



**Nova Scotia Regulator of
Psychology**

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Nova Scotia Regulator of Psychology

Considerations for Psychologists when Disclosing Confidential Personal Information

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Introduction and Preamble

Psychologists in Nova Scotia have a fundamental duty to maintain the confidentiality of the clients they serve. This duty is the cornerstone of the therapeutic relationship and is protected by ethical guidelines, professional standards, and provincial law. However, this duty is not absolute. The purpose of this guidance is to provide a framework for balancing the client's right to confidentiality with the psychologist's legal, professional, and ethical obligations to ensure public safety. By understanding the legislative landscape, registrants can make informed, defensible decisions that uphold the integrity of the profession and prevent harm.

Clinical Decision-Making Model - Key Points for Psychologists When Evaluating Disclosure

When evaluating the disclosure of confidential information, psychologists should apply the following framework:

1. Mandatory vs. Permissive Language

- **Mandatory Disclosure:** If the legislation uses mandatory language (e.g., “must or shall disclose”), there is no discretion; relevant information must be disclosed.
- **Permissive Disclosure:** When the language is permissive (e.g., “may disclose”), the psychologist must carefully evaluate whether disclosure is warranted based on the specific circumstances.

2. Active Consideration of the Therapeutic Relationship

When deciding whether to disclose confidential personal information, the psychologist needs to consider both ethical guidelines and professional standards (CPA Code, NSRP Standards), as well as competent clinical judgment. This includes assessing:

- **Impact on Trust:** The potential effect on the client's trust and their future openness in treatment.
- **Risk Management Alternatives:** Whether the risk can be managed through intensified therapeutic intervention, safety planning with the client (when clinically safe), or other less intrusive means.
- **Proportionality:** Determining the least harmful way of achieving safety if disclosure is ultimately chosen.

Important Note: These factors do not override the evaluation of risk severity or the statutory test of “reasonable grounds” in situations where disclosure is mandatory, but they are essential components of what a reasonable psychologist would consider when disclosure is permissive. Psychologists are encouraged to apply the **CPA Ethical Decision-Making model**.

3. Mutual Accountability

Psychologists remain accountable in both directions:

- **If Disclosure Occurs:** The decision must be based on reasonable grounds, be proportionate (i.e. disclose the minimal amount of information necessary), and, if disclosure is permissive, be made only after considering less intrusive alternatives. Less intrusive alternatives are not to be considered when disclosure is mandatory.
- **If Disclosure is Withheld:** The decision not to disclose must be based on ethical principles and clinical reasoning. It is not enough to simply state that the legislation did not mandate disclosure.

The Importance of Documentation

The psychologist must exercise careful, defensible clinical and ethical judgment. Thorough documentation of the risk assessment and decision-making process—regardless of the outcome—is the best protection against complaints or liability from either side.

General Principles for Practice

Effective professional practice requires that the limits of confidentiality are managed proactively rather than reactively. The transition to the *Regulated Health Professions Act (RHPA)* reinforces the need for clear communication regarding the boundaries of confidentiality. Registrants should ensure that informed consent is an ongoing dialogue, supported by thorough documentation of risk assessments and the reasoning behind any decision to disclose or withhold information. Central to this practice is the concept of "reasonable grounds"—the professional standard of judgment that may be required to trigger a mandatory disclosure.

Legislation that Mandates Reporting

Certain Nova Scotia provincial legislation mandates that a psychologist, health professional, or other persons disclose confidential personal information in certain situations.

Children and Family Services Act (CFSA)

Statute Link: [Children and Family Services Act](#)

- **Duty to Report (Section 23 [1]):** Every person who has information, whether or not it is confidential or privileged, indicating that a child is in need of protective services shall forthwith report that information to an agency.
- **Public vs. Professional Duty:** The CFSA requires the public to immediately report information that a child is or may be in need of protective services. It places an **additional duty** on professionals, including psychologists, to report suspicions of child abuse.

