



Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

VIA ELECTRONIC MAIL

July 10, 2019

College of Physicians and Surgeons of Ontario
80 College Street
Toronto, ON, M5G 2E2
policyfeedback@cpsy.on.ca

To Whom It May Concern,

RE: CPSO Policy Consultations

Our office has reviewed the following policies which are part of your current open call for comments:

- Disclosure of Harm Policy
- Advice to the Profession: Disclosure of Harm
- Boundary Violations Policy
- Advice to the Profession: Boundary Violations
- Prescribing Drugs Policy

This letter includes comments on the Disclosure of Harm Policy and the Prescribing Drugs Policy.

Regarding the Disclosure of Harm Policy - under sections 1 and 2 of the policy, physicians are required to disclose when a harmful incident and a no-harm incident has occurred. However, section 3 permits physicians to use their discretion when disclosing near miss incidents.

Under the *Personal Health Information Protection Act* (PHIPA), individuals generally have a right of access to records of their personal health information unless there is an exception under PHIPA that applies. It is recommended that the policy include an acknowledgement that if a near miss incident is recorded in the patient's record, the patient is likely to have a right of access to the information under PHIPA.

Section 13 of the policy requires postgraduate learners to inform the most responsible physician (MRP) and their clinical preceptor of any incident that requires disclosure. Because near miss incidents are not required disclosures under section 3, this would mean that postgraduate learners would not be required to report near miss incidents to their superiors. It is recommended that the policy include reporting of near miss incidents by postgraduate learners to the MRP and clinical preceptor. This will provide the MRP with the ability to determine if the incident should be reported to the patient.



2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel: 416-326-3333
1-800-387-0073
Fax/Télé: 416-325-9195
TTY: 416-325-7539
www.ipc.on.ca

Section 16 of the policy requires a subsequent physician to disclose, if the previous physician is unavailable, to the extent that they have the appropriate knowledge about the incident. It is recommended that the subsequent physician be required to disclose at the first reasonable opportunity, especially in cases where the disclosure has the potential to affect the wellbeing and ongoing care of the individual.

Regarding the Prescribing Drugs Policy - section 11 states that “regardless of the method of transmission, physicians must ensure that patient privacy and confidentiality are protected.” A footnote is provided that refers physicians to sections 12 and 13 of PHIPA and the IPC’s guidance on securing faxes “[Guidelines on Facsimile Transmission Security](#).”

The IPC is currently updating our guidance on faxing personal health information. We will provide the CPSO with an updated link for this policy document when it is available.

It is recommended that your policy also refer to our guidance related to secure email communication: “[Fact Sheet: Communicating Personal Health Information by Email](#).”

Thank you for providing the IPC with the opportunity to participate in this consultation process. I hope these comments will be of assistance to the college in reviewing and updating its policies and advice.

[REDACTED]

[REDACTED]

[REDACTED]