



## GUIDELINE

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### Patients who Threaten Harm to Themselves or Others

<b>STATUS:</b>	APPROVED
<b>Adopted by Council:</b>	March 2015
<b>Amended:</b>	March 2018 January 2020
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There are circumstances where the disclosure of a patient’s personal health information may be made without the consent of the patient in order to prevent harm to the patient or others.

That arises both from **The Health Information Protection Act** of Saskatchewan and from professional ethics.

Physicians are expected to rely upon their professional judgment when assessing the appropriateness of disclosing such information. Physicians are advised to contact the College, the CMPA, or the Information and Privacy Commissioner of Saskatchewan if they are uncertain whether disclosure is appropriate.

### 1. Principles which apply to situations where a patient threatens harm to others or self

Physicians who may be involved dealing with patients who threaten self-harm or harm to another person are encouraged to access education that addresses how to deal with such situations.

If a patient threatens self-harm or harm to another person, and a trained risk assessor is available to assess the reality of the risk, physicians are encouraged to obtain the assistance of the trained risk assessor.

If a patient threatens self-harm or harm to another person, it can be important to discuss with the patient whether the patient is willing to be admitted to hospital to reduce the risk of harm.

If a patient threatens self-harm or harm to another person, and the patient is unwilling to be admitted to hospital, it can be important to consider whether the patient should be referred for a mental health assessment under section 18 of **The Mental Health Services Act**, which can be accessed at <http://www.qp.gov.sk.ca/documents/English/Statutes/Statutes/M13-1.pdf>. That states:

***Involuntary out-patient examination***

*18(1) Subject to the regulations, any person who:*

- (a) in the opinion of an examining physician is suffering from a mental disorder and requires a psychiatric examination to ascertain whether he should be admitted to an in-patient facility pursuant to section 24; and*

*(b) refuses to submit to the examination mentioned in clause (a);  
may, after:*

*(c) arrangements have been made with a physician who has admitting privileges to an in-patient facility; and*

*(d) the certificate of the examining physician is issued in accordance with this section;  
be conveyed to a place where he may be examined as an out-patient by the physician mentioned in clause (c).*

*(2) The certificate of a physician in the prescribed form is sufficient authority to any person to apprehend the person who is the subject of the certificate and convey him immediately to the place where the examination is to be conducted by the physician mentioned in clause (1)(c).*

Section 24 of that Act sets out the conditions which must be met for a patient to be involuntarily committed for an assessment.

## Admission on Medical Certificates

24(1) In this section “physician” means a physician who has admitting privileges to an in-patient facility.

(2) Every certificate issued for the purposes of this section is to be in the prescribed form and is to:

(a) state that the physician has examined the person named in the certificate within the immediately preceding 72 hours and that, on the basis of the examination and any other pertinent facts regarding the person or the person’s condition that have been communicated to the physician, he has probable cause to believe that:

(i) the person is suffering from a mental disorder as a result of which he is in need of treatment or care and supervision which can be provided only in an in-patient facility;

(ii) as a result of the mental disorder the person is unable to fully understand and to make an informed decision regarding his need for treatment or care and supervision;  
and

(iii) as a result of the mental disorder, the person is likely to cause harm to himself or to others or to suffer substantial mental or physical deterioration if he is not detained in an in-patient facility;

Disclosure of a patient’s health information without patient consent to reduce or prevent harm is only justified if the person(s) to whom such information is disclosed is able to take action to avoid or minimize a danger to the patient or a third party.

It is important to thoroughly document the disclosure and the reasons for doing so when patient’s health information is disclosed to a third party without the patient’s consent. It is important to provide the physician with a contemporaneous record of the information disclosed and the reason that the information was disclosed. It is also important as *HIPA* requires physicians to be able to inform the patient of any disclosures that were made without his/her consent.

At a minimum, the information documented should include:

- the name of the person(s) to whom the information was disclosed,

- the date and purpose of the disclosure, and
- a description of what personal health information was disclosed.

## 2. Disclosure to Prevent Harm to Third Parties

**The Health Information Protection Act (HIPA)** permits the disclosure of personal health information to prevent harm to third parties:

*27 (4) A trustee may disclose personal health information in the custody or control of the trustee without the consent of the subject individual in the following cases:*

*(a) where the trustee believes, on reasonable grounds, that the disclosure will avoid or minimize a danger to the health or safety of any person;*

Courts have set out circumstances in which concern for public safety may warrant the disclosure of confidential information to reduce or eliminate risk of harm. The factors for consideration are as follows:

- there is a clear risk to an identifiable person or a group of persons;
- there is a risk of serious bodily harm or death; and
- the danger is imminent.

Reports should include only the information necessary to prevent harm to others.

When disclosing patient information to third parties without patient consent, it is important to consider whether it is appropriate to advise the patient that the disclosure has been, or will be, made.

Additional guidance on disclosing a patient's personal health information to a third party can be found in *Medical-legal handbook for physicians in Canada* published by the Canadian Medical Protective Association (CMPA) available at [https://www.cmpa-acpm.ca/static-assets/pdf/advice-andpublications/handbooks/com\\_16\\_MLH\\_for\\_physicians-e.pdf](https://www.cmpa-acpm.ca/static-assets/pdf/advice-andpublications/handbooks/com_16_MLH_for_physicians-e.pdf) at page 30 under the heading "Duty to Warn".

## 3. Disclosure to Prevent Harm to the Patient

**The Health Information Protection Act (HIPA)** permits the disclosure of personal health information to prevent harm to the patient:

*27 (4) A trustee may disclose personal health information in the custody or control of the trustee without the consent of the subject individual in the following cases:*

*(a) where the trustee believes, on reasonable grounds, that the disclosure will avoid or minimize a danger to the health or safety of any person;*

Where the risk of self-harm cannot be prevented by other means, a breach of confidentiality may be warranted. This is especially true in cases of high or imminent risk.

Reports should include only the information necessary to prevent or minimize the harm to the patient.

When disclosing patient information to third parties without patient consent, it is important to consider whether it is appropriate to advise the patient that the disclosure has been, or will be, made.

It is impossible to define in a comprehensive fashion the factors which may cause a physician to determine that the physician is justified in breaching the patient's confidentiality.

It is important that the physician consider the principles relating to privacy and confidentiality, the effect that disclosure to third parties may have on the therapeutic relationship with the patient and the possible benefits of releasing information to family members or others.

There are no definitive principles which allow a physician to determine when it is appropriate to breach a patient's confidentiality by providing information about the risk of patient self-harm to third parties. Such situations must be considered on a case-by-case basis.

When possible, physicians are encouraged to discuss such situations with colleagues, the College or CMPA prior to making a decision whether to release patient personal health information to third parties to mitigate the risk of patient self-harm.

Other Resources:

- *Working With the Client Who is Suicidal: A Tool for Adult Mental Health and Addiction Services*  
[http://www.health.gov.bc.ca/library/publications/year/2007/MHA\\_WorkingWithSuicidalClient.pdf](http://www.health.gov.bc.ca/library/publications/year/2007/MHA_WorkingWithSuicidalClient.pdf).
- Educational Module from the Royal College of Physicians and Surgeons of Canada, 3.3.2 *Harm to Self*  
[www.royalcollege.ca/portal/page/portal/rc/common/documents/bioethics/section3/case\\_3\\_3\\_2\\_e.html](http://www.royalcollege.ca/portal/page/portal/rc/common/documents/bioethics/section3/case_3_3_2_e.html).