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Ontario and BC Privacy Commissioners Release Guidance on Violence Prevention at Universities and Colleges

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The Ontario and BC Privacy Commissioners have released a Practice Tool for Exercising Discretion in the context of violence prevention at universities, colleges and other educational institutions. A copy of the Practice Tool can be found here.

The Practice Tool is an important part of the Commissioners' attempts to educate institutions about their abilities to disclose personal information in emergency situations, and the Practice Tool should prove to be very helpful to decision-makers at educational institutions.

As a general guide, the Practice Tool is an excellent resource for institutions. However, the guidance for making disclosure decisions ultimately derives from the governing legislation, and the general statements in the Practice Tool do not trump the legislation.

For example, the Practice Tool contains the general statement: "The disclosure of personal health information allowed by BC and Ontario privacy laws is also consistent with disclosure permitted by the rules governing medical professionals such as physicians, nurses and psychologists." In the context of the example under consideration in the Practice Tool (disclosure of personal health information by a psychologist – i.e. a health information custodian), this statement is accurate and provides helpful guidance. However, in other contexts at universities and colleges, quite different rules might apply, including the availability to institutions of a variety of exemptions that are not available to health information custodians.

At Hicks Morley, we have long advised our clients that privacy legislation need not, and indeed does not, prevent emergency-related disclosures of personal information, including personal health information. As such, we applaud the efforts of the Commissioners to educate institutions on their rights and obligations under privacy legislation.

At the end of the day, institutions are best served by planning ahead, and putting in place policies and procedures that clearly delineate who has responsibility for taking action in an emergency situation, along with the principles that are to guide decision-makers, and then ensuring that employees receive the appropriate training and education required to give effect to these plans.

If you would like any advice or assistance in this regard, please feel free to contact any member of our Information and Privacy Group.

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