

## Disclosing Information to Prevent Harm Professional Practice Guideline

*Guidelines published by CRPO are intended to clarify CRPO's Professional Practice Standards, providing additional information that will help a Registrant consider or respond to common situations that arise in practice in a manner that accords with the Standards.*

*Information provided in a guideline is to be considered along with other relevant sources of information, such as the Code of Ethics, applicable Standards, regulations, and laws. Registrants must rely on their knowledge, skill and judgment to determine when it is appropriate to apply a particular guideline, being mindful that ultimately, Registrants are responsible for their own actions.*

*College publications are developed in consultation with the profession 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.*

### Introduction

Registered Psychotherapists have an obligation to maintain client confidentiality. In some circumstances, however, disclosure of client information is permitted or required by law. The *Personal Health Information Protection Act, 2004*<sup>1</sup> (PHIPA) allows health information custodians to disclose personal health information about an individual, without that individual's consent,

if the custodian believes on reasonable grounds that the disclosure is necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm to a person or group of persons.<sup>2</sup>

This guideline document explores when and how a Registrant of the College can disclose information under this provision.

The question of whether to disclose confidential information to prevent harm is multifaceted, involving aspects of law, ethics, and professional practice standards. The College advises Registrants that they may be held accountable for failing to take steps to prevent harm. Registrants have lost their employment, been the subject of complaints or reports to the College, and can be sued in court, for failing to respond appropriately to situations involving risks to clients or third parties.

The expectation that a professional disclose confidential information to prevent harm is sometimes referred to as the 'duty to warn'. This exception to confidentiality is *in addition* to other reporting obligations, for example reporting to a Children's Aid Society about a child in need of protection. Registrants should review the College's *Professional Practice and Jurisprudence* manual, and *Professional Practice Standards*, for an understanding of these obligations.

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<sup>1</sup> SO 2004, c 3, Sch A.

<sup>2</sup> *Ibid.*, s. 40(1).

## Interpretation

The following are brief explanations of key concepts quoted above:

<i>Reasonable grounds</i>	A concern that is based on more than suspicion, rumour or speculation.
<i>Necessary</i>	There is no other reasonable way (such as continuing therapy with the client) to prevent the risk of harm to the client or others. If disclosure is necessary, as little information as possible is disclosed to eliminate or reduce the risk of harm; that is, extraneous information is not shared.
<i>Significant risk</i>	Requires a case-by-case evaluation of both the likelihood and magnitude of harm. "Significant risk" falls in between the extremes of low risk and certainty.
<i>Serious bodily harm</i>	Death or "any hurt or injury, whether physical or psychological, that interferes in a substantial way with the integrity, health or well-being of a victim." <sup>3</sup>
<i>Person or group of persons</i>	The victim(s) are identifiable or their characteristics are described specifically.

## Professional Judgment, Consultation and Documentation

Each situation involving a potential risk of harm is different. The Registrant is responsible for using professional judgment to determine whether and how to disclose information appropriately.

Part of developing and applying professional judgment involves knowing when to seek consultation. Consulting with supervisors and colleagues allows multiple perspectives and options to be presented, allowing the Registrant to make an informed decision. Consultation is especially important in complex situations, or where a Registrant is accountable as part of a team or organization. A Registrant should consult early, as potential risks begin to emerge, and not wait until harm is imminent. As the law regarding disclosure of confidential information to prevent harm is complex and evolving, Registrants may find it helpful to consult with their legal advisor.

Deciding whether to make a report requires serious consideration. Registrants should recognize that the therapeutic relationship may be compromised as a result of disclosing information without the consent of the client. Concern about maintaining the therapeutic relationship, however, should not prevent a Registrant from disclosing information where doing so is needed. Registrants should use their judgement in determining when it is therapeutically relevant and safe to inform the client that they are disclosing information to a third party.

Registrants should document their actions, including consultations made and action taken. Doing so can show that a Registrant made reasonable efforts, even if it was not possible to prevent or reduce harm in a given situation.

## Working with Clients at Risk

When working with clients who are at risk of harm, it is strongly recommended that Registrants consider ways of facilitating their own self-care and strengthening resilience. They may do this by engaging in education, supervision, personal therapy or other personal care activities, e.g. meditation, connecting with personal supports, taking a break, etc. While this should be ongoing, it may be particularly important after dealing with more challenging clinical issues or in the unfortunate event that a client has been injured or dies as a result of suicide or homicide.

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<sup>3</sup> *R. v. McCraw*, 1991 CanLII 29 (SCC), [1991] 3 SCR 72, at p. 88.

## Reflection Questions

Registrants can ask themselves the following questions when facing a situation that may call for disclosure of information to prevent harm. This list is not exhaustive (there may be additional or different questions to ask). The italicized words are defined on page 2.

- Does this situation present a *significant risk* of *serious bodily harm* to a *person or group*?
- Is the therapist's assessment or opinion based on *reasonable grounds*?
- Is disclosure *necessary* to prevent or reduce the risk of harm?
- Is this a situation that would benefit from consultation?
- Is disclosure required by law, e.g. to a children's aid society?
- When not required by law, would disclosure put the person (client or third party) at risk?
- Would discussing the possibility of disclosure with the client be therapeutic and safe?

## See Also

[Professional Practice Standards for Registered Psychotherapists](#), standards 1.3: Reporting Unsafe Practices, and 3.1: Confidentiality.

[Professional Practice & Jurisprudence for Registered Psychotherapists](#)

[CRPO web page: Reports about Registrants](#)

[Mandatory Reporting Obligations for Registered Psychotherapists](#)

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