

## MEMORANDUM

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Date: May 9, 2008

To: All VCH Staff, Physicians, Students, Volunteers and Contractors

From: Jill Scott, General Legal Counsel, Vancouver Coastal Health

Re: **Privacy Law in Emergency or Urgent Situations**

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A joint announcement by the Ontario and B.C. Privacy Commissioners contains a clear message for health care providers that privacy laws do not prevent counsellors or healthcare providers from contacting a person's family if there are real concerns that they may seriously hurt themselves.

The message arose from a recent case where the family of an 18-year-old Carleton University student blamed the Ottawa university for failing to do enough to inform them of her depression or prevent her suicide.

David Loukidelis, the Privacy Commissioner for BC stated today\*:

*"If there are compelling circumstances affecting health or safety, or if an individual is ill, B.C.'s privacy laws allow disclosure to next of kin and others, including school officials and health care providers. Individual cases can be fuzzy, but if someone uses common sense and in good faith discloses information, my office is not going to come down on them. Privacy is important, but preserving life is more important."*

Both Commissioners are embarking on a joint project to issue a new publication aimed at clarifying the role that privacy laws play when workers are trying to decide whether they can disclose personal health information. The Commissioners urge those responsible for the health and safety of others to educate themselves about how the privacy laws covering them apply to their work and familiarize themselves with the provisions allowing them to disclose personal health information in emergency situations.

Commissioner Loukidelis provided the following reassurances:

*"I know that frontline decisions have to be made quickly and sometimes the facts may not be as clear as you'd like. But there's no doubt that privacy laws support disclosures to protect health and safety."*

\*[http://www.oipc.bc.ca/news/rlsgen/NR-Ont\\_IPC-BC\\_Disclosure\(9May08\).pdf](http://www.oipc.bc.ca/news/rlsgen/NR-Ont_IPC-BC_Disclosure(9May08).pdf)

VCH staff should take a common sense approach when balancing the privacy rights of patients and sharing information with others in urgent or emergency situations. In BC, the *Freedom of Information and Protection of Privacy Act* allows disclosure to next of kin and others if there is 'compelling circumstances' affecting health or safety. The authority for such disclosures is described in the VCH Information Privacy and Confidentiality Policy.

I will be issuing Guidelines on this matter at a later date, following the Office of the Information and Privacy Commissioner recommendations. I will also be issuing shortly a general Questions and Answers document on privacy obligations which will assist VCH staff.

If you would like to comment on this issue generally within your area of operation, please send your comments to Jill Scott, General Legal Counsel and Director of Legal Services & Information Privacy Office at: [jill.scott@vch.ca](mailto:jill.scott@vch.ca)

For current policies, please refer to the **VCH Information Privacy and Confidentiality Policy** at:

[http://www.vcha.ca/policies\\_manuals/reg\\_policy\\_business\\_affairs/information\\_privacy/docs/binary\\_24194.pdf](http://www.vcha.ca/policies_manuals/reg_policy_business_affairs/information_privacy/docs/binary_24194.pdf)

Please also refer to the **Release of Patient or Client Personal Information and Personal Belongings to Police and Other Agencies Policy** at:

[http://www.vcha.ca/policies\\_manuals/reg\\_policy\\_business\\_affairs/information\\_privacy/docs/binary\\_24203.pdf](http://www.vcha.ca/policies_manuals/reg_policy_business_affairs/information_privacy/docs/binary_24203.pdf).