- **Consequences of Non-Compliance:** A failure to report may leave the child at risk of harm. Further, a professional who fails to report is liable to incur serious penalties, including fines, imprisonment, and disciplinary action by their regulator.
- **Privacy as a Barrier:** Professionals working with children must ensure that they do not wrongly consider privacy as a barrier to disclosing personal information about children in need of protection.
- **Statutory Immunity:** A professional who makes a report in good faith enjoys statutory immunity.

Adult Protection Act:

Statute Link: <https://nslegislature.ca/sites/default/files/legc/statutes/adult%20protection.pdf>

- **Requirement:** Similar legislation exists for some adults under the *Adult Protection Act*, which requires psychologists and other health professionals to disclose information if they believe that an adult who cannot physically or mentally protect or care for themselves is being physically, sexually, emotionally, financially, or otherwise abused.
- **Duty to Report (Section 5 [1]):** Every person who has information, whether or not it is confidential or privileged, indicating that an adult is in need of protection shall report that information to the Minister.

Mandatory Reporting of Other Healthcare Professionals (*Regulated Health Professions Act - Section 60*)

Statute Link:

<https://nslegislature.ca/sites/default/files/legc/statutes/regulated%20health%20professions.pdf>

- **Superseding Previous Guidelines:** This requirement supersedes previous NSRP guidelines, including the *NSRP Sexual Abuse and Sexual Misconduct Standards* regarding the section pertaining to confidential client sessions. Specifically, it replaces the portion stating: "*This standard is not meant to incorporate reporting of information learned within the confines of a counselling session with a client. It is related to reporting of colleagues.*"
- **Mandatory Reporting Duty:** A registrant must report to the appropriate registrar if they have reasonable grounds to believe another registrant (of any regulated health profession) has engaged in professional misconduct, incompetence, conduct unbecoming, or is incapacitated or a danger to the public.
- **No Confidentiality Exception:** Unlike the previous NSRP standard, the RHPA **does not exempt** information learned within a confidential counselling session from this reporting requirement.

- **Immunity:** No action for damages or other relief lies against a registrant for making such a report, provided it is made in good faith.
- **Inter-professional Scope:** This duty applies regardless of whether the other professional is a psychologist or a member of a different regulated health profession (e.g., nurse, physician).

Legislation that Permits Reporting

With other legislation, and with related NSRP standards, the law may **enable** a psychologist or other professional to disclose confidential information without disclosure being strictly mandated.

- **Motor Vehicle Act:**

Statute Link: <https://nslegislature.ca/sites/default/files/legc/statutes/motor%20vehicle.pdf>

Section 279 (8) states that every registered psychologist **may** report to the Registrar the name of any person who, in the opinion of the registered psychologist, is afflicted with an emotional or mental disability that may interfere with the safe operation of a motor vehicle by that person.

- **Personal Health Information Act (PHIA):**

Statute Link: <https://novascotia.ca/dhw/phia/>

- **Upcoming Change (April 1, 2026):** The *Protecting Nova Scotians Act*
Statute Link: https://nslegislature.ca/legc/bills/65th_1st/3rd_read/b127.htm
includes a change to Section 38 of the PHIA. This change removes the word “imminent” from the phrase “an imminent and significant danger”.
- **Amended Section 38 (1)(d):** "A custodian may disclose personal health information about an individual without the individual's consent... to any person if the custodian believes, on reasonable grounds, that the disclosure will avert or minimize a **significant danger** to the health or safety of any person or class of persons".
- **Clinical Compatibility:** This amendment represents a **significant shift** in the legal threshold for disclosure. By removing the ‘imminence’ requirement, the law now provides psychologists with **broader legal authority** to intervene in cases of significant danger. While the legal standard is new, it remains firmly aligned with a psychologist’s fundamental ethical responsibility to protect the safety of clients and the public.

