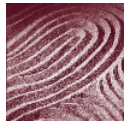
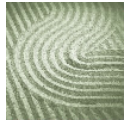
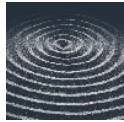




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Accountability and Transparency

Joshua Liswood

416.595.8525

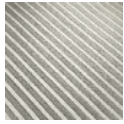
jliswood@millerthomson.com

October 27, 2010

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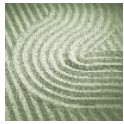
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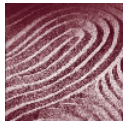
Overview



- Accountability and Transparency for Ontario's Public Hospitals



- Legislative Changes



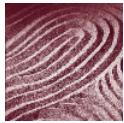
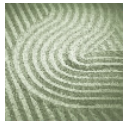
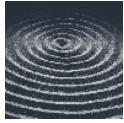
- Hospital By-Laws

- Coming Up – Excellent Care for All Act (draft Regulations); FIPPA

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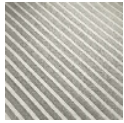


Legislative Changes

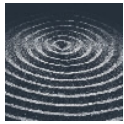
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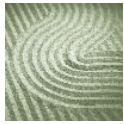
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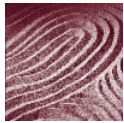
1. Critical Incidents (Reg 965)



- 2007 amendments → new Board responsibility to ensure system for disclosing every critical incident to affected patient, SDM, estate

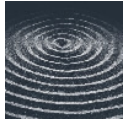


- July 1, 2010 → expanded to include:
 - “disclosure” to administrator, MAC as soon as is practicable after critical incident occurs
 - Analysis of incident and development of plan with systemic steps to avoid or reduce the risk of further similar critical incidents

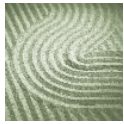




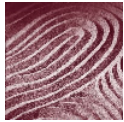
. . . Critical Incidents



- “Critical incident” defined as an unintended event that:



- Occurs when a patient receives treatment in the hospital;



- Results in death or serious disability, injury or harm to the patient; and

- Does not result primarily from underlying medical condition or known risk inherent in providing the treatment

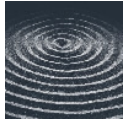
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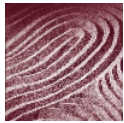
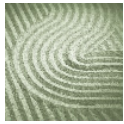
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. . . Critical Incidents



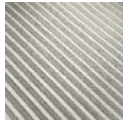
- Accountability and Transparency
 - Communication with patient / SDM
 - Effective internal reporting and notification procedures
 - Analysis of individual incident
 - Development of plan



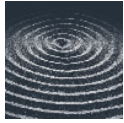
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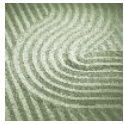
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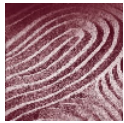
Patient Safety Indicators



- Rolled out September 2008 to July 2010



- New mandatory hospital reporting on indicators of quality of health care provided by the hospital that relate to:

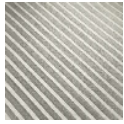


- Diagnosis of hospital-acquired infections
- Activities undertaken to reduce
- Mortality

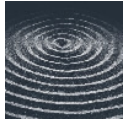
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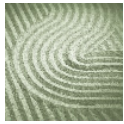


. . . Patient Safety Indicators

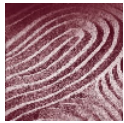


- “Full public reporting”

→ Posting of aggregate data on Ministry,
Hospital website



- In addition to Reg 965 requirements re:
infection prevention and control (s. 4, 15)



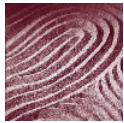
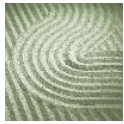
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Considerations



- Processes and systems for:
 - Compliance with statutory requirements for critical incidents and patient safety indicators
 - Monitoring, reviewing quality of care provided in hospital
- Systemic and individual incidents; proactive and reactive
- Protection of reviews
 - *Quality of Care Information Protection Act, 2004*
 - Legal privilege

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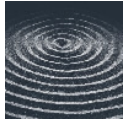


3. *Excellent Care for All Act, 2010*

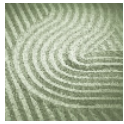
- Establishes hospital “Quality Committees”
 - Monitor quality of services and quality issues, improvements, best practices
 - Report and make recommendations to the Board
- Patient, staff surveys re: satisfaction
- Annual Quality Improvement Plans
- Performance based compensation for executives



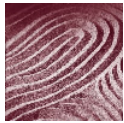
. . . *Excellent Care for All Act*



- In force June 8, 2010



- Except requirements re: Quality Committee



- Roles and responsibilities of QC in relation to:
 - MAC in discharge of its obligations under *Public Hospitals Act*?
 - Quality of Care Committee under QCIPA?

