AUTHORIZATION FOR INDIRECT COLLECTION OF PERSONAL INFORMATION

Ministry of Health & Ministry Responsible for Seniors

David Loukidelis, Information and Privacy Commissioner

April 19, 2001

1.0 NATURE OF THIS DOCUMENT

[1] Under s. 42(1)(i) of the *Freedom of Information and Protection of Privacy Act* ("Act"), this document authorizes the Ministry of Health and Ministry Responsible for Seniors ("Ministry") to indirectly collect personal information on the conditions set out below.

2.0 BACKGROUND

[2] By a letter dated March 9, 2001 letter (received March 12, 2001), the Ministry requested my authorization, under s. 42(1)(i) of the Act, to collect a common provider number for the purposes of a multi-jurisdictional health care provider registry.

[3] The Ministry wishes to use a common provider number ("CPN") for health care providers for the purposes of a multi-jurisdictional registry of health care providers ("Provider Registry"). The Provider Registry is currently planned for the four Western provinces. It is an initiative of the Western Health Information Collaborative ("WHIC"). There may in future be a national scope to the Provider Registry. The purpose of the Provider Registry is to identify individual health care providers. It will do so by assigning a unique numerical identifier – the CPN – to each provider

[4] The CPN is intended to be used solely to verify that a provider in two or more different roles is the same person. To use the Ministry's example, a single CPN would be given to someone who is licensed to practice in British Columbia as a pharmacist and as a doctor. This person will have two different provider-role IDs ("PRID"), which will link to a single CPN representing that person. All personal information in the Provider Registry will be kept only at the PRID level. The CPN will be the only data-field at the highest level and will be used for administrative purposes only. It will not be disclosed to authorized users of Provider Registry data.

[5] When registering a health care provider who has been a provider in a different jurisdiction, the Ministry will collect the existing CPN from the other jurisdiction's Provider Registry. It is essential, the Ministry says, that all jurisdictions have the authority to collect and disclose CPNs to each other. This cross-jurisdictional collection will only be required, the Ministry says, for registration of multi-jurisdictional providers.

[6] In support of its request, the Ministry provided the February 15, 2001 Draft (Version 0.7) WHIC Provider Registry Privacy Impact Assessment ("Provider Registry PIA") and the final version of the WHIC Provider Registry Requirements Document. The background summary set out below is based on the Ministry's March 9, 2001 letter and those supporting documents.

[7] Because of the nature of the personal information involved here, and the purpose for its collection, I did not consider it necessary, in this case, to solicit public comment on the requested authorization. In the interests of accuracy, I received comments from the Ministry on a draft of part 3.1 only of this authorization.

3.0 DISCUSSION

[8] **3.1 Ministry's Arguments** – The Ministry submits that authorization of indirect collection of the CPN by the Ministry from other provincial Provider Registries would be appropriate for the following reasons:

1. Collection from other Provider Registries will ensure maximum accuracy of the CPN, because the CPN is created by that Provider Registry and that Provider Registry is the best source of accurate and complete information, and

2. Collection would be consistent with the Act's legislative scheme. The Act lacks a reciprocal provision for indirect collection of personal information, for a consistent purpose, from outside British Columbia, even though British Columbia would be authorized under the Act to disclose the same personal information.

[9] The Ministry submits that the Act authorizes, through ss. 27(1)(b) and 33, indirect collection and disclosure of personal information. It argues that, if a public body (covered by the Act) is authorized by the commissioner, under s. 42(1)(i), to collect personal information indirectly, a public body is also authorized to disclose it under s. 33(c). A recipient public body can, under s. 32(c), use the information so disclosed to it. In the case of the Provider Registry, the Ministry says, this breaks down. Although the Ministry can, under s. 33(c), disclose a CPN to another province's Provider Registry for the purpose of verifying identity and ensuring that the CPN's uniqueness is maintained, it cannot indirectly collect the CPN from the other province's Provider Registry.

[10] The Ministry argues that it is not practicable to obtain written consent to indirect collection from individual health care providers. It also says individual health care providers are not expected to use the CPN or to be familiar with it, because it will not be relevant outside the Provider Registry. The Ministry also argues that it is not practicable for regulatory bodies or other authorized sources to obtain specific written consent from

individual providers. The Colleges involved in the project to date have indicated that their involvement is, because they are funded by membership fees, contingent on it having minimal impact on their operations and budget. They are concerned about the administrative costs of obtaining written consent, keeping track of providers who have not consented and changing software to capture consent-tracking information.

[11] To summarize, the arguments made by the Ministry are that indirect collection of the CPN would permit maximum accuracy, and cost-efficiency, without affecting privacy interests. The only alternative option – individual written consent – is not practicable, the Ministry says, because the CPN will not be used by or familiar to individual providers and the costs of collection could threaten the viability of the Provider Registry project.

