Confidentiality and its limits, on one page

PHIPA for psychotherapists, what you must and may disclose, the duty to warn in Ontario, third parties, and what to document.

Study aid, not legal advice. Last verified against the official sources linked below on 11 November 2026.

1 PHIPA in brief

- No collection, use or disclosure without informed consent, **except as permitted or required by law** (Standard 3.1.1).
- Private practice: **you are the custodian**. Employed: usually the employer's agent.
- Personal health information: identifying information, **oral or recorded**, about health or health care, payment included (s. 4).
- **Circle of care**: implied consent only for health care, between custodians, never once withheld (s. 20 (2)). CRPO strongly encourages express consent.

2 You must disclose

- **A child**: reasonable grounds to suspect a need for protection, report it to a children's aid society, immediately (CYFSA s. 125).
- **A patient's sexual abuse** by a regulated professional: to their Registrar, in writing, without the client's name unless they consent in writing (Code ss. 85.1, 85.3).
- **Other mandatory reports** the law requires (Standard 1.3).
- **A court order**: comply, to the extent of its terms.

3 You may disclose (PHIPA)

- **Serious bodily harm**: to eliminate or reduce a significant risk to a person or group, on reasonable grounds (s. 40 (1)).
- **A relative or friend**, or a possible substitute, of a client too injured or ill to consent (s. 38 (1) (c)).
- **A proceeding**: to comply with a summons or order (s. 41 (1) (d)); a summons alone is no authority to hand the file to a party.
- **A College or an investigation**: under the RHPA (s. 43 (1) (b)), or authorized by warrant or law (s. 43 (1) (g)).
- **After death**: the estate trustee consents (s. 23 (1)); to identify, to inform, and to close family who need it for their own care (s. 38 (4)).

4 The duty to warn in Ontario

- **No statute** requires it: PHIPA s. 40 (1) permits the disclosure.
- **Smith v. Jones**, [1999] 1 S.C.R. 455 (Supreme Court of Canada, on solicitor-client privilege): public safety can outweigh it on three factors weighed together (paras. 77 to 85): clarity (an identifiable person or group), seriousness (death or serious bodily harm, serious psychological harm included, para. 83) and imminence (a sense of urgency, para. 84).
- **As narrow as possible**: only what reveals the danger (para. 86).
- **CRPO** (3.1): a significant, imminent risk of serious bodily harm may bring a professional and legal duty to warn the person, call the police or crisis services, or tell the client's physician. The law is complex and evolving: get legal advice.

5 Requests from third parties

- Lawyers, insurers, employers, schools, relatives: outside the circle of care; release needs the client's **specific consent or legal authority**.
- **Verify** the authorization, send only what is needed, and mark fact and opinion (5.2.2).
- Police without consent or legal authority: **confirm nothing**, not even that the person is a client; ask what authority they rely on.

6 What to document

- **Your grounds**, in the client's words where they matter.
- **Who you consulted**, when, and what they advised (2.1).
- **What you disclosed**, to whom, when, and under which authority.
- **A copy** of each written mandatory report, or a written summary of a verbal one (5.1).
- **What you told the client**, and when (1.3: document potential and actual reports).

Explain the limits before you reach them, and disclose only what is relevant and necessary.

Official sources: CRPO Standard 3.1: Confidentiality and PHIPA, 2004. Condensed from Client-Therapist Relationship, Mandatory Reporting and the Limits of Confidentiality and The Legal Framework. Independent study aid, not legal advice.