

YOU'VE ASKED

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“I’m a registered nurse who works in an emergency department and I’ve been asked by a police officer to disclose personal health information about one of my patients. Do I have to disclose health information about a patient to the police?”

THE SHORT ANSWER to your question is NO. According to the Canadian Nurses Protective Society, “...when police officers request nurses to disclose information learned in the course of treating a patient, many nurses feel that they have a moral and legal duty to disclose the information” (CNPS, 2006) but a police request for information without a court order, subpoena or warrant is similar to a request for patient information from other sources and confidentially must be maintained. As a registered nurse, you are responsible for ensuring that your practice and conduct meet legislative requirements and respect policies and standards relevant to the profession and the practice setting. It is important that you be aware of your professional, ethical and legal responsibilities regarding your duty of confidentiality to your clients.

Principles to consider before disclosing personal information to the police:

- What is my employer’s policy on disclosure of patient’s health information?
- What relevant professional, ethical and legal responsibilities should I be aware of?
- What are the exceptions to duty of confidentiality?

Employer’s Policy

Employers should have or develop policy and directions with regards to co-operation with the police. Before

disclosing any information about a patient to a third party, you have the professional responsibility to be aware of the relevant employer’s policy on disclosure of personal health information.

Professional Standards

The *Standards of Practice for Registered Nurses* (2005) are statements that describe the desirable and achievable level of performance expected of all registered nurses in their practice, regardless of their role. As members of a self-regulating profession, you are to practice in accordance with practice standards as set by NANB.

The NANB *Standards of Practice for Registered Nurses* (2005) relevant to confidentiality of health information are:

- 1.2...responds to the needs of clients in a way that fosters trust, respect, collaboration and innovation;
- 4.1...practices in accordance with accepted ethical standards, including but not limited to the *Code of Ethics* and the *Standards for Therapeutic Nurse-Client Relationship*;
- 4.4...acts as an advocate to protect and promote a client’s right to autonomy, respect, privacy, dignity and access to information;
- 5.1...is knowledgeable and practices in keeping with current legislation, policies and standards relevant to the profession and the practice setting;
- 5.2...is accountable at all times for own

actions and decisions;

Ethical Values

The *Code of Ethics for Registered Nurses* (2008) offers statements of ethical values and responsibilities for registered nurses. It is intended for all RNs in all contexts and domains of nursing practice. The relevant ethical standards as outlined in the *Code of Ethics for Registered Nurses* (2008) are:

- Nurses respect the right of people to have control over the collection, uses, access and disclosure of their personal information.
- Nurses collect, use and disclose health information on a need-to-know basis with the highest degree of anonymity possible in the circumstances and in accordance with privacy laws.
- When nurses are required to disclose information for a particular purpose, they disclose only the amount of information necessary for that purpose and inform only those necessary. They attempt to do so in ways to minimize any potential harm to the individual, family or community.
- Nurses intervene if others inappropriately access or disclose personal or health information of persons receiving care.

Legislations

In New Brunswick, the new *Personal Health Information Privacy and Access Act* provides a set of rules that protects



Judith Shamian,
President of CNA,
Roxanne Tarjan,
Executive Director of
NANB, France
Marquis, President-
elect of NANB,
Rachel Bard, CEO of
CNA met with the
New Brunswick
Health Council's
Stéphane Robichaud,
Michelina Mancuso
and Shirley
Smallwood.



First Stop: New Brunswick
March 1 & 2

CNA's Cross-Country Tour: Meeting Canada's Nurses in Their Communities

CNA, accompanied by NANB were welcomed in Moncton, Fredericton and Saint John on a mission to: engage nurses, other health-care providers, government decision-makers and the media.



Rachel Bard, CEO of CNA, interviewed with Radio-Canada le téléjournal / Acadie

A tour of the Nephrology Unit at the Georges. L Dumont University Hospital Centre



privacy and the confidentiality of your patient's personal health information. At the same time, the Act ensures that information is available, as needed, to provide health services to those in need and to monitor, evaluate and improve the health system in New Brunswick. This Act can be found on the Government of New Brunswick's website or at » www.gnb.ca/0051/acts/legislation-e.asp.

The Government of New Brunswick has also appointed an Access to Information and Privacy Commissioner. The access to information commissioner promotes best practices in privacy protection and access to health information as well as providing advice to custodians. For information about the Act, the Commissioner's Office can be contacted at 506-453-5965.

Exceptions to duty of confidentiality

There are some exceptions or situations where RNs are authorized to disclose confidential information to the police.

1. Patient Consent: If the patient (or legal guardian) has consented to have his information disclosed the RN can then share the pertinent information with the police. The RN discloses only the necessary information and informs only those necessary (CNA, 2008).
2. Court order: Patient's confidentiality may be breached or relevant personal health information disclosed when a court order, subpoena or warrant is in place (Rozovsky, 2002). When required to disclose personal health information, the disclosure is kept to a minimum and only the relevant information is shared.
3. Any other exceptions as stipulated in legislations.

For any information regarding this nursing practice situation or any other, contact NANB's Practice Advisor at 1-800-442-4417 or email nanb@nanb.nb.ca.

REFERENCES

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