Consent Forms

With respect to consent forms, psychologists are not required to explicitly name all legislation related to professional practice within the form itself. However, both **NSRP Standards** and the

Canadian Code of Ethics for Psychologists require that clients be clearly informed—both in writing and during the initial discussion—that confidentiality has specific legal and ethical limits.

Standardized Language for Consent

Best-practice consent forms should contain a plain-language statement such as:

“Everything you tell me is confidential and will not be shared with anyone without your permission — which may be given verbally or in writing — except in certain situations. Some common situations could include (but are not limited to) risk of harm to yourself or someone else, a child under the age of 19 who is at risk, or as required by court order or law.”

Whether consent is verbal or written, it should be documented in the client's file, as required by NSRP Standards of Professional Conduct.

Practice-Specific Considerations

If your practice has a particular focus where specific legislation is frequently relevant, it is considered good practice to include those in your informed consent process. Examples include:

- **Worker’s Compensation:** Mentioning the *WCB Act*.
- **Neurological/Assessment Services:** Mentioning the *Motor Vehicle Act*.

NSRP has prepared a dedicated information sheet for clients and users of psychological services regarding these confidentiality limitations “Information for Clients and Users of Psychological Services”.

Frequently Asked Questions (FAQs)

1. Who is a "Custodian" of Information?

A custodian is not simply whoever happens to hold the file. Under the **PHIA Act and Regulations**, a person or organization must (a) belong to a class of designated custodians and (b) have custody or control of the personal health information.

For psychologists, this means:

- **Solo or Group Private Practice:** Psychologists operating these practices are designated custodians under PHIA as they maintain custody and control of the personal health information.
- **Institutional Employees:** Psychologists employed by the Nova Scotia Health Authority, IWK Health Centre, universities, or most community agencies are **not** custodians. The organization is the designated custodian, and the psychologist is an **agent** of that custodian.

- **Multidisciplinary Clinics:** Psychologists working in clinics owned by another health professional are usually agents rather than custodians, as the clinic owner typically maintains custody and control of the records.

Note: Regardless of custodian status, all psychologists (custodians or agents) are bound by PHIA and the ethical standards of the profession when deciding whether disclosure without consent is warranted.

School psychologists should be aware that PHIA generally does not apply to them, as they are typically not considered custodians under the legislation. However, there may be limited circumstances in which PHIA does apply. School psychologists with questions about their specific situation are encouraged to seek independent legal advice.

2. What are “reasonable grounds”?

“Reasonable grounds” refers to the information that an average professional, using normal and honest judgment, would need in order to decide to report.

Key legal interpretations include:

- **Low Threshold:** Courts have interpreted the “reasonable grounds” standard as a low threshold for reporting. As one court stated, it is “better to have a score of reports and investigations that yield no abuse, than to have a single child continue to be abused”.
- **Lower than Legal Proof:** This standard falls well short of the “beyond a reasonable doubt” (criminal) or “balance of probabilities” (civil) standards.
- **No Certainty Required:** It is not necessary for a professional to be certain of the abuse or danger to make a report.

3. What if my ethical commitment to confidentiality conflicts with a legal requirement?

Legislation (such as the **RHPA** or **PHIA**) sets the legal requirements for practice in Nova Scotia. While ethical standards provide essential guidance, they do not authorize a registrant to violate provincial law.

- **Mandatory Compliance:** In cases of conflict, a psychologist must comply with mandatory legal requirements (e.g., “shall report”).
- **Ethical Application:** Psychologists should apply the **CPA Ethical Decision-Making model** to fulfill that legal duty in the most respectful and least harmful way possible.
- **Liability:** Failure to comply with provincial legislation can result in professional misconduct charges and personal legal liability.

Information for Clients and Users of Psychological Services

Confidentiality and Its Limits

Psychologists have strict ethical standards and guidelines that require them to keep the information you share private and confidential. A failure to do so can result in a complaint against the psychologist and potential disciplinary action.

However, there are specific situations based on Nova Scotia law and professional ethics where a psychologist may be required or permitted to disclose your personal information without your expressed permission.

