



Part 2 of
*“Demystifying the
PRIVACY IMPACT
ASSESSMENT
and Streamlining the
Process”*, RxPress Winter
2008, Pages 9 and 10

Portfolio Officer, Office of the Information and Privacy Commissioner

custodians under the HIA. This means that a chain's head office cannot sign off on HIA policies or a PIA for its stores. This also means that the manager of a pharmacy cannot be considered a custodian unless they are also the licensee. A pharmacist is a custodian, but a pharmacist who happens to be working at a particular pharmacy may not have signing authority for the store. Someone in each store needs to sign-off on HIA policies and on PIAs, but who?

The Health Information Act (HIA) says that both pharmacies and pharmacists fall under the definition of custodian, which can cause confusion when determining who signs off on HIA policies or on privacy impact assessments. This confusion becomes even more severe when we consider whether the head office of a pharmacy chain or a pharmacy manager can sign-off on HIA policies or a privacy impact assessment (PIA).

Custodians of health information are responsible for carrying out all of the duties and responsibilities in the HIA. These duties include setting policies to ensure implementation of the HIA and ensuring that PIAs are submitted to the Office of the Information and Privacy Commissioner (OIPC) where necessary.

To begin, we need to look at the Pharmacy and Drug Act for definitions of pharmacist, pharmacy and licensee. The Act says that a pharmacy is the premises or part of premises in which drugs are stored, in which drugs are compounded, in which drugs are dispensed or sold or within which drugs are provided for sale. It also says that a pharmacist is an individual who is registered under the Health Professions Act as a regulated member of the college and holds a practice permit issued under that Act. A licensed pharmacy means a pharmacy with respect to which a licence is issued. Finally, a licensee means a clinical pharmacist who holds a licence.

Under the above definitions, a chain is not a pharmacy and therefore cannot be considered a custodian under the HIA. A pharmacy is the physical location in a store where pharmacy is practiced. Therefore, a chain of pharmacies with 100 stores is composed of 100 distinct

Each pharmacy operates under a licensee, who is also a pharmacist and consequently a custodian. The licensee manages, controls and supervises the operation of the licensed pharmacy. It stands to reason that the licensee is the best person to sign-off on policies and PIAs, which speak directly to the operation and control of a pharmacy.

A chain may still write HIA policies that apply to all of its members. A chain may still write a PIA on behalf of each of its stores, but writing something on behalf of someone is not the same as being responsible and accountable for it. Each pharmacy's licensee is responsible and accountable for PIAs and policies in their own store. When a chain submits a PIA to the OIPC on behalf of all of its stores, the OIPC must open a separate file for each store. It is important that the chain doing this work on behalf of its stores provide the OIPC with a list of individual stores and licensees to whom the PIA applies. It is also important that the chain give some evidence of its process to ensure that each licensee is aware of their responsibility for the PIA and related policies. A sign-off sheet signed by each licensee or a cover letter from each licensee are two suggestions, but if pharmacy chains have other ways to show this evidence, they are invited to contact the OIPC.

Note: For more information on the PIA grant resources, please contact Margaret Wing at margaret.wing@rxa.ca.