



Privacy and Confidentiality: An Overview



Introduction

- This is one of two webcasts
 - Chapter 1: Overview
 - Chapter 2: Case studies
- Privacy breaches are serious offences that negatively affect trust between nurses and clients
- It is illegal to access a person's health information if you are not involved in their care.



Learning Objectives

- To understand:
 - Your regulatory accountability
 - Your obligations under the *Personal Health Information Protection Act, 2004*
 - The Circle of Care

Elements of Care





Privacy is Essential to Client Care

- Professional relationships are based on trust and respect
- Demonstrate ethics by respecting client' right to privacy
- Privacy breaches can cause emotional distress
- Clients need to feel comfortable communicating with their health care team



Privacy Legislation

- *Personal Health Information Protection Act, 2004*
 - Regulates the collection, use and disclosure of personal health information by health information custodians and their agents
- Personal health information identifies an individual
- Client has the right to consent to the collection, use and disclosure of their information

Who has Access?

- The privacy legislation describes to parties that have access to personal health information:
 - health information custodians
 - agents
- Health information custodian: an organization or person authorized to collect, use, retain and disclose a client's personal health information
- Agent: an authorized person acting on behalf of the health information custodian.

Consent and the Circle of Care

- To know if you have a client's consent to access or share personal health information, you must first understand the concept of the circle of care
- Circle of care determines whether health information custodians and agents have client's **implied consent** or need **expressed consent**

Consent and the Circle of Care *continued*

- Is this information necessary for me to provide care to this client?
- Yes → you are in the circle of care and have implied consent
- No → Ask: do I have the client's expressed consent to access and share their personal health information?
- For more information, on Circle of Care, read the guideline from the Office of the Privacy Commissioner: [Circle of Care: Sharing Personal Health Information for Healthcare Purposes](#)

Changes to the Privacy Legislation

- New mandatory reporting for privacy breaches
 - Facilities must notify the Privacy Commissioner and CNO if a nurse is terminated, suspended, subject to discipline or resigns as a result of a privacy breach (for further details see the [reporting guideline](#) from Information and Privacy Commissioner of Ontario)
- Privacy Commissioner can now prosecute breaches that happened more than six months ago
- Increased the maximum fines for offences
 - Individuals: \$50,000
 - Organizations: \$500,000

Consequences for Breaching Privacy

- A verbal caution or direction to complete a remediation program by CNO's Inquiries, Complaints and Reports Committee (ICRC)
- Oral reprimand, suspension, and/or terms, conditions and limitations on your practice by CNO's Discipline Committee
- Loss of employment
- Investigation and/or fine by the Information and Privacy Commissioner
- Other legal action



Using Technology and Social Media

- Misuse of technology can lead to potential breaches of personal information
- To avoid breaching the confidentiality and privacy of clients, colleagues and your workplace, reflect on what you are sharing
- Organizations should ensure processes are in place for safely storing and accessing information



External Resources

- Office of the Privacy Commissioner
- National Council of State Boards of Nursing

Thank you