

## BCAHC Practice Education Guidelines

# Protecting Privacy and Maintaining Confidentiality

GL#2-1

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### Introduction and Purpose:

A cornerstone of healthcare delivery is the trust the public has in the system and the people who provide health care services. A significant aspect of this trust is derived from maintaining an individual's right to privacy. Students, post secondary institution (PSI) educators and health care organization (HCO) employees, are obliged to maintain the legal and ethical standards that safeguard the public, including maintaining the privacy of individuals and organizations. HCOs and PSIs must take steps to promote awareness and foster compliance with legislation, as well as related to privacy and confidentiality policies and procedures.

This guideline outlines the standards for protecting privacy and maintaining confidentiality of information for students and PSI educators. Legal statutes by which all providers are bound are identified and roles/accountabilities necessary to ensure the integrity of these statutes are outlined.

### Definitions:

*Also refer to: Standardized Guideline definitions in Practice Education Guideline (PEG) Introductory Module.*

*Confidentiality:* an ethical principle that healthcare professionals will not share client information, unless the client gives consent (Office of the Information and Privacy Commissioner [OPIC], 2009). Confidentiality is an overarching principle that fosters public trust by authorizing certain persons to have confidential and private information on a 'need to know' basis.

*Confidential Information:* all data, information and material relating to the HCO services, staff, contractors, service providers or clients, students and PSI educators, whether in written, electronic or any other form. This also includes personal information of clients and staff; also includes any information related to the business, affairs or operations of the HCO which would not normally be available to the public.

*Destruction of records:* to completely and permanently destroy physical or electronic records.

*Fair Information Practices:* a set of internationally recognized rules within the Freedom of Information and Protection of Privacy Act (FOIPPA) that govern the collection, use and disclosure of personal information by public bodies. Collectively, those rules reinforce the basic premise that public bodies must be appropriately restrained, transparent and vigilant in the management of personal information collected or compiled in the delivery of public services" (OPIC Role and Mandate, June 19<sup>th</sup>, 2006, p. 4)

*Need to Know:* needing to access certain information in order to perform specific duties and responsibilities related to an individual's role.

*Perpetuity:* a state of being perpetual, continuing forever (Perpetuity, 2012).

*Personal Identity Information:* “any personal information of a type that is commonly used, alone or in combination with other information, to identify or purport to identify an individual” (BC Freedom of Information and Protection of Privacy Act, 2012).

*Personal Information:* “recorded information about an identifiable individual other than contact information” (BC Freedom of Information and Protection of Privacy Act, 2012).

*Personal Health Information:* “means recorded information about an identifiable individual that is related to the individual's health or the provision of health services to the individual” (E-Health (Personal Health Information Access and Protection of Privacy Act, 2012)

*Privacy:* Under FOIPPA, privacy means maximizing, wherever possible and to the extent that is reasonable, a citizen's control over the collection, use and disclosure of his or her personal information.

*Privacy Breach:* the unauthorized collection, use and/or disclosure, storage, or destruction of Personal Information that is contrary to FOIPPA legislation, other legislation, HCO policies, procedures, or standards, by any means beyond legitimate purposes.

*Secure Storage:* Stored in locked cabinets, locked offices; user password protected access on any electronic storage devices.

## **Practice Guideline Standards**

HCOs, PSIs, and their employees or students/educators, are subject to statutes that protect individual privacy. These include:

- [BC Freedom of Information and Privacy Protection Act \(FOIPPA\)](#);
- [E-Health \(Personal Health Information Access and Protection of Privacy\) Act](#), and
- Professional Codes of Conduct.

Researchers, as students or employees, are bound by privacy and confidentiality standards within:

- [Tri-Council Policy Statement on the Ethical Conduct for Research Involving Humans](#)
- E-Health (Personal Health Information Access and Protection of Privacy) Act.

PSIs must ensure that PSI educators and students understand and practice in accordance with the signed terms and conditions for Privacy and Confidentiality as stated in the “Educational Institution Affiliation Agreement”<sup>1</sup>.

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<sup>1</sup> BC Academic Health Council. (2007). Educational institution affiliation agreement template. Retrieved January 25, 2013 from: [www.hspcanada.net/docs/aam/aa\\_template.pdf](http://www.hspcanada.net/docs/aam/aa_template.pdf)

HCOs must ensure that HCO educators and staff understand and practice in accordance with the signed terms and conditions for Privacy and Confidentiality as stated in the “Educational Institution Affiliation Agreement”.<sup>2</sup>

No student or PSI educator will be permitted by the PSI to participate in a practice education experience unless he/she has signed a Confidentiality Agreement in a form approved by the Health Authority. This agreement extends beyond the clinical placement date, the expiry of an education affiliation agreement or any other agreements.

Student and PSI educator signed Confidentiality Agreements must be obtained and stored/filed according to Health Authority policies/protocols within which the practice education experience occurs. Record of proof of signed confidentiality must be maintained on file for period of seven (7) years beyond the end of the placement experience.

Students and PSI educators are obligated not to access, use, disclose, or share confidential information in perpetuity without legal or other authorization.

Due diligence is required by healthcare providers, researchers, educators and students when collecting, storing, disclosing, transferring or disposing of confidential personal health information.

Destruction of physical records must be done to prevent the information on the records from being retrieved or reconstructed. Shredding (e.g., cross shredding) or placing material in a marked confidential shredding bin is required to destroy paper records containing personal information. It is not acceptable to throw confidential information in regular recycling bins or garbage cans.

