



LexCognito

This issue of LexCognito, which in Latin means 'awareness about law', seeks to provide you an insight into significant legal and regulatory developments that have taken place very recently in India.

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Digital Personal Data Protection Act, 2023, its features and ramification for healthcare sector

The new Digital Personal Data Protection Act of 2023 (**DPDP Act**) has been passed by the Indian Parliament and has received assent from the President of India recently. The DPDP Act governs and deals with the processing of digital personal data in India. This Act is aimed at bolstering data protection and accountability for entities operating in various sectors that handle citizens' personal data and will cover all sectors including healthcare sector. The DPDP Act will also help in aligning with global data protection standards such as the EU's GDPR etc.

The DPDP Act seeks to establish a high level of accountability and responsibility for entities operating within India handling digital data and information and will cover companies from various sectors including healthcare sector since they are involved in the collection, storage, and processing of citizens' health data, record etc. Since the "Right to Privacy" has been recognised as a fundamental right of the citizens in *Puttaswamy Vs Union of India* and several judicial pronouncements by the apex court, the DPDP Act seeks to ensure that the entities handling personal data create robust and effective data management system and are accountable when they are handling personal data to ensure privacy and data protection rights of Indian citizens.

Another important facet of the DPDP Act is that data principal (individual to whom data relates) shall have the right to obtain a summary of personal data which is being processed by a data fiduciary, the identities of all other data fiduciaries with whom personal data has been shared and data principal shall have the right to correction, completion, updating and erasure of personal data for which he/she has given previous consent. Additionally, the Act applies to the processing of digital personal data beyond India's borders as well especially when it covers the provision of goods or services to individuals within the Indian territory.

It is critical to note that the DPDP Act applies to all data, whether originally online or offline and later digitized, in India and the new Act's scope extends beyond the borders of India, encompassing digital personal data processing activities abroad. This extension applies specifically to organizations offering goods or services to individuals in India or engaging in the profiling of Indian citizens. In doing so, the Act reinforces the need for data protection measures not only within India but also concerning Indian citizens' data processed overseas. In some of the areas of the new legislation which will touch upon and have implication for healthcare sector are:

1. **Privacy of Patient data:** The Act recognises the right of individual to protect personal data and aims at allowing citizens comprehensive control over their personal data and mandates that prior express consent of the individual is taken before collecting, processing or sharing any personal health related data or information. The Act re-emphasizes the need for proper data security and ensuring proper safeguard etc.
2. **Data security and storage:** Currently healthcare sector deals with large number of sensitive personal health data such as patient health data and records, genetic information and physiological data and information etc. The new Act stipulates for establishing robust norms and safeguards for collection, storage and processing of such data. Healthcare sector will require to create strict data encryption and access control and data transfer and trails mechanism to ensure the security and access to patient data and information are not compromised. The Healthcare sector will be required to create strong data management systems, data encryption technologies and cyber security systems to check data breaches and theft and ensure proper data and access control.
3. **Data sharing among companies across countries:** The new Act lays down guidelines and provides for safeguards for sharing personal digital data across international boundaries and will help in creating synergies and collaborations among healthcare providers across countries and help in developing healthcare solutions and can act as catalyst in forging collaborations and further developing medical tourism etc. However, all this will have to be ensured within norms and parameters established under the new Act.
4. **Scope for Digital innovation:** The DPDP Act lays down clear guidelines for handling personal sensitive data thereby providing lot of scope for innovation in the digital innovation for healthcare researchers in the field of medical research etc. and may help in creating innovative patient treatment plans and solutions.

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