

Guidelines for Off-Site Storage of Records

Purpose of the Guideline

Section 14 of the *Personal Health Information Protection Act, 2004* (PHIPA) permits practitioners to store records at a client's home (e.g., for homecare, a long-term care facility, seniors' residence) or a third-party storage site if the client consents. Reasonable safeguards must be taken and any College guidelines must be complied with. The following guidelines are intended to assist registrants who are considering using off-site storage techniques in a manner consistent with their professional and privacy obligations.

Further information on registrants' privacy obligations, including what constitutes "personal health information", and the requirements of the PHIPA can be found at the College's website and at the website of the Information and Privacy Commissioner of Ontario found at: www.ipc.on.ca.

College publications contain practice parameters and standards which should be considered by all registrants in the care of their clients and in the practice of the profession. College publications are developed in consultation with professional practice leaders and describe current professional expectations. It is important to note that these College publications may be used by the College or other bodies in determining whether appropriate standards of practice and professional responsibilities have been maintained.

Storage at the Client's Residence

In some circumstances it makes sense to store client records where the client lives. The records are then immediately available on any visit. Such records are also available for others on the health care team visiting the client at his or her residence. A residence could include an institutional residence such as a long-term care facility. The registrant will always want to keep some record at her or his place of practice in addition to what is kept at the client's residence.

In order to preserve client autonomy, confidentiality and privacy, the following professional expectations should be achieved:

- (a) the client, or the client's substitute, consents as required by the PHIPA;
- (b) the client, or client's substitute, understands and appreciates the reasonably foreseeable consequences of maintaining the record at the client's residence and has identified a reasonable plan for safeguarding the record;
- (c) the client, or the client's substitute, agrees that the registrant will have ongoing access to the record or, in the alternative, the registrant will keep an up-to-date copy of the complete record with the registrant's other records;

- (d) the client, or the client's substitute, agrees to at least one of the following:
 - a. to retain the record for the period required by the College
 - b. to return the record to the registrant when it no longer is appropriate to store it at the client's residence, or
 - c. that the registrant will keep an up-to-date copy of the complete record with the registrant's other records,
- (e) a reasonable clinical purpose (e.g., facilitating treatment, sharing records with others on the health care team) is served by keeping the record there;
- (f) either the record kept at the client's residence or the record kept with the registrant's other records, or both, is a complete and up-to-date copy of the record and both records indicate which is the complete, up-to-date copy of the record; and
- (g) unless the registrant keeps an up-to-date copy of the complete record with the registrant's other records, the registrant will keep a copy of the following information with the registrant's other records:
 - i. the name and contact information for the client;
 - ii. the location of the record;
 - iii. the essential, up-to-date, clinical information about the client including significant assessment results, a summary of the current treatment plan and the major milestones in the implementation of the treatment plan, and
 - iv. documentation of compliance with clauses (a) to (f).

Storage at a Commercial Storage Facility

Often a registrant's place of practice is not equipped to store all client records, particularly closed files and other historical records. However, these records need to be retained for subsequent treatment issues, accountability purposes and in case the client requests access to them. The College has established minimum retention periods for client records that practitioners will want to observe.

In order to preserve client autonomy, confidentiality and privacy, the following professional expectations should be achieved:

- (a) the client, or the client's substitute, consents as required by the PHIPA (consent can be achieved when a client signifies understanding and consent to the firm's privacy policy if the issue is addressed there);
- (b) the storage facility has a privacy policy consistent with the PHIPA and the College's record keeping provisions;
- (c) it would be prudent for the registrant to obtain from the storage facility a written privacy assurance that it will safeguard the record and will only use or disclose it at the express direction of the registrant;
- (d) the registrant describes the fact that he or she uses a storage facility in his or her privacy policy;
- (e) the storage facility is not a private residence;
- (f) if the facility is to destroy the record at a later time, that the registrant contracts with the storage facility to retain the record for the period of time specified by the College before it will destroy the record in a secure manner;

(g) the registrant keeps the account with the storage facility current at all times so that the records are not discarded or destroyed prematurely; and

(h) the registrant keeps, with his or her other records, a notation identifying the client, the nature of the record kept at the storage facility, the location of the file in the storage facility (e.g., file box number), documentation of compliance with clauses (a) to (g) and the contact information for the storage facility.

Registrants Who Work for Others

If the registrant is an agent of a health information custodian as defined in the PHIPA, the registrant may comply with the custodian's privacy policies on storing records at a client's residence or a storage facility rather than this guideline so long as the policies are substantially similar to these regulations. If the custodian does not take a substantially similar approach (or has no policy in place) the registrant will advocate with the custodian to do so.

If advocacy attempts fail and fundamental professional, confidentiality and privacy obligations are not being met, the registrant should take further action such as involving the office of the Information and Privacy Commissioner of Ontario or becoming his or her own custodian in respect of his or her own clinical records.

