

Adequacy of Data Protection in Total Hospital Information System (THIS); The Malaysian Story

*By Noriswadi Ismail**

Abstract

Malaysia is the first country in Southeast Asia which has a data protection legislation; Personal Data Protection Act (PDPA) 2010. It was gazetted one week after receiving the Royal Assent on 2 June 2010. The enforcement of the PDPA will take place by the first (1st) or the second (2nd) quarter of 2012 once the Data Protection Commissioner and the code of practice are in place. In view of this legal development, Noris assesses how PDPA provides potential compliance impacts to the Malaysian government hospitals' Total Hospital Information System (THIS). The assessment is made through the application of the PDPA's 7 data protection principles: General, Notice & Choice, Disclosure, Security, Retention, Data Integrity and Access. In assessing these, Noris observes that in order to achieve the principles' compliance motivation, THIS should be able to revisit and review its present system. Nonetheless, the chief setback of the latter relates to the application of the PDPA, which governs 'commercial transactions' - ironically, the federal and state governments are excluded and exempted. Whilst this leads to uncertainty of the PDPA's application to THIS, Noris argues that it's best for THIS to embark on a 360 degree data 'health check' via self-regulatory approach by firming up the data protection liabilities between the actors of PDPA within THIS. The actors are; the Ministry of Health, government doctors, civil service officials, consultants, patients and third parties (in the PDPA, third party means any person other than a data subject, relevant person in relation to data subject, data user, data processor and person authorised in writing by the data user to process the personal data under the direct control of the data user). This presentation shall be transformed into a potential publication in the Malaysian Journal of Public Health Medicine by the end of 2011.

Keywords: *Personal Data Protection Act 2010. 7 Data Protection Principles. Total Hospital Information System (THIS).*

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Prior to commencing his doctoral research, he was the General Counsel / Company Secretary of HeiTech Padu Berhad in excess of 10 years. In between his work, he also lectured occasionally on topical issues in Information Technology & Intellectual Property laws at his Alma Matter, Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia.

Noris was an Academic Visitor in two renowned centres at the University of Oxford; Centre for Socio-Legal Studies (CSLS), and the Centre of Health, Law and Emerging

Technologies (HeLEX). During the Hilary and Trinity terms in CSLS, he researched largely on data protection in Europe and Asia (South East Asia and East Asia) and was also involved with selected research and events of the Data Protection and Open Society Project under the leadership of Dr. David Erdos, Katzenbach Research Fellow (Balliol College). Whilst during the 3 weeks of summer in HeLEX, he researched on the principles and applications of data protection within the realm of medical informatics, particularly in RFID and Hospital Information Management System.