



## PRINCIPLE V: CONFIDENTIALITY

College members respect the privacy of clients by holding in strict confidence all information about clients and by complying with any applicable privacy and other legislation. College members disclose such information only when required or allowed by law to do so or when clients have consented to disclosure.

### Interpretation

- 5.1 College members comply with any applicable privacy and other legislation.<sup>1</sup> College members obtain consent to the collection, use or disclosure of client information including personal information,<sup>2</sup> unless otherwise permitted or required by law.
- 5.2 College members employed by an organization acquire and maintain a thorough understanding of the organization policies and practices relating to the management of client information, including:
  - (a) when, how and the purposes for which the organization routinely collects, uses, modifies, discloses, retains or disposes of information;
  - (b) the administrative, technical and physical safeguards and practices that the organization maintains with respect to the information;
  - (c) how an individual may obtain access to or request correction of a record of information about the individual; and
  - (d) how to make a complaint about the organization's compliance with its policies and practices.

Self-employed College members and College members who are responsible for complying with privacy legislation<sup>3</sup> establish clear policies and practices relating to the management of client information, including the matters identified in (a), (b), (c) and (d) above, and make information about these policies and practices readily available in accordance with any applicable privacy and other legislation.

- 5.3 College members shall not disclose information concerning or received from clients, subject to any exceptions contained in the following interpretation.
  - 5.3.1 When College members are employed by an agency or organization, College standards of confidentiality may conflict with the organization's policies and procedures concerning confidentiality. Where there is a conflict, College standards take precedence.<sup>4</sup>
  - 5.3.2 When in a review, investigation or proceeding under the Act in which the professional conduct, competency or capacity of a College member is in issue, the member and, where the member is practising on behalf of a



- professional corporation, the professional corporation may disclose such information concerning or received from a client as is reasonably required by the member or the College or, where applicable, the professional corporation, for the purposes of the review, investigation or proceeding, without the client's consent. College members and professional corporations do not divulge more information than is reasonably required.
- 5.3.3 When disclosure is required or allowed by law or by order of a court, College members do not divulge more information than is required or allowed.
- 5.3.4 College members wishing to use collection agencies or legal proceedings to collect unpaid fees may disclose, in the context of legal proceedings, only the client's name, the contract for service, statements of accounts and any records related to billing. College members do not divulge more information than is reasonably required. (See also Interpretation 6.1.3.)
- 5.3.5 When consent to the disclosure of information is required, College members make reasonable efforts to inform clients of the parameters of information to be disclosed and to advise clients of the possible consequences of such disclosure.<sup>5</sup>
- 5.3.6 College members do not disclose the identity of and/or information about a person who has consulted or retained them unless the person consents. Disclosure without consent is justified if the disclosure is required or allowed by law.<sup>6</sup> (See also Interpretation 4.4.1.)
- 5.3.7 In clinical practice, College members have clients sign completed consent forms prior to the disclosure of information, where consent is required. A separate consent form is required to cover each authorization for disclosing client information. In urgent circumstances, a verbal consent by the client to the disclosure of information may constitute proper authorization. The member should document that this consent was obtained.
- 5.3.8 College members make reasonable efforts to ensure that the information disclosed is pertinent and relevant to the professional service for which clients have contracted and take reasonable steps to ensure that the information is accurate, complete and up-to-date as is necessary for the purposes of the disclosure or clearly set out the limitations, if any, on the accuracy, completeness or up-to-date character of the information.
- 5.4 College members inform clients early in their relationship of the limits of confidentiality of information. In clinical practice, for example, when social work service or social service work service is delivered in the context of supervision or multi-disciplinary professional teams, College members explain to clients the need for sharing pertinent information with supervisors, allied professionals and paraprofessionals, administrative co-workers, social work or social service work students, volunteers and appropriate accreditation bodies. College members



respect their clients' right to withhold or withdraw consent to, or place conditions on, the disclosure of their information.<sup>7</sup> (See also Principle IV The Social Work and Social Service Work Record.)

5.5 College members in indirect non-clinical practice distinguish between public and private information related to their clients. Public information, as defined below, may be disclosed in the appropriate circumstances.

