

Confidentiality and PHP

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The OMA Physician Health Program (PHP) recently conducted a return-mail survey of 800 women physicians across Ontario in order to derive information to better serve the specific needs of female doctors and their families. The survey invited comments and suggestions. Not surprisingly, and in keeping with the findings of previous PHP surveys, the question of program confidentiality was the foremost area of interest cited by respondents.

The OMA Physician Health Program is a confidential program. Callers contact the PHP with personal concerns that they do not want shared with others. The reasons for this are many and obvious.

One's personal health history is a private matter that ought not to be shared indiscriminately. Personal information in the wrong hands could be hurtful or discriminatory and we go to great lengths in the Ontario health-care system to uphold individual rights to privacy and confidentiality.

Sadly, there is still considerable shame and stigma associated with acknowledging a personal or mental health problem. It is an act of courage to call for help, and no one would if they thought their personal information might be disclosed without their consent.

When a call is received by the PHP and a name or identifying information is included, that information is kept in a record created by the PHP staff. That record is available only to PHP staff and is not accessible to anyone else at the OMA. The confi-

dentiality of all callers is respected, whether they call on their own behalf, or out of concern for a colleague or loved one.

The PHP is *not* a component of the College of Physicians and Surgeons of Ontario (CPSO), and the program does *not* report the identity of an impaired, or possibly impaired, individual to any regulatory authority upon initial contact.

But, as physicians are aware, confidentiality does have its limits. The relationship between the Physician Health Program and a caller in some ways resembles that of a doctor and patient. There are instances, mandated by Ontario law, where confidentiality is limited.

As well, there are other circumstances, both ethical and legal, that may require information to be disclosed to outside agencies — sometimes contrary to the wishes of the physician using PHP services — in order to help ensure the safety of the physician and his or her family members and/or patients.

The PHP has detailed policies regarding circumstances where confi-

dentiality is limited.

Following is a general overview of some circumstances that might dictate the disclosure of confidential information.

Child neglect and abuse

Ontario's Child and Family Services Act sets a low threshold for reporting concerns of child neglect or abuse to the Children's Aid Society (CAS).

When, in the course of dealing with a call to the PHP, a program staff member has reasonable grounds to suspect that a child falls into one of the 13 risk categories set out in subsection 72(1) of the Act, that staff member must report the suspicion, and the information upon which it is based, to the CAS immediately.

Sexual abuse of patients

In Ontario, the Regulated Health Professions Act of 1991 stipulates that any member of a regulated health profession governed by the Act has a mandatory obligation to report information learned regarding the sexual abuse of a patient by another regulated health professional. The report

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is made to the regulatory body (i.e. college) that governs the particular health professional in question, and must be submitted within 30 days.

Impaired driving

The Highway Traffic Act requires a medical practitioner to report to the Registrar of Motor Vehicles the identity and condition of anyone aged 16 or older attending upon the medical practitioner for medical services who, in the opinion of the practitioner, is suffering from a condition that may make it dangerous for the person to operate a motor vehicle.

Communicable disease

Under Ontario's Health Protection and Promotion Act, the PHP has an obligation to report information to the Medical Officer of Health regarding any case involving a reportable disease.

Duty to warn

While there is no specific legislation dealing with a physician's obligation to warn others about a patient's possible criminal intentions, physicians are guided by regulatory policy in such matters.

CPSO policy states that a physician has an obligation to notify police when a patient reveals that he or she intends to do serious harm to another person or persons, and if the physician forms the clinical opinion that the patient's threats of violence or death are more likely than not to be carried out.

Subpoena

If a PHP record regarding a caller or monitored participant is subpoenaed by a court of law, this information *must* be provided to the court.

Recovering doctors contractually monitored by the PHP

The PHP offers callers a brief assessment, advice, and if necessary, a referral for service. A small subset of physician callers require comprehensive advocacy and monitoring for psychiatric disorders and/or substance use disorders.

The PHP may be required to report an impaired physician to an outside agency, such as the CPSO, but only in the instance that the physician is being formally monitored by the PHP, and has agreed in advance, in writing, that under selected circumstances, such a report would be made.

Anonymity

While the majority of callers to the PHP use their full names to identify themselves, this is not necessary to receive most services. A first name, fictitious name, or some other identifying information are all acceptable.

The PHP will respect a caller's desire to remain anonymous, and will do whatever is possible to assist callers on their own terms. Most medical students and residents prefer this approach.

One caller to the PHP wished to communicate via e-mail, opening a unique account to do so anonymously.

Naturally, confidentiality remains inviolable when a caller chooses to remain anonymous, however, some PHP services, including intervention, monitoring and advocacy, cannot be

provided to, or on behalf of, anonymous callers.

Conclusion

The Physician Health Program informs all callers about the limits of confidentiality, and offers callers guidance and choice about using the program's services.

With the exception of specific circumstances in which the PHP may be compelled to divulge information to third parties, no personal health information will ever be disclosed without a caller's consent.

For each call, and in every case, the PHP endeavours to do its best to help according to the caller's preferences. **OMR**

To obtain further information on the Physician Health Program and its services, contact the Program toll-free at 1-800-851-6606, or visit the PHP Web site (www.phpoma.org).

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