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# CASLPO Forum

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Whitby Oshawa October 27<sup>th</sup> 2016

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## Agenda

- CASLPO Updates
- Question Time
- Scenarios
- Presentation in 'Events' Section of the Website

# Regulation: a Brief Overview

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To regulate healthcare practitioners in the public interest

To assure the public that CASLPO members provide quality care throughout their careers

*Regulated Health Professions Act, 1991 (RHPA)*

Registration

Quality Assurance

Inquiries, Complaints and Reports

*Audiology and Speech Language Pathology Act, 1991*

Scopes of practice

Controlled acts

Exclusive titles

Governed by Council



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# External Updates



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# Prevention of Sexual Abuse of Patients

# Prevention of Sexual Abuse of Patients

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The Government of Ontario is taking concrete action to uphold and reinforce a zero tolerance policy on sexual abuse of patients by any regulated health professional.

In fall 2016, Ontario intends to bring forward legislative amendments that would:

- Add to the expanded list of acts that will result in the mandatory revocation of a regulated health professional's license
- Remove the ability of a college to allow a regulated health professional to continue to practice on patients of one gender after an allegation or finding of sexual abuse



# Prevention of Sexual Abuse of Patients

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- Increase fines for health professionals and organizations that fail to report a suspected case of patient sexual abuse to a college
- Increase transparency by adding to what colleges must report on their public register and website
- Clarify the time period after the end of a patient-provider relationship in which sexual relations are prohibited
- Fund patient therapy and counselling from the moment a complaint of sexual abuse is made.



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# Amendments to the Criminal Code (Bill C-14): Medical Assistance in Dying



# Medical Assistance in Dying

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- The Government of Canada introduced legislation to amend the Criminal Code (Bill C-14)
- Allows eligible adults to request medical assistance in dying
- Bill C-14 received Royal Assent on Friday, June 17, 2016



# Medical Assistance in Dying

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- We are aware that this legislation may raise concerns for some members.
- CASLPO has a designated page for MAID on the website - Resources



## *Personal Health Information Protection Act: Amendments*

- Increases accountability and transparency
  - mandatory to report privacy breaches to the Information and Privacy Commissioner and,
  - in certain cases, to relevant regulatory colleges
- The requirement that prosecutions must be commenced within six months of the alleged privacy breach has been [removed](#).

# PHIPA

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- Discourages "snooping" into patient records by increasing fines to \$100,000 for individuals and to \$500,000 for the organization
- Clarifies the authority under which health care providers may collect, use and disclose personal health information in electronic health records



# PHIPA

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If a health information custodian (HIC) employs a **regulated** health care practitioner, the HIC shall give the College written notice of any of the following events within 30 days :

1. The employee is terminated, suspended or subject to disciplinary action as a result of the unauthorized collection, use, disclosure, retention or disposal of personal health information by the employee.
2. The employee resigns and the HIC has reasonable grounds to believe that the resignation is related to an investigation or other action by the custodian with respect to an alleged unauthorized collection, use, disclosure, retention or disposal of personal health information by the employee.

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# CASLPO Updates



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[caslpo.com](http://caslpo.com)

# Public Awareness Tools

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- Public Awareness Videos
  - Linked to email signatures
- CHCH: We Mean Business “Questions to Answers about Audiology and Speech-Language Pathology Services”
- CASLPO YouTube Channel
- Accessibility
  - What is an Audiologist?
  - What is a Speech Language Pathologist?
  - How do I make a Complaint?
  - English, French, Spanish, Italian, Chinese, Arabic, Punjabi

# Public Awareness Tools

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Public awareness campaign... next steps

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# Documents

# Practice Standard

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## Provision of Hearing Aid Services By Audiologists

- Four documents amalgamated into one Practice Standard
- Competency-based
- Definition of Prescription, Prescribing, Verification, Dispensing and Fitting
- Standards – elimination of Guidelines
- Feedback overwhelmingly in favour following circulation and webinars
- Eleven FAQs added



# Position Statement

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## Concurrent Intervention Provided by CASLPO Members

- Provides clarity to concurrent intervention situations.
- Allows members to continue service when the patient chooses not to consent to share information between members.

## Position Statement



# Guide

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## Guide to Service Delivery across Diverse Cultures

- Revised from a Position Statement
- Follows a principled, patient-centered approach significantly reducing specific examples and scenarios
- Focusses on understanding cultural perspectives and intervention rather than different cultural groupings
- Uses inclusive language
- [Guide](#)



# Documents under Review

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- Proposed Advertising Regulation (Ministry review phase)
- Professional Misconduct Regulation (Ministry review phase)
- Position Statement: Supervision of Support Personnel by SLPs



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# Resources

# Resources: Reminder

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## Consent Tool

- Part of the Consent and Capacity E-Learning Module found in the Member's Portal
- Consent Tool is now in the '[Resources](#)' section of the website as a separate entity.
- The Tool guides you to consider information in your consent discussions and covers different areas of practice and procedures.

