



Working with Police

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Working with Police

- Opportunity to interact with police in a variety of scenarios
- Organization's approach informed by specific circumstances → case-by-case basis
- Balancing obligations
- Applicable legislation offers flexibility in dealing with scenarios/ working with police

Overview

1. Reporting to police
2. Responding to police enquiries
3. Engaging police for assistance
4. Police entry and presence

Implications of PHIPA?

1. Sharing personal health information with police = disclosure under *Personal Health Information Protection Act, 2004* (PHIPA)
2. Exceptions under PHIPA for disclosure in certain circumstances
3. PHIPA **permits** disclosure (i.e. at the discretion of the Health Information Custodian)

Reporting to Police

1. What information can I share with the police?
 - Anything the patient/ SDM gives consent for you to say, for a lawful purpose
 - As permitted/required by law
2. PHIPA preserves existing law with respect to disclosure and mandatory reporting obligations (must be aware of statutory obligations)
3. Limit disclosure to that which is necessary and relevant to satisfy the intended purpose or request

Mandatory Reporting – Abuse/Neglect

- No general obligation to report to police but obligations triggered in certain situations
- *Services and Supports to Promote the Social Inclusion of Persons with Developmental Disabilities Act, 2008 (Quality Assurance Measures Reg.)*
 - Where a **service agency** suspects any alleged, suspected or witnessed incidents of abuse of a **person with a developmental disability may constitute a criminal offence**,
 - (a) the service agency shall immediately report to the police the alleged, suspected or witnessed incident of abuse (s. 8(4))

Mandatory Reporting – Abuse/Neglect

- *General Regulation 79/10* under the *Long-Term Care Homes Act, 2007*
 - Every **licensee of a long-term care home** shall ensure that the appropriate police force is immediately notified of any alleged, suspected or witnessed incident of abuse or neglect of a **resident** that the licensee suspects **may constitute a criminal offence** (s. 98)

Mandatory Reporting – Abuse/Neglect

- *General Regulation under the Retirement Homes Act, 2010*
 - The policy to promote zero tolerance of abuse and neglect of residents described in subsection 67 (4) of the Act shall,
 - (f) provide that the **licensee of the retirement home** shall ensure that the appropriate police force is immediately notified of any alleged, suspected or witnessed incident of abuse or neglect of **a resident** that the licensee suspects **may constitute a criminal offence** (s. 15(3))

Mandatory Reporting – Gunshot Wounds

- *Mandatory Gunshot Wounds Reporting Act, 2005*, an obligation for public hospitals to report to police when they treat a person for a gunshot wound (s. 2)
- Limited to the following information:
 - The fact that a person is being treated for a gunshot wound
 - The person's name (if known)
 - The name of the facility
- Oral report to be made at first reasonable opportunity without interfering with the patient's treatment or disrupting the regular activities of the hospital

Releasing Information to Police Pursuant to Court Order

- Warrant, Production Order
 - Warrant provides authority for police to seize/ take into custody
 - Production Order requires named organization/person to release information to named individual(s)
 - Coroners' Warrant – acting on behalf of coroner
- Summons/subpoena
 - Provides authority to take documents to court, not authority to disclose information directly to police (or anyone else) unless set out
- Other court orders

Permitted Disclosures (without consent)

- PHIPA permits disclosure in certain circumstances that may involve the police
 - Subject to Hospital policy, processes
 - May request warrant / production order

Permitted Disclosures (without consent)

- Where disclosure is necessary to eliminate or reduce a **significant risk of serious bodily harm** (s. 40(1))
- Common law duty to warn – police or intended victim
 - Criteria: Clarity, Seriousness, Imminence

Permitted Disclosures (without consent)

- **Acknowledge in-patient presence (s. 38(3))**
 - A facility providing health care may disclose the following PHI relating to an individual who is a patient/ resident in the facility, unless the individual objects:
 1. The fact that the individual is a patient or resident in the facility
 2. The individual's general health status
 3. The location of the individual in the facility
 - Only if police give you a name
 - Does not include discharge information

Permitted Disclosures (without consent)

- **Information about a deceased patient** (s. 38(4))
 - Identify individual
 - Advise patient deceased/ reasonably suspected to be deceased, or circumstances of death
- **To a person carrying out an inspection, investigation or procedure authorized by warrant or by law** (s. 43(1)(g))
 - e.g. police investigation

FIPPA

- FIPPA permits disclosure in certain circumstances that may involve the police
 - To a law enforcement agency:
 - For the purpose of aiding an investigation leading or likely to lead to a law enforcement proceeding (s. 42(1)(g))

Engaging Police for Assistance

1. Reporting a criminal activity
 - Patient, visitor, or staff request (victim of criminal act)
2. Individual engaging in violent or potentially criminal behaviour on property
3. Obtain assistance to reduce a risk of harm (to person or property)

Police Requests for Interviews

- No legal obligation to speak with the police
- Can only be compelled to attend court pursuant to subpoena/ summons to witness
- Patient/client → consent
- Staff
 - Disclosure of PHI subject to PHIPA, hospital policy
 - Request warrant/production order/consent to release record
 - Organization can facilitate process
 - Police request to tape interview
 - “Will say” statement
 - Stick to facts (what personally saw, heard, did etc.)

Collecting/ Providing Evidence to Police

- Objects in patient's possession
- Patient specimens
 - Bodily fluid, tissue samples
 - Considered PHI if obtained for health care purposes
 - A court order, warrant or consent to release:
 - only authorize police to obtain samples already collected (i.e. for health care purposes)
 - does not authorize drawing another sample for police
 - Warrants obtained under the *Criminal Code of Canada* may provide authority to draw/remove specimen

Collecting/ Providing Evidence to Police

- Document:
 - Description of item/specimen released
 - Basis upon which item/specimen released
 - (i.e. consent, warrant, illegal drugs/weapons)
 - Name of staff releasing item/specimen
 - Name and badge number of police officer(s) receiving specimen/item
 - Date and time of release

Police Entry and Presence

1. Police entitled to lawfully exercise powers of arrest where circumstances warrant
 - Authority includes: enter property, search, seizure, guarding
2. Minimize disruption
3. No legal obligation for staff to assist police in arrest duties – but must not obstruct/actively interfere
4. Rights/ role of staff when police duties present a risk to patients/ patient care

Dangerous/ Illegal Substances

- Varying approaches
 - Depends on approach/perspective of organization and local police force
- Finding and confiscating
 - Dangerous items, large/small quantities of drugs
- Reporting to the police – criminal activity, in and of itself, is not considered PHI

Policies and Procedures

- Organization position(s) should be clearly addressed in policy
 - Set out organization's legal obligations
 - Guide and support staff engaging with police
 - Prevent inappropriate actions
- Supported by appropriate procedures and forms
- Communication / engagement with police → common understanding

Questions?

Thank You!

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