

Algoma

Nurse Practitioner-Led Clinic

Policies & Procedures

Section: Privacy	Policy Number: PRIV2018-05
Subject: Privacy and Confidentiality	Effective Date: October 24, 2018
Approved by: Executive Director	
Executive Director _____	Date _____

Access and Correction Policy – Release of Client Information

The Algoma Nurse Practitioner-Led Clinic (ANPLC) is a custodian of its clients' health records. However, the information in the health record belongs to the client and the client has the right to access that information and the right to direct the ANPLC to share that information or not share that information with others, subject to some exceptions.

This policy addresses five activities:

- Client requests for access to his/her own health records
- Client requests to correct his/her own health record
- Requests to share information with other organizations or health care providers with express consent or implied consent
- Requests to transfer client files to a new health care provider or organization
- Third party requests for a copy of a client's health record (**release of information**) such as from lawyers, insurance companies and police

Consent and “Authorized Persons”

When consent is required under this policy, the following authorized persons may give consent:

1. The client, if the client is capable
 - a. **Please note for capable clients under the age of 16:** If a client is capable and also under the age of 16, the client may consent AND the client's parent or person who has lawful custody may also consent. BUT the parent or person with lawful custody may not consent if the information to be disclosed relates to “treatment” (as defined under the *Health Care Consent Act, 1996*) about which the child has made his/her own decision or “counseling” (as defined under the *Child and Family Services Act*) about which the child participated on his or her own. (That means if a child consented to the care on his/her own – a parent cannot consent to the release of that information on behalf of the child). **And if there is a disagreement between a capable child and the parent about the release of**

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information, the capable child's wishes prevail. If staff have questions about consent for children, please ask the Privacy Officer.

2. A substitute decision-maker, if the client is incapable. Please refer to section 26 of PHIPA which lists the hierarchy of individuals/agencies that can act as substitute decision-makers:
 - The individual's guardian of the person or guardian of property, if the consent relates to the guardian's authority to make a decision on behalf of the individual.
 - The individual's attorney for personal care or attorney for property, if the consent relates to the attorney's authority to make a decision on behalf of the individual.
 - The individual's representative appointed by the Consent and Capacity Board, if the representative has authority to give the consent.
 - The individual's spouse or partner.
 - A child or parent of the individual, or a children's aid society or other person who is lawfully entitled to give or refuse consent in the place of the parent [Note: This paragraph does not include a parent who has only a right of access to the individual. If a children's aid society or other person is lawfully entitled to consent in the place of the parent, this paragraph does not include the parent.]
 - A parent of the individual with only a right of access to the individual.
 - A brother or sister of the individual.
 - Any other relative of the individual.
3. The estate trustee, in the case of a deceased client
 - a. We verify the identity of the estate trustee by reviewing the notarized "Certificate of Appointment of Estate Trustee with a Will" or "Certificate of Appointment of Estate Trustee without a Will". A copy of this certificate of appointment must be kept by the Algoma NPLC. If the deceased client does not have an estate trustee, consent can be obtained from the person who has assumed responsibility for the administration of the deceased person's estate – if documented in writing.

When consent is required, clients may withhold or withdraw consent. If clients decide to withhold or withdraw consent, that decision will be documented in their health record.

If the client requests restrictions on the use of and disclosure of their health record, then the individual's provider or Privacy Officer will meet with the client to discuss what is restricted and how this can be done. Restricted information can be put in a "lockbox" and the Restriction Lockbox Policy and Procedure (PRIV2018-03) will be reviewed.

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Copies versus Originals

Because the Algoma NPLC is the custodian of the health record, originals of health records are not given to clients or released to other health providers or third parties (except in rare situations if originals are required by law). In most situations, only copies are released. Clients may ask to view original documents as set out below.

PROCEDURES:

Please note, staff will not dispense any client information themselves, unless directed to do so by the Algoma Nurse Practitioner-Led Clinic, Privacy Officer.

