

Disclosing Personal Health Information to a Children's Aid Society

An RD who works in a family health team (FHT) receives a call from a Children's Aid Society (CAS) requesting information about a client for an investigation they are conducting. The CAS agent informed the RD that the client's MD initiated the report on suspected child abuse and asked her to disclose information relating to the client's nutrition assessment and care plan. The RD called the College seeking guidance on whether she may disclose such information to the CAS. The FHT, not the RD, is the health information custodian in her workplace.

According to the Personal Health Information Protection Act, 2004, health information custodians (HICs) are permitted to disclose information to a CAS so that it can carry out its statutory functions:

"43. (1) A health information custodian may disclose personal health information about an individual,...

(e) to the Public Guardian and Trustee, the Children's Lawyer, a children's aid society, a Residential Placement Advisory Committee established under subsection 34 (2) of the Child and Family Services Act or a designated custodian under section 162.1 of that Act so that they can carry out their statutory functions."

In this scenario, the FHT is the HIC. The RD is an agent of the HIC and will therefore need to contact the designated information or privacy officer of the FHT, or refer to her organization's privacy policies to ensure she has the authority to disclose personal health information to the CAS. Only with such authority may the RD subsequently disclose the relevant information as requested. If the RD were the HIC, e.g., in a private practice setting, she would be free to disclose the relevant information to a CAS agent upon request.

MANDATORY REPORTING OBLIGATIONS

In the above scenario, what would the RD's obligations be if she personally suspected child abuse of the client? In

Ontario, anyone, including RDs, has a duty under the Child and Family Services Act (CFSA) to report incidents of suspected child abuse. For a report under the CFSA only reasonable grounds to "suspect", not "believe", is needed. This means that the degree of information suggesting that a child is in need of protection can be quite low. Situations where members are required to make a report to the CAS are numerous and varied. Review the CFSA to ensure that you are fully aware of all of your reporting obligations.

Failure to make a report that is required under the CFSA is a serious matter. It is an offence for an RD not to make a report when the information is obtained in the course of practising dietetics. In some cases, RDs can be prosecuted and fined. Generally, failing to make a mandatory report (such as suspected child abuse) also constitutes professional misconduct under the College's Professional Misconduct Regulation and carries significant consequences.

A mandatory report is not a breach of confidentiality, even where a client does not want a report to be made. In these cases, an RD's obligation to maintain client confidentiality is specifically waived by the RHPA and the CFSA.

If an RD who is not a HIC has a situation arise that triggers the duty to report to CAS, they do not need authorization from their HIC to do so. However, in the interest of transparency, the College suggests that RDs inform their manager, employer or the health information officer of their organization when they make a report.

More information on mandatory reporting obligations:

- Jurisprudence Handbook for Registered Dietitians in Ontario, Chapter 3, p. 29
- Go to the College website at www.collegeofdietitians.org and enter the search word "mandatory" in the search box in upper right hand corner of the page.

