PIPA SHORTS

BC's **P**ersonal **I**nformation **P**rotection **A**ct

TYPES OF CONSENT

doctors of bc
British Columbia Medical Association

Office of the Information & Privacy Commissioner for British Columbia
Protecting privacy. Promoting transparency.

- Welcome to a webinar about understanding BC's Personal Information Protection Act or PIPA for short.

- If you're a physician or MOA working in a private practice, this webinar is for you.

TYPES OF CONSENT

- Express / Opt-in
  - informed and voluntary
  - verbal or written (preferred)

- Implied / Opt-out
  - informed and voluntary
  - clear and obvious
  - time-limited response

- Considerations
  - No deception
  - Allow it to be be withdrawn but explain impact
  - Obtain consent for a new purpose
  - Never withhold services

Hospital
Legal Guardian
Ministry of Health
Pharmacy
Specialist

Consent is required for collection, use and disclosure of personal information.

DIFFERENT TYPES OF CONSENT are

- Express or opt-in which is given by an
  - informed person voluntarily and can be done
  - verbally or in writing but it's always best to get it in writing

- Implied or opt-out which is also given by an
  - informed person voluntarily but
  - there's no need for express consent because it's obvious why it's needed
  - In some cases, you might want to notify a patient that you'll be handling their personal information differently, giving them a period of time to opt-out of the new process
    - Implied consent usually extends to parties who provide care to a patient and form part of their "circle of care" (like specialists, referring physicians and lab technologists).
    - The collection, use and disclosure of personal information by physicians for delivery of care is generally authorized under PIPA on the basis of implied consent

- Considerations are that
  - Deception should never be used to obtain consent

- A patient or employee can withdraw their consent but they need to understand the impact
- You need to obtain consent to use personal information for a new purpose and
- You can't withhold services to someone failing to consent

In a clinical office, you may ask a new patient for their name, birthdate, contact information and personal health # verbally
and only require a consent in writing if it relates to
- communicating with them electronically or
- using their medical data for research but
- when information stays inside the circle of care, you can rely on implied consent

WHERE DO YOU START?

- How is personal information shared outside the office?

- Document how you get consent
  - for other purposes
  - from a legal guardian
  - from a power of attorney

- Consent forms need to
  - be easy to find and understand
  - describe how the information will be used and shared

- Protect personal information when getting consent
 - in person
  - by phone
  - electronically

WHERE DO YOU START?

- Identify situations when personal information is shared outside the circle of care
  For example,
  - patients should know if their information is being shared for secondary purposes and
  - both patients and employees should know if you've outsourced any processes and if their data is held outside Canada

- Document how you get consent
  - for other purposes
  - from a legal guardian or
  - from a POA

- Make sure your consent forms are
  - easy to find and understand and
  - they describe how information will be used and shared

- When obtaining consent
  - respect the sensitivity of the information when asking for it in person quietly so others in the waiting room can't hear
  - have a process to identify a caller by asking for 2 or 3 pieces of information only they would know and
  - have safeguards in place for electronic consent
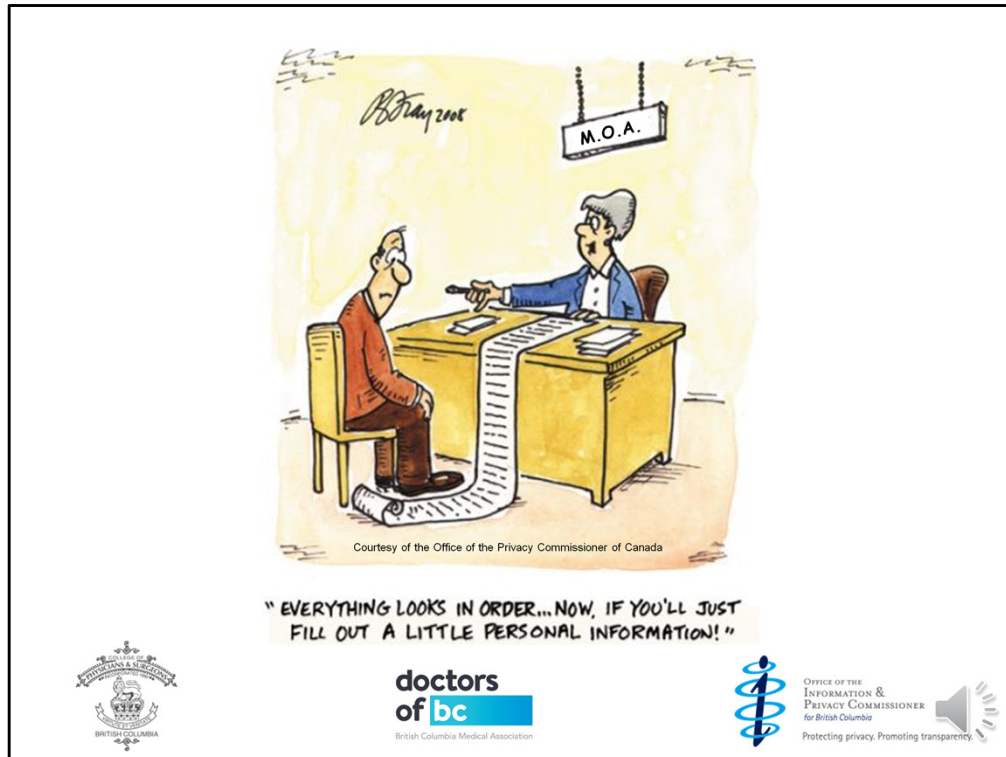
If you take reasonable measures to obtain consent, you're fine.

You don't need to go overboard.

Check with your EMR vendor about masking options.

For more information see Guidelines for Consent and Masking Options in the Privacy Toolkit.

WEBINAR RESOURCES

- College Standards and Guidelines
  https://www.cpsbc.ca/for-physicians/standards-guidelines

- Doctors of BC Privacy Toolkit and webinar notes (PDF)
  https://www.doctorsofbc.ca/privacy-toolkit-webinars

- Office of the Information & Privacy Commissioner for BC:
  - Guide to PIPA
  - Privacy Breach Tools and Resources
  - Accountability Tips
  - Getting Accountability Right
  - Self-Assessment Tool for Securing Personal Information
  - Cloud Computing Guidelines
  - Guidance Document: Information Sharing Agreements
  https://www.oipc.bc.ca/guidance/guidance-documents/

Links to these Resources are in a PDF document on the Webinars page of the Privacy Toolkit
- College Standards and Guidelines
- Doctors of BC Privacy Toolkit and webinar notes
- and Privacy Commissioner guides, tips and resources

Let us know if you have any questions about complying with PIPA