1. Informal Client Access

From time to time, the ANPLC or one of its health care providers will agree to give part of a client's health record to a client directly without engaging in a formal request for access under this policy. For example, sometimes a client needs a list of medications or a copy of particular test results. A chart note will be made to document what the client received. Also, it will be stamped "Patient Copy" to alert that a document has been released to the client directly.

2. Client Access to Information

With limited exceptions, the Algoma Nurse Practitioner-Led Clinic is required by law to give clients access to their records of personal health information within 30 days of a written request (subject to a time extension of up to an additional 30 days if necessary and with notice to the person making the request).

a. Written Requests

- i. Client requests for their own information should be made in writing. Staff should direct clients to use the ANPLC's "Patient Request for Access/Release of Information" form.
- ii. If a request for access is made to the health care provider, he/she should direct the client to the ANPLC's usual process for release of records. The ANPLC may assist the client with locating the desired information/document in the record. Because records may be difficult to read and interpret and may mislead or alarm a client, clients will be encouraged to review the records with the Privacy Officer or provider so the information can be explained.
- iii. If a client wishes to read the original health record, the Privacy Officer or delegate must be present to ensure the records are not altered or removed. Clients may not make notes on the original health record or remove originals from the health record or

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otherwise alter their health records. If a client requests a copy of a health record, copies may be given and fees may be applied as per ANPLC policy (Medical Record Copying Fees PRIV2018-08)

- iv. The original of the written request for access shall be placed with the client's records and must contain the following:
 - A description of what information is requested or refer to scanned copy of all that was given
 - Information sufficient to show that the person making the request for access is the client or other authorized person (photocopy or confirm with photo ID)
 - The signature of the client or other authorized person and a witness to the signature on the chart request form
 - The date the written request was signed
- v. A notation shall be made in the record via scanned document including:
 - A copy of information given
 - A copy of Patient Request for Access or Chart Copies Request Form

b. Telephone Requests

Only limited information will be given out over the telephone to a client, as it may not be possible to verify that client's identity. Staff should ask the patient on the phone to state current address, date of birth, phone number, etc. (3 pieces of information specific to patient)

c. Walk-in Requests

A signed consent is required to access a client's record. Clients may be requested to return at a later date to pick up authorized information.

d. Denying Client Access to Health Records

In certain situations, the ANPLC may choose not to provide a client with access to all or part of a health record. Exceptions to the right of access requirement must be in accordance with law and professional standards. Reasons to deny access to a health record (or part of a health record) may include:

- The information is subject to a legal privilege that restricts disclosure to the individual
- The information was collected or created primarily in anticipation of or for use in a proceeding (and that proceeding and any appeals have not been concluded)
- The information was collected or created in the course of an inspection, investigation or similar procedure authorized by law or undertaken for the purpose of the detection,

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monitoring or prevention of a person's receiving or attempting to receive a benefit to which the person is not entitled under law (and the inspection or investigation have not been concluded)

- If granting access could reasonably be expected to:
 - Result in a risk of serious harm to the treatment or recovery of the individual or a risk of serious bodily harm to the individual or another person
 - Lead to the identification of a person who was required by law to provide information in the record
 - Lead to the identification of a person who provided information explicitly or implicitly in confidence (if it is appropriate to keep that source confidential)

Clients must be told if they are being denied access to their own health records. In such cases, clients have a right to complain to the Information and Privacy Commissioner of Ontario, and must be told of this right and how to reach the Commissioner's office.

3. Correction of Health Records

The ANPLC has an obligation to correct personal health information if it is inaccurate or incomplete for the purposes it is to be used or disclosed.

Clients may request that their health information be corrected if it is inaccurate or incomplete. Such requests must be made in writing and must explain what information is to be corrected and why.

Algoma NPLC will respond to requests for correction within 30 days (or seek an extension). Corrections are made in the following ways:

- Striking out the incorrect information in a manner that does not obliterate the record or
- If striking out is not possible:
 - Labelling the information as incorrect, severing it from the record, and storing it separately with a link to the record that enables the Algoma NPLC to trace the incorrect information, or
 - Ensuring there is a practical system to inform anyone who sees the record or receives a copy that the information is incorrect and directing that person to the correct information.

