

ASK A PRACTICE ADVISOR

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Question: I understand that new Health Information Protection Regulations (HIPA) came into effect in Saskatchewan this year and that RNs may be required to disclose personal health information to police and coroners in some circumstances. What do I need to know about these new regulations so that I am respecting client confidentiality and at the same time acting in a legally and ethically responsible manner?

The Health Information Protection Act (2003) came into effect to govern the collection, storage, use and disclosure of personal health information. It ensures that personal health information is private, that it is used in the best interests of the individual to whom it relates and that when possible the consent of the individual is obtained with respect to the collection, use and disclosure of this information. Amendments to HIPA which came into effect March 28, 2007 are intended to address the disclosure of **limited** personal health information to police agencies for **specific purposes**.

The new regulations provide a framework for the police to request information for the purposes of enforcing the *Criminal Code* or the *Controlled Drugs and Substances Act* (Canada) or for carrying out a lawful investigation pursuant to these. The purpose is to ensure a balance between public safety and the protection of personal health information.

What information can a police officer request from an RN?

The Registered Nurses' Act, 1988 requires RNs to keep a client's health information confidential unless authorized to disclose it. Within the new HIPA regulations, a RN may disclose limited personal health information of a client as specifically authorized.

Express or implied consent of the individual is required for any disclosure of personal health information **unless** the police can establish that they are conducting *Criminal Code* or *Controlled Drugs*

and *Substances Act* enforcement or investigations. Health authorities and their employees such as acute and emergency care providers are authorized to provide only certain personal health information to the police. The information that can be released is limited to:

- registration information;
- the nature and severity of an injury;
- facts surrounding the incident investigated;
- factual circumstances surrounding the provision of health services.

The regulations do not allow the release of an individual's past health history prior to the incident under investigation. The provisions respecting disclosure permit the health care professional to make a reasonable assessment of the facts of each situation when deciding whether to disclose limited personal health information. RNs should always check with their employer if unsure whether to disclose information to the police.

Health Care agencies require policies that relate to disclosure of personal health information to police services in accordance with HIPA. A "policy guideline" is currently being developed by the Privacy Subcommittee of the Chief Information Officers Forum in order to provide consistency and is expected to be finalized in June 2007.

At this time there is proposed legislation called *The Gunshot and Stab Wounds Mandatory Reporting Act*. When this Act is passed, it will also affect a RN's obligation to disclose confidential health information. More information about a RN's responsibility in relation to this Act will be in a future Newsbulletin.

References:

- Canadian Nurses Association. (2002). *Code of ethics for registered nurses*. Ottawa: Author.
- Province of Saskatchewan. (2007). *The health information protection regulations*. Regina: Author.