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QUALITY PRACTICE
 A RESOURCE FOR EMPLOYERS OF NURSES

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Important Notice

It has come to CNO's attention that **Betty J. Delmore** has been practising nursing without a Certificate of Registration.

Delmore resigned her CNO membership on June 16, 2004, and is no longer entitled to practice as a Registered Nurse in Ontario as per the *Nursing Act* (1991) and the *Regulated Health Professions Act*.

Employers who receive an application for nurse employment from Delmore should contact the College immediately.

Illegal practitioners present themselves as nurses without having a Certificate of Registration and undermine the public's trust and safety.

For more information, contact CNO at investigations-intake@cnomail.org or 416 928-0900, ext. 6988 (toll free in Ontario at 1 800 387-5526). The College also maintains a list of illegal practitioners on its Web site at www.cno.org.

New standards mean new expectations

In November 2004, new Ontario privacy legislation was enacted that affects how nurses and other health care providers handle private and confidential client information. Because of this, CNO is providing all employers with a copy of the new practice standard *Confidentiality and Privacy — Personal Health Information* with this issue of *Quality Practice*. This new standard replaces the *Confidentiality* guidelines (document # 41045).

Why the change?

The two new pieces of Ontario legislation enacted around confidentiality and privacy are the *Personal Health Information and Privacy Act* (PHIPA) and the *Quality of Care Information Privacy Act* (QOCIPA).

"The College took this opportunity to review and consolidate its standards and guidelines around confidentiality and privacy into a single publication," explains Elizabeth Bildfell, RN, one of CNO's Practice Consultants responsible for developing the new practice standard. "The new legislation ensures confidentiality of health information and provides clients with access to, and control of, their personal health records. It was important for CNO to support nurses with clear information to help them practice in accordance with the new legislation."

PHIPA is not expected to have a major affect on nurses' day-to-day use of health information. The legislation is built on an implied consent model and allows nurses to continue to share information with the health care team.

QOCIPA, meanwhile, provides broad protection to quality of care information. Its purpose is to promote open discussion of adverse events, peer-review activities and quality of care information, and protect this information from use in litigation and by being accessed by clients. This means that information about a nurse's involvement in the College's Quality Assurance Program can not be used in legal proceedings.

Health information custodians

Under PHIPA, most nurses are considered "agents" of health information custodians. The legislation defines these custodians as organizations, including clinics, laboratories, hospitals and long-term care facilities, which provide care within a health care continuum. The custodian is responsible for ensuring that the policies and practices around the use of health information are confidential and secure.

Nurses in independent practice, or who provide health care in non-health care settings (e.g., Occupational Health nurses) are also considered custodians under PHIPA and are responsible for protecting the personal health information in their custody. They must take steps to fulfil requirements outlined in PHIPA, such as ensuring information they collect is accurate, complete and up-to-date, or designating a contact person to facilitate their compliance with the Act and to respond to requests, inquiries and complaints from the public.

PHIPA does not affect the College's ability to conduct investigations. Members and facilities can release a client's personal health information to College investigators, even though the College is not considered part of the

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Q&A: One facility's PHIPA experience

Diane Salois-Swallow, RN, is the Chief Information and Privacy Officer at York Central Hospital (YCH) in Richmond Hill. *Quality Practice* asked her to share her experience in preparing the hospital and its staff for the new privacy legislation.

CNO: How did your facility prepare for the new legislation?

DSS: In autumn 2001, the hospital's CEO released an internal memo to the management team, explaining the impact of the upcoming federal PIPEDA privacy legislation on the facility and appointed me as Chief Privacy Officer (CPO). As CPO, I led a privacy team that examined and reported on the compliance of the hospital's privacy policies.

We took a proactive approach that ensured personal health information under the custody or control of the facility is protected with or without the presence of legislation. Our overall privacy program already complied to a significant degree with the requirements of PHIPA. The hospital's program demonstrates the presence of strong information privacy and security practices.

In addition, our nurse educators received training on PHIPA and provided training to all nurses. Given the nature of nurses' work, it was evident through the training sessions that the hospital's nurses were already familiar with the concepts of privacy and confidentiality. Our training was mostly a refresher session on privacy and confidentiality, with more emphasis on the purpose of the new legislation.

“We took a proactive approach that ensured personal health information under the custody or control of the facility is protected with or without the presence of legislation.” – *Diane Salois-Swallow.*

What did you have to re-examine or change in your processes at the hospital to accommodate PHIPA?

Most of the provisions in our existing privacy policies and information practices will be sufficient under PHIPA because they were designed to comply with the requirements of PIPEDA.

PHIPA, however, has required us to revisit our current policies and procedures around the following issues:

- Patients' option to request that their general health condition information not be released to people who enquire. Otherwise, information can be released indicating that the patient was admitted; the location of the patient; and a general statement about the patient's status (e.g., saying a patient is “in stable condition”).
- Policies around the release of information to visiting clergy, unless patients specifically indicate that they do not wish this to occur.
- Notification of other health information custodians with respect to a patient invoking the ‘lockbox’ right, or correcting or amending personal health information.
- Fundraising is allowed, but patients have the right to opt out and only their name and contact information can be released.
- The need to review the very specific requirements attached to research in the legislation.

The new ‘lockbox’ option will require us to review our hospital's information systems. This lockbox option

gives patients the right to expressly instruct their caregivers not to disclose specified personal health information for health care purposes. Patients can also instruct the staff not to disclose certain pieces of health information to others within their circle of care.

The lockbox provision comes into effect once the legislation is enacted; however, we are not required to comply until November 2005. We will use this time period to develop and implement appropriate procedures to deal with lockbox instructions.

What training around privacy issues are you providing to nurses?