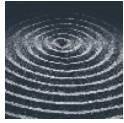
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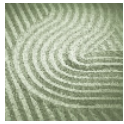
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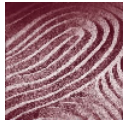
. . . *Excellent Care for All Act*



- Proposed Regulations



- QC composition: administrator, MAC member, CNE, RHP (non doctor/nurse), Bd selection;



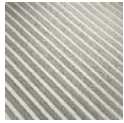
- majority to be voting Board members

- Executives – those who report to the CEO as well as COS and CNE

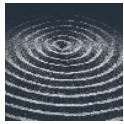
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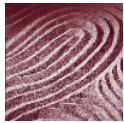
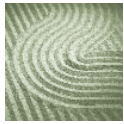
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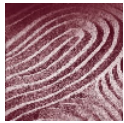
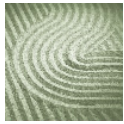
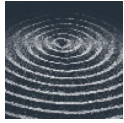


4. Hospital Governance (Reg 965 s. 2)



- Amendments in force January 1, 2010
- Revokes ex-officio membership for medical staff officers
- Where the following are Board members, they cannot be voting members:
 - Any member of the medical, dental, extended class nursing or midwifery staff of the hospital.
 - Any employee of the hospital
- Significant implications re: Directors' ability to fulfill obligations; role of medical leadership, MAC; role of administrator



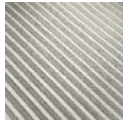


Hospital By-Laws

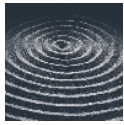
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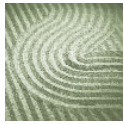
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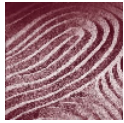
OHA Prototype By-Laws



- New “Prototype By-laws” proposed by Ontario Hospital Association in early 2010



- Significantly revises 2003 OHA Prototype By-laws

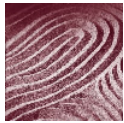
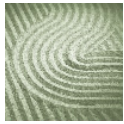
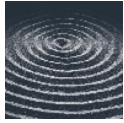


- Implications
 - Membership
 - Chief of Staff
 - CEO role
 - Etc.

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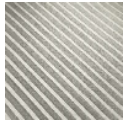


Coming Up?

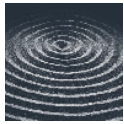
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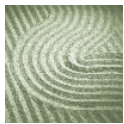
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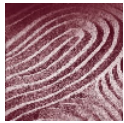
Coming Up: FIPPA?



- October 2009 → Ontario Hospital Association asked Ontario Government to extend the *Freedom of Information and Protection of Privacy Act* to public hospitals



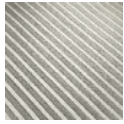
- Strongly supported by Information and Privacy Commissioner



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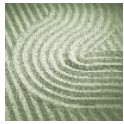
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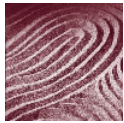
. . . FIPPA



- Purpose of FIPPA is to:



- provide right of access to information under the control of institutions in accordance with principles that:



- (i) information should be available to the public
- (ii) exemptions should be limited and specific
- (iii) decisions should be subject to independent review

- protect the privacy of individuals with respect to personal information held by institutions
- provide individuals with a right of access to their personal information. (FIPPA s. 1)

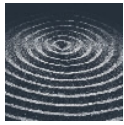
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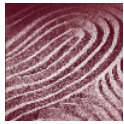
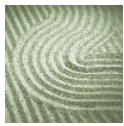
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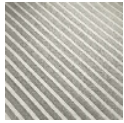


. . . FIPPA Implications

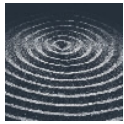


- Right to request access to any documents/ records in custody of hospital
 - Must produce subject to certain exemptions
- Specific rules relating to collection, use, disclosure of personal information
 - E.g. specified timelines for response, manner of corresponding, dealing with third party information

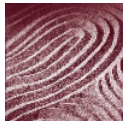
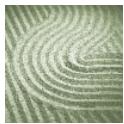




. . . FIPPA Implications



- Significant case law around exemptions
- Statutory right of appeal for refusals (to IPC)
- Significant records/administrative undertaking
 - Infrastructure to meet obligations and support processes
 - Organization of information
 - Intake, processing and review of FOI requests
 - Training and education of staff
 - Roles and responsibilities different from Privacy Officer/Health Records



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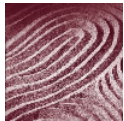
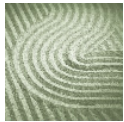
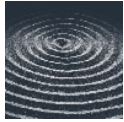
Proposed *Transparency in Public Matters Act*

- Introduced as a private member's bill in 2004, 2006, 2008 and again in 2010 (Bill 25)
- Bill 25 has received first reading
 - Required certain public designated bodies, including hospitals, to hold open meetings and make meeting minutes public
 - Established rules regarding public notice of meetings
 - Independent Review
- Will it finally succeed?

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Questions?

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