

ED Procedure to support Police Disclosure Request protocol

Background:

Health care providers have a responsibility to safeguard the personal health information of their patients. Absent a patient's consent, such information should only be shared with others in exceptional circumstances.

On rare occasions, it may be critical to a police investigation that certain, limited information about a patient be provided in response to a police request, even without a patient's consent. A protocol ("Information Management Protocol") has been developed jointly by St. Michael's Hospital, the University Health Network and the Toronto Police Service to guide the provision of such information in these circumstances. It is being trialed at SMH effective May 1, 2007 for a period of six months.

The purpose of this protocol is to ensure that such disclosure decisions are made in a consistent, well-documented manner, and in an environment free from the immediate demands and distractions of the ED setting. A key effect of the protocol is to take the responsibility for these disclosure decisions out of the hands of front-line care providers.

This protocol only applies when a Police Officer is requesting information. Outside the scope of this protocol is the situation where a care provider, absent a request by police, believes on reasonable grounds that a disclosure is needed to eliminate or reduce a significant risk of bodily harm to a person or group of persons. Then the provider may by law make the disclosure, without a request by police.

Process:

If a Police Officer requests information about a patient:

- (1) If clinically appropriate, ask the patient if they are willing to speak with the Officer. If they are agreeable and this will not compromise their care, the Police Officer should be allowed to speak with the patient.
- (2) If the patient is unable to give (or decline) consent due to their clinical condition, inform the Police Officer of this.
- (3) If the patient declines to speak with the Officer or to disclose information, inform the Officer of this. **As well, inform the patient that the Police may formally request that the hospital release certain information (including their name, address, general condition and whether they will be admitted to hospital) to the police, even without the patient's consent.** There is a patient information sheet that should be given to the patient at this time.

- (4) If the Officer feels that their request falls within the scope of the Information Management Protocol, they may proceed with completing the “Disclosure Request Form for Personal Health Information in Emergent Situations”. This includes a section where the Police Officer specifies from a list of options which information they are requesting.
- (5) When a Disclosure Request Form is completed by a Police Officer, the Privacy Officer should be paged through Locating (extension -5431). The Disclosure Request Form should then be faxed to the Privacy Officer, at the number he or she will provide when they respond to the page.

NB: If the police do not have a name but instead are basing their request only on a description (eg middle-aged white male shooting victim), proceed only if there is no ambiguity about which patient’s information they are seeking. If it is not clear (eg, if there are TWO middle-aged white male shooting victims in the ED at the time), you may ask police for more info (eg time of incident, etc) to further clarify their request. However, information should not be provided on more than one patient. **Inform the Privacy Officer of this issue when they are paged.**

- (6) The Privacy Officer will review the request and either authorize the disclosure of the requested information, or will deny the request. The Disclosure Request Form will then be faxed back to the ED and provided to the Police Officer.
- (7) If the Privacy Officer has authorized the release of the requested information, then the requested information should be written on the form and provided to the Officer. The person providing the information must print his/her name and title and sign the Form in the section, “This information ENTERED BY:” on page 2 of the Form. **NB: ONLY the information as specified on Page 1 of the Disclosure Request Form may be provided to Police; no additional information regarding the patient or his/her medical treatment or condition may be given to the Police without the patient’s consent.**
- (8) If information is provided to police based on their Disclosure Request being granted, **inform the patient what information has been given to Police**, unless you feel that this would put staff / physician safety at risk. If not already done, give the patient the information sheet (see #3 above).
- (9) The original copy of the form should be placed in the patient’s chart. The form should also be faxed to the SMH Legal office (ext – 5390), and a copy should be handed to the requesting Police Officer [or faxed to the Police at (416) 808-7640 if the Police Officer is not present at the time the request is granted].

PATIENT INFORMATION ABOUT DISCLOSURE OF PERSONAL HEALTH INFORMATION TO POLICE

To our patients:

All hospitals and health care workers are responsible to keep your personal information private and confidential. We take this responsibility very seriously, and only share your health information when we have your consent, or where the law permits. You may read more about how your information is protected and handled on our “Information Practices Statement” posted throughout the Hospital.

To keep you fully informed, we would point out one special case: if police are conducting an investigation where they require immediate information about a patient, they can formally request certain information, even without your consent, and without a court document. All such requests will be reviewed by the Hospital’s Privacy Officer and/or Lawyer before any information is given to police.

If it is felt that the request is appropriate, only the following information will be given to the Police:

- Patient’s name and address
- Location of patient
- Contact information for the patient’s next of kin
- General status [or condition]: (Critical, stable or fair)
- Does the patient have broken bones? (yes, no or undetermined)
- Will the patient be admitted overnight? (yes, no or undetermined)
- Anticipated time of patient discharge?

No other information will be given in response to such a request unless you give your consent.

If you have any questions or concerns about the privacy of your health information, please contact Mr Peter Lambert, Manager of Information Privacy and Security, St Michael’s Hospital, at (416) 864-5713.