

Practice Directive

Confidentiality and Privacy of Personal Health Information

College of Registered Nurses and Midwives of Prince Edward Island

College of Licensed Practical Nurses of Prince Edward Island

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Credit

This document has been adapted, with permission, from Nova Scotia College of Nursing's [Practice Guideline: Confidentiality and Privacy of Personal Health Information](#).

Introduction

This Practice Directive is a resource for nurses and midwives in all practice settings to help them understand their ethical and legal obligation to maintain client confidentiality and privacy throughout the course of care, specifically related to:

- Therapeutic relationships with clients
- Accessing personal health information
- Disclosing personal health information
- Breaching personal health information
- Maintaining confidentiality and privacy

Like all regulatory tools, use this document in conjunction with employer policy, applicable legislation and College resources.

Confidentiality and Privacy

Nurses and midwives have ethical and legal responsibilities to maintain the confidentiality and privacy of a client's personal health information. College resources and documents (example: Standards of Practice or Code of Ethics) set out the legal and professional requirements for practice and describe the expectations of nurses and midwives in their practice. These regulatory standards highlight the importance of protecting a client's right to confidentiality and privacy.

Federal and provincial legislation protects a person's right to confidentiality and privacy of personal health information. In Prince Edward Island the legislation which protects a person's right to confidentiality and privacy of personal health information is the [Health Information Act](#).

Designation	Applicable Document	Related Principles
Registered Nurse and Nurse Practitioner	CRNMPEI's Code of Ethical Conduct	1.6 - Nurses are expected to maintain clients' privacy and dignity, regardless of where the client receives care or of its mode of delivery. This includes after the nurse-client relationship ends. 5.2 – Protect the privacy and confidentiality of clients' personal health information as outlined in legislation and/or regulatory documents.

		5.3 – Only share clients’ personal health information for therapeutic reasons and only in compliance with laws and standards of practice governing privacy and confidentiality.
Registered Psychiatric Nurse	CRNMPEI’s Code of Ethics for Registered Psychiatric Nurses	Protects the confidentiality of all information gathered in the context of the professional relationship. Practices within relevant legislation that governs privacy, access, use and disclosure of personal information.
RM	CRNMPEI’s Code of Ethics for Registered Midwives	Takes every precaution to protect the privacy and confidentiality of client’s personal health information, unless release of information is required by law. Collects, uses, and discloses only as much health information as necessary; shares information only to benefit the client and only with those within the client’s circle of care.
LPN	CLPNPEI’s 2020 Standards of Practice CLPNPEI’s Code of Ethics for Licensed Practical Nurses	4.3 – Advocate for the protection and promotion of clients’ right to autonomy, confidentiality, dignity, privacy, respect, and access to care and personal health information. 4.4 – Maintain professional boundaries in the nurse/client therapeutic relationship 4.1 Understand that the nurse-client relationship requires honesty, trust, integrity, respect, professional intimacy, and empathy.

The Therapeutic Relationship with the Client

At the core of nursing and midwifery is the therapeutic nurse/midwife-client relationship. The cornerstone of an effective nurse/midwife-client relationship is trust. Clients should trust and expect that the information shared with nurses and midwives is kept confidential and private.

Personal Health Information

Personal health information is considered any identifying information about an individual in oral or recorded form. This includes information collected by health care professionals

during the course of the therapeutic relationship. Clients do not have to be named for information to be considered personal health information. Information is identifying if a person can be recognized, or when it can be combined with other information to identify a person.

Accessing Personal Health Information

When nurses and midwives access, use or share a client's personal health information they should ensure they are:

- Collecting, accessing, using and disclosing personal health information only as required to meet their professional responsibilities and/or legislated requirements.
- Accessing personal health information only for the purposes that are consistent with their professional responsibilities.
- Only sharing relevant personal health information with the client's health care team.
- Explaining to clients how this information is shared with other members of the health care team.
- Confirming clients, or substitute decision-makers, have consented to the collection, use and disclosure of their personal health information, unless collection, use or disclosure without consent is authorized by legislation.