The record will not be corrected if:

- The record was not originally created by the Algoma NPLC and the ANPLC does not have the knowledge, expertise or authority to correct the record, or
- The record consists of a professional opinion which was made in good faith.

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Where the Algoma NPLC chooses not to correct a record, the client must be informed in writing. The client will have the choice to submit a statement of disagreement. If the client submits such a statement, it will be scanned onto the health record and released any time the information that was asked to be corrected is released.

Where the Algoma NPLC chooses not to correct a record, clients have a right to complain to the Information and Privacy Commissioner of Ontario.

4. Release of Information for Health Care Purposes

a. Express Consent

Should a client wish his/her other health care providers working externally to the ANPLC to have access to their health record, the client can provide a written statement of consent to this effect (release of information):

The following is the process for releasing health records to a third party Organization relying on a client's express consent:

1. Record the date of the request in the health record:
2. Advise the client's primary health care provider of the request
3. If release of information to the third party Organization is authorized by the ANPLC:
 - a. Select and photocopy/print requested specific information
 - b. Do not photocopy/ print the entire health record unless required
 - c. Prepare an official cover letter that will accompany the released information
 - d. Send out/ mail-out requested information via courier with signature required
 - e. Scan the letter of request, client's consent, and a copy of the covering letter and save in the client's health record
 - f. Costs associated with release of information will be invoiced by the ANPLC
4. If the request is incomplete, unclear or contains an invalid consent or is otherwise not authorized by the ANPLC:
 - a. Inform the client who made the request of the problem in writing (or in person or by phone as appropriate), such as:
 - The request is not sufficient to identify the client
 - The request is unclear or unspecific
 - The request does not have the required consent

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- b. Document the date, time of the call, name of the person with who contact was made, a brief summary of the conversation and comments made by the requester.

b. Implied Consent – “Circle of Care”

The Algoma NPLC may also release information to a client’s other Organizations for health care purposes (within the “circle of care”) without the express written consent of the client as long as it is reasonable in the circumstances to believe that the client wants the information shared with the other healthcare organization/provider. However, no information will be released to other Organizations if a client has stated he/she does not want the information shared.

The following is the process for releasing health records to a third party health care provider relying on a client’s implied consent:

1. Record the date of the request in the health record
2. Advise the client’s health care provider of the request
3. If release of information to the third party health care provider is authorized by the ANPLC:
 - a. Select and photocopy/ print requested specific information
 - b. Do not photocopy/print the entire health record unless required
 - c. Prepare a fax cover sheet or cover letter that will accompany the released information
 - d. Send out/ mail-out requested information via fax or courier
 - e. Record the verbal request for information
 - f. Costs associated with release of information will be invoiced by the ANPLC
4. If the request is incomplete, unclear or the ANPLC has been advised by the client not to disclose relying on implied consent, or the request is otherwise not authorized by the ANPLC:
 - a. Inform the client who made the request of the problem in writing (or in person or by phone as appropriate), such as:
 - The request is not sufficient to identify the client
 - The request is unclear or unspecific
 - The request does not have the required consent
 - b. Document the date, time of the call, name of the person with whom contact was made, a brief summary of the conversation and comments made by the requester.

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5. Transfer of Client Records

If the client is moving to another Organization and wishes the ANPLC's files be transferred, the client should be encouraged to see their new Organization and sign a consent form with them for the release of information. If this is not possible, however, the client may sign a copy of the Release of Medical Information form.

Clinical health records are transferred only with a written request signed by the client (or client's authorized person). A verbal request is not sufficient to transfer health records.

Originals of records are never sent as they are the property of the APLC and must remain accessible to ANPLC staff.

When a Release of Information form comes in to transfer client records, staff should complete the appropriate section of the "Chart Request Form" and give to the client's primary care provider for review. The ANPLC is responsible for responding to the request as soon as possible by either:

- Writing a summary of the client's pertinent medical history or
- Directing staff regarding the relevant information to copy from the client's health care record.

A copy of the Request of Medical Information form should be filed in the client's health care record with the date of transfer marked on this form.