## [Consent Tool](#)



# CASLPO Projects

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- Clinical Reasoning Tool
- Non-Clinical Peer Assessment
- Accessible regulation
- Mentorship Program
- Provision of Second Opinions
- Buying hearing aids on the internet
- Review of “PPG for Cerumen Management”
- Revision of structure of practice standards



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# Question Time



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# Scenarios

PHIPA x 2 (slide 30 & 43)

Consent and capacity (slide 55)

Advertising (slide 62)

Records (slide 77)



# PHIPA Scenarios

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## Mateo's Story

8 Year old boy with mild C.P. and speech problems affecting intelligibility

Has recently moved to the Public School Board

Mateo had been referred to Donna, the PSB SLP



# PHIPA Scenarios

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During the assessment Mateo talks about Cindy, his SLP at home.

Following the assessment, Donna calls home to share the assessment results with Mom and asks about Cindy.



Mateo's mother states that she wants to keep home and school separate and asks Donna NOT to contact Cindy, the private SLP.

# PHIPA Scenarios

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Donna remembers reading about the 'Circle of Care' and wonders if she has implied consent to contact Cindy, another Health Information Custodian, as it is for the provision of health care and is definitely in Mateo's best interests.



# PHIPA Scenarios

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Can Donna call Cindy?

# PHIPA Scenarios

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- Yes
- No
- Not sure

# PHIPA Scenarios

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**NO!**

Individuals are allowed to expressly **withhold** or **withdraw consent** to disclose information.

Donna does **not** have consent from Mateo's mom to contact Cindy.

Donna should counsel the mom regarding the benefits to Mateo of communicating and working with the private SLP, and that it might not be in Mateo's best interests to have two SLPs working independently.



Please refer to [CASLPO's Position Statement on Concurrent Information](#)

# PHIPA Scenarios

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Donna is asked to attend Mateo's Individual Education Plan (IEP).

Three days before the meeting, Donna gets a call from Mateo's dad. He is very upset as he was not informed of the IEP meeting and he cannot attend. He understands that Donna has written a report and wants a copy.



Donna, who has had no previous contact with the dad, asks him about custody arrangements. At the moment, his ex-wife has sole custody, but he is in the process of going to court to get joint custody.

# PHIPA Scenarios

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What information can Donna disclose?

- A. Donna can immediately provide a copy of the report to Mateo's father
- B. Donna cannot provide a copy as the Dad does not have custodial rights
- C. Donna should first check to see if there are any legal restrictions from preventing Dad having a copy. If not, she **can** provide him with a copy.



# PHIPA Scenarios

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Mom is the custodial parent and Dad is known as the “access” parent. According to the Information and Privacy Commission’s Order P-1246 (1996), the [Children’s Law Reform Act](#) (1990) and the [Divorce Act](#) (1985) gives an ‘access parent’ the right to “be given information as to the **health, education and welfare** of the child”. This includes Donna’s speech language pathology report on Mateo.



However, if there is a court order prohibiting a parent from receiving information it must be followed. Donna can request to see the court order to determine precisely what information can be disclosed, and document in the record.

# PHIPA Scenarios

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Much to Donna's surprise she hears from Mateo's teacher that Mateo has been placed in emergency foster care. The teacher gives Donna the contact information for the Foster parents.



Donna is in a bit of a dilemma, she wants to refer Mateo to the Augmentative and Assistive Communication Clinic for an assessment to support Mateo's speech in the classroom.

# PHIPA Scenarios

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Donna has the contact information for the foster parents.

Are foster parents substitute decision makers?

Can they consent to disclose information regarding Mateo?



# PHIPA Scenarios

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**No**, foster parents do not have custodial rights under HCCA or PHIPA, and they are **not** considered to be substitute decision makers

(2) A substitute decision-maker (SDM) of an individual within the meaning of of the *Health Care Consent Act, 1996* shall be deemed to be a SDM of the individual in respect of the collection, use or disclosure of personal health information about the individual if it is for the purpose of providing health care 2004, c. 3, Sched. A, s. 5 (2).

# PHIPA Scenarios

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Hierarchy of SDMs in the *Health Care Consent Act*, s.21:

1. Guardian of the Person with authority for Health Decisions
2. Attorney for personal care with authority for Health Decisions
3. Representative appointed by the Consent and Capacity Board
4. Spouse or partner
5. Child or Parent or **Children's Aid Society** (right of custody)
6. Parent with right of access
7. Brother or sister
8. Any other relative
9. Office of the Public Guardian and Trustee

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- PHIPA Scenario 2



# PHIPA Scenarios

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## Lee's story

Lee is a four year old boy attending Maple St. Public School.

