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Colleges and Universities: Who is the Health Information Custodian under PHIPA?

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This is a short note to our college and university clients – all of whom provide various services to their communities that are properly characterized as “health care” and therefore governed by the *Personal Health Information Protection Act*. Recent amendments to PHIPA give rise to questions about personal health information governance and the proper identity of the “health information custodian” or “HIC”.

PHIPA allows higher education institutions to choose the structure by which the personal health information associated with health-related student services is governed. Institutions can take on the role of “health information custodian” or they can assign that role to one or more employees or contractors. That is, either the institution or a person affiliated with the institution can take on the role of health information custodian – the person with the primary duties under PHIPA.

While either model is acceptable, it has always been important that the identity of the HIC is clear. This will become even more important because, beginning on January 1, 2018, health information custodians must begin to compile data on security incidents involving the theft, loss and unauthorized use and disclosure of personal health information under a new provision that requires every HIC to file an annual report with the Information and Privacy Commissioner.

The first report (for the 2018 calendar year) will be due on or before March 1, 2019. Institutions which are not clear on the scope of the PHIPA application to their activities or who have governance structures that are ambiguous should now strive for clarity.

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