

Setting Boundaries

– *The Personal Data Protection Act*

By Martin Ho and Geraldine Tan

These two dates – 2 January 2014 and 2 July 2014 – will change Singapore's personal data landscape. The telemarketing calls that come through on a near daily basis, often just for us to express our disinterest, will finally cease. With the establishment of Singapore's Do Not Call (DNC) registry next year, consumers who do not wish to receive marketing calls, text messages including MMS, and faxes sent from organisations can register their Singapore telephone numbers with the DNC registry. Organisations that wish to send telemarketing messages to consumers' Singapore telephone numbers have to check the DNC registry to ensure that the numbers are not registered, unless they have clear and unambiguous consent in evidential form from those consumers to send telemarketing messages.

There is, however, more to personal data protection than the DNC registry obligations. The Personal Data Protection Act 2012 (Act 26 of 2012), also known as the PDPA, was passed by the Parliament of Singapore on 15 October 2012 and assented to by the President, Dr Tony Tan, on 20 November 2012. The provisions relating to the DNC registry and the main data protection obligations will come into full force on 2 January 2014 and 2 July 2014 respectively. This allows time for organisations, including medical practices big and small, to review and adopt internal personal data protection policies and practices, in order to comply with the PDPA.

However, questions on how the PDPA will impact medical practice, research and the medical profession need to be addressed. To unravel the questions regarding PDPA's impact, SMA, together with the Personal Data Protection Commission (PDPC), held a seminar on the PDPA at M Hotel Singapore on 13 July this year. This seminar, held as part of a series of workshops organised by SMA Medical Practice Management to enhance the business and practice management skills of medical practitioners in Singapore, was attended by more than 70 medical professionals from both the public and private sectors.

During the seminar, Ms Koh Li Na, Commission Member and Director of the Policy Division, PDPC, went through the key ideas behind the PDPA, complete with examples of application relevant to medical practitioners and their practice. She was subsequently joined by Mr Tong Ming Shen, Director of the Health Information Division, Ministry of Health (MOH), in the question and answer session that

followed. In closing, Mr Tong additionally noted that the principles of informed consent and patient confidentiality ingrained in medical professionals would have already set a similar or higher benchmark regarding the protection of patients' personal data. With an increased understanding of the PDPA and its impact, the participants left the seminar expressing their hope for greater specific discussion on how the requirements of the PDPA can be met in the varying, unique medical situations they currently face.

In consultation with PDPC, SMA has put together a short overview of the PDPA. We hope that this will aid our members in gaining greater insight and understanding of the PDPA. The complete Act (<http://statutes.agc.gov.sg>) should be referred to for a thorough understanding of the PDPA. Many Schedules at the end of the Act set out exceptions in relation to different PDPA obligations.

For example, provisions in the Second Schedule address situations where an organisation may collect personal data without consent.

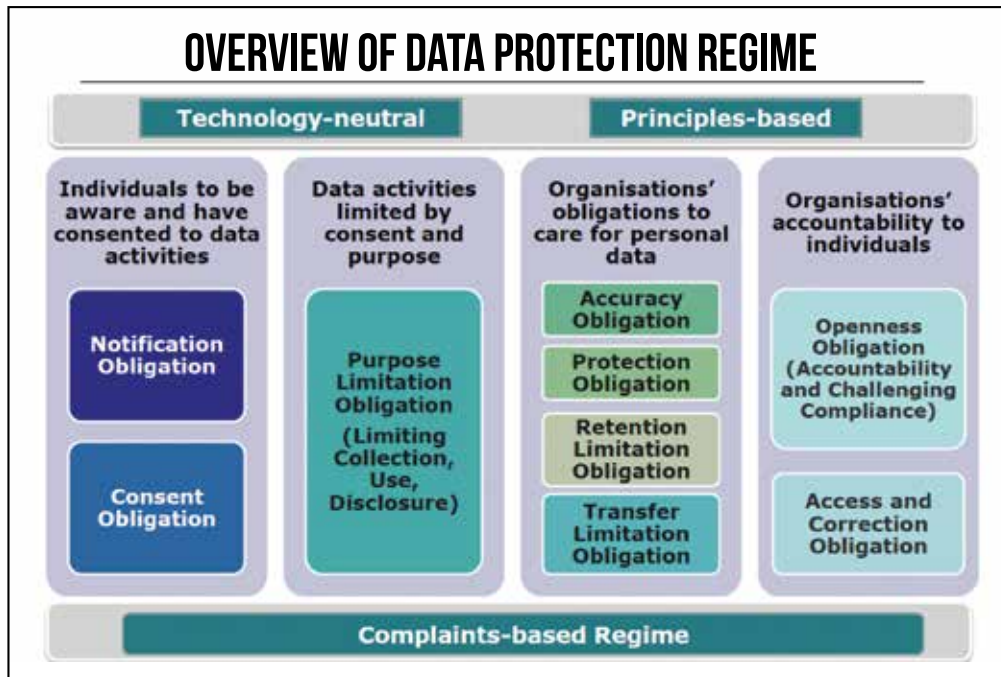
Such situations include, for example, where the collection is necessary to respond to an emergency that threatens the life, health and safety of the individual, or where the collection is necessary for evaluative purposes.

Objectives of the PDPA

Today, vast amounts of personal data are collected, used and even transferred to third party organisations for a variety of reasons. This trend is expected to grow exponentially as the processing and analysis of large amounts of personal data becomes possible with increasingly sophisticated technology.

With such a trend comes growing concerns from individuals about how their personal data is being used. Hence, a data protection regime to govern the collection, use and disclosure of personal data is necessary to address these concerns and to maintain individuals' trust in organisations that manage





Source: PDPC 2013

data. By regulating the flow of personal data among organisations, the PDPA also aims to strengthen and entrench Singapore's competitiveness and position as a trusted, world-class hub for businesses.

Overview of the PDPA

The PDPA establishes a data protection law that comprises various obligations governing the collection, use, disclosure and care of personal data. It recognises both the rights of individuals to protect their personal data, including rights of access and correction, and the needs of organisations to collect, use or disclose personal data for legitimate and reasonable purposes.

The PDPA aims to set a baseline standard of protection for personal data across the economy by complementing sector-specific legislative and regulatory frameworks. This means that organisations will have to comply with the PDPA, as well as the common law and other relevant laws that are applied to the specific industry that they belong to, when handling personal data in their possession.

The following concepts are useful for organisations to bear in mind when considering how they can be compliant with the PDPA:

- Consent – organisations may collect, use or disclose personal data only with the individual's consent (unless a relevant exception applies);
- Purpose – organisations may only collect, use or disclose personal data for reasonably appropriate purposes, and for which they have informed the individual;
- Reasonableness – in seeking to comply with the PDPA, organisations should consider what a reasonable person would consider appropriate in the circumstances.

Please refer to the PDPC website (<http://www.pdpc.gov.sg/organisations/overview>) for a summary of the PDPA's nine main data protection obligations.

As mentioned above, provisions relating to the DNC registry will fully come into force on 2 January 2014, and the main data protection obligations will come into force on 2 July 2014.

You will be happy to know that PDPC and MOH are in close consultation to provide guidance on the application of PDPA in medical practice. In the meantime, for more information on the PDPA, please refer to PDPC's website at <http://www.pdpc.gov.sg>. For enquiries on the PDPA, you may email PDPC at info@pdpc.gov.sg or call their hotline at 6377 3131 (during working hours only). **SMA**

Acknowledgement

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