His parents are concerned about his talking and language development and contacted the local Preschool Speech and Language Centre.



# PHIPA Scenarios

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Mrs. Sherman, is a J.K teacher at Maple St. Public School. She is concerned about Lee's speech and language and believes that he is on a waiting list at the local Preschool Speech and Language Centre.



Mrs. Sherman contacts the Centre and asks whether Lee has been 'picked up' for speech therapy or if he is still on the waiting list. The secretary forwards the call to Claire, the SLP.

Lee is on the waiting list, but Claire has not spoken to Lee's parents about this request and is unsure what information she is allowed to give Mrs. Sherman.

# PHIPA Scenarios

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What information can Claire disclose?

A. Claire is allowed to say if Lee is on the list, and when he will be assessed, but nothing more.

B. Claire is not allowed to give any information to Mrs. Sherman.

C. Claire can share all of Lee's information under the 'Circle of Care' provision in PHIPA



# PHIPA Scenarios

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Mrs Sherman is NOT in the Circle of Care  
Claire cannot give her any personal  
Health information.

Lee's **association** with the Preschool  
Speech and Language Centre  
is personal health information and  
therefore cannot be shared without  
**knowledgeable consent** from the  
Patient or SDM (parent).



Claire should be careful that her response does not inadvertently reveal  
PHI. She could offer to look at the list and consult the family if Lee is on  
the list.

Advise Mrs. Sherman to contact the family. There may be reasons why  
the SDM/parents do not want this information shared with the school.

# PHIPA Scenarios

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Mrs. Sherman contacted Donna, the SB SLP and asked her to call the Preschool Speech and Language Centre to find out more information about Lee and when he will be picked up for therapy.



Donna isn't involved with Lee, but had to call the centre about another child on her caseload so was happy to ask about Lee.

Claire was much more comfortable talking to Donna, as Donna is a regulated health professional, and therefore an HIC, as well as a good friend.



# PHIPA Scenarios

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What information can Claire disclose?

- A. Claire is allowed to say if Lee is on the list, and when he will be assessed, but nothing more.
- B. Claire can share all of Lee's information under the 'Circle of Care' provision in PHIPA because Donna is a School Board SLP and a HIC
- C. Claire is not allowed to give any information to Donna as Donna does not have a referral for Lee.

# PHIPA Scenarios

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Donna is not in the 'Circle of Care' as Lee has not been referred to her for SLP services.

She is also **not** calling Claire for the purposes of **providing** healthcare (SLP) Services.

Consent must be **knowledgeable**. Lee's parents have not given consent to disclose personal health outside the circle of care.



# PHIPA Scenarios

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Donna reports back to Mrs. Sherman and recommends that Mrs. Sherman contact Lee's parents to get a referral for SLP in the School.

Mrs. Sherman gets on to this straight away, and the referral is made to Donna. Donna calls Lee's parents to explain her services and gets consent to assess Lee.

During the assessment Lee says that he has seen the books and toys before. Donna stops the assessment, calls Lee's mom, but cannot get in touch with her.

# PHIPA Scenarios

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Donna calls Claire to find out if Lee has been assessed at the Preschool Speech and Language Centre.

Claire assessed Lee's speech and language skills a week ago and has a copy of her report.

# PHIPA Scenarios

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What information can Claire disclose?

- A. Claire is allowed to say if Lee has been assessed, but nothing more.
- B. Claire can share all of Lee's information under the 'Circle of Care' provision in PHIPA because Donna is a School Board SLP and a HIC
- C. Claire is not allowed to give any information to Donna as Donna does not work at the Speech and Language Centre.

# PHIPA Scenarios

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**Circle of Care** – 6 conditions for assumed implied consent:

- 1) HIC that is **entitled** to rely on assumed implied consent
- 2) The PHI must have been received from the **individual, SDM or another HIC**
- 3) The PHI was collected, used and disclosed for the purposes of **providing health care**
- 4) The HIC must use the PHI for the purposes of **providing health care**
- 5) Disclosure of PHI from one HIC must be to **another HIC**
- 6) The receiving HIC must not be aware that the individual has **expressly withheld or withdrawn consent**

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- Consent to Treat Scenario



# HCCA Consent Scenario:

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- Pari, the SLP from Metro General Hospital, has been asked to do a swallowing assessment with a patient who has been admitted with a severe head injury and no known relatives or SDM.
- Pari meets the patient and quickly establishes that he does not have the capacity to consent to her assessment.
- She informs the charge nurse that she first needs consent from a SDM.
- The charge nurse is very frustrated as oral medications are being held until the results of the swallow assessment.





