

BEST PRACTICES FOR SERVICE PROVIDERS: PRIVACY AND INFORMATION SHARING



Canadian Mental Health Association
British Columbia
Mental health for all

While the legislation provides the absolute rules, best practices can be useful supplemental information in situations where judgment and interpretation is required. Best practices can also be useful to help shape procedures, guidelines, policies or standards at the organizational or professional level. In the absence of guidelines to support a deeper understanding of the legislation, service providers may default to interpret application of the legislation in its strictest form.

The following principles are derived from best practices and recommendations from a scan of relevant Canadian and international literature.

Knowledge

- Understand and comply with the law.
- Know standards and ethical codes of professional bodies and the information-sharing policies and procedures of your organization.
- Policies should be clear, practical and accessible and be accompanied by practical guidance and education. This should fit within systems, which help ensure that rules are followed.
- Know whom to approach within your organization or area for guidance.
- Know your responsibilities with respect to privacy and information sharing.
- Differentiate between general and personal information. For example, it may be possible to still give general information without consent if diagnosis is known and information on available supports, services, or programs—this is a judgment call on a case-by-case basis.

Responsibility

- Treat personal information confidentially and respectfully.
- In addition to the responsibility to protect patient privacy, there is also a responsibility to share information in certain cases. Know when information must be disclosed. Do not let privacy get in the way of health or safety.
- Keep within your scope of practice.
- Exercise sound clinical judgment and consult with colleagues or supervisors when in doubt.

Purpose

- Identify the purpose of and rationale for sharing information. The purpose should be broad enough to capture everything you intend to do, but not so broad that it is meaningless.
- Access to personal confidential data should be on a strict need-to-know basis, meaning that essential information is shared, but nothing more. In other words, information should be shared for the purpose of providing safe and effective care.
- Use caution when disclosing information that is not for the purposes of providing care (the purpose for which the information was collected)—using personal information for secondary purposes requires consent.

Communication

- Maintain open communication between individuals, family/families, and service providers.
- Communicate with individuals about how their information may be collected, used and disclosed, and inform them of their right to request their own information.
- Encourage individuals to understand the value of collaboration and information sharing between service providers.
- Be honest and up front with individuals and their families about limits to privacy and confidentiality.
- Maintain open communication at key milestones for individuals, including service entry, treatment planning, team review, exit planning and relapse response.

Consent

- Seek the consent of the individual to share their information, and, with some exceptions, respect an individual's right to object.
- Use plain language to ensure the individual understands information sharing.
- Explain the purpose and benefits of sharing information.
- Let the individual know they can withdraw consent at any time.
- Document verbal consent in the individual's file, specific to named agencies rather than staff members.
- Seek consent early on in the care relationship (e.g., at intake) and have a conversation about how their information may be used, who should be involved in their care (e.g., family and other service providers), and document the decisions made. Consent should be sought when it is easy to explain what information is being collected, why, how it will be used and to whom it may be disclosed.
- Differentiate between specific consent (sharing a particular piece of information) and general consent (may share all personal or care information with family).
- Where appropriate, review consent at key milestones (e.g., release planning) and on an ongoing basis.
- For best practices on making disclosure decisions situations when there is no consent, see Appendix 4.
- For youth, seek consent of a parent or guardian, unless the youth is able to consent themselves (Infants Act, section 17).
- If an individual is unable to provide consent, make an attempt to seek consent when their mental state has improved.
- If an individual doesn't want information shared with family, have a conversation to understand their concerns. Ask: are they refusing consent because they are concerned about a particularly personal or sensitive piece of information? Without a discussion initiated by the service provider, "no consent" may be recorded and an opportunity may be missed.
- Revisit consent on an ongoing basis.
- Seeking consent for disclosure or being open about how an individuals' information may be shared, even when consent is not required, can help build trust.
- Conversations about who to share information with (e.g., seeking consent from the individual to share with family) can help encourage individuals to build their support network.

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