Destruction of electronic records, including computerized medical records must have the same sensitivity and confidentiality considerations as paper records. The secure way to destroy electronic data is by ‘wiping’, which is a process of writing and re-writing blank data over the disk until all traces of the original data are destroyed. Physical destruction of securely wiped hard drives, CD/DVDs, tapes, USB disks, and other storage media must also occur.

Social networking web sites or video sharing web sites must never be used to post clinical student assignments where HCO staff or clients are referred to or recorded in any way.

HCO / PSI educators and/or students must immediately disclose to the HCO leaders any identified breach of confidentiality for review.

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<sup>2</sup> BC Academic Health Council. (2007). Educational institution affiliation agreement template. Retrieved January 25, 2013 from: [www.hspcanada.net/docs/aam/aa\\_template.pdf](http://www.hspcanada.net/docs/aam/aa_template.pdf)

The HCO will protect any personal information of students and PSI educators that is in the custody and control of the Health Authority in accordance with FOIPPA.

Failure to maintain individual confidentiality, privacy, and organizational confidentiality in perpetuity from information that is communicated, read, observed, or otherwise obtained or documented during a practice-education experience is a serious offence and may result in withdrawal of student privileges, termination of clinical placement, termination of educational agreements with HCOs, legislated fines, and lawsuits.

### **Roles, Responsibilities and Expectations:**

#### *Post Secondary Institution:*

Collaborate with the HCOs to ensure that systems, processes, and policies are in place for legitimate movement of confidential information between the PSI and HCO.

Provide education for students to reduce inadvertent privacy/confidentiality breaches, including:

- legal and ethical obligations in maintaining privacy and confidentiality;
- use of information communication technologies and increased susceptibility of confidentiality breach;
- standards / practices to ensure assignments do not uniquely identifying HCO clients or staff;
- current information for keeping paper-based and electronically transferred/housed assignments (case studies, journals, etc.) secure and methods for timely destruction of records.

Ensure reasonable and current policies and protocols exist to support the appropriate, timely and secure procurement, transfer, storage and disposal of any HCO confidential information that students or PSI educators possess for purposes of education.

Implement regular review processes of PSI educator and student use of any information communication technology such as learning management systems and social media in addition to traditional educational processes used to support student learning, in order to ensure PSI educators and students are not placed at risk for breaching privacy obligations.

Ensure immediate and comprehensive review, disclosure of any identified breach of confidentiality with HCO, PSI educator and student.

Facilitate process to ensure PSI educator and students have access to, understand, and sign a confidentiality agreement for each health authority where a practice education experience occurs. Securely submit, store/file such agreements in accordance with approved Health Authority specific standards/protocols.

*Students/PSI Educators:*

Agree in writing, as required by HCOs, an understanding of responsibilities and limitations related to privacy and confidentiality.

Limit access, collection, use, disclosure, and sharing private information to a 'need to know' basis and maintain the confidentiality of such information, including what is witnessed (seen/heard) in practicum experiences, in accordance with appropriate legislation, the HCO's policies, procedures, and processes, and as indicated their professional code of conduct.

Ensure all patient related discussions occur in a private, confidential location and only with others who have a "need to know".

Remove personal identifiers when information is collected and used for purposes of education (i.e. client care assignment, case study, care plan, group presentation), to ensure the least identifying information be collected and used (e.g., Mr. X instead of Mr. Jones).

Destroy any items with personal identifiers in a timely and approved manner.

Do not post client information on the internet, take/ post pictures, text message or in any other way communicate client information for non-care related purposes. Limited exceptions apply where informed consent is obtained under supervision and as per HCO policy

Maintain confidential HCO information (Corporate Information) obtained during practice-education as a foundational consideration of employee and student relations.

*Healthcare Organizations:*

Collaborate with the PSIs to ensure that systems, processes, and policies are in place for legitimate movement of confidential information between the PSI and HCO.

Protect information pertaining to students/PSI educators and their performance during placements.

Provide reasonable access to client records for PSI educators to create assignments for students.

Inform students and PSI educators about 'need to know' access to HCO's paper records, recordings, and automated information systems containing private and confidential information. HCOs are only authorized to access, use, or share information when the student or PSI educator "needs to know".

Communicate policies and protocols regarding obtaining, storing/filing of confidentiality agreements.

Collect, use, and dispose of personal information about students and PSI educators **only** for the purposes of the clinical placement, ensuring the safety of client and others, conducting investigations, complying with legal requirements, and any other purpose relating to the clinical placement.

Obtain student consent to retain/use any student record post placement; ensure such information is securely stored.

Advise clients and/or families (eg. notification signage, written informed consent, or documented verbal consent) upon admission or as aspect of services rendered, that others, such as students and PSI educators, may have access and use of their personal information for educational purposes in addition to providing direct care and are bound by the FOIPPA guidelines.

Conduct collaborative privacy assessments with PSIs to ensure compliance with privacy obligations, and share the outcome of the assessment with the PSI.

Upon disclosure of a privacy breach, immediately review with Risk Management, PSI, PSI educator and student as required.

### **References and Resources**

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### Guideline Review History:

Revision #	Date	Author(s)	Brief Description of Change (reason for change)
Original	July 2009		
1	June 2012	Carrie Edge (FHA) and Cheryl Zawaduk (TRU)	Update references to legislation; revise according to new template and language standards, updated references and resources.
2	January 2013	Carrie Edge (FHA), Cheryl Zawaduk (TRU) Debbie McDougall (BCAHC)	Review for template and terminology updating. Revision of guidelines related to responsibility for obtaining/submitted confidentiality agreements; inclusion of statement regarding

		All WG committee members for confidentiality agreement guidelines.	retention of student information post placement.