COLLEGE OF
PHYSIOTHERAPISTS
of ONTARIO

PERSPECTIVES

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APPLIED PRACTICE

Welcome to this edition of Perspectives! As you may have noticed, each issue takes on a different theme and emphasis, helping to keep physiotherapists updated and on the leading edge of regulatory issues. The "Applied Practice" version is produced twice a year. Take each element and use it to build physiotherapist conversation and debate on key topics that the profession should understand. Look for resources, tips and questions to develop your dialogue with colleagues.

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Sharing health information & the 'Circle of Care'

Scenario

Susan booked an appointment with Jason, a physiotherapist, to assess a problem with her knee. During the examination, Jason discovers some unusual weakness and abnormal neurological signs and decides that Susan's family physician should be made aware of the findings so that the appropriate tests can be ordered. As well, Jason wants to discuss Susan's assessment with another physiotherapist at the clinic who has experience in the assessment and treatment of certain neurological conditions.

Jason has heard the term 'circle of care' several times but he is not really sure who that includes.

Is Susan's explicit consent required to share her personal health information:

- To follow up with the family physician?
- To consult with a physiotherapist colleague?

Response

Patient consent is required before assessing, treating, or disclosing information. This scenario focuses on consent for disclosure of personal health information[1]. The privacy obligations for health care providers related to the collection, use and disclosure of personal health information are outlined in the Personal Health Information Protection Act (PHIPA). Sharing personal health information requires explicit consent in some circumstances but not in others.

The term 'circle of care' is commonly used to describe the ability of health care providers to assume an individual's implied consent to share personal health information for the purpose of providing health care.

The Information and Privacy Commission of Ontario (who is responsible for upholding and promoting the protection of personal privacy in Ontario under PHIPA) recently released a document called 'Circle of Care – Sharing Personal Health Information for Health Care Purposes'. The document clarifies the circumstances in which a health care provider may assume implied consent to collect, use or disclose personal health information. To review this document, please go to their website at www.ipc.on.ca

In this scenario, Jason wants to share his assessment findings to recommend further testing to Susan's physician. As the disclosure of personal health information is necessary for Susan's ongoing care, and the physician could be considered to be part of the circle of care, it would be reasonable to rely on implied consent to share the results with the physician.

However, although Jason's colleague may have experience dealing with certain neurological conditions, if his colleague is not involved in providing care to Susan, his colleague should not have access to personal health information without Susan's consent. This does not prevent Jason from sharing the assessment findings without identifying Susan in order to benefit from his colleague's experience. If his colleague is involved in providing care to Susan, then as with the physician, it is reasonable to rely on implied consent for any sharing of personal health information.

There are a number of resources that help provide insight to these and other privacy and consent questions. Unless otherwise specified, the following resources can be accessed from the Registrants' Guide: http://tinyurl.com/regguide09

Resources

'Circle of Care – Sharing Personal Health Information for Health Care Purposes' (www.ipc.on.ca). This document helps guide health care providers in understanding who is in the circle of care when deciding to share personal health information. There are also other resources available on this website .

Personal Health Information Protection Act (PHIPA) - This provincial law outlines how personal health information should be collected, used and disclosed in the health care sector to ensure privacy.

[1] "personal health information", is intended to refer to identifying information about an individual (please see the definition in PHIPA for more details)

Personal Information Protection and Electronic Documents Act (PIPEDA) - This federal privacy law provides rules to the collection and sharing of personal information related to commercial activities.

Briefing Note for Physiotherapists - Privacy Requirements in Ontario - The briefing note was developed by the College to help physiotherapists understand and apply the PHIPA and PIPEDA laws.

Ethics - What would you do if no one was looking?

Scenario

You have been providing care to a patient for several weeks. In appreciation of the work you have done, he offers you two tickets to the hottest show in town.

You tell him that it is unnecessary, but he says he can't go anyway and he wants you to take them. He says it would mean a lot to him to be able to repay you for all your hard work.

What should you do?

Response

There are a variety of clinical situations that can create moral conflicts and have ethical implications for physiotherapists. While this situation may seem relatively straightforward, there will be disagreement as to the most appropriate action to take. Some will be in favour of accepting the tickets and others will be opposed. To make the best and most ethically appropriate decision possible, it is recommended that you follow a standardized decision-making process.

The College recently mailed a bookmark to all registrants outlining a suggested decision-making model (along with the ethical values for physiotherapists in Ontario; the values can be remembered using the acronym REACH). To learn more about the ethical values and how to apply them to the decision-making model please view the Ethics E-Learning Module available on the College website (http://tiny.cc/1PAaF).

