

## CHART or RECORD DISCLOSURE

### In a Clinical Setting

#### Preamble

The privacy laws of Nova Scotia are very clear with regard to collection, storage, disclosure and destruction of Personal Health information (PHI). Privacy compliance is overseen by the [Information and Privacy Commissioner](#) for Nova Scotia. Physiotherapists must determine and understand who the custodian under the PHIA is; custodians have specific responsibilities to the individuals whose information they hold. In clinic settings where the owner is a non-regulated health professional, the physiotherapist is the Custodian of their own charts and their patients' personal health information (refer to section 3(f) of the PHIA)

#### DEFINITIONS

**Custodian:** A custodian is an individual or organization that has custody or control of an individual's PHI for the purpose of providing the individual with health care. Custodians include regulated health professionals, health authorities, pharmacies, continuing care facilities and other organizations. A regulated health professional is not a custodian when he or she is working as an agent of a custodian. For example, where a physiotherapist works in a health authority hospital, the health authority is the custodian, and the physiotherapist is an agent. The obligations under PHIA fall on the custodian.

**Agents:** Agents are people who are authorized by the custodian to handle PHI for the custodian. Agents would include the custodian's staff and contractors. Custodians must limit agents' access to patients' PHI to those agents who need to know the information to do their jobs. An agent is required to follow the rules set by the custodian, and to notify the custodian at the first reasonable opportunity if the agent learns of a privacy breach.

**PHI:** Personal health information (PHI) means identifying information about an individual if the information relates to the health care sought by, or provided to, the individual. Identifying information means any information that either directly identifies the individual or could reasonably be combined with other information to identify an individual.

#### Guiding principle

Physiotherapists are responsible for maintaining complete and legible charts (electronic or written) on all patients<sup>1</sup> in accordance with the NSCP College Standards. They are also responsible for maintaining the privacy of their patients' personal health information. All disclosures of PHI and the consent to disclose must be documented and include the information disclosed, the name of whom it was disclosed to, the date and the authority for the disclosure. **A chart includes all record and reports used by the physiotherapist in planning and carrying out their treatment.**

<sup>1</sup> The term patient is synonymous with the term client in all NSCP documents.

### Physiotherapists need to:

- Understand the difference between a custodian relationship and an agent and being aware of the components that characterize the difference:
  - Custody of PHI
  - Disclosure
  - Consent
- Satisfy themselves of the individual's identity and their authority to access PHI before disclosing it. Disclosures must be clearly documented with what was disclosed, to whom along with the date and authority. Authority to disclose without consent does not prevent the custodian from obtaining consent.
- Be aware of the reason for the request for disclosure and **disclosing only the minimum amount of information necessary for the purpose.** (i.e. If the request is to audit payments for service, then the information would include the attendance records and billings. If there is something further, in a contractual agreement, then it is the responsibility of the person making the request to provide that information)
- Know how to handle [breaches of privacy](#). Four main steps...contain the breach, evaluate the risks, notify and then prevent it from happening again.
- **Have clear policies and procedures for dealing with PHI; Information and forms available for accessing PHI and for timely release of information, requests forms and procedures for dealing with changes to charts, complaints etc., policies on destruction of charts as well as non-contributing documents received during the course of patient service.**

### References:

NSCP (2010) [Guideline to Personal Health Information Act](#),  
[Personal Health Information Act](#)  
[Personal Health Information Regulations](#)

### Resources:

To help you conduct a complete assessment of your privacy management program, the OIPC has produced the [Privacy Management Program Toolkit for Health Custodians](#)

For the [Health Custodians](#) under PHIA there are many checklists and guidelines to help you navigate the legislation.