When mailing the file, the envelope will be to the attention of the provider and marked "Confidential" and sent via courier or fax (as appropriate).

6. Third Party Requests for Release of Information

Should a client wish his/her lawyer, insurance company, employer, landlord or other such persons or agencies to have access to the client health record, the client must provide a written statement of consent to this effect, which will be directed to the client's primary health care provider. The Algoma NPLC will not process verbal third party requests for release of information to anyone who is not a health care provider. These requests must be in writing. No information will be released without the express consent from the client or the authorized person (unless permitted or required by law. See below "Permitted or Mandatory Release of Information"). Third party requests not accompanied by appropriate consent will be returned with an official letter, outlining proper and complete consent requirements.

Any third party request for release of information shall include:

1. The name, address and telephone number of person/agency requesting the information
2. The full name, address and date of birth of the person about whom the information relates
3. A specific description about the type and amount of information to be released

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4. A consent for release of information form signed by the client (or client's authorized person) and this consent form must not be older than 90 days from the date of the request or confirmed via phone if within 1 year. If the consent is older, a new signed consent is required.

The following is the process for releasing health records to a third party with consent of the individual client:

1. Record the date of the request in the health record
2. Advise the client's primary health care provider of the request
3. If release of information to the third party is authorized by the ANPLC:
 - a. Select and photocopy/print requested specific information
 - b. Do not photocopy/ print the entire health record unless required
 - c. Prepare an official cover letter that will accompany the released information
 - d. Send out requested information via courier or fax
 - e. Scan the letter of request, consent, and a copy of the covering letter and save in the client's health record
4. If the request is incomplete, unclear or contains an invalid consent or is otherwise not authorized by the ANPLC:
 - a. Inform requester of the problem in writing (or in person or by phone as appropriate), such as:
 - The request is not sufficient to identify the client
 - The request is unclear or unspecific
 - The request does not have the required consent
 - The date the client's consent was signed is not recent; while legally still accurate, you may ask why it has taken a length of time for it to be provided.
 - b. Document the date, time of the call, name of the person with who contact was made, a brief summary of the conversation and comments made by the requester.

Permitted or Mandatory Release of Information

The Algoma NPLC may release personal health information to a third party if "permitted or required by law". A list of mandatory disclosures is included at the end of this policy.

Any time a mandatory disclosure is considered, the client's health care provider (and the Privacy Officer) is to be informed PRIOR to reporting. Legal advice may be sought.

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Police/OPP/RCMP

There is a natural tendency to want to cooperate with the police and assist them in their investigations. However this must be balanced against clients' right to privacy and the right to confidentiality of their personal health information.

The fact that a client is suspected of being a victim of a crime or suspected of having committed a crime is not a recognized reason for breaching the client's right to confidentiality. However, there is a recognized exception ("discretion to warn") to client confidentiality where there is a significant risk of serious bodily harm to someone (either the client or someone else) **and if it is genuinely believed that disclosing information to police could eliminate or reduce that risk.**

Personal health information will only be released to police upon the presentation of one of the following documents:

- A consent for release of information form signed by the client or authorized person
- A valid court order (or other legal document) requiring the release of information to the police
- A coroner's writ requiring the release of information to the police

Each document must be reviewed carefully before information may be disclosed to police (to ensure the disclosure is **permitted or required** by law). This review will be done by the client's health care provider, Health Records staff, and the Privacy Officer before any information is released. The documentation from the client, police, court or coroner will be scanned into the chart. Legal advice should be sought as necessary.

Children's Aid Society (CAS)

Health professionals have a mandatory duty to report a "child in need of protection" to the CAS under the *Child and Family Services Act*. Information may be sent to the CAS to explain the reason for the report.

Where the CAS is the legal guardian of a child, the CAS should be treated as any other parent or guardian would be in response to a request for access to or disclosure of the health records.

Any documentation from CAS claiming authority to release information to the CAS must be reviewed carefully before information may be disclosed (for the section of the legislation giving the legal authority that the release of information is **permitted or required** by law). This review will be done by the client's primary health care provider, Health Records staff and the Privacy Officer before any information is released. The documentation from CAS will be scanned into the chart. Seek legal advice as appropriate.