Situations Where Information May Be Disclosed

While this list is intended to be inclusive, it may not cover every unique legal situation. Provincial legislation and NSRP Standards always take precedence.

1. **Child Protection:** Under the *Children and Family Services Act*, psychologists must disclose information if they believe a child is at risk of harm.
2. **Adult Protection:** Under the *Adult Protection Act*, psychologists must disclose information if they believe an adult who cannot protect themselves is being abused (physically, sexually, emotionally, or financially).
3. **Risk of Self-Harm or Harm to Others:** * If a psychologist believes someone is threatening serious bodily harm to another, they may take protective actions, such as notifying the potential victim or the police.
 - If a psychologist believes someone is at risk of harming themselves, they may be obligated to seek medical treatment or contact family/authorities to provide protection.
 - Under the *Personal Health Information Act (PHIA)*, information may be shared to avert or minimize a significant danger to the health or safety of any person.
4. **Safe Driving:** Under the *Motor Vehicle Act*, psychologists may report to the Registrar of Motor Vehicles if a mental or emotional disability may interfere with the safe operation of a vehicle.
5. **Workers' Compensation:** Under the *Workers' Compensation Act*, psychologists must provide requested information regarding a worker claiming compensation.
6. **Child Pornography:** Under the *Child Pornography Reporting Act*, any person who reasonably believes material is child pornography must report it to a police department.
7. **Court Orders:** Psychologists may have to release a file if they receive a subpoena, notice to produce, or a court order.

8. **Minors (Under Age 19):** Information may be shared with parents or guardians unless a confidentiality agreement is in place or the child is determined to be a "mature minor" under the *common law Mature Minor Doctrine*.
9. **Professional Misconduct:** Under the *Regulated Health Professions Act (RHPA)*, psychologists must report another health professional if they have grounds to believe that person has engaged in misconduct or is a danger to the public, even if this is learned during a confidential session.
10. **Supervision:** Psychologists-in-training or those receiving supervision may share clinical files with their supervisor to ensure appropriate care. Supervisors are also bound by confidentiality.
11. **Circle of Care:** If the psychologist is part of a treatment team, it is understood that relevant information will be shared among team members to provide the best care, unless you explicitly instruct otherwise.
12. **Third Parties:** If you have consented to allow a third party such as an insurer, employer, or legal representative to access your records, the psychologist will provide only the information you authorized.

12a. **Third-Party Retaining Assessments:** If a court, employer, or legal party has arranged for a psychological assessment, they are the primary client for that assessment. This means the psychologist's report will be provided to the party that requested it. The psychologist is required to explain this to you before the assessment begins, including who will receive the report and what it will contain.
13. **Collection Agencies:** Minimally required information may be shared with a collection agency if there is an unresolved debt, after other attempts to resolve it have failed.
14. **Complaints or Practice Reviews:** If a psychologist is subject to an investigation or a practice review by the NSRP, relevant client files may be examined by an investigator or practice reviewer to ensure professional standards are being met.

Legal and Ethical References

Note: While efforts are made to keep these references current, links and legislation are subject to change. Please refer to the [Nova Scotia Legislature](#) for the latest official versions.

1. Children and Family Services Act

- **Source:** [Statute](#)
- **Duty to Report (Section 23 [1]):** "Every person who has information, whether or not it is confidential or privileged, indicating that a child is in need of protective services shall forthwith report that information to an agency."

2. Adult Protection Act

- **Source:** [Statute](#)
- **Duty to Report (Section 5 [1]):** "Every person who has information, whether or not it is confidential or privileged, indicating that an adult is in need of protection shall report that information to the Minister."

