

# CMA POLICY

## PRINCIPLES CONCERNING PHYSICIAN INFORMATION



In an environment in which the capacity to capture, link and transmit information is growing and the need for fuller accountability is being created, the demand for physician information, and the number of people and organizations seeking to collect it, is increasing.

Physician information, that is, information that includes personal health information about and information that relates or may relate to the professional activity of an identifiable physician or group of physicians, is valuable for a variety of purposes. The legitimacy and importance of these purposes varies a great deal, and therefore the rationale and rules related to the collection, use, access and disclosure of physician information also varies. The Canadian Medical Association (CMA) developed this policy to provide guiding principles to those who collect, use, have access to or disclose physician information. Such people are termed “custodians,” and they should be held publicly accountable. These principles complement and act in concert with the CMA Health Information Privacy Code,<sup>1</sup> which holds patient health information sacrosanct.

Physicians have legitimate interests in what information about them is collected, on what authority, by whom and for what purposes it is collected, and what safeguards and controls are in place. These interests include privacy and the right to exercise some control over the information; protection from the possibility that information will cause unwarranted harm, either at the individual or the group level; and assurance that interpretation of the information is accurate and unbiased. These legitimate interests extend to information about physicians that has been rendered in non-identifiable or aggregate format (e.g., to protect against the possibility of individual physicians being identified or of physician groups being unjustly stigmatized). Information in these formats, however, may be less sensitive than information from which an individual physician can be readily identified and, therefore, may warrant less protection.

The purposes for the use of physician information may be more or less compelling. One compelling use is related to the fact that physicians, as members of a self-regulating profession, are professionally accountable to their patients, their profession and society. Physicians support this professional accountability purpose through the legislated mandate of their regulatory colleges. Physicians also recognize the importance of peer review in the context of professional development and maintenance of competence.

### **The CMA supports the collection, use, access and disclosure of physician information subject to the conditions outlined below.**

1. *Purpose(s)*: The purpose(s) for the collection of physician information, and any other purpose(s) for which physician information may be subsequently used, accessed or disclosed, should be precisely specified at or before the collection. There should be a reasonable expectation that the information will achieve the stated purpose(s). The policy does not prevent the use of information for purposes that were not intended and not reasonably anticipated if principles 3 and 4 of this policy are met.
2. *Consent*: As a rule, information should be collected directly from the physician. Subject to principle 4, consent should be sought from the physician for the collection, use, access or disclosure of physician information. The physician should be informed about all intended and anticipated uses, accesses or disclosures of the information.
3. *Conditions for collection, use, access and disclosure*: The information should:
  - be limited to the minimum necessary to carry out the stated purpose(s),
  - be in the least intrusive format required for the stated purpose(s), and its collection, use, access and disclosure

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- sure should not infringe on the physician's duty of confidentiality with respect to that information.
4. *Use of information without consent:* There may be justification for the collection, use, access or disclosure of physician information without the physician's consent if, in addition to the conditions in principle 3 being met, the custodian publicly demonstrates with respect to the purpose(s), generically construed, that:
    - the stated purpose(s) could not be met or would be seriously compromised if consent were required,
    - the stated purpose(s) is(are) of sufficient importance that the public interest outweighs to a substantial degree the physician's right to privacy and right of consent in a free and democratic society, and
    - that the collection, use, access or disclosure of physician information with respect to the stated purpose(s) always ensures justice and fairness to the physician by being consistent with principle 6 of this policy.
  5. *Physician's access to his or her own information:* Physicians have a right to view and ensure, in a timely manner, the accuracy of the information collected about them. This principle does not apply if there is reason to believe that the disclosure to the physician will cause substantial adverse effect to others. The onus is on the custodian to justify a denial of access.
  6. *Information quality and interpretation:* Custodians must take reasonable steps to ensure that the information they collect, use, gain access to or disclose is accurate, complete and correct. Custodians must use valid and reliable collection methods and, as appropriate, involve physicians to interpret the information; these physicians must have practice characteristics and credentials similar to those of the physician whose information is being interpreted.
  7. *Security:* Physical and human safeguards must exist to ensure the integrity and reliability of physician information and to protect against unauthorized collection, use, access or disclosure of physician information.
  8. *Retention and destruction:* Physician information should be retained only for the length of time necessary to fulfill the specified purpose(s), after which time it should be destroyed.
  9. *Inquiries and complaints:* Custodians must have in place a process whereby inquiries and complaints can be received, processed and adjudicated in a fair and timely way. The complaint process, including how to initiate a complaint, must be made known to physicians.
  10. *Openness and transparency:* Custodians must have transparent and explicit record-keeping or database management policies, practices and systems that are open to public scrutiny, including the purpose(s) for the collection, use, access and disclosure of physician information. The existence of any physician information record-keeping systems or database systems must be made known and available upon request to physicians.
  11. *Accountability:* Custodians of physician information must ensure that they have proper authority and mandate to collect, use, gain access to or disclose physician information. Custodians must have policies and procedures in place that give effect to the principles in this document. Custodians must have a designated person who is responsible for monitoring practices and ensuring compliance with the policies and procedures.

## Reference

1. Canadian Medical Association. Health Information Privacy Code. *CMAJ* 1998;159(8):997-1016.