



The Nova Scotia College of Nursing (NSCN) is the regulatory body for licensed practical nurses (LPNs), registered nurses (RNs) and nurse practitioners (NPs) in Nova Scotia. Our mandate is to protect the public by promoting the provision of safe, competent, ethical and compassionate nursing services by our registrants. The term nurse in this document refers to LPNs, RNs and NPs unless otherwise stated.

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Our practice support tools are developed using current reference material. The source of this material is available upon request.



This tool is a resource for nurses in all practice settings to help them understand their ethical and legal obligation to maintain client confidentiality and privacy throughout the course of care, specifically related to:

- Nurse-client relationships
- Accessing personal health information
- Disclosing personal health information
- Breaching personal health information
- Maintaining confidentiality and privacy

Like all regulatory tools, use this document in conjunction with employer policy, applicable legislation and the standards of practice and code of ethics for LPNs, RNs and NPs.

Confidentiality and Privacy

Nurses have ethical and legal responsibilities to maintain the [confidentiality](#) and privacy of a client's personal health information. The standards of practice and code of ethics for nurses set out the legal and professional requirements for nursing practice and describe the expectations of nurses in their practice. These regulatory standards highlight the importance of protecting a client's right to confidentiality and privacy.

Federal and provincial legislation protects a person's right to confidentiality and privacy of personal health information. The specific legislation that applies to a nurse's practice depends on the work setting and the nature of the work. Nurses are accountable to know which specific legislation applies to their practice and to follow legislated requirements.

In Nova Scotia the legislation which protects a person's right to confidentiality and privacy of personal health information is the [Personal Health Information Act](#).

The Nurse-Client Relationship

At the core of nursing is the [therapeutic nurse-client relationship](#). The cornerstone of an effective nurse-client relationship is trust. Clients should trust and expect that the information shared with nurses is kept confidential and private.

Personal Health Information

[Personal health information](#) is considered any identifying information about an individual that is verbal, written or in electronic form. This includes information collected by nurses during the course of the therapeutic nurse-client relationship. Clients do not have to be named for information to be considered personal health information. Information is identifying if a person can be recognized, or when it can be combined with other information to identify a person.

[Information privacy](#) is defined as the client's right to control how their personal health information is collected, used and disclosed .

Accessing Personal Health Information

When nurses access, use or share a client's personal health information they should ensure they are:

- Collecting, accessing, using and disclosing personal health information only as required to meet their professional responsibilities and/or legislated requirements.
- Accessing personal health information only for the purposes that are consistent with their professional responsibilities.
- Only sharing relevant personal health information with the client's health care team.
- Explaining to clients how this information is shared with other members of the health care team.
- Confirming clients, or substitute decision-makers, have consented to the collection, use and disclosure of their personal health information, unless collection, use or disclosure without consent is authorized by legislation.

Disclosure

[Disclosure](#) is defined as making information available or releasing it to another health care provider or person. Nurses may be required to disclose personal health information for purposes related to client care. There also may be specific situations in which a nurse may be required to disclose personal health information of a client to an external authority, such as law enforcement, or to another agency as required by provincial or federal legislation.

When nurses disclose personal health information, they should ensure they are:

- Restricting the information disclosed and the number of people informed to the minimum necessary to fulfill legal, professional and ethical obligations.
- Disclosing to the appropriate authority if there is a substantial risk of significant harm to the health or safety of the client or others. If considering disclosing personal health information under these circumstances the nurse will need to discuss the situation with their manager and/or privacy officer to ensure proper process/policy is adhered to.
- Complying with any legal obligation to disclose confidential information imposed by legislation or required under a warrant, court order, or subpoena. Nurses should discuss this type of disclosure with their manager and/or privacy officer to ensure proper process/policy is adhered to.

Breaching Confidentiality and Privacy

A breach occurs when a client's personal health information is disclosed to a third party without their consent. This includes:

- sharing information with others who are not part of the healthcare team caring for the client.
- accessing client records at the request of another health care provider who is not currently a member of the client's health care team.
- accessing client records of family or friends, when the nurse is not a member of the client's health care team.
- accessing the nurses own personal health record.

Breaches may be unintentional, such as a conversation about a client being overheard or misdirected documents. Breaches may be deliberate such as accessing personal health information of a client the nurse is not caring for or accessing the nurse's family, friends and/or their own personal health information.

Possible consequences of breaches of confidentiality and privacy include impacts to clients, health care professionals and employers.

These consequences may include:

- Embarrassment for the client
- Increased stress for the client
- Negative impact on the client's health and recovery
- Breakdown of trust of health care providers and the health care system
- Barrier to development and maintenance of the nurse-client relationship
- Negative impact on the reputation of health care professionals, the health care system and employers
- Potential violation of provincial and federal legislation
- Legal action

Regardless of the reason for the breach, this may be considered a violation of the standards of practice, code of ethics and the Nursing Act.

The Nursing Act states: “*professional misconduct includes such conduct or acts relevant to the practice of the profession that, having regard to all the circumstances, would reasonably be regarded as disgraceful, dishonourable or unprofessional, including... (h) failing to exercise appropriate discretion with respect to the disclosure of confidential information.*”

If a nurse is aware of a breach or they themselves breaches confidentiality and privacy they are accountable, according to their standards of practice, to take action, including following employer policies and procedures.

Maintaining Confidentiality and Privacy

Nurses have ethical and legal responsibilities to protect the confidentiality and privacy of client’s personal health information. When clients entrust their personal health information to a nurse they expect and rely on it being kept confidential. Some ways nurses can ensure they maintain the confidentiality and privacy of client’s personal health information include:

- Not discussing confidential information in public areas, such as the cafeteria, hallways or other patient rooms, or in online forums, such as social media networks and websites.
- Logging out of the computer when finished accessing a client’s personal health information.
- Not sharing passwords. Each user is responsible for activity under their password.
- Safeguarding passwords (e.g. not keep them written beside a computer).
- Never leaving client records, computers or other devices unattended or in clear view of others.
- Filing information or putting charts away in their proper place.
- Transporting client records or other client documents face down or in envelopes.
- Following employer policy and if there is not a policy to work with their manager in advocating for one or revising a policy.

A nurse who is unclear about whether they should access a client’s personal health information should ask themselves two questions:

- "Do I need this information to provide care to this client?"
- "Do I have the client's consent, implied or expressed, to access this information?"

Key Points

- Nurses have ethical and legal responsibilities to maintain the confidentiality and privacy of client personal health information.
- Federal and provincial legislation protects a person’s right to confidentiality and privacy of personal health information.
- Nurses need to ensure clients, or substitute decision-makers, have consented to the collection, use and disclosure of their personal health information, unless collection, use or disclosure without consent is authorized by legislation.
- Nurses must comply with any legal obligation to disclose confidential information imposed by legislation or required under a warrant, court order, or subpoena.
- There are several ways nurses can ensure they maintain the confidentiality and privacy of client’s personal health information.

Suggested Readings

- [Documentation Guidelines for Nurses](#)
- [Duty to Report Practice Guideline](#)

For further information on anything contained within this tool, please contact an NSCN Practice Consultant at practice@nscn.ca.