

FEEDBACK & RECOMMENDATION SUMMARY

EASY AS 1, 2, 3 ... MAYBE?

1. A YEAR IN REVIEW | LOOKING AHEAD

Over the last year and during the course of five Panel meetings (three for the Northerners and two for the Experts), we organized our discussion into several key topics, namely:

- ❑ **WHAT IS 'HEALTH INFORMATION'?**
- ❑ **WHO COLLECTS, USES, AND DISCLOSES HEALTH INFORMATION?**
- ❑ **COLLECTION**
- ❑ **AUTHORIZED USES**
- ❑ **DISCLOSURE**
- ❑ **RIGHTS OF ACCESS & CORRECTION**

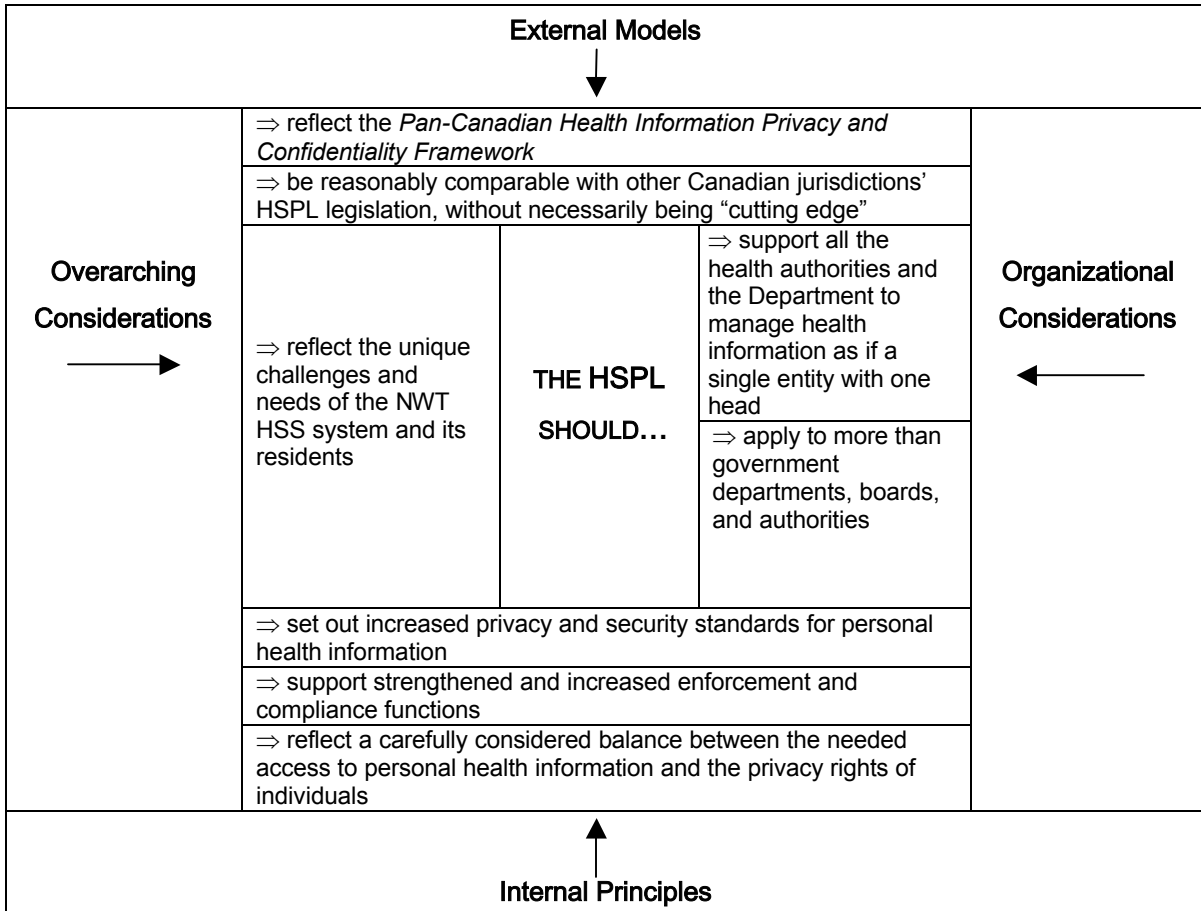
These topics represent the foundational concepts for any HSPL and serve as building blocks for the NWT's HSPL project.

The purpose of this document is to review common themes and feedback on these topics. This will help all involved to reflect on and synthesize the feedback to date as well as help identify new and/or existing issues that require further consideration. After doing so, Panel members will consider two more topics that requires a foundational understanding of the mechanics of HSPL, namely:

- ❑ **ENFORCEMENT & COMPLIANCE**
- ❑ **PRIVACY IMPACT ASSESSMENTS**

2. BACK TO THE BEGINNING

As a starting point, we return our focus to the Model that opened the discussion and captured the various factors relating to, and intentions desired of, NWT's HSPL:



We now ask Panel members to identify how any of the above may have changed or could be more accurately depicted. Throughout the year Panel members have been tasked with sharing the idea of HSPL with their communities and returning feedback. Questions to consider include:


- How do people feel about a law that governs personal privacy?
- Is there a perceived need for HSPL?
- What do people view HPLS can help?
- What is most important to people with the adoption of HSPL? Ease to understand? Flexibility over time? Safeguarding mechanisms? Greater flow to those who need health information? Individual access?
- Do people have concerns about HSPL? If so what? And do they see those being addressed and/or resolved, if at all?

