



News Release

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## Privacy Commissioner Cavoukian and seven health organizations team up to eliminate confusion over key element of health privacy law

TORONTO – Ontario's Information and Privacy Commissioner, Dr. Ann Cavoukian, today released a new publication that includes specific practical examples to help clarify any confusion over when health information custodians can assume a patient's *implied consent* to collect, use or disclose personal health information.

The brochure, *Circle of Care: Sharing Personal Health Information for Health-Care Purposes*, was developed with the collaboration of seven health organizations. "This brochure cuts through the confusion surrounding the term *circle of care*," said the Commissioner. "We are using seven relevant examples from across the broader continuum of the health sector to provide such clarification."

"There had been some confusion in the health sector as to the meaning and scope of the *circle of care* concept," explained Commissioner Cavoukian. "In part, this may have been because the term does not appear in the *Personal Health Information Protection Act, 2004*. It is, however, commonly used in the health-care community to describe the provisions in the *Act* that permit health-care providers to *assume* a patient's implied consent to collect and use personal health information – and to share that information with other health-care providers – in order to provide health care to that patient, unless the patient expressly indicates otherwise."

The *Act* is based on the premise that privacy can be protected, without needless delays in the health system.

"Overall, the *Act* is working very well, but clarity needed to be brought to bear on the *circle of care* concept," said Commissioner Cavoukian.

The seven examples in the brochure address this. As a fictional 61-year-old patient is followed through much of the health-care system, the examples provide specific guidance relating to when a health provider can assume *implied consent*.

The seven health organizations that worked with the IPC include (in alphabetical order): the College of Physicians and Surgeons, the Ontario Association of Community Care Access Centres, the Ontario Association of Non-Profit Homes and Services for Seniors, the Ontario Hospital Association, the Ontario Long Term Care Association, the Ontario Medical Association and the Ontario Ministry of Health and Long-Term Care.

Here is a **condensed** version of one of the examples used in the brochure:

A patient is sent by his family doctor to a laboratory for blood and urine testing. A geriatrician, a specialist whom the patient has been referred to by his family doctor,



would like to obtain the results of those tests. He would also like to obtain a list of the patient's current prescriptions from the pharmacy where he fills all his prescriptions.

***Can the laboratory and pharmacy disclose this personal health information and can the geriatrician collect information based on assumed implied consent?***

Yes. The laboratory, pharmacy and geriatrician may assume implied consent. The personal health information was received by the laboratory and pharmacy – and will be received by the geriatrician – for the purpose of providing health care to this patient.

“Personal health information may be shared within the *circle of care* – among health-care providers who are providing health care to a specific patient – but not outside that circle,” stressed Commissioner Cavoukian. “Any sharing of personal health information with other health-care providers for purposes *other* than the provision of health care – or the sharing of personal health information with persons or organizations that are not health-care providers, such as insurers and employers – requires the express consent of the patient.”

To see a copy of the brochure, visit [www.ipc.on.ca](http://www.ipc.on.ca).

The Information and Privacy Commissioner is appointed by and reports to the Ontario Legislative Assembly, and is independent of the government of the day. The Commissioner's mandate includes overseeing the access and privacy provisions of the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act*, as well as the *Personal Health Information Protection Act*, which applies to both public and private sector health information custodians, in addition to educating the public about access and privacy issues.

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