

The Office of the Information and Privacy Commissioner for Nova Scotia (OIPC) met with Department of Health and Wellness (DHW) officials to clarify the DHW's responses to the recommendations in Investigation Report IR18-01. DHW has confirmed the following reflects its response:

#1: DIS Breach Investigation Protocol (Corrective Action Process)

- Have had conversations with the Executive, the program area, and the team at the Health Privacy Office (HPO) to confirm HPO authority and investigative requirements.
- Reviewed and revised the Drug Information System (DIS) breach investigation internal process/protocol.
- Reviewed the high trust model and discussed this with the DIS team.
- DHW views this as accepted and complete.

#2: Containment

- A letter was issued to all 46 affected individuals requesting feedback from them.
- The letter referred to the investigation report and directed the recipient to review recommendation #2. A link to the investigation report and DHW's response to the recommendations was included.
- DHW did not inquire if the pharmacist had been in contact. The purpose of including a copy of the investigation report was so the affected individuals would read the recommendation themselves and call if they had anything to report.
- DHW views this as accepted and complete.

#3: Electronic Database Breaches

- The Privacy Breach Protocol was updated to include implicated databases.
- DHW views this as accepted and complete.

#4: Privacy Breach Notification

A) Notify

- There have been three unsuccessful attempts to find updated contact information. The last attempt was on July 18, 2018.
- One of the individuals is not associated with a valid MSI number, possibly because he or she is out of the province.
- Another does not have a new address and there has been no activity in the health records.
- DHW views this as accepted and complete.
- The Commissioner suggested that DWH contact Sobeys to find out if there is a different contact for each of these individuals in their system. DHW accepted this suggestion.

B) Protocol

- Protocol updated.
- Includes the five elements requested.
- It is in circulation for sign-off.
- DHW views this as accepted and complete.

#5: Health Privacy 1-800 Line and Breach Investigations

- Confirmed with staff that process is in place already – a complainant name is not needed to investigate.
- Updated logs to provide for an indicator when the caller wants to be anonymous so staff know what process was followed.
- DHW views this as accepted and complete.
- Beyond this specific recommendation, DHW added a phone script to be consistent with messaging.

#6: DIS User Agreement

i) Enforce existing terms

- There are two user agreements – with the pharmacy and with the vendor.
- Have revisited both.
- Highlighted areas for auditing.
- DHW views this as accepted and complete.

ii) User organization audits

- Jurisdictional scanning being done to see how other jurisdictions manage this. Conversations are happening.
- DHW views this accepted and in progress.

iii) Monitoring of user organizations

- Jurisdictional scanning being done to see how other jurisdictions manage this. Conversations are happening.
- DHW views this as accepted and ongoing.

iv) Notification to DIS user organizations

- Notification sent to all banner pharmacies:
 - asking for confirmation that they do security and access audits, and
 - reminding them of their obligations.
- The DHW is in receipt of confirmations as of October 15, 2018.
- Responses will allow DHW to review compliance.
- DHW views this as accepted and complete.

#7: DIS User Training

- Training is done by computer module. The module includes information about notations already.
- Users who come on are obligated to take the module. The Joint Service Agreement – Pharmacies (JSAP) states user organizations are responsible to facilitate education recommended by the DIS Program.

- The SHARE portal ‘terms of use’ (how portal users gain access to the DIS) expressly requires users complete the DIS Privacy and Confidentiality (DIS Portal) learning module, the SHARE Privacy Zone and the Fast Track learning module.
- At present, there is no monitoring to ensure learning modules are completed, but monitoring will be made mandatory and tracked in audits with the JSAP revision.
- Review of JSAP ongoing, will increase auditing and clarify mandatory training requirements.
- DHW has met with the Pharmacy Association of Nova Scotia and the College of Pharmacists to discuss training. They are open to engaging in training. Also, the DHW talked to pharmacy banners and asked the banners to re-do training.
- DHW views this as accepted and complete.

#8: The DHW Privacy Policy

- This has been updated.
- DIS is an electronic health record (EHR) component. Pharmacists are obliged to provide information into the EHR on their own right and in compliance with legislations. They are not in an agent relationship with DHW.
- Did look at all references of “agents”.
- DHW views this as accepted and complete.

#9: DIS Audit Policy and Procedure

i) FairWarning

- DHW does have direct access to FairWarning now.
- The Health Privacy Office and the two audit specialists and one more will get training.
- DHW views this as accepted and complete (FairWarning access).

ii) Audit criteria

- Already doing #1 and #3 – “same name lookups” and “lookups without user notes...”.
- Do not currently have employee list to do #2 – “employee lookup”, looking into what might be possible.
- DHW views this as accepted and in progress.

iii) Conduct audits

- Some obligations are already included.
- DHW will include in JSAP conversations and conversations with banners. This is part of the confirmation requested of pharmacies in the letter sent.
- Data will be collected.
- DHW views this as accepted and in progress.

#10: Multi-User Electronic Health Records

- DHW has a lot in place now.
- DHW has taken the recommendation into consideration but it does not have control of the legislative process.
- Data will be collected.
- DHW is reaching out to other jurisdictions.
- DHW has not accepted this recommendation but is well into planning, policy work and conversations.