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Regulatory Colleges

Under the *Regulated Health Professions Act, 1991* and other health profession specific legislation, regulatory Colleges may have the authority to review client records as part of investigations or quality assurance practices. Any documentation from a regulatory College claiming legal authority to release information to the College must be reviewed carefully before information may be disclosed (for the section of the legislation giving the legal authority that the release of information is **permitted or required** by law). This review will be done by the Privacy Officer before any information is released. The documentation from the regulatory College will be scanned into the chart.

Other Authorities

Certain legislation gives government agencies and others authority to review client records (such as immigration, the Ministry of Health and Long-Term Care, workplace safety and insurance and others). Any documentation from an agency claiming legal authority to release information to the agency must be reviewed carefully before information may be disclosed (for the section of the legislation giving the legal authority that the release of information is **permitted or required** by law). This review will be done by the Privacy Officer before any information is released. The documentation from the agency will be scanned into the chart.

Lawyers

Most lawyers' letters require client consent for the release of information to a lawyer. **Do not release information to a lawyer without client consent unless you have some other documentation to state that you are required by law to disclose the information.** Any documentation from a lawyer claiming legal authority to release information to the lawyer must be reviewed carefully before information may be disclosed. This review will be done by the Privacy Officer before any information is released. The documentation from the lawyer will be scanned into the chart.

Communicable Disease

The *Health Protection and Promotion Act* requires the Algoma NPLC to report all communicable diseases to the local Public Health Unit. Reporting is done by the client's health care provider as soon as possible after the diagnosis is made.

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MANDATORY DISCLOSURES

Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
Child in need of protection	Information about a “child in need of protection” (e.g. suffering, abuse or neglect). Only information that is reasonably necessary to make the report should be shared. Ongoing information sharing after the report has been made should only be done with express consent or as permitted or required by law (such as a court order for the client health record)	All health professionals who work with children	Relevant Children’s Aid Society	Child and Family Services Act , ss. 72(1) and 72(2).
Sexual abuse	Where there are reasonable grounds to believe a health care professional has sexually abused a client, details of the allegation, name of the health care professional and name of the allegedly abused client <ul style="list-style-type: none"> The client’s name can only be provided with consent You must include your name as the individual filing the report 	All regulated Organizations	Registrar of the suspected health care professional’s regulatory College	Regulated Health Professions Act , Schedule 2, ss. 85.1, 85.3. See also, Social Work and Social Service Work Act , ss. 43 and 44

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Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
Safe driving	Name, address and condition of a person (over the age of 16) who has a condition that may make it unsafe for them to drive	All regulated Organizations	Registrar of Motor Vehicles	Highway Traffic Act , s. 203(1).
Air crew	Information about flight crew members, air traffic controllers or other aviation license holders who have a condition that may impact their ability to perform their job in a safe manner (likely to constitute a hazard to aviation safety)	Organizations and optometrists	Medical advisor designated by the Minister of Transport	Aeronautics Act , s. 6.5(1)
Seaman	Information about a seaman	Organizations	If requested by the seaman's employer	Merchant Seamen Compensation Act , s. 48
Railway workers	Information about clients who work in the railway industry who have a condition that may put the safety of rail travel at risk	Organizations and optometrists	A railway designated Organization	Railway Safety Act , s. 35(2)
Fraud	Information about health care fraud (including an ineligible person receiving or attempting to receive an insured service; an ineligible person obtaining or attempting to obtain reimbursement by OHIP)	Organizations and registered nurses in the extended class	General Manager of OHIP	Health Insurance Act , s.43.1(1) and Health Fraud Regulation , s.1

