



# Disclosure of Health Information

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# Overview of the Presentation

- 1) The Code of Ethics
- 2) Permissive Disclosure of Health Patient Health Information
- 3) Mandatory Disclosure of Patient Health Information

# The Code of Ethics

- *Protect your patient's health information*
- *Avoid public discussions that could identify patient information*
- *Patient consent is required to disclose patient health information to third parties unless otherwise permitted by law*
- *Advise patients if their confidentiality will be breached*
- *If patients ask for their chart – provide it unless harm may result*
- *Be aware of your patient's rights*

# Confidentiality and Exceptions to Confidentiality

- Consent to disclose information must be informed and voluntary
- A trustee can assume that written consent is valid unless the trustee has reason to believe that the consent may not be valid

# Code of Ethics – Disclosure to Third Parties

35. Disclose your patients' personal health information to third parties only with their consent, or as provided for by law, such as when the maintenance of confidentiality would result in a significant risk of substantial harm to others or, in the case of incompetent patients, to the patients themselves. In such cases take all reasonable steps to inform the patients that the usual requirements for confidentiality will be breached.

# Exceptions to Confidentiality

- To provide information to a person providing care to the patient (deemed consent)
- To provide information about current health services to a person who has a close personal relationship to the patient
- To avoid or minimize danger
- To a proxy to make a health care decision
- To an executor or administrator to administer an estate

# SHARING INFORMATION WITH OTHER HEALTH CARE PROVIDERS

You do not need patient consent to provide your patient's health information to another health care provider

The only restriction is that physicians must make the disclosure “in accordance with the ethical practices of the [physician]'s profession”

The “need to know” principle applies

# SHARING INFORMATION WITH FAMILY MEMBERS

You do not need patient consent to provide information about health services currently being provided to a patient to the patient's next of kin or someone with whom the subject individual has a close personal relationship.

There are three requirements:

- The information is limited to current health services
- The patient has not expressed a contrary intention
- The physician must make the disclosure “in accordance with the ethical practices of the [physician]’s profession”



# Exceptions to Confidentiality

Patient confidentiality can be breached if the physician believes, on reasonable grounds, that the disclosure will avoid or minimize a danger to the health or safety of any person

*Guideline - Patients Who Threaten Harm to Themselves or Others – CPSS Website*

# Exceptions to Confidentiality

To a proxy to make a health care decision -  
where the information is required to make a  
health care decision with respect to the  
patient

# Exceptions to Confidentiality – deceased patients

A physician owes the same obligation of confidentiality to a deceased patient as to a living patient, with two exceptions:

1. A physician can disclose information to the executor or administrator of the patient's estate for a purpose related to the administration of the estate;
2. A physician can provide information to a member of the patient's family or to someone else with whom the patient had a "close personal relationship" subject to two restrictions
  - a) The information is limited to the circumstances surrounding the patient's death or services recently received by the patient; and
  - b) The physician must make the disclosure "in accordance with the ethical practices of the [physician]'s profession"

# Exceptions to Confidentiality

- To a quality of care committee
- To a professional regulatory body
- To obtain health or social services for the patient if, in the physician's opinion, disclosure will benefit the patient, but only where it is not practicable to obtain patient consent
- Where authorized by other legislation

# Exceptions to Confidentiality - Police

- 1) “Registration Information” in connection with a criminal investigation;
- 2) Information about the nature and severity of a patient’s injury requested by a police officer in connection with a criminal investigation;
- 3) Where the physician has provided health services related to conduct that is the subject of a criminal investigation:
  - a) Information prior to the conduct cannot be disclosed
  - b) Example – impaired driving investigation
  - c) Example – double doctoring investigation

# Principles – Where a request is made for information without patient consent

- 1) In the previous examples disclosure is permissive, not mandatory;
- 2) Where a person or entity requests patient information without patient consent, the person should be able to point to their authority to obtain the information;
- 3) In case of doubt, contact the College, CMPA, or a Privacy Officer with the RHA for advice

# Mandatory Disclosure

Saskatchewan Legislation requires physicians to disclose patient information in the following circumstances

