



COUNCIL POLICY

Privacy Policy

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1. PURPOSE

The College of Physicians and Surgeons of Manitoba is committed to protecting the privacy and confidentiality of information that it receives, creates, uses, maintains and discloses while fulfilling its regulatory functions. This may include information about members of Council or its committees, registrants of CPSM, members of the public, as well as employees, contractors and appointees of CPSM. CPSM fulfills this commitment to privacy and confidentiality by voluntarily adopting the practices set out in this Privacy Policy and by complying with its statutory obligations under the RHPA, particularly subsection 140(2).

2. SCOPE

This Privacy Policy applies to every person employed, engaged or appointed by CPSM for the purpose of administering or enforcing *The Regulated Health Professions Act* (the “RHPA”), and every member of Council, a committee of Council or board established under the RHPA. For simplicity, all these actors will be referred to collectively as the “CPSM” within this Privacy Policy.

This Privacy Policy establishes confidentiality requirements consistent with or in addition to the requirements of the RHPA and its regulations, Council bylaws and Practice Directions, and other CPSM and Council policies

3. PRINCIPLES OF PRIVACY AND CONFIDENTIALITY THAT MUST BE FOLLOWED

3.1. Collection and use of information

CPSM collects, uses and maintains information in accordance with the RHPA and always in furtherance of its mandate to serve and protect the public interest and administer the RHPA.

3.2. Identifying purposes

Communication of information requires careful consideration of the purpose for the request and/or disclosure and whether that purpose is consistent with the proper administration of the RHPA, regulations, CPSM Bylaws, Standards of Practice of Medicine, Practice Directions, or policy, including this Privacy Policy:

- CPSM will make a reasonable effort to identify the purpose(s) for which information is collected to the individual from whom the personal information is collected, either at the time of collection or after collection but before use, except where inappropriate.

- Where applicable, CPSM will state the identified purposes in such a manner that an individual can reasonably understand how the information will be used or disclosed.
- Personal information and personal health information should generally not be used for purposes other than those stated when the information was obtained. Notwithstanding, use of information for unanticipated purposes is permitted when the information becomes relevant to another aspect of CPSM's mandate.
- When information that has been collected is to be used for a purpose not previously identified, the new purpose should usually be identified prior to use where practical and appropriate. Unless the new purpose is required by law or patient safety, the consent of the individual should be obtained before the information is used for the new purpose.

3.3. Documenting requests and disclosure

Requests for information and disclosure of information by CPSM should be documented, including the reasons for the request or disclosure, related conversations and the outcome. Where this information is self-evident from the request or disclosure itself, which may be in the form of a letter or email, separate documentation would not be necessary.

3.4. Consent

CPSM respects and values an individual's right to provide or withhold consent in relation to their information. However, there are many instances in which obtaining consent will impede CPSM's ability to fulfill its regulatory functions. CPSM will collect, use, disclose or retain information without consent only when it is permitted or required by law to do so. In all other situations, CPSM will obtain consent.

3.5. Limiting collection

Personal information and personal health information regarding patients must be collected as part of CPSM's regulatory function. In most circumstances, this information is obtained by CPSM as part of either the complaints or the standards process. The focus of these processes is the conduct, competence or capacity of registrants and the protection of the public. CPSM only collects information regarding patients to satisfy its regulatory mandate. In general, no more information than is necessary is sought or disclosed by CPSM.

3.6. Limiting use, disclosure or retention

Information is only disclosed externally from CPSM in accordance with the provisions of the RHPA or as otherwise required by law or patient safety, including the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*.

The RHPA and Regulations designate certain information regarding registrants that is publicly available and create the requirement for physician profiles.

CPSM may be required by law enforcement, government institutions, or judicial or other regulatory authorities to provide certain information that is in its control or possession without consent or notice to any or all persons having a privacy interest in the information.

CPSM's responsibilities regarding personal information and personal health information apply where information is transferred to a third-party for a purpose consistent with the administration of the RHPA or other legislation. Where possible, CPSM will use contractual or other means to provide a comparable level of protection while the information is in the possession of a third-party.

CPSM has a record retention policy in place and conducts regular audits to ensure that personal information that is no longer required to be kept is destroyed, erased or obtained by contacting the Registrar at CPSM.

3.7. Accuracy

Accurate information is vital to CPSMs' ability to fulfill its regulatory functions. In recognition of this fact, CPSM will take reasonable steps to ensure that the information it collects, uses, discloses and retains is accurate. This may include contacting individuals who have provided CPSM with information in order to verify accuracy. If there exist concerns with the reliability of information, the concerns should be documented and brought to the attention of the appropriate director or the Registrar.

3.8. Safeguards

CPSM recognizes that adequate safeguards are fundamental to maintaining the privacy and confidentiality of information. CPSM will take reasonable steps to ensure that the information it receives or creates is protected against theft, loss or other misuse. While the specific safeguards implemented will be tailored in accordance with the degree of sensitivity of the information, CPSM will ensure that:

- Information is stored in a secure manner, which may include keeping information in secure or restricted access storage rooms, maintaining information in password protected databases, and/or requiring that information is signed-out when it is removed from CPSM;
- Information which is no longer needed will be destroyed in a reliable manner, including by shredding of physical records through a professional and confidential service;
- Access to CPSM premises will be restricted to CPSM staff and authorized persons; and

- Reasonable steps are taken to ensure that staff, members of Council, members of Committees and other individuals who conduct work for CPSM are made aware of their obligations to keep information confidential and understand the importance of upholding this obligation.

3.9. Accountability

The Registrar shall administer this Privacy Policy pursuant to subsection 2.2 of the Registrars, Duties Authority and Evaluation – Council Policy. In fulfillment of this duty, the Registrar will:

- a. with respect to all those to whom this policy applies:
 - i. ensure that they received adequate training regarding CPSM confidentiality requirements, including this Privacy Policy, and
 - ii. ensure that all those to whom this Privacy Policy applies execute a declaration of confidentiality; and
- b. publish CPSM’s policies regarding privacy, including this Privacy Policy, on CPSM’s website.

Any concerns or questions arising regarding compliance with this Privacy Policy should be brought to the attention of the Registrar for review. If the concern relates to the Registrar, it must be brought to the President of CPSM for review. When a concern is received, the Registrar, or President as the case may be, shall:

- acknowledge receipt of the concern;
- investigate the concern;
- provide a written response regarding the concern to individuals who are directly impacted providing only information that is necessary and disclosable under subsection 140(2) of the RHPA; and
- take appropriate measures.

4. APPLICATION OF OTHER PRIVACY LEGISLATION

CPSM is not engaged in “commercial activity” as defined in *The Personal Information Protection and Electronic Documents Act* (“PIPEDA”) and as such its collection, use and disclosure of personal information is not covered by PIPEDA, which is a federal statute that governs organizations operating in the private sector in Manitoba. CPSM has been designated an “investigative body” under PIPEDA in order to permit organizations that are (or will be) governed by PIPEDA to be able to provide personal information about registrants to CPSM on a voluntary basis.

Manitoba's public sector privacy legislation, the *Freedom of Information and Protection of Privacy Act* (FIPPA), does not include professional regulatory bodies under its jurisdiction. Similarly, the *Personal Health Information Act* (PHIA), which specifically governs privacy in the context of health service providers, does not include professional regulatory bodies under its jurisdiction. CPSM is not a "trustee" as defined in PHIA and as such is excluded from the provisions of PHIA relating to trustees of personal health information. Section 22 of PHIA permits the disclosure of personal health information by trustees to CPSM.