

ICDPPC Global Privacy and Data Protection Awards

2018

Entry Form

Deadline 29 June 2018

To submit an entry to the ICDPPC Global Privacy and Data Protection Awards please complete and email this form to ExCoSecretariat@icdppc.org no later than 29 June 2018.

Note: ICDPPC member authorities can submit as many entries as they wish but a separate form should be used for each different entry. Please complete the entry in English.

1. **Contact details for this entry:**

- a. Name and email address of person completing this form:
- b. Name of Data Protection or Privacy Authority: [Information and Privacy Commissioner of Ontario \(IPC\)](#)

2. **Eligibility:** By submitting this entry I confirm that:

- a. The Authority is a member of the International Conference of Data Protection and Privacy Commissioners.
- b. The initiative described in this entry was undertaken since the last edition.
- c. I am aware that the information in the entry (other than the contact details in 1(a) above) will be publicised by the ICDPPC Secretariat.

3. Please indicate which **category or categories** you wish to enter (delete those that do not apply; you can enter multiple categories):

- a. **Accountability**

4. **Description of the initiative:** [Reporting Health Privacy Breaches under PHIPA; support to health custodians](#)

- a. Please provide a brief summary of the initiative (**no more than 75 words**):

Last year, it became mandatory for health information custodians to notify our office of health privacy breaches and to track breach statistics as part of a new annual reporting requirement. The IPC developed guidance materials to advise under what circumstances breaches must be reported. A secure online form was developed so that breaches could be reported to our office electronically and a statistics submission website was also created so that statistics could be submitted electronically.

- b. Please provide a full description of the initiative (**no more than 350 words**):

The Government of Ontario recently amended Ontario's health privacy law to require health information custodians (HIC) to notify the IPC about privacy breaches meeting certain criteria. While our office was extensively involved in the development of the detailed regulation setting out the breach reporting requirements, the final product was detailed and complex. In order to assist custodians in understanding their new reporting obligations, we released a guidance document to explain, in plain language, the reporting criteria described in the regulation. The document outlines the seven situations where HICs must notify our office of a privacy breach. We also created a secure online form so that custodians could report the pertinent details of breaches to our office. The form was designed to allow HICs to report privacy breaches to our

office in an efficient, expeditious way. Details of the circumstances surrounding the breach and steps taken in dealing with the breach can be sent directly to us online.

Furthermore, starting in March 2019, HICs will also be required to provide our office with an annual report on privacy breach statistics for the previous calendar year. An additional guidance document outlines how HICs are to track these privacy breach statistics. To accommodate this new requirement, our statistics submission website underwent extensive revisions. These revisions included the design and implementation of a new, secure online report that will allow health information custodians to electronically submit their annual privacy breach statistics to our office.

The IPC also hosted a webinar for health information custodians (HIC) looking for clarity on reporting health privacy breaches. The webinar offered advice on health privacy breach reporting and some specific situations where HICs must notify our office. The presentation was followed by a live QA where participants could ask questions directly to the Commissioner and a panel of IPC experts.

- c. Please explain why you think the initiative deserves to be recognised by an award (no more than 200 words)

The development of the professional guidelines, webinar, and upgraded online reporting resources has helped health information custodians (HIC), and the wider health care sector in Ontario to have:

- a clear and easy understanding of the new requirements
- greater clarity and consistency regarding the reporting mechanisms
- a streamlined and consistent approach to managing different kinds of health information breaches
- consistent and accurate reporting of breaches across the entire health sector
- a better understanding of what circumstances warrant a report to our office
- chance to identify potential privacy risks and patterns of accidental and non-accidental breaches
- the incentive to develop policies and programs to pre-emptively prevent breaches and deter unauthorized access
- the opportunity to address key concerns and ask for further advice and assistance beyond what is in the immediate guidance materials

It should also be emphasized that these guidance resources not only benefit HICs and the health care sector, but they benefit all Ontarians in ensuring health care providers remain accountable with regard to the handling of patients' personal health information.