Analyzing an ethical situation

Steps	Considerations
Recognize that there is an ethical issue	Something is making you uncomfortable. As a physiotherapist, you are accountable to maintain an appropriate therapeutic relationship with patients at all times.
Identify the problem and who is involved	Accepting the tickets from the patient could potentially change the dynamics of the therapeutic relationship. Will the patient expect anything in return now or in the future? Will you feel obligated to provide additional or different care?
Consider the relevant facts, laws, principles and values	There are two relevant standards and guides: *Establishing and Maintaining Therapeutic Relationships* and *Conflict of Interest* that may provide additional insight and guidance. Consider how the ethical values and your own moral makeup will impact your decision.
Establish and analyze the potential options	Should you accept or decline the tickets? (See the additional questions for consideration).
Choose a course of action and implement it	What will you do? Could you justify your decision if necessary? How would others perceive your actions?
Evaluate the outcome and determine if further action is needed	What did you learn? What will you do in the future?

Additional Questions

- What is the patient's intent in offering the tickets?
- What are the policies of the organization or facility?
- Will accepting the tickets change the nature of the relationship or the care provided?
- Would you feel comfortable disclosing your decision to another physiotherapist?

Lessons Learned

- Moral conflicts create the need for ethical decision-making
- Using a standardized decision-making process to make ethical decisions is important, not only to ensure the best result possible, but also to be able to justify the decision if necessary
- There are a variety of ethical decision-making models – choose the one that you are most comfortable with
- Complete agreement among the people involved in making an ethical decision is not always possible
- Context is critical: What is right in one situation may not be right in another

What a physiotherapist must report

Scenario

During your assessment of a new patient, the patient told you that he had decided to change physiotherapists (PT) because some of the comments made by his previous PT made him feel "weird". Your patient explained further that while providing care, his previous PT had told him that he had a "great body", and that it was "nice to get her hands on someone like him" compared to her other patients. The patient also said that the PT offered to buy him a couple of drinks to "loosen him up" after his therapy session.

Is this something I need to report?

Yes, many physiotherapists may not realize that the definition of sexual abuse that applies to health care providers in legislation includes: "Behaviour or remarks of a sexual nature towards the patient/client".

Let's talk about it.

You may feel uncertain or perceive a dilemma about what you should do next. Some people, in different circumstances, on a social night out with friends for example, would consider similar comments made about a friend or acquaintance to be socially acceptable to their peers. But in the context of a 'patient-therapist relationship' any behaviour or remarks such the ones that were made are not only unprofessional, but can be construed as comments of a sexual nature and are unacceptable.

Consider the key issues:

- Your patient said the comments made him feel "weird" and could be regarded as of a sexual nature
- Your knowledge of the comments was obtained in the course of practicing the profession
- The patient has given you the name of the physiotherapist

So, what are my responsibilities regarding making a report?

Mandatory reporting is one of your professional responsibilities under the RHPA, specifically sections 85.1 and 85.3 of the Health Professions Procedural Code. As a physiotherapist, it is your obligation, where there are reasonable grounds to believe your patient was sexually abused, to make a mandatory report to the regulating college of the offending regulated health professional.

For more information on how to make a report and to understand the necessary content and detail of the report, or for more information on all reporting obligations under the RHPA, or other acts that require mandatory reports such as the Child and Family Services Act and the Nursing Homes Act, please see the College Briefing Note: Professional Reporting Obligations, available in your Registrants' Guide at http://tinyurl.com/regguide09.

Did you know?

Due to recent changes in the RHPA, there are some new reporting obligations of which you may not be aware. These include requirements for:

- Employers to report terminations and/or resignations related to misconduct, incompetence or incapacity
- Physiotherapists to report when they have been convicted of offenses or they have been found to have engaged in malpractice or negligence
- Facility operators to report concerns that a health professional might be incapacitated or incompetent
- Or if a physiotherapist is aware that someone who is not registered with the College is leading others to believe that he/she is a physiotherapist.

An overview of each is provided under the Professional Conduct section of the College website **(www.collegept.org).**

Discipline case study

The following case study is based on an actual case that was heard by the Discipline Committee of the College of Physiotherapists of Ontario in the spring of 2009. Additional information regarding cases that have been before the Discipline Committee can be found on the College's website **(**http://tinyurl.com/disciplinecomm**)**.