3. PUTTING IT ALL TOGETHER

Moving from the community feedback and more general comments generated from #2 above, Panel members are now asked to review and consider the following chart. This chart summarizes the more specific feedback and recommendation collected to date. Certainly, this chart is intended to be a living document in that, as it is discussed and reflected upon, it is likely to change and evolve. At the end of the discussion, and so long as Panel Members so feel inclined, these charts (with members' notes and comments on them) will be collected - this, with of view of ensuring all feedback is received and considered before the next stage of the project. It may also be useful to gather comments that Panel members may not be comfortable expressing during the group discussion.

Note, where option were presented, bolded text represent the predominate preference.

WHO?	WHAT?	COLLECTION OBLIGATIONS
<ul style="list-style-type: none"> - circle of care as focus = main units responsible ("MUs", e.g. (octopus head), subunits ("SUs", e.g. octopus legs) - most HSPL obligations attach to MUs but MUs responsible to ensure SUs (and at minimum): i) oath; ii) comply with HSPL; iii) comply with policies and procedures - options: public sector + pharmacy or public sector + pharmacy and 	<ul style="list-style-type: none"> - need for link to 'individually identifiable' - definitional scope feedback: i) needs for flexibility; ii) defer to common sense; iii) physical and mental > spiritual - option to apply to: recoded only, all or mix where mostly recorded but limited provision for unrecorded - option to include health services provider information 	<ul style="list-style-type: none"> - definition useful, but not necessarily - primary expectation to set out: i) must be necessary and reasonable; ii) less intrusive; ii) explain purposes and only for that purpose; iv) first directly from individual with exceptions (impractical , inaccurate, with consent) - requirement to notify individual of: contact information for privacy officer; ii) other MUs and SUs that may obtain; ii) consequences (if any) if HI not provided - must fall within certain purposes: option to reference purpose either list purposes or refer to uses and disclosures - include notification for unobvious recorded devices (e.g. surveillance)
		<p>↓</p> <p>AUTHORIZED USE OBLIGATIONS</p>

<p>others</p> <ul style="list-style-type: none"> - consider ISDM - classification, significance of name: custodian & affiliates, trustee & agent, or other 	<p>("HSPI") or not</p> <ul style="list-style-type: none"> - approaches for link to health services: no linkage to defined terms, linkage to defined terms in other legislation, or linkage to defined terms in HSPL - need to exclude: i) application where MUs and SUs provide services other than health services and information related to such other services; ii) information under ATIPPA 	<ul style="list-style-type: none"> - definition useful - terminology options: secondary uses or authorized uses (but still address meaning of secondary uses, e.g. education documents) - standard/common uses: i) providing health services; ii) determining or verifying the eligibility; iii) conducting investigations, discipline proceedings etc.; iv) health services provider education; v) as required by law; vi) internal management purposes (planning, resource allocation, policy development, quality improvement, monitoring, audit, evaluation, reporting, obtaining or processing payment for health services and human resource management). - also include: i) other use to which individual consents; ii) research, so long as some oversight - ideally REB but not necessarily (rely on existing ethics boards) - > uses for HSS: I) planning and resource allocation; ii) health care system management; iii) public health surveillance; iv) health policy development - set out only need to know duty <div style="text-align: center; margin: 10px 0;">  </div> <div style="background-color: #cccccc; text-align: center; padding: 5px; margin: 5px 0;"> DISCLOSURE OBLIGATIONS </div> <ul style="list-style-type: none"> - distinguished from access but connected, important to explain via education documents - definition useful - consent options: only express or implied and express consent - consent need not necessarily be in writing - match degree of sensitivity to expectation of writing - but must be recorded (e.g. keep record of consent over phone) - primary expectation to set out: i) reasonable effort to obtain consent initially; ii) apply discretion judiciously; iii) need to know principle - standard/common exceptions: I) provision of healthcare; ii) limited to family members friends; iii) safety/harm; iv) mandatory reporting/required by law; v) subpoena/court order; vi) investigations; incapacity and best interest; vii) (possibly) limited to police limited
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**DISCUSSION RESOURCE
PANELS' MEETING (NOVEMBER 2008)**

		<p><i>Access:</i></p> <ul style="list-style-type: none"> - clearly distinguished from disclosure but understandable connect - HI can be disclosed if pursuant to access request - duty to assist important, languages needs consideration - clear direction on non-responsive and severing - response time: 30 days, 45 days, other - right goes to viewing and copies but only one - right not extended when would unreasonable interfere with MUs operations - duty to create is only as per reasonable computer hardware and software - include abandonment, 30 days, no duty to respond - include both mandatory grounds ("MGs") discretionary grounds ("DGs") for refusal - MGs include: i) others' information; ii) investigations/discipline; iii) as prohibited by law; iv) frivolous/vexatious (but no bad faith) - DGs include: i) harm; ii) identification of informant/supplied in confidence; iii) interfere with safe and routine provision of care? not included: ministerial/executive council records - fees to recover, with discretion; no processing until initial fee and deposit received 	<p><i>Correction:</i></p> <ul style="list-style-type: none"> - anticipate possible challenges in implementing with electronic health records ("EHRs") - distinguish from masking lockbox - duty to assist important, languages needs consideration - response time: 30 days, 45 days, other - right not extended when would unreasonable interfere with MUs operations - right only where practicable? - include abandonment, 30 days, no duty to respond - include discretionary grounds ("DGs") for refusal: i) professional observation or opinion; ii) frivolous/vexatious (but no bad faith) - options for recourse: include 250 words statement or not
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