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## Contents

Confidentiality and Privacy .....	2
The Nurse-Client Relationship .....	2
Accessing Personal Health Information.....	2
Disclosure .....	2
Breaching Confidentiality and Privacy .....	3
Maintaining Confidentiality and Privacy .....	3
Key Points .....	4
Suggested Readings.....	4

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Our practice support tools are developed using current reference material. The source of this material is available upon request.



This tool is a resource for registrants in all practice settings to help them understand their ethical and legal obligation to maintain client confidentiality and privacy throughout the course of care, specifically related to:

- Nurse-client relationships
- Accessing personal health information
- Disclosing personal health information
- Breaches of confidentiality and privacy
- Maintaining confidentiality and privacy

Like all regulatory tools, use this document in conjunction with employer policy, applicable legislation and the standards of practice and code of ethics for nurses.

## Confidentiality and Privacy

Registrants have ethical and legal responsibilities to maintain the [confidentiality](#) and privacy of a client's personal health information. Standards of practice and code of ethics for registrants set out these requirements for practice and describe the expectations of registrants in their practice. These regulatory standards highlight the importance of protecting a client's right to confidentiality and privacy.

Federal and provincial legislation protects a person's right to confidentiality and privacy of personal health information. The specific legislation that applies to a registrant's practice depends on the setting and the nature of the work. Registrants are accountable to know which specific legislation applies to their practice and to follow legislated requirements.

In Nova Scotia the legislation which protects a person's right to confidentiality and privacy of personal health information is the [Personal Health Information Act](#).

## The Nurse-Client Relationship

At the core of nursing is the [therapeutic nurse-client relationship](#). The cornerstone of an effective nurse-client relationship is trust. Clients should trust and expect that the information shared with nurses is kept confidential and private.

[Information privacy](#) is defined as the client's right to control how their personal health information is collected, used and disclosed .

## Accessing Personal Health Information

When registrants access, use or share a client's personal health information they should ensure they are:

- Collecting, accessing, using and disclosing personal health information only as required to meet their professional responsibilities and/or legislated requirements.
- Accessing personal health information only for the purposes that are consistent with their professional responsibilities.
- Only sharing relevant personal health information with the client's circle of care.
- Explaining to clients how this information is shared with other members of the health care team.
- Confirming clients have consented to the collection, use and disclosure of their personal health information, unless collection, use or disclosure without consent is authorized by legislation.

## Disclosure

[Disclosure](#) is defined as making information available or releasing it to another health care provider or person. Registrants may be required to disclose personal health information for purposes related to client care. There may be specific situations in which a registrant is required to disclose personal health information of a client to an external authority, such as law enforcement, or to another agency as required by provincial or federal legislation.

When registrants disclose personal health information for any reason, they should ensure they:

- Restricting the information disclosed and the number of people informed to the minimum necessary to fulfill legal, professional and ethical obligations.
- Consult with their manager and/or privacy officer if:
  - Disclosure of the information could result in a substantial risk of significant harm to the health or safety of the client.
  - There is a warrant, court order or subpoena received to disclose confidential information.

## Breaching Confidentiality and Privacy

A breach occurs when a client's personal health information is disclosed to a third party without their consent. This includes:

- sharing information with others who are not part of the circle of care.
- accessing client records at the request of another health care provider who is not currently a member of the client's health care team.
- accessing client records of family or friends, when the registrant is not a member of the client's health care team.
- accessing the registrants own personal health record.

Breaches could be unintentional, such as a conversation about a client being overheard or misdirected documents. Breaches could be deliberate, such as accessing personal health information of a client the registrant is not caring for or accessing the registrant's family, friends and/or their own personal health information.

Both situations are a breach of confidentiality and privacy and are in violation of a registrant's standards of practice and code of ethics and could be considered professional misconduct.

Breaches of confidentiality and privacy have consequences on clients, health care professionals and employers including:

- Embarrassment for the client
- Increased stress for the client
- Negative impact on the client's health and recovery
- Breakdown of trust of health care providers and the health care system
- Barrier to development and maintenance of the nurse-client relationship
- Negative impact on the reputation of health care professionals, the health care system and employers
- Potential violation of provincial and federal legislation

Registrants are to take action, including following employer policies and procedures if they are involved in a breach in confidentiality or privacy.

## Maintaining Confidentiality and Privacy

Some ways registrants can ensure they maintain the confidentiality and privacy of client's personal health information include:

- Not discussing confidential information in public areas, such as the cafeteria, hallways or other client rooms, or in online forums, such as social media networks and websites.
- Logging out of the computer when finished accessing a client's personal health information.
- Safeguarding passwords by not sharing them or storing them in an easily accessible place(e.g. do not store them written beside a computer).
- Properly store client records and never leave client records, computers or other devices unattended or in clear view of others.

- Transporting client records or other client documents within or outside your organization as per employer policy.
- Following employer policy and process, and if there is not a current policy or process, work with their manager in advocating for one.
- Registrants should seek advice from their employer or their liability provider before using AI.

Registrants who use Artificial Technology (AI) tools in their practice are responsible to make sure the client's confidential data is protected. Clients should be informed about any potential privacy impacts related to their personal data.

## Key Points

- Registrants have ethical and legal responsibilities to maintain the confidentiality and privacy of client personal health information.
- Federal and provincial legislation protects a person's right to confidentiality and privacy of personal health information.
- Breaches of confidentiality and privacy can have legal, ethical and professional consequences on clients, health care professionals and employers.
- Cybersecurity risks could endanger client's personal information.
- Registrants need to ensure clients have consented to the collection, use and disclosure of their personal health information, unless collection, use or disclosure without consent is authorized by legislation.
- Registrants must comply with any legal obligation to disclose confidential information imposed by legislation or required under a warrant, court order, or subpoena.
- There are many active ways registrants can ensure they maintain the confidentiality and privacy of client's personal health information.

Ask yourself the following before accessing client information:

- "Do I need this information to provide care to this client?"
- "Do I have the client's consent, implied or expressed, to access this information?"

Registrants should consider seeking general legal advice from their employer's or their own liability provider.

- LPNs receive professional liability protection through [Lloyd Sudd Insurance](#).
- RNs, RPNs, RN-APs and NPs receive professional liability protection through the [Canadian Nurses Protective Society](#).

## Suggested Readings

- [Documentation Guidelines for Nurses](#)
- [Duty to Report Practice Guideline](#)
- [Social Media Practice Guideline](#)
- [Code of Ethics](#)

For further information on anything contained within this tool, please contact an NSCN Practice Consultant at [practice@nscn.ca](mailto:practice@nscn.ca).