[12] **3.2 Reasons For Granting Authorization** – I start with the observation that the CPN is "personal information", as defined by the Act, only because it is "an identifying number, symbol or other particular assigned to the individual" (paragraph (d) of the Schedule 1 definition of "personal information"). On its own, the CPN identifier does not engage significant privacy interests. It is not, for example, sensitive information such as the medical history of a health care provider. Moreover, if the Act's definition of "personal information" did not include the concept of an "identifying number", it could be argued with some force that personal information is not involved here at all.

[13] I have approached the issue of whether indirect collection should be authorized in this case in light of the principles articulated in Part 3 of the Act. The policy of Part 3 is to ensure that individuals have control over their own personal information throughout its life-cycle. Part 3 is also aimed at ensuring transparency in the collection, use and disclosure of personal information. For this reason, Part 3 stipulates that personal information must be collected directly from the individual to whom the information relates and that it must be disclosed or used only for the purpose for which it was collected. There are exceptions to these rules, of which commissioner-authorized indirect collection is one. Part 3 expressly acknowledges that the commissioner may, under s. 42(1)(i), authorize a departure from the principle of direct collection, which is expressed in s. 27(1).

[14] Bearing in mind these policies of control and transparency – and also whether the proposed indirect collection would unreasonably invade the personal privacy of health care providers within the meaning of s. 22 of the Act – I have considered the following questions in assessing the Ministry's application:

1. Has a clear and sufficiently compelling public interest or objective been identified that cannot reasonably be accomplished through direct collection of personal information?

2. Is the requested departure from the Act's rule of direct collection clearly justified when judged against the nature of the personal information to be collected and the purpose for which (and to whom) it is to be disclosed or used?

[15] As regards the first question, I am satisfied that a clear and sufficiently compelling public objective has been identified by the Ministry that cannot, in these circumstances, reasonably be accomplished through direct collection of personal information. The objective

of the Provider Registry is to achieve administrative efficiency in the management of the publicly-funded health care system in British Columbia and elsewhere in Canada. It also seems to me that the CPN may ease the mobility of health care professionals in Canada. At all events, I accept that the objective of administrative efficiency is, in this case, a clear and sufficiently compelling public objective for the purposes of s. 42(1)(i) of the Act, that cannot reasonably be accomplished through direct collection of personal information.

[16] As for the second question, I am satisfied in light of the Ministry's submissions that the objective can only reasonably be accomplished by indirectly collecting personal information. As the Ministry points out, the alternatives for direct collection are costly, are not timely and – perhaps most important – are susceptible to inaccuracy and incompleteness.

[17] I accept that, because the CPN originates with the Provider Registry, indirect collection of the CPN from other Provider Registries, as opposed to collection from individual providers, will maximize accuracy. It may well be that individual providers will forget their CPN, since they are unlikely to use it themselves and may lose any record of it. I note, in this regard, that providers will be notified of the CPN's existence before the inauguration of the Provider Registry, but I also accept that they are unlikely to remain familiar with a number that has no relevance to their day-to-day practices.

[18] I also accept that the CPN should be collected indirectly, from other Provider Registries, because it originates there and has no purpose or use outside a Provider Registry. Individual providers are not anticipated to use or to be familiar with their CPN, because it is not the key to a set of personal information. The sole purpose of the CPN is to determine that two or more PRIDs are the same individual.

[19] I have also considered the fact that, if the Provider Registry was a project carried out within British Columbia only, the Act would permit the sharing of CPNs for the purpose of the Provider Registry.

[20] As for the nature of the personal information to be collected, I note that, although it is technically personal information under the Act, it is not sensitive personal information (including personal information of a kind contemplated by s. 22(3) of the Act). Although the CPN is technically personal information, it relates only to the activities of individuals in their professional or business capacities as health care providers. Further, the personal information will not be used or disclosed for a purpose that engages important privacy interests of affected individuals. The CPN will be used, subject to security and other privacy measures, only to identify individual health care providers for billing and administrative purposes.

[21] I consider that the indirect collection of this personal information is, in light of the above considerations, clearly justified as being the only reasonable manner in which to accomplish the objective identified above.

4.0 AUTHORIZATION

[22] In light of the above, under s. 42(1)(i) of the Act, I authorize the Ministry to indirectly collect the CPN from Provider Registries in other jurisdictions participating in the WHIC, for the specific uses and disclosures described above, subject to the following conditions of this authorization:

1. This authorization is limited to the indirect collection of CPNs assigned to physicians and pharmacists in Phase 1 of the Provider Registry, as described in the Provider Registry PIA, and a separate authorization under s. 42(1)(i) of the Act is required for any other indirect collection of CPNs,

2. The Ministry must request that the College of Physicians and Surgeons of British Columbia and the College of Pharmacists of British Columbia each notify their members, in an appropriate fashion and as soon as is practicable, of the possibility of indirect collection of CPNs for Phase 1 of the Provider Registry, and

3. The Ministry must seek enactment as soon as is practicable of express statutory authority to indirectly collect CPNs for the Provider Registry.

April 19, 2001

ORIGINAL SIGNED BY

_____
David Loukidelis
Information and Privacy Commissioner
for British Columbia

OIPC File No. 12931