

Kitchener Downtown Community Health Centre

Type of Policy:

- | | |
|---|--|
| <input type="checkbox"/> Administration (A) | <input checked="" type="checkbox"/> Client Services General (CG) |
| <input type="checkbox"/> Board of Directors (B) | <input type="checkbox"/> Client Services Programs (CP) |
| <input type="checkbox"/> Financial (F) | <input type="checkbox"/> Primary Care (PC) |
| <input type="checkbox"/> Human Resources (H) | <input type="checkbox"/> Acquired Brain Injury Program (ABI) |
| <input type="checkbox"/> Information Systems (I) | <input type="checkbox"/> Diabetes Education Program (DEP) |
| <input type="checkbox"/> KDCHC Governing Principles (K) | |
| <input type="checkbox"/> Occupational Health & Safety (S) | <input type="checkbox"/> Volunteers (V) |

Policy No.: CG0903

Title: Duty to Warn (Limits to Confidentiality)

Policy

The Centre recognizes that, while it has an obligation to protect client privacy, there are limits to client confidentiality. Disclosure of a client's record is required under the following circumstances:

1. When under the legal obligation to do so. Examples of such obligation include:
 - Coroner's request
 - Subpoena
 - Search Warrant
 - Court Order
 - Workplace Safety and Insurance Board
 - Highway Traffic Act
 - Child and Family Services Act
 - College of Physicians and Surgeons
 - College of Nurses
 - College of Dental Surgeons
 - College of Chiropractors
 - Ontario College of Social Workers and Social Service Workers
 - Ontario College of Registered Psychotherapists
 - Ontario College of Dietitians
2. When a diagnosis is made of a reportable communicable disease.
3. When significant harm to the client or third party could occur. Examples of threat of harm include: child abuse, child neglect, suicide, homicide, inability to operate machinery safely or belief that these will occur.

Procedures

1. If necessity to disclose arises in the course of treatment (threat of harm, for example), the staff member will take appropriate action and will document that disclosure in the chart. If the disclosure may result in actual or perceived harm to staff and or the organization, the immediate supervisor or Director should be notified as soon as is possible. In such cases, an incident report will also be required to be filled out.
2. Upon awareness of necessity to disclose due to legal action, the service provider will inform their Supervisor, who will inform their Director, who will in all cases inform the Executive Director. This will also require the completion of an incident report.
3. The service provider must advise the client if their records are to be disclosed. In the case of making a report to the Family and Children's Services it is up to the discretion of the staff person as per Policy CG0101 Family and Children's Services Reporting
4. Reporting to lawful authorities in regards to child abuse or neglect overrules client confidentiality. Staff will not advise the client(s) that their records have been disclosed and a report made.
5. Parties and situations arising which necessitate disclosure include:
 - a. **Lawyers:** Upon the authority of the Executive Director, client records will be provided to the Centre's own lawyer, own liability insurer, or an adjuster or lawyer acting on behalf of the Centre's insurer.
 - b. **Subpoenas, search warrants, court orders:** The Executive director or designate is to be immediately notified so that legal advice can be sought where appropriate and the appropriate action taken.
 - c. **Child abuse:** Where there are reasonable grounds to suspect that a child is or may be in need of protection, the suspicion and the information on which it is based shall be reported to the Family and Children's Services
 - d. **College investigations and coroners:** Records must be made available upon request to investigators appointed by the College of Physicians and Surgeons of Ontario, the College of Nurses of Ontario, other relevant Colleges, and the Coroner. Upon request of investigators, the Executive Director is to be immediately notified. Investigators should provide evidence of their authority to investigate prior to release of any record.
 - e. **Prevention of imminent harm:** Where a health care provider believes that client information must be disclosed so as to prevent serious and imminent harm to either client (threat of suicide) or to a third party (threat to kill or harm someone else) the staff person will inform their immediate Director and/or Executive Director of their decision and action taken. Only the amount of information judged necessary to thwart the potential harm and anticipated criminal activity will be disclosed. It is usually sufficient to alert the police, although such matters will be dealt with on a case-by-case basis.

- f. **Workplace Safety Insurance Board:** Reports in respect of an injured worker must be provided upon the written request of the board with client consent.
- g. **Communicable diseases:** A clinician who forms the opinion that a person is infected with a reportable communicable disease will report to the Medical Officer of Health in accordance with the *Health Protection and Promotion Act* and Regulations.

6. Requests for Information from the Police

- a. If the police come to the Centre asking about a client, notify a supervisor/Director immediately. Except in the circumstances specifically described above (i.e. with client consent, child in need of protection, or where harm is imminent) health care providers should not disclose to the police any information received in the course of treating a client. Whenever releasing any client information, even where there is appropriate documentation, a Director will be notified and consulted. The request for information will be verified. Legal counsel may be obtained. Care should be taken, however, not to mislead or provide false information.
- b. Do not acknowledge that the person being asked about is a client of the Centre. The information in client records or received in the course of obtaining any service from KDCHC is confidential.
- c. Directors and staff will continue to protect the confidentiality of clients of the Centre.
 - i. If the police come asking if we know the whereabouts of the client and they say they have a Form 2 (see attached), ask to see it and ask to make a copy. If in fact there is no Form 2, tell the police that you cannot proceed further and ask for their supervisor's name so that you can report this fact.
 - ii. If there is a Form 2, you should still do all you can to protect the confidentiality of the client. In this situation you are not obliged to tell the police where the client is. If you think the patient/client is at risk of serious harm to self or others you may want to assist in their hospitalization. You have every right to take some time and confer with other practitioners.
 - iii. The minimum amount of information judged necessary to thwart the potential harm should be disclosed.
 - iv. Then notify the Executive Director (or, if unavailable, another Director) immediately in case it is necessary to seek legal advice.
- d. If the police claim to have a warrant, ask to see it and ask to make a copy. Read it very carefully: it should be very specific. You may attempt to comply strictly with the terms of the warrant. Immediately notify the Executive Director (or, if unavailable, another Director) in case it is necessary to seek legal advice.

Approved by: Eric Goldberg, Executive Director

Date: October 3, 2016