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Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
	for money paid for an insured service; or an ineligible person in an application, return or statement made to OHIP or the General Manager giving false information regarding his or her residency			
Queue jumping	Information about an individual offering to pay, confer, charge or accepting a benefit in exchange for improved access to health care	Organizations and registered nurses in the extended class	General Manager of OHIP	Commitment to the Future of Medicare Act , ss. 17(1) and 17(2) and General Regulation , s 7(1)
Reportable or communicable disease	Information about a client who has (or may have) either a “reportable” or “communicable” disease. The report should include the client’s: <ul style="list-style-type: none"> • Name and address in full, • Date of birth in full, • Sex, and • Date of onset of symptoms 	Organizations and registered nurses in the extended class	Medical Officer of Health of the appropriate health unit	Health Protection and Promotion Act , s. 26 and Reporting Regulation , s.1(1)
Communicable disease	Name, address of a client receiving care and treatment for a communicable disease but	Organizations and registered nurses in the extended class	Medical Officer of Health	Health Protection and Promotion Act , s. 34(1)

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Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
	who is neglecting or refusing to comply with the treatment regime			
Rabies	Animal bites or animal contact that may result in humans contracting rabies	Organizations and registered nurses in the extended class (and other persons with information about animal bites)	Medical Officer of Health	Health Protection and Promotion Act and Communicable Diseases Regulation , s. 2(1)
Immunizations	Instances of adverse reactions to immunizations	Organizations, nurses, and pharmacists	Medical Officer of Health of the appropriate health unit	Health Protection and Promotion Act , s.38(3)
Immunizations	Information about a child whose eye have become reddened, inflamed or swollen within two weeks of birth possibly due to a communicable disease. Report must be in writing and include: <ul style="list-style-type: none"> The name, age and home address of child (or if not at home, where the child can be located) The conditions of the eye that were 	Organizations or other health care professionals who have attended the birth of a child	Medical Officer of Health	Health Protection and Promotion Act , s. 33(1) and Communicable Diseases Regulation , s. 1 para. 2)

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Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
	observed			
Birth	Births	Organizations and midwives (or nurses if neither of the above are present at birth)	Registrar General	Vital Statistics Act , ss. 8, 9.1 and General Regulation , ss. 1(1) and 19(1)
Death	Facts surrounding the death of an individual in prescribed circumstances (e.g. violence, negligence or malpractice). Information requested for the purpose of an investigation	Any person with information about the circumstances of the death	Coroner or designated Police Officer	Coroners Act , s. 10(1)
Death	Deaths	Organizations and registered nurses in the extended class		Vital Statistics Act , s. 21(1) and General Regulation , ss. 35(2) and 35(3)
Occupational assessments	Reasonable conclusions of an occupational illness	Organizations who conduct medical examinations or supervise clinical tests for workplace safety	The worker's employer, the joint health and safety committee and the Provincial Organization	Occupational Health and Safety Act and the Designated Substances Regulation , ss. 29(2), 29(3), 29(6) and 29(7).
WSIB	Information requested by the WSIB about workers claiming benefits under the	All Organizations	Workplace Safety and Insurance	Workplace Safety and Insurance

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Quick reference	What information must be disclosed	Who must disclose	To whom disclosure must be made	Authority
	Workplace Safety and Insurance Act		Board (WSIB)	Act , s. 37(1)
Self-report of offence	<p>Information if you yourself are found guilty of an offence to include</p> <ul style="list-style-type: none"> Your name The nature and description of the offence The date you were found guilty of the offence The name and location of the court where you were found guilty of the offence The status of any appeals 	All regulated Organizations	Registrar of your regulatory College	Regulated Health Professions Act , Schedule 2, ss. 85.6.1(1) – (3)
Self-report of professional negligence or malpractice	<p>Information if you yourself are found guilty of professional negligence or malpractice to include</p> <ul style="list-style-type: none"> Your name The nature and description of the finding The date the finding was made The status of any appeals 	All regulated Organizations	Registrar of your regulatory College	Regulated Health Professions Act , Schedule 2, ss. 85.6.2(1) – (3)
Employer report	A written report, within 30	Employer or	Registrar of the	Regulated Health

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if end of professional relationship	days, regarding revocation, suspension, termination or dissolution of a health care professionals' privileges, employment or practice for reasons of professional misconduct, incapacity or incompetence, privacy breach	person who offers privileges to a member	college of the regulated health care professional	Professions Act , Schedule 2, s. 85.5(1), 85.5(3)