We are currently building nurses' awareness of information technology (IT) and audit trails. Some nurses are not as familiar with IT and, therefore, we are addressing challenges around exercising proper care and working to instil good security practices (e.g., keeping user identifications and passwords private and not sharing them).

Through our orientation program and privacy training, we will also reinforce nurses' responsibilities around privacy. This will ensure that staff members understand their responsibilities pertaining to the protection of patients' personal health information. Staff and volunteers are also required to sign a confidentiality agreement.

As the CPO, I am available to answer questions and provide additional training regarding the privacy legislation and the hospital's privacy program.

Lastly, what do you think is the most important thing for nurses to know about PHIPA?

Nurses will need to be familiar with the consent practices to ensure that patients are aware of their rights to withdraw or modify consent options at any time, and that they have the right to invoke lockbox privileges.

New standards

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client's health care team. There is a specific provision in the new legislation that allows facilities/custodians to disclose a client's health care information to the College without the consent of the client. In addition, PHIPA expressly states that the provisions in the legislation are not intended to interfere with the College's regulatory mandate. When the College is in possession of confidential client information, it must preserve confidentiality in the same way as health care providers and facilities.

The client's rights

PHIPA emphasizes that personal health information belongs to the client and the custodian is simply the caretaker of the information. The legislation gives clients the right to instruct what personal health information will be shared with other providers. Clients also have a right to correct their personal health information if they believe it to be inaccurate or incomplete.

There are provisions that allow health care providers to refuse a client request to access or change personal health information. These provisions are outlined in the enclosed practice standard.

Quality Practice Settings

Included in the new practice standard is a section that provides employers with information about how they can work with nurses to ensure confidentiality. When employers work with nurses to develop strategies to adhere to the legislation, they contribute to a quality practice setting. The standard provides employers with possible strategies around care delivery processes, communication systems, leadership

and professional development systems to build an environment that supports nurses in handling private and confidential information. Among these recommendations are ensuring that electronic systems are secure, and including nurses in the development and implementation of facility policies/procedures related to client privacy.

Additional copies of *Confidentiality and Privacy — Personal Health Information* can be downloaded for free from CNO's Web site or ordered from the Customer Service Centre.

Privacy legislation resources for employers

- CNO's Web site contains a special section dedicated to the new privacy legislation, including links to the PHIPA and QOCIPA legislation. Visit CNO at www.cno.org. The College's Regional Education Network is also incorporating the contents of the new practice standard and privacy legislation into its educational presentations.
- A *Guide to the Personal Health Information Protection Act*, published by the Information and Privacy Commissioner (IPC) office, copies of PHIPA and QOCIPA, and other useful resources are available at www.ipc.on.ca. Employers can obtain copies of the guide by calling the IPC office at 416 326-3333 or 1 800 387-0073.
- The Ontario Hospital Association, the Ministry of Health and Long-Term Care and the IPC are currently providing education sessions across the province.

Annual renewal now underway

Last month, Ontario's nurses received their Annual Membership Renewal (AMR) form, which means that annual renewal season is now in full swing at the College!

The deadline for nurses to complete the AMR and return it with their annual membership fee is December 31, 2004. Nurses are required to complete the AMR if they are to continue practising as a nurse in Ontario and receive an Annual Payment Card, which confirms that they are a member in good standing with the College.

During this time, remind your nurses that you will need to see their original copy of the 2005 Annual Payment Card (APC) as soon as it is received. (Note, however, that nurses are not required to show their APC until January 1, 2005.)

Employers are also reminded of CNO's Annual Automated Verification of Renewal System (AAVR), which can potentially save you a lot of time when verifying the membership renewal status of your nursing staff. The AAVR system checks registration numbers, confirms membership renewal status and provides you with the number of your staff members who are "entitled to practise" at the time the report was produced. It also identifies nurses in the Temporary or Retired Classes, suspensions, and any terms, limits or conditions attached to a nurse's registration.

You can subscribe to the AAVR by contacting Razmik Arzooonian, Registration Co-ordinator at rsarkisovich@cnomail.org, or by calling 416 928-0900; toll-free 1 800 387-5526, ext. 6175. Once you have subscribed, you can send CNO a file containing your nurses' names and registration numbers.

Ask CNO: Nurse returning to practice

Q I recently received a job application from an individual who wants to return to practice after being away from nursing for seven years. What should I consider before I hire this person?

A As an employer, your first step should be to contact CNO. Our customer service centre can verify the person's nursing registration status.

The next step is to ensure that any nurse you hire has current nursing knowledge, skill and judgment before restarting practice. Without the right support and professional development opportunities, some nurses may struggle with new roles. By implementing comprehensive support mechanisms, you can increase nurse retention, enhance performance and create more positive client outcomes.

To achieve these goals, you can develop orientation programs tailored to returning nurses' learning needs. Providing mentorship and preceptorship programs, as well as promoting continuing education, support nurses returning to practice. There are a number of learning options that you can suggest, such

as theoretical and clinical skill upgrading. Refresher programs can help nurses become familiar with recent changes, trends and issues in nursing and the health care system.

Nurses are self-regulating health professionals, so you should expect this nurse to have assessed her nursing knowledge and clinical skills as they relate to the nursing position for which she has applied. By engaging in Reflective Practice, your job applicant can identify her learning needs and develop a plan to meet them. In collaboration with the nurse, you could incorporate her learning plan into her orientation program.

Lastly, you can also suggest to nurses returning to practice after a lengthy absence that they reacquaint themselves with the College's standards and guidelines, which have evolved significantly in the past several years. These documents contain the professional expectations that apply to all nurses practising in Ontario. They describe what nurses are accountable and responsible for in their practices, and can be found on CNO's Web site in the *Compendium of Standards* online at www.cno.org.

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