Scenario

Mr. X was retained by a clinic to act in the capacity of a consultant for a fee of $1000 per month for a period of two months. During this time he initialed chart entries made by, but not signed by, another person for patients that he had not seen. It was unclear as to who had made the initial entries. Invoices related to the treatment of these patients suggested that Mr. X was the service provider when he had never assessed, re-assessed or provided treatment to these patients. Further, he did not ensure that the physiotherapist support personnel working with these patients were adequately supervised.

The Jurisprudence Education Module 2 is available for any physiotherapist interested in supplemental learning activity. For more information, please contact Preethi Tyagi at ext. 230 or ptyagi@collegept.org.

Questions to consider:

1. Do you know how your name and registration number are being used for billing purposes? How often do you monitor this?
2. What items can and cannot be assigned to physiotherapist support personnel?
3. Do you understand the role of a physiotherapist as a consultant? Does your contract outline the role and expectations?
4. What are the risks involved by signing a document if you cannot ensure the accuracy of the contents?
5. What are the risks to the patient by having an unregulated health provider performing assessments, reassessments and treatment planning?

Forging relationships with insurers & other funders

The College is dedicated to forming and cultivating positive relationships with a variety of stakeholders. In January, the College hosted an education session for insurers and other funders of physiotherapy services with the intent to provide an opportunity for open dialogue regarding the College's role in ensuring quality, ethical practice; the processes by which physiotherapists are held accountable; and to introduce the recently released standards related to the business aspects of practice (i.e. advertising, fees & billing and conflict of interest).

The session was well attended with representatives from the OHIP branch of the MOHLTC, the WSIB, the Insurance Bureau of Canada (IBC), the Financial Services Commission Ontario (FSCO) and a variety of third party insurance companies.

Based on feedback and a strong interest in continuing to share information on topics of common interest,

the College will host a second education session on November 25, focused on understanding the scope of practice of physiotherapists; the expectations for treatment (including the College's role in ensuring physiotherapists' competence and accountability to practice within scope) and a review of recent and proposed changes to the RHPA, physiotherapy scope of practice and College processes.

Patient perspectives

This past August the College surveyed physiotherapists to seek input on their perceptions of the College and its resources. To this we had over 1200 registrants respond – amazing! As part of this initiative, we also tried something new – partnering with registrants to survey patients at discharge on their confidence in relation to their physiotherapy experience. The aim was to gather aggregate data to build the profession's quality and safety story.

Some interesting trends emerged

While patient responses came from all age ranges, the majority of responses were from those 56 and over. Thirty percent of patients responding were referred by their physiotherapist to another provider, most notably physicians, dieticians and occupational therapists. Patients overwhelming felt included by physiotherapists in their decisions; interestingly though, 40% were unsure as to whether their therapists talked to other providers about their care (team based care). Patients felt safe, felt their physiotherapist contributed positively to their health outcomes, and expressed confidence in the profession.

As the Council continues to develop its public messaging about expectations related to quality and safety in physiotherapy, opportunities for registrants to collaborate with the College on similar initiatives will continue to arise. Thanks to those physiotherapists who participated in this innovative and inaugural work. We look forward to increasing our partner base in the future.

Registrant perspectives

"I have just happily completed my PISA and I was very pleased with this new format. I actually enjoyed doing the PISA this year; so much so that I did do it twice so that I could ensure that learning did take place on the few questions I was unsure about. This new format meets all the principles of adult self-directed learning, is quick and very user friendly. Great to be able to have a learning platform that is non-threatening and conducive to learning. The competitive nature in me is looking forward to next year's PISA to see if I can get 100% the first time." *- Anonymous*

"I was very happy to receive my USB drive in the mail with my registrant guide. I have to admit this is the best thing I have ever received from the College. I think it is an excellent idea. A great way to keep us all up to date and cut down on resources. Thanks so much for my drive. It really made my day. Keep up the good work." *- Elizabeth*

"By stating that regular "mail" is the preferred method for receiving information from the College on my Registrant Profile, will it be the only method by which you communicate with me?" *- Anonymous*

Editor's reply:

The College provides content and information to Registrants in two formats; print and electronic. Statutory materials (i.e. notices of by-law changes, registration materials, etc.) are provided in hard copy and mailed out. For most other documents and notices, we try to use an electronic format to save costs and preserve the environment. In your registrant's profile, you have the option to select your preferred method of communication, which means if materials are produced in both formats (i.e. Perspectives), you will receive it in the format of your choice. Next year's registration forms will include this narrative to help you better understand your options.