

Closing a practice, Re-locating and Referring Care

CTCMPANL – Approved October 2015
Prepared by NLCHP 2015



There are any number of occasions when a health professional may find reason to discontinue their practice, or deem it necessary to refer client care. In most instances the transfer of care can be done quite effectively and with sufficient notice for clients to resume care and make other arrangements. However in all cases the referral must follow a process that protects clients' personal information and their health. In circumstances where a practice is closing, and/or client files are moved, health professionals as custodians of personal and health information are bound by legislation governing access to information and the protection of personal health information.¹ Health professionals are well advised to have firm policy and procedure on how clients and their files are managed in these instances so that there is no abandonment of treatment, or misdirection and loss of personal information.

Abandonment of care is described "when a {health practitioner} intentionally and unilaterally terminates an existing {practitioner} -client relationship when services are still indicated and when the withdrawal of services by the practitioner is not justified or has been done without reasonable notice."²

Processes to follow regarding the withdrawal of services can be written in the legislation or other governing documents such as Codes of Ethics and Standards of Practice. These will often describe the conditions for referring client care, and /or closing a practice. There are only a few conditions where a health professional may actually refuse services to a client and in some of these cases, reasonable notice is still required. Generally a health practitioner can withdraw care when:

1. A client refuses to follow treatment advice;
2. A client is abusive to, or harassing the practitioner; or
3. When a client refuses payment after sufficient and reasonable time is given to make payment of fees.

Other than these circumstances a practitioner may be seen as abandoning the client or the treatment when insufficient notice is given. Notice may be given verbally and/or in writing. Written notices in the form of a letter should be confirmed by registered mail with a copy of the letter entered into the client file (s) as well as the practitioner's administrative file.

Closing a Practice

If a health professional is closing their practice they must make an appropriate transition of care and/or storage of client files. A health practitioner may own client files and is custodian of all the information in the file, including the client's personal information. However, the client receiving care owns their personal information and is entitled to its access.³ Therefore it is incumbent on the practitioner to

¹ Government of Newfoundland and Labrador (2011) *Personal Health Information Act*
<http://assembly.nl.ca/Legislation/sr/statutes/p07-01.htm>

² College of Chiropractors of British Columbia: Professional Conduct Handbook July 2009
<http://www.bcchiro.com/bccc/documents/PCHJuly202009.pdf>

³ Government of Newfoundland and Labrador (2011) *Personal Health Information Act*

ensure that proper notice is given to transfer care and the information if requested by the client, or a designated representative. In many cases there is also a requirement for the health professional to retain records for a period of time even after the information is transferred. It is not unusual to have a nominal fee associated with copying and forwarding client information at the request of the client or a named designate.

Where a practitioner is relocating or closing their practice, announcements may be published through local media, as well as letters written to each client. In some circumstances there may be agreements between practitioners in a group practice to assume client care when one leaves or retires. These agreements must be clearly written and understood by clients, though clients are not obligated to the services offered in the same office by a different practitioner. It will be the client's choice if they choose to receive care.

Relocating or Storing Client Files

When a health practitioner has sold their practice or dies unexpectedly, client files may be relocated and notice must be given by public advertisement or personal letter. In cases where the practitioner has passed away, it is the executor of the estate who provides notification. Information would include that a copy or the original file may be transferred to another practitioner if requested, and that records shall be retained for a specified period of time.⁴ In most cases there will be a timeline associated with transferring the records and a limited time by which a client may request the file or the information from the custodian or designated custodian.

The matter of relocating and appropriately storing personal health information is an essential responsibility of the health practitioner. The College of Chiropractors of British Columbia stipulates in its practitioner handbook that not declaring the proper storage and making provisions for client information when closing or relocating a practice can jeopardize professional standing in the College if inappropriately managed.

Guidelines

1. A plan for client files and personal information is a component of professional behaviour that protects client care and personal information.
2. There are only a few occasions where a health professional can refuse to treat a client, otherwise discontinuing client treatment or care without sufficient notice could be interpreted that care was abandoned.
3. If a health professional is closing or relocating their practice, reasonable notice must be given by public announcement and/or personal letter. Written notices should be forwarded and confirmed by registered mail.

<http://assembly.nl.ca/Legislation/sr/statutes/p07-01.htm> Section

⁴ The Newfoundland and Labrador Dental Board Information for Licensees: Guidelines and Policy Statements: Protocol for Dental Records (2012)

http://www.nldb.ca/info_licensees/info_licensees.aspx

4. In the event that a practitioner dies, the executor or representative must send out notice advising clients of how their files may be transferred and/or stored, as well as how clients or their appointed designate may access the file if necessary and for how long.
5. According to the *Personal Health Information Act* (PHIA, 2011, NL) a health professional owns a client file and is a custodian of the personal and health information but it is the client who owns the information.
6. When a request is made for a client file, it is recommended that a copy be made and forwarded on the client's behalf at their request. Copies and original files must be retained by custodian (designated custodians) for a period of time even after the transfer of care is made.⁵
7. The timeline for responding to a request of client files under varying circumstances is outlined in the *Personal Health Information Act*, NL 2011.
8. It should be noted that the *Access to Information and Protection of Privacy Act* (2002, NL) does not apply where the information requested is personal health information and the custodian is a public body (i.e. Regional Health Authority, School District) and the governing legislation is PHIA.⁶

References

Government of Newfoundland and Labrador (2011) *Personal Health Information Act*
<http://assembly.nl.ca/Legislation/sr/statutes/p07-01.htm>

College of Chiropractors of British Columbia: Professional Conduct Handbook July 2009
<http://www.bcchiro.com/bccc/documents/PCHJuly202009.pdf>

The Newfoundland and Labrador Dental Board Information for Licensees: Guidelines and Policy Statements: Protocol for Dental Records (2012)
http://www.nldb.ca/info_licensees/info_licensees.aspx
 Government of Newfoundland Labrador (2002) *Access to Information and Protection of Privacy Act*
http://assembly.nl.ca/Legislation/sr/statutes/a01-1.htm#5_1

Other Resources

College of Physicians and Surgeons of Newfoundland and Labrador (2010) Guideline-Physician's Responsibilities When Closing his or her Medical Practice for an Extended Period.
<https://www.cpsnl.ca/default.asp?com=Policies&m=329&y=&id=13>

Government of Ontario, *Optometry Act* (1991)
http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_91o35_e.htm

Government of Nova Scotia *Dental Act* (1992) Regulation No. 3 –Code of Ethics
<http://www.pdbns.ca/regulationno3.aspx>

College of Traditional Chinese Medicine Practitioners and Acupuncturists of Newfoundland and Labrador
Professional Misconduct Regulation and Rationale
<http://www.ctcmanl.ca/wp-content/uploads/2012/07/Misconduct-CTCMPA-NL.pdf>

⁵ Government of Newfoundland and Labrador (2011) *Personal Health Information Act*
<http://assembly.nl.ca/Legislation/sr/statutes/p07-01.htm> Section 15. (8)

⁶ Government of Newfoundland and Labrador (2002) *Access to Information and Protection of Privacy Act*
http://assembly.nl.ca/Legislation/sr/statutes/a01-1.htm#5_1 Section 5.1