5.5.1 'Public information' is any information about clients and/or their activities that is readily available to the general public and the disclosure of which could not harm the client. 'Public Information' does not include personal information about an individual. When in doubt, the College member obtains consent from the client or a duly authorized representative before using or disclosing such information.<sup>8</sup>

5.5.2 When working with community groups, government agencies and other organizations, the College member keeps confidential any information about the personal lives, personalities, and personal behaviour of the individuals involved.

5.5.3 The College member also keeps confidential any other sensitive information about such clients, including human resources, financial, managerial, strategic and/or politically sensitive material, the disclosure of which could harm the client.

5.6 College members obtain clients' consent before photographing, audio or video taping or permitting third party observation of clients' activities.<sup>9</sup> College members comply with the requirements regarding use or disclosure of information for research or educational purposes set out in any applicable privacy and other legislation. In the absence of any applicable legislation, where case scenarios are presented for research, educational or publication purposes, client confidentiality is ensured through the alteration and disguise of identifying information. (See also Interpretation 4.4.4.)

5.7 College members may use public information and/or non-identifying information for research, educational and publication purposes.

5.8 College members are aware of the distinction between consultation and supervision as it pertains to sharing client information. In consultation, clients are not identified.



## FOOTNOTES

1. Privacy legislation includes the federal *Personal Information Protection and Electronic Documents Act*, the federal *Privacy Act*, the *Personal Health Information Protection Act, 2004*, the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act*.
2. 'Personal information' means information about an identifiable individual and includes personal health information.
3. College members who are responsible for complying with privacy legislation include College members who are "health care practitioners" (within the meaning of the *Personal Health Information Protection Act, 2004*) and are employed or retained by persons who are not "health information custodians" (within the meaning of the *Personal Health Information Protection Act, 2004*). Examples include social workers or social service workers who provide health care as part of their duties and are employed by children's aid societies, social workers or social service workers who provide health care as part of their duties and are employed by a supportive housing provider and social workers or social service workers who provide health care as part of their duties and are employed by government bodies to provide services in correctional facilities or youth justice facilities.
4. See "Ontario College of Social Workers and Social Service Workers Code of Ethics", "A social worker or social service worker shall maintain the best interest of the client as the primary professional obligation."
5. In clinical practice the College member makes reasonable efforts to inform the client of at least the following:
  - a) who wants the information (name, title, employer and address);
  - b) why the information is desired;
  - c) how the receiving party plans to use the information;
  - d) if the receiving party may pass the information on to yet a third party without the client's consent;
  - e) exactly what information is to be disclosed;
  - f) the repercussions of giving consent or refusing permission for the disclosure;
  - g) the expiration date of the consent;
  - h) how to revoke the consent.

For further information, see Steven Shardlow, "The Boundaries of Client-Worker Relationship" in Richard Hugman and David Smith, eds., *Ethical Issues in Social Work*, (London and New York: Routledge, 1995) p.66.

6. For example, the *Personal Health Information Protection Act, 2004* ("PHIPA") provides a number of circumstances where it is permitted for a person who is a "health information custodian" (within the meaning of PHIPA) to disclose personal health information without consent. These circumstances include disclosure to the College for the purpose of the administration or enforcement of the *Social*



*Work and Social Service Work Act, 1998* and disclosure to the Public Guardian and Trustee or a children's aid society so that they can carry out their statutory functions.

7. College members anticipate circumstances which may limit confidentiality. Clear discussion of these limits and contracting for confidentiality with the team, group or community should be undertaken. Individual clients should be aware, however, that, if their confidentiality is violated by another group member, there may not be legal recourse.
8. For example, in indirect non-clinical practice College members should obtain the client's consent before:
  - a) publishing reports about their work with the client;
  - b) referring to their work with the client in their advertising;
  - c) speaking with media, funders, potential funders and other individuals/groups about the organization, agency or community; and
  - d) bringing guests, observers, or media to meetings involving the client.
9. Exceptions may be allowed under law, for example, in child abuse investigations.