3. Risk of Self-Harm or Harm

- **Canadian Code of Ethics for Psychologists (4th Ed)**
 - [Source Link](#)
 - **I.45:** Share confidential information only to the extent reasonably needed... except as required or justified by law, or in circumstances of possible imminent serious bodily harm.
 - **II.42:** Do everything reasonably possible to stop or offset actions likely to cause imminent serious bodily harm to self or others.
 - **II.43** Act to stop or offset the consequences of seriously harmful activities being carried out by another psychologist or member of another discipline, when there is objective information about the activities and the harm. This may include reporting to the appropriate regulatory body, authority, or committee for action, depending on the psychologist's judgment about the person(s) or body(ies) best suited to stop or offset the harm, and would be consistent with the privacy and confidentiality rights and limitations of the individuals and groups involved.
- **Personal Health Information Act**
 - [Source Link](#)
 - **Section 38 (1)(d):** A custodian may disclose information without consent if they believe on reasonable grounds that it will avert or minimize a significant danger to the health or safety of any person. (Note: "Imminent" is removed effective April 1, 2026).

4. Motor Vehicle Act

- [Statute](#)
- **Section 279 (8):** A registered psychologist may report the name of any person who is afflicted with a disability that may interfere with the safe operation of a motor vehicle.

5. Workers' Compensation Act

- [Statute](#)
- **Section 109 (1):** Every health-care professional consulted regarding a worker claiming compensation shall provide any information requested by the Board.

6. Child Pornography Reporting Act

- **Source:** [Statute](#)
- **Duty to Report (Section 3):** Every person who reasonably believes material is child pornography shall promptly report it to a reporting entity.

7. Court Orders

- Information regarding the disclosure of raw assessment data can be found in the [NSRP Position Statement](#).

8. Mature Minor Status

- Refer to the [Age of Consent Position Statement](#) and the [Legal Information Nova Scotia Guide](#).

9. Sexual Misconduct (RHPA & NSRP Standards)

In alignment with the [Regulated Health Professions Act \(RHPA\)](#), [NSRP Sexual Abuse and Misconduct Standard 4.1](#) mandates that a registrant:

- Must report to the Registrar if the registrant has reasonable grounds to believe that another registrant has engaged in sexual misconduct;
- Must report to the regulatory body of another health profession if the registrant has reasonable grounds to believe that a member of that profession has engaged in sexual misconduct; and
- Must report to an employer if the registrant has reasonable grounds to believe that a regulated or unregulated employee in the registrant's work setting has engaged in sexual misconduct.

10. Supervision

- Refer to the [NSRP Supervision Handbook](#).
- **Standard 17.C / 18:** Supervisory sessions include direct observation, review of reports, raw data, and clinical files.

11. Circle of Care

- Consult the [OIPC "Need-to-Know" Guide](#) and the [NSRP Circle of Care Statement](#).

12. Third Parties If a client consents to allow a third party to access their records, the psychologist will provide only the information authorized. See *NSRP Standards of Professional Conduct, Principles 5 and 7; Personal Health Information Act*.

12a. Third-Party Retaining Assessments In third-party retaining assessments (court ordered, employer-initiated, or otherwise arranged by an external party), the retaining party (court, Crown, defence counsel, employer, etc.) is the primary client for the purposes of the assessment. Registrants retain obligations to the individual being assessed, including clarifying the limits of confidentiality before the assessment begins. See *NSRP Standards of Professional Conduct, Principles 5 and 7; CPA Code of Ethics I.26; see also Section 7 (Court Orders) above*.

13. Collection Agencies

- **[NSRP Standards of Professional Conduct \(Principle 6\)](#)**: Registrants must reach an agreement on fees prior to service. Section 6.3 requires informing the client of the intent to use a collection agency and providing an opportunity for payment first.

14. Complaints or Practice Reviews

- **Regulated Health Professions Act (RHPA) General Regulations**
 - [Link to RHPA Regulations](#)
 - **Section 23 (1) & (4)**: Investigators may enter a place of practice and examine records relevant to an investigation, regardless of other health record confidentiality acts.
 - **Section 49 (2)(c)**: Registrants must permit practice reviewers to inspect and make copies of client records if deemed necessary.