

Confidentiality

Effective: December 29, 2022

INTRODUCTION

The College of Licensed Practical Nurses and Health Care Aides of Alberta (CLHA) has the authority under the *Health Professions Act* (HPA) to carry out its activities and govern Licensed Practical Nurses (LPNs)* in a manner that protects and serves the public interest.

LPNs have legal and ethical obligations to protect the privacy and confidentiality of clients' information. The terms privacy and confidentiality are often used interchangeably; however, they mean slightly different things. Privacy applies to an individual person and their right to not share information about themselves with others and to make decisions about how their personal information is shared. Confidentiality applies to the information and refers to the ethical duty of healthcare professionals to safeguard the personal information about a person that they can access or that has been disclosed to them.

A healthcare professional's commitment to protecting a client's right to privacy must be balanced against the need to disclose health information. This document is meant to help LPNs navigate these obligations.

PURPOSE

The purpose of this practice guideline is to support LPNs in respecting client privacy and maintaining the confidentiality of client information in their practice.

DISCUSSION OF EVIDENCE

Upholding clients' privacy and keeping their information confidential is a foundational part of being a healthcare professional and is essential to maintaining trust within a nurse-client relationship. The *Standards of Practice for Licensed Practical Nurses in Canada* outline the key expectations related to privacy and confidentiality.

Standards of Practice for LPNs in Canada

4.3 Advocate for the protection and promotion of clients' right to autonomy, confidentiality, dignity, privacy, respect, and access to care and personal health information.

*In this document, "LPN(s)" has the same meaning as "regulated member(s)" in the *Health Professions Act*.

It is the LPN's responsibility to be aware of and follow any employer privacy and confidentiality requirements.¹

Informed Practice

This guideline outlines some key considerations that will help LPNs uphold privacy and confidentiality in their practice.

LPNs will need to work in collaboration with their employers to meet legislated requirements related to the collection, use, and disclosure of health and personal information. Employers who are custodians under the *Health Information Act* (HIA) are responsible for establishing policy and procedures to enable implementation of requirements under the HIA. A complete list of health professions that are custodians can be found in section 2(2) of the *Health Information Regulation*.

Practice within Relevant Laws

LPNs are responsible to be aware of the relevant laws respecting privacy and access to personal and health information that apply to their practice and to follow those requirements. LPNs can refer to *Privacy Legislation in Alberta* for more information.

There are legal obligations to disclose or report otherwise confidential information to an appropriate authority in certain circumstances. LPNs can refer to *Duty to Report* for more information.

LPNs engaged in self-employed practice are responsible for developing consent procedures related to appropriate disclosure of health information to others. LPNs can refer to *Self-Employed Practice* guideline for more information.

Respect and Protect Client Privacy and Confidentiality

Client information obtained from a nurse-client relationship is confidential and needs to remain confidential during and after client assignment. Unintentional or unauthorized disclosure of clients' information to colleagues, healthcare providers, and family or friends of the client may result in a finding of misconduct.

Client information should only be shared between colleagues or other healthcare providers if they are involved in the provision of care for that client. The information being shared must be necessary and related to the provision of care.

Confidential information should only be shared with the intended recipients. Be aware of who you are talking to and where the discussion is taking place. Be mindful of the physical or virtual space you are in and who may hear your private conversations. The amount of information disclosed should also be appropriate to the recipients of the message.

It is not recommended that LPNs share client information even if information has been anonymized (i.e., the client's name has been removed). A small amount of client-identifying information may be sufficient to uncover a client's identity and health information.

Technology

Use of technology (e.g., cellphones, laptops etc.) may result in unintentional or unauthorized disclosure if precautionary measures are not taken. Technology can make it easier for breaches in confidentiality to occur by using a telecommunication device or social media.

Even if the client may be requesting the information, there are security risks when using technology to share information. LPNs must be aware of and comply with any employer requirements related to technology use. When sharing necessary client personal health information over technology with colleagues and/or other healthcare providers, LPNs should be aware of the risks and take appropriate precautions by following any employer requirements.

Strategies related to the appropriate use of technology can be found in *Virtual Healthcare* and *Social Media and e-Professionalism Guidelines for Nurses*.

Personal Notes

All written confidential information including personal assessment notes or client assignment sheets should properly be disposed of in a confidential waste receptacle. For LPNs that keep journals, it is important to keep the focus on self-reflection and avoid writing down any information that could be client-identifying.

Accessing Information

Accessing the information or records of family members, friends, or unassigned clients is a breach of privacy. The access of information should be in accordance with job responsibilities.

Unauthorized access of information can be investigated by the Office of the Information and Privacy Commissioner of Alberta (OIPC). The OIPC has authority to investigate the unauthorized access of information which may lead to prosecution and a monetary penalty.

Disclosing Information

Generally, confidential information can only be shared with people outside a client's healthcare team (this includes family and friends) after the client gives their consent. The consent to disclose information should be documented in writing or electronically. This consent should state, at minimum, the purpose for which the information may be disclosed and to whom it may be disclosed.

Generally, a minor cannot give their own consent and the consent of their parent or guardian is required. However, under the mature minor doctrine, a minor may be able to give their own consent. A mature minor is a minor who has a certain level of intelligence, understanding and

awareness. The most responsible healthcare provider will assess if a minor is considered a mature minor. Age alone will not determine if a minor is a mature minor, but a mature minor will typically be 15 years old or older. A mature minor will have to give their consent before their information can be shared with people outside the healthcare team, including their parent or guardian.

However, there are exceptions where consent may not be required to disclose client information:

- to another healthcare professional;
- to a person who is responsible for providing continuing treatment and care to the client;
- to family or close friends if the information is given in general terms and concerns the client on the day on which the information is disclosed;
- to family or close friends if the client is deceased and the information relates to the circumstances surrounding their death;
- to any person if the disclosure can, on reasonable grounds, be believed to minimize a risk of harm to health or safety of a minor or an imminent danger to the health or safety of any person;
- if the client lacks the mental capacity to provide consent and the LPN believes that disclosure is in the client's best interests; or
- if the disclosure is authorized or required by law.

In urgent or emergency situations (and in accordance with employer requirements), consent may be waived or collected from the client after the information is disclosed.

Disclosure of Information Postmortem

Client information is confidential during and after care. LPNs are still obligated to maintain confidentiality of information after a client's death. A deceased client's personal health information should only be disclosed to others when there is a legal responsibility to do so and, in some cases, proof of the legal responsibility that justifies the disclosure.

CONCLUSION

Upholding client privacy and maintaining confidentiality is integral to LPN practice. It is part of a LPN's professional, legal, and ethical responsibility. A breach in privacy and confidentiality may be considered unprofessional conduct and may lead to legal and/or disciplinary action.

Documents are updated frequently. For the most current version and access to related documents and resources, please visit the Knowledge Hub on clha.com.

If after reading this document you have questions, please contact the CLHA's Professional Practice Team via practice@clha.com or 780-484-8886 or 1-800-661-5877 (toll free in Alberta).

REFERENCES

ⁱ Alberta Health Services, *Guidelines for Disclosure of Health Information* (2021), <https://www.albertahealthservices.ca/assets/info/lp/if-lp-ip-guidelines-for-disclosure-of-health-information.pdf>.