Office of the Information and Privacy Commissioner of Alberta

Summary Report: Survey of Colleges of Regulated Health Professionals in Alberta under the *Health Information Act*

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Contents

Regulatory Colleges data presentation and survey analysis

This is a summary report of the data obtained from surveys sent to various HIA-prescribed regulatory Colleges on behalf of the OIPC. It consists of qualitative data, such as charts where yes/no, scale or multiple choice options were surveyed, and contains processed data of open answers where such charts made sense according to principles of inductive coding (i.e. respondents answered aligned along a limited number of categories of answers and were grouped accordingly). Statistics have been enriched with a short analysis of answers and/or illustrative survey answers where relevant.

Eight out of eleven Colleges responded. Only three did not respond to the survey, primarily due to time constraints.

In our survey instructions, we requested the Colleges to, as best as they could, provide a response representative of their respective professions. As a result of this instruction, Colleges chose to provide a response to the survey in a variety of ways.

- The College of Alberta Denturists held a focus group to answer the survey.
- The College of Dental Hygienists sent the survey to various practitioners that they deemed suitable to respond on the profession's behalf to the survey, but only one practitioner provided a timely and complete response.
- The College of Physicians & Surgeons of Alberta (CPSA) surveyed their members on our behalf. These survey results are not included herein but are contained in a separate document. The CPSA also surveyed physician staff members separately and provided us with a letter summarizing their views which are incorporated into this survey.
- The answers from other Colleges that responded did not provide us with detail about how they managed the survey, but it was clear from the responses that they either consulted their membership or responded and provided information about well-known issues for the profession.

Summary of findings per topic

Current obstacles to health information flow and thoughts on broader health information-sharing models

Consensus

- The Colleges reported challenges with members obtaining health information for their practices. Recurring themes include:

  - the completeness or quality of health information in systems such as Netcare or Connect Care;

  - the challenge of obtaining health information from providers that are not connected to Netcare or Connect Care; and

- o the inability to access Netcare and Connect Care for custodians currently not on these systems and which would like such access on a need-to-know basis.

- The Colleges indicated that there is a need for interoperability. Three expressed that a lack of interoperability is one of the reasons for the inability to access health information.

- The Colleges reported a negative impact on their work because of incomplete health information. Several indicated that they are left to rely on the incomplete memory of the patient, which impacts their ability to provide quality care and causes delays and inefficiencies in patient care, such as when the lack of access to health information requires double testing or imaging, as applicable, and delays occur in manual requests for access to health information from another practitioner.

- All except one College think changes are necessary to HIA.

- The aggregate of Colleges responded with general support for the need to improve the sharing of health information amongst health care providers for the following purposes.

  - o Ensuring there is need-to-know and reasonable access to an EHR system that holds complete patient records.

  - o Enabling timely access to health information and preventing delays and inefficiencies in the delivery of health care.

- There was also general support for patient access to their own health information in such a system.

- Most Colleges pointed to both auditing and proper access controls as compensating measures in such a model.

Diverging views

- Two Colleges did not support the broader digital sharing of health information in Alberta. One response pointed out the increased risk of breaches, and the other noted the lack of need for such broad access for their particular profession.

- Regarding extra-provincial access to the health information of Albertans through a shared digital health information system, three Colleges support this expansion while four said "no". Similar to the responses regarding broader intra-provincial access:

  - o there was some convergence in the explanation (yes but only with the following requirements, no unless the various controls and limitations apply e.g. limitation principles applied to custodian access to health information);

  - o there was general consensus that such a system should "be sensible" in that it must account for the need for access (and the risk of providing no, slow, or insufficient access) and the need for accuracy, and it must also address the risk of harm from providing access.

- Regarding the controls needed if broader digital health information access in Alberta is implemented, the responses varied, with three Colleges mentioning a role for the patient in accessing access logs and/or controlling access.

Current functioning of HIA

- All Colleges agree that HIA is currently largely effective in protecting health information privacy rights.

- The Colleges generally agree (either agreed (5), or felt unable to answer (1), or partially agreed (1)) that health information governance obligations under HIA are adequate.

PIA requirements, self-assessment, enforcement

Consensus

- Regarding PIAs, the Colleges prefer better supportive resources, manuals, templates and guidance (especially for small custodians), and a less cumbersome process. There is support for PIA requirements, but Colleges acknowledge it is a burden to their members and would like help or a less onerous approach where appropriate.

- The Colleges all agree that they see benefits to some sort of obligation on, or other role for, vendors in the PIA process, either to support custodians or to work directly with the OIPC.

- Most would be supportive of a self-audit/assessment approach if the tool used is more accessible, user-friendly and less burdensome than the PIA process.

Diverging views

- A dissenting opinion prefers the PIA, as annual self-assessment may not support the level/timeliness of risk mitigation a PIA provides.
- Opinions diverged on the type of approach needed for enforcement under their ideal system. Some favour a soft approach that stresses education, training and the OIPC working with custodians to promote compliance (e.g. sandbox); others see a role for penalties and other sanctions.

Technological innovations (AI) and use of HI by health apps

- The Colleges indicated that there is significant uptake of technological innovations such as AI, telehealth and smart devices in the various regulated professions.

- There is shared concern regarding the negative effect of these innovations, including potential privacy breaches, if HIA does not regulate the technologies. There is also a lack of understanding among members of the technologies, and consequently compliance risk/risk to privacy.

- There is broad support for a PIA/other requirements when innovative technology is used in combination with health information to reduce risk/ensure compliance. The suggestion was made to create an accessible registry of (foundational) AI applications that have already been assessed to prevent double work and create consistency.

- There is consensus that AI regulation is needed. Some Colleges were unsure if that would need to be a standalone law or part of existing laws.

- There is broad support for more cooperation with the OIPC to facilitate compliance and there is interest in engaging in a regulatory sandbox for this purpose.

- There is support for assessment of AI systems either by the Commissioner or similar.

- There is agreement that health information collected, use or disclosed via apps and devices should be regulated to prevent harm to individuals.

- Three of the Colleges flagged technology and/or AI as issues that need to be addressed in regulation to enable their ideal models.

Other topics

- The Colleges are divided about health facilities as custodians. Some say a health care provider should be accountable. Others indicated that there is concern about corporations becoming custodians, which may have unintended effects.