care

In Circle of Care = Can share with implied consent

- Health care practitioners
- Hospitals
- Psychiatric facilities
- Independent health facilities
- Community health or mental health centres, programs or services (**primary purpose is provision of health care**)
- Long-term care homes
- Placement coordinators
- Retirement homes
- Pharmacies
- Laboratories
- Specimen collection centre
- Ambulance services
- Operators of care homes (residential tenancies)
- Homes for special care
- Community support services provider
- Medical Officer of Health (public health)
- LHIN – Home and Community Care Support Services

NOT in the Circle of Care =

Must have express consent OR otherwise be permitted or required by law to disclose

- Insurance companies
- Employers
- Landlords
- Universities, Teachers and Schools (except onsite medical clinics, school social workers, psychologists, speech-language pathologists, OTs, PTs, audiologists etc. are in)
- Municipalities (except if they run health programs)
- Children's Aid
- Police or Probation Officers
- Prayer leaders or Spiritual healers
- Food banks
- WSIB
- OW workers - ODSP workers or Income support, Taxes support
- Transportation services
- Immigration
- Shelters (except health care workers)
- Animal welfare

Determinants of Health ≠ Circle of Care

only for traditional health care providers can we assume implied consent to share for health care purposes

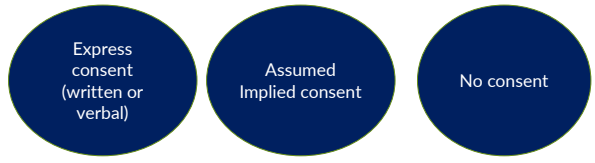
Q3: Who is in the circle of care where IPCT can assume implied consent?

A3: All traditional health providers who deliver health services

Question 4: In an IPCT model …

What consent is required in an IPCT model?
When do you need express consent?
When can you rely on implied consent?
When is no consent needed?

3 types of consent



Sharing with IPCT for health care

Implied Consent = Circle of Care = IPCT Model

How do you know you can share information with external health care providers relying on **IMPLIED CONSENT**?

You can ASSUME it
Please share!

But if you think your patient would not want their information shared – ask your patient first.

I want the hospital to send me discharge summaries for my patients

Can the hospital do that?

I want to allow a care co-ordinator to have direct access to my eMR so they can figure out home care or mental health referrals or long-term care options for my patients

Can I do that?

I want to use the Sharon Bot from eHealth Centre of Excellence to share coordinated care plans between my eMR and CHRIS (for home care)

Can I do that?

I want to be able to call the specialists and community teams my patients see and find out how they are doing or get a consult or give a consult

Can I do that?

Circle of care is not NO consent

If your patient objects then you cannot share the information relying on implied consent

Going forward you will need express consent – unless you are permitted or required by law to share

You can assume implied consent for …

- ✓ Coordinated care planning
- ✓ Sending discharge summaries
- ✓ Providing referrals and intake information to make those referrals
- ✓ Providing updates to other health care providers
- ✓ Using Connecting Ontario platform
- ✓ Accessing information in the OLIS and data imaging repositories
- ✓ Giving OHT partners who are HICs and part of the IPCT EMR access to information for referrals, home care planning and transitions and care co-ordination

A hospital staff member said we aren't in the circle of care and they need express consent to share with us

How do we advocate for being part of the circle of care?

In Circle of Care = Can share with implied consent

- Health care practitioners
- Hospitals
- Psychiatric facilities
- Independent health facilities
- Community health or mental health centres, programs or services (**primary purpose is provision of health care**)
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What resources already exist to help you share information?

1. Provincial Clinical Viewers (Connecting Ontario, eHealth Portal)
2. Provincial Repositories (Digital Health Drug Repository, COVax, Ontario Laboratories Information System, Acute and Community Care Clinical Data Repository)
3. Shared electronic health records between health care providers within teams – between Family Health Teams and affiliated physicians (with PHIPA Agency Agreements)

No Consent

You can share business information within the IPCT and OHT and OHT partners for purposes like …

You can share business information with each other:

- ✓Types of services you offer
- ✓Types of disciplines of staff you have
- ✓Policies and procedures
- ✓Financial and other resources
- ✓Technical solutions you are using
- ✓Vendor information

You can share anonymized health information with each other without patient consent for purposes like …

You can share anonymized health information with each other without patient consent:

- ✓# of patients you serve
- ✓# of patients with particular diagnoses
- ✓# of patients with comorbidities
- ✓Types of patients you see in particular programs
- ✓Common attributes of your patients

If it is anonymized – you can share anything if you put that in your public privacy statement that you do so

Resources already exist to help you share information for quality and system planning

- Ministry of Health and Ministry of Long-Term Care and other Ministries
- Ontario Health
- Institute for Clinical Evaluative Sciences
- Canadian Institute for Health Information
- Centre for Effective Practice
- Researchers

You can already share identifiable information with each other without patient consent for certain administrative and system functions such as …

You can share identifiable information with each other without patient consent:

✓To another HIC if they also provide health care to that patient for the purpose of quality re the shared patient (s. 39(1)(d))

Tech Solutions to Maximize Sharing

You can share identifiable information with each other without patient consent:

✓If the disclosure is necessary to eliminate or reduce a significant risk of serious bodily harm to a person or group

You can also share identifiable information with each other without patient consent:

- ✓Medical Officer of Health for immunization of school pupils + some other public health needs
- ✓Head of a penal or custodial institution or officer in charge of a psychiatric facility for care or custody, detention, release or discharge
- ✓Successor
- ✓Research with REB approval

Express Consent

There are things you cannot yet do between members of the GWOHT without express consent (that the law may let you do if the law changes)

You can only share PHI with each other within the OHT with express consent for:

- Planning or delivering programs or services (new regulation)
- Population health planning (new regulation)
- Allocating resources (new regulation if this is "planning")
- Evaluating or monitoring programs or services
- Risk management
- Error management
- Quality of care improvement or maintenance (unless all common/shared patients)
- Educating agents

NOTE: But you can share de-identified data

Q4: What kind of consent?

A4:

1. Assume implied consent for health care for IPCT
2. Get express consent to share with others for secondary purposes like planning, quality, research
3. No consent for urgent serious risk of harm or sharing de-identified information

Questions

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