Disclosure

Disclosure is defined as making information available or releasing it to another health care provider or person. Nurses and midwives may be required to disclose personal health information for purposes related to client care. There also may be specific situations in which a nurse or midwife may be required to disclose personal health information of a client to an external authority, such as law enforcement, or to another agency as required by provincial or federal legislation.

When nurses and midwives disclose personal health information, they should ensure they are:

- Restricting the information disclosed and the number of people informed to the minimum necessary to fulfill legal, professional and ethical obligations.
- Disclosing to the appropriate authority if there is a substantial risk of significant harm to the health or safety of the client or others. If considering disclosing personal health information under these circumstances the nurse or midwife will need to discuss the situation with their manager or supervisor to ensure proper process/policy is adhered to.
- Complying with any legal obligation to disclose confidential information imposed by legislation or required under a warrant, court order, or subpoena. Nurses and midwives should discuss this type of disclosure with their manager or supervisor to ensure proper process/policy is adhered to.

Breaching Confidentiality and Privacy

A breach occurs when a client's personal health information is disclosed to a third party without their consent.

This includes:

- Sharing information with others who are not part of the healthcare team caring for the client.
- Accessing client records at the request of another health care provider who is not currently a member of the client's health care team.
- Accessing client records of family or friends, when the nurse or midwife is not a member of the client's health care team.
- Accessing the nurses or midwives own personal health record.

Breaches may be unintentional, such as a conversation about a client being overheard or misdirected documents. Breaches may be deliberate such as accessing personal health information of a client the nurse or midwife is not caring for or accessing their family, friends and/or their own personal health information.

Possible consequences of breaches of confidentiality and privacy include impacts to clients, health care professionals and employers. These consequences may include:

- Embarrassment for the client
- Increased stress for the client
- Negative impact on the client's health and recovery
- Breakdown of trust of health care providers and the health care system
- Barrier to development and maintenance of the therapeutic relationship
- Negative impact on the reputation of health care professionals, the health care system and employers
- Potential violation of provincial and federal legislation
- Disciplinary actions from CRNMPEI or CLPNPEI
- Legal action

Regardless of the reason for the breach, this may be considered a violation of the standards of practice, Code of Ethical Conduct/Code of Ethics and the Regulated Health Professions Act (RHPA).

The RHPA Part V Section 34 states: "A member...shall comply with this Act, the regulations, the bylaws, standards of practice, code of ethics, and practice directions respecting the regulation health profession".

Maintaining Confidentiality and Privacy

Nurses and midwives have ethical and legal responsibilities to protect the confidentiality

and privacy of client's personal health information. When clients entrust their personal health information to a nurse they expect and rely on it being kept confidential. Some ways nurses and midwives can ensure they maintain the confidentiality and privacy of client's personal health information include:

- Not discussing confidential information in public areas, such as the cafeteria, hallways or other patient rooms, or in online forums, such as social media networks and websites.
- Logging out of the computer when finished accessing a client's personal health information.
- Not sharing passwords. Each user is responsible for activity under their password.
- Safeguarding passwords (eg. Not keep them written beside a computer).
- Never leaving client records, computers or other devices unattended or in clear view of others.
- Filing information or putting charts away in their proper place.
- Transporting client records or other client documents face down or in envelopes.
- Following employer policy and if there is not a policy to work with their manager in advocating for one or revising a policy.

Custodians of personal health information are responsible to implement additional safeguards for the security and protection of electronic personal health information. Please refer to CRNMPEI's Practice Directive: Delivering Care Through Technology for more details.

Conclusion

A nurse or midwife who is unclear about whether they should access a client's personal health information should ask themselves two questions:

- "Do I need this information to provide care to this client?"
- "Do I have the client's consent, implied or expressed, to access this information?"

Nurses and midwives should not access personal health information for any purpose that is inconsistent with their professional responsibilities. They should also be aware of where they are and who is around when discussing confidential client information. Withholding the client's name is often not enough to maintain confidentiality.