



Saskatchewan College of Psychologists

1026 Winnipeg Street
Regina SK, S4R 8P8

Tel: (306) 352-1699
Fax: (306) 352-1697
Email: skcp@sasktel.net
www.skcp.ca

Membership Advisory

COVID19 and Contact Tracing: Ethical and Legislative Responsibility

The corona virus pandemic has required significant alteration to how the profession practices. As the province moves to implement the "Re-open Saskatchewan Plan" and some psychologists choose to reopen their practice to in-person services the issue of "contact tracing" to control the transmission of the disease is important. The question of "what are my obligations and responsibilities regarding client confidentiality should I become ill or are notified I have been exposed to COVID19?" In answering this important question one needs to consider the Canadian Code of Ethics for Psychologists (Code), the SCP Professional Practice Guidelines (PPGs), relevant legislation, and the Public Health Orders (PHO) that have been enacted in response to the pandemic.

Among many significant issues and directives, the Code and the PPG identify for members of the profession the importance of: the most vulnerable in relationships, confidentiality, informed consent, acting in accordance with prevailing legislation, doing no harm, mitigation of risk, and notification if services need to be discontinued. As with all ethical dilemmas, in determining how to proceed members of the profession are called to conduct a risk vs. benefit analysis in consideration of all facts.

The **Public Health Act (Act)** and specifically Section 32 require the reporting of suspected cases of Category 1 communicable diseases of which COVID19 is one. This however **ONLY** applies to physicians and nurses and does not address the issue of contact tracing.

Section 38 of the **Act** authorizes a medical health officer to make orders to:

(k.1) require a person with knowledge of the names of members of a group to disclose to a medical health officer the names of individual members of that group who are suspected by a medical health officer of:

- (i) having been in contact with a person infected with a communicable disease; or*
- (ii) having been infected with a communicable disease; ...*

(m) require a person who is the subject of an order pursuant to this section to do anything that is reasonably necessary to give effect to that order

Section 45 of the **Act** authorizes the Minister to make orders to:

(g) require any person who, in the opinion of the minister or medical health officer, is likely to have information that is necessary to decrease or eliminate the serious public health threat to disclose that information to the minister or a medical health officer;

(Note: the Minister has delegated his authority to make Section 45 orders to the Chief Medical Health Officer. This is allowed by **The Legislation Act**.)

In addition, **Subsection 45(2.1)** explicitly states that an order under clause (g) applies "notwithstanding any other Act or regulation". This would mean that an order to disclose under clause **45(1)(g)** of **The Public Health Act** would take precedence over requirements under the **Health Information Protection Act (HIPA)**.

HIPA has provisions that support disclosure in such situations:

Disclosure

27(4) A trustee may disclose personal health information in the custody or control of the trustee without the consent of the subject individual in the following cases:

(a) where the trustee believes, on reasonable grounds, that the disclosure will avoid or minimize a danger to the health or safety of any person; ...

(l) where the disclosure is permitted pursuant to any Act or regulation;

Members of the profession are advised to ensure that they have a full and complete understanding of the public health orders that are in place, and that they fully inform clients of the potential additional exceptions to confidentiality as a result of the pandemic and the current health orders.

References:

- HIPA
- Public Health Act and Regulations
- Merrilee Rasmussen, Q.C.