- Communicable Diseases
- Child Abuse or Neglect
- Child Sexual Abuse
- Patient Deaths – the Coroner
- Stillbirths and Deaths
- Fitness to Drive
- Automobile Accidents
- Workers' Compensation Claims
- Gunshot and Stab Wounds

# Mandatory Disclosure

Canadian Legislation requires physicians to disclose patient information in the following circumstances

- Medical conditions of patients who are pilots or members of flight crews
- Medical conditions of Railway Workers
- Loss or theft of narcotics or other controlled drugs



# Mandatory Disclosure

College bylaws require physicians to disclose patient information in the following circumstances

- Reporting impaired colleagues

# Communicable Diseases

- Category 2 communicable diseases (e.g. STIs, tuberculosis - report to a medical health officer as soon as possible and no more than 72 hours
- Category 1 communicable diseases (e.g. measles, pertussis - report to a medical health officer within 48 hours

# Child Abuse or Neglect

Child = Under 16

In need of protection =

- Likely to suffer physical or mental harm; or
- Denied medical treatment; or
- No adult person to provide for child's needs

Report to social worker or the police

# Child Sexual Abuse

Child = Under 18

Sexual Exploitation – prostitution or a victim of sexual crime =

- Sexual assault
- Sexual activity with a child under the age of 12
- Sexual activity with a child who is 12 or 13, unless that person is less than 2 years older than the child
- Sexual activity with a child who is 14 or 15, unless that person is less than 5 years older than the child
- Sexual activity with a person under the age of 18, if they are in a position of trust or responsibility

Report to social worker or the police

# Patient Deaths

- Accident or violence or was self-inflicted
- A cause other than disease or sickness
- A result of negligence, misconduct or malpractice on the part of others
- Sudden death of a person who appeared to be in good health
- As a result of engaging in employment or an occupation
- In circumstances that require investigation

Notify the Coroner

# Deaths

A physician in attendance at the time of death or the last illness if the physician is able to make a reasonable determination of the medical cause of death

Deliver certificate of death to the funeral director

# Stillbirths

Stillbirths in hospital - complete a certificate and deliver to the funeral director

Stillbirths outside of hospital - complete a certificate deliver it to the Registrar of Vital Statistics and notify the parents of their obligation to report to the funeral director or the Registrar of Vital Statistics..

# Fitness to Drive

Patients over 15 years who have a condition that will make it dangerous to operate a vehicle

Report to SGI



# Automobile Accidents

Patients injured in an automobile accident –

Respond to SGI's request for information  
relating to assessment or treatment

# Workers' Compensation

Patients who are workers' compensation claimants –

Respond to WCB's request for information relating to examination or treatment relevant to the injury

# Gunshot or Stab Wounds

Patients treated in hospital or RHA facility

CEO or designate reports to the police

# Pilots or Flight Crews

Patients required to advise physicians they are a pilot or a member of a flight crew

Report a medical or optometric condition that is likely to constitute a hazard to aviation safety

Report to a medical adviser designated by the Minister of Transport of Canada

# Railway Workers

Railway workers designated as critical to safe railway operations required to advise physician

Notify if the person has a condition that is likely to pose a threat to safe railway operations

Notify a physician designated by the railway company

# Loss or theft of controlled drugs

Loss or theft of controlled drugs (narcotics, benzodiazepines) from an office

Report the loss or theft to the Office of Controlled Substances

# Impaired colleagues

48. ... report to the appropriate authority any unprofessional conduct by a colleague or concerns, based upon reasonable grounds, that a colleague is practicing medicine at a level below an acceptable medical standard, or that a colleague's ability to practice medicine competently is affected by a chemical dependency or medical disability

(CPSS Bylaw)

# Issues Frequently Addressed by CPSS

What right does the holder of a Power of Attorney have to access health information about the person who provided the document?



# Issues Frequently Addressed by CPSS

What right does the Executor/Administrator or family member of a deceased patient have to access health information about the deceased?

# Issues Frequently Addressed by CPSS

What right does a custodial parent have to access the health information of their child?

# Issues Frequently Addressed by CPSS

What right does a non-custodial parent have to access the health information of their child?

# Issues Frequently Addressed by CPSS

When may a trustee refuse to recognize a consent to release information?

# Issues Frequently Addressed by CPSS

What right do social workers have to access health information about a child in relation to their child protection mandate?