- d. Include a photograph or image if you wish (note this will help illustrate the description of the entry on the ICDPPC website; the image can be pasted into the entry or send as an attachment or a link may be provided): <https://www.ipc.on.ca/wp-content/uploads/2017/08/health-privacy-breach-notification-guidelines.pdf>
<https://www.ipc.on.ca/wp-content/uploads/2017/11/annual-breach-statistics-rptg-2.pdf>

SEPTEMBER 2017

Reporting a Privacy Breach to the Commissioner

GUIDELINES FOR THE HEALTH SECTOR

To strengthen the privacy protection of personal health information, the Ontario government has amended the Personal Health Information Protection Act (the act). Under section 12(3) of the act and its related regulation, custodians must notify the Information and Privacy Commissioner of Ontario (the Commissioner) about certain privacy breaches. This law takes effect **October 1, 2017**.

As a custodian, you must report breaches to the Commissioner in seven categories described in the regulation and summarized below. The categories are not mutually exclusive; more than one can apply to a single privacy breach. If at least one of the situations applies, you must report it. The following is a summary—for the complete wording of the regulation, see the appendix at the end of this document.

It is important to remember that even if you do not need to notify the Commissioner, you have a separate duty to notify individuals whose privacy has been breached under section 12(2) of the act.

SITUATIONS WHERE YOU MUST NOTIFY THE COMMISSIONER OF A PRIVACY BREACH

1. Use or disclosure without authority

This category covers situations where the person committing the breach knew or ought to have known that their actions are not permitted either by the act or the responsible custodian. An example would be where a




The screenshot shows the website header with the logo and navigation menu. The main content area is titled "Privacy Breach Report Form" and includes a sidebar with links to "Report a Privacy Breach", "Regulations", "Privacy Breach Report Form", "Annual Reporting of Privacy Breach Statistics to the Commissioner", "Collection, Use and Disclosure of Personal Health Information", and "Responding to a Privacy Breach". The main text explains the purpose of the form and includes an important note: "Do not include any personal health information with this form." It also mentions that the IPC may request additional information after reviewing the form.

NOVEMBER 2017

Annual Reporting of Privacy Breach Statistics to the Commissioner

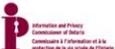
REQUIREMENTS FOR THE HEALTH SECTOR

Starting in March 2019 health information custodians will be required to provide the Commissioner with an annual report on privacy breaches occurring during the previous calendar year.

This requirement is found in section 6.4 of Ontario Regulation 329/04 made under to the Personal Health Information Protection Act, 2004, as follows:

- (1) On or before March 1, in each year starting in 2019, a health information custodian shall provide the Commissioner with a report setting out the number of times in the previous calendar year that each of the following occurred:
 1. Personal health information in the custodian's custody or control was stolen.
 2. Personal health information in the custodian's custody or control was lost.
 3. Personal health information in the custodian's custody or control was used without authority.
 4. Personal health information in the custodian's custody or control was disclosed without authority.
- (2) The report shall be transmitted to the Commissioner by the electronic means and format determined by the Commissioner.

For custodians to prepare for this reporting requirement, they must start tracking their privacy breach statistics as of January 1, 2018. The following is the information the IPC will require in the annual report.



5. Please provide the most relevant link on the authority's website to the initiative (if applicable) (The website content does not need to be in English):

<https://www.ipc.on.ca/health/report-a-privacy-breach/>

<https://www.ipc.on.ca/health/report-a-privacy-breach/privacy-breach-report-form/>

<https://statistics.ipc.on.ca/web>

- a. Please provide any other relevant links that you wish that help explain the initiative or its impact or success (e.g. links to news reports or articles):

<https://www.ipc.on.ca/event/ipc-webinar-reporting-health-privacy-breaches/>

<https://www.ipc.on.ca/guidance-document-available-for-health-information-custodians-on-reporting-health-privacy-breaches/>

<https://www.ipc.on.ca/annual-reporting-of-privacy-breach-statistics-requirements-for-the-health-sector/>

<https://www.newswire.ca/news-releases/protecting-patient-privacy--information-and-privacy-commissioner-releases-new-guidance-on-mandatory-reporting-of-health-information-breaches-648470713.html>

<https://www.ontariomd.ca/pages/new-privacy-breach-reporting-guidelines-for-the-health-sector.aspx>

<http://www.cno.org/en/news/2018/april-2018/guidance-when-reporting-privacy-breaches/>

<https://www.wisehealthlaw.ca/blog/privacy/privacy-commissioner-privacy-breach-reporting-guidelines/>

<https://www.oha.com/Legislative%20and%20Legal%20Issues%20Documents1/Annual%20Breach%20Reporting%20-%20OHA%20Backgrounder%20November%202017.pdf>