

SUBJECT: **REPORTING OBLIGATION**

APPROVED BY: VP/COO Acute & Long Term Care _____
EFFECTIVE DATE: 2007
REVISED DATE: 2008 10 01
REVIEW DATE: 2008 01 31

Purpose

To provide direction in situations where the Regional Nurse must balance professional obligations to maintain confidentiality of information against the responsibility as citizens to protect the public from harm.

Policy/Standard:

The following situations require the reporting obligations to law enforcement agencies which include but are not limited to RCMP, RNC, Chief Medical Examiner:

1. Suspected Child abuse
2. Neglected Adults
3. Reportable Deaths
4. Protection of the Public
5. Family Violence Act

In these situations, staff must ensure that he/she acts in good faith in the interest of public safety with providing the minimum patient identification and keeping number of people informed restricted to a minimum.

Suspected Child Abuse.

Pursuant to the *Child, Youth and Family Services Act*. SNL 1998 c. C-12.1, if a member of staff reasonable believes a child is being physically harmed by a person, the staff member is obligated to immediately report the matter to a Director, Social Worker or peace officer. The *Child, Youth and Family Services Act* defines a child as a 'person actually or apparently under the age of 16 years'.

Under section 15(6) of the *Act* no action lies against the informant unless the making of the report is done maliciously or without reasonable cause.

Neglected Adults

Under Neglected Adults Welfare Act, Section 4(1) 'where a person has information which leads them to believe that an adult is a neglected adult, that person shall give the information, together with the name and address of the adult, to the director or to a social worker who shall report the matter to the director.'

"neglected adult" means an adult

(a) who is incapable of caring properly for himself or herself because of physical or mental infirmity,

(b) who is not suitable to be in a treatment facility under the Mental Health Act,

(c) who is not receiving proper care and attention, and

(d) who refuses, delays or is unable to make provision for proper care and attention for himself or herself.

- The most stringent requirement is that it must be established that the victim is 'incapable of caring properly for himself or herself because of physical or mental infirmity.'
- It should be noted that section 4(2) of the *Act* provides that the disclosure requirement applies notwithstanding that the information is confidential or privileged, and that no action lies against the informant unless the giving of the information is done maliciously or without reasonable cause.

Reportable Deaths

Staff must report, to the medical examiner or delegate of the medical examiner (i.e., police investigator), any deaths occurring in a facility that meet the criteria outlined in Section 6, 7 and 8 of the Fatalities Investigation Act. (In reportable death situations, staff must secure all client/patient/resident property for transfer to the custody of the medical examiner or delegate or the medical examiner.)

Protection of the Public

The duty to report and disclose client/patient/resident information without client/patient/resident consent is justified in situations that present:

- a clear risk to an identifiable person or group of persons;
- a risk of serious bodily harm or death and
- the danger is imminent.

Staff must consider each individual situation and decide when a situation meets the criteria for disclosure. Some situations that **MAY** justify disclosure without client/patient/resident consent include the following examples:

- (a) When a gunshot, stabbing or other suspicious injury presents a situation that poses risk of imminent harm to self or others. There is no legal duty to report gunshot or stab wounds but staff must consider the circumstances of the injury. If an imminent threat of harm to self or others exists, a duty to report exists.
- (b) When the discharge of a client/patient/resident presents reasonable and probable evidence that the client/patient/resident and/or another person(s) are in imminent danger of harm as a result of the client/patient/resident discharge (i.e., verbal threat of harm, incompetent patient elopement);
- (c) When the client/patient/resident discharge displays behavior typical of drug/alcohol intoxication and the client/patient/resident is intending to operate a vehicle at this time;
- (d) When there is an unidentified client/patient/resident and the next of kin or substitute decision-maker is not known/identifiable;
- (e) When the facility has items (i.e., guns, drugs, stolen goods) secured from the client/patient/resident that are illegal or pose a risk to the public. In this situation, the duty to report requires disclosing the item but not the client/patient/resident's name, unless the police presents a search warrant for such information;
- (f) When disclosure is required to identify the next of kin for incapable client/patient/resident;
- (g) When police assistance with a violent client/patient/resident is required.

Family Violence Protection Act

Family Violence Protection Act, SNL 2005 c.F-3.1. This act does not specifically address the ability of a health care worker to report incidents of family violence, but leaves discretion for regulations to be passed allowing them to do so.

- Staff are responsible to disclosure to the police when police have a valid search warrant, written permission from the client or if the police have been designated as a medical examiner investigator. Providing the police with public information may also be acceptable. It is ok to answer yes or no when asked if a particular person is in, or has been in your clinic. However, this does not include the sharing of personal information or the reason for their visit.
- To ensure that staff make the best decision, seek assistance within your health

care team. Contact your immediate supervisor, L-G Health risk manager, and review relevant L-G H policies.

- Document all facts. Note your observations and interventions accurately, objectively, and comprehensively in the client's health record. Record information upon appropriate internal incident reporting forms.
- Both law enforcement officers and nurses need to maintain an open and cooperative relationship in protecting the public, however both must practice within professional obligations and legal limitations,.

Reference:

Fatalities Investigations Act
Child Youth and Family Services Act, SNL 1998
Neglected Adults Act, RSNL 1990
Canadian Nurses Association Code of Ethics 2002
Charter of Rights and Freedom
Family Violence Protection Act, SNL 2005
ARNNL Panel Teleconference



MEMORANDUM

To: ALL STAFF

From: Barbara Molgaard Blake, VP of People and Information

Date: March 4, 2015

Re: Gunshot and Stab Wounds Reporting Act and Regulations now In force.

Please be advised that the ***Gunshot and Stab Wounds Reporting Act and Regulations*** came into force in Newfoundland and Labrador on **March 1, 2015**. The purpose of this legislation is to assist in the timely reporting of gunshot and stab wounds to the police.

This Act and Regulations will require Labrador-Grenfell Health to **verbally** report the following information to police:

- a) the injured person's name, if known;
- b) the fact that the injured person is being treated or has been treated for a gunshot or stab wound;
- c) the name and location of the health care facility where the treatment occurs).

Notification to police is required as soon as it is **reasonably practicable**, but should not interfere with any clinical assessment, treatment and care of the client or otherwise interrupt the regular activities of the Health Authority. In all cases, the report to police must be made **no later than 24 hours after treatment is offered**.

Please note that under the legislation, a stab wound “does not include a stab wound reasonably believed to be self-inflicted or unintentionally inflicted.” Therefore, if a health professional assesses a client who has a stab wound and that health care professional reasonably believes the client’s report that it was self-inflicted or accidental in nature, there is no obligation to report such a wound to police under this legislation.

There is no distinction made with respect to a gunshot wound and all gunshot wounds must be reported to police as described above.

Where a report is made to the police, the following details should be recorded in the client’s record:

- the information that was released;
- police force/detachment;
- name/badge number (if available) of the police officer to whom the information was disclosed;
- date and time of disclosure; and
- signature of the disclosing employee.

Should you have any questions, concerns or would like further discussion, please do not hesitate to contact Nadine Calloway, Regional Privacy Officer, at 454-0162 (X X7162), or Beverly Pittman, Regional Patient Safety Officer at 454-0123 (X7123).