# HCCA Consent Scenario:

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## Can Pari assess?

- A. It is in the best interests of the patient to have a swallowing assessment so that medication can be given- Pari should proceed.
  
- B. Pari has not received consent from the patient or the SDM – she should not proceed.
  
- C. This is an emergency - Pari can proceed.

# HCCA Consent Scenario:

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Can Pari assess?



Answer:

B. Pari has not received consent from the patient or the SDM, and the patient can receive medication via I.V. – she should not proceed.

C. This is an emergency - Pari can proceed.

# CONSENT

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## Consent is **Not** Required for Emergency Services

“There is an emergency if the person for whom the treatment is proposed is apparently experiencing **severe suffering** or is at **risk**, if the treatment is not administered promptly, of sustaining serious bodily harm.” (*Health Care Consent Act 1996, c. 2, Sched. A, s. 25 (1).*)



# HCCA Consent Scenario:

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Consider:

- Is this an emergency?
- Is the patient at risk?



# HCCA Consent Scenario:

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- If Pari, after consultation with the charge nurse, decides that the patient is at risk, she **MUST** document that the swallowing assessment took place **without** consent.
- If Pari does not believe that the patient is at risk, she should work with the team to identify a SDM.
- The team can contact the Office of the Public Guardian and Trustee (OPGT) for advice.
- The OPGT has a **Treatment Decision Unit.**



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- Advertising Scenario



# Advertising Scenario

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Li is an audiologist opening up a private practice in a small town. He wants to advertise his services and looks on audiology services websites for ideas.

He creates a list of advertising ideas but wants to ensure that they comply with the legislation and regulations.

# Advertising Scenario

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Li's list of possible advertising approaches:

1. Testimonials from grateful patients and family members
2. Endorsements from other professionals
3. Narratives about the benefits of consulting an audiologist
4. Survey results about his services
5. Free hearing testing
6. Pamphlets for Doctors' and Dentists' offices



# Testimonials

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Yes

No

Unsure



# Testimonials

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No

## Proposed Advertising Regulation (2013)

- 2 (1) An advertisement with respect to a member's practice must **not** contain:
  - g) a testimonial by a patient or client or former patient or client or any of their friends or relatives;

# Endorsements

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Yes

No

Unsure



# Endorsements

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YES, but . . .

## Proposed Advertising Regulation (2013)

- Only if the organization or individual proposing to endorse a member or a member's services:
  - has the expertise relevant to the subject matter of the endorsement; and
  - has appropriately assessed the member as providing quality care; (2 (1) f)



# Narratives

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Yes

No

Unsure



# Narratives

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## YES, but . . .

- It must not be false or misleading (Proposed Advertising Reg. 2 (1) a) )
- It must not include any identifiable personal health information (PHIPA)
- It cannot be a testimonial



# Survey Results

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Yes

No

Unsure



# Survey Results

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YES, but . . .

Proposed Advertising Regulation (2013)

- They must not be false or misleading (2 (1) a )
- They can be verified (2 (1) b) )
- They must not be testimonials



# Free Hearing Test

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Yes

No

Unsure



# Free Hearing Test

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YES, but . . .

- Make sure that it is free and that you or the company does not recoup the cost elsewhere
- The patient does not feel coerced into continuing with your services because it was free



# Pamphlets

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Yes

No

Unsure



# Pamphlets

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Yes . . .

## Proposed Advertising Regulation (2013)

- The content is not distasteful, undignified, unethical or unprofessional. (2 (1) i )
- It does not contain anything that may be reasonably regarded as a representation that the member's practice may be superior to that of another member's practice or another member (2 (1) c )



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- Records Scenario



# CAREER ADVICE No 55

Always choose the right tool for the job

A simple blowtorch can solve many of your filing problems



horacek

# RECORDS

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To understand and apply the regulation, examine the basics:

What is a Record and what is its purpose?



# RECORDS

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- Official record of events documenting your assessments, plans of care, interventions and clinical decisions and the patient's progress

i.e. who did what, why, where, when and to whom





# RECORDS

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**Purpose** is to protect the public by ensuring minimum standards and supporting safe and ethical practice across all service settings

## CASLPO

- Accessible
- Complete
- Correct
- Retained

## Member

- Vehicle of reliable communication
- Clinical judgement
- Demonstrate accountability
- Risk management

# RECORDS

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- As a member you must adhere to record keeping (electronic or paper) and record retention requirements.
- [Records Regulation 2015](#)
- Not all record systems fulfill these requirements, for example, an OSR. A separate records system may be necessary. This is still a health record, and all legislation, regulations and standards of practice apply.



# Scenario: Record Keeping Community SLP

- The intake process at Ontario Aphasia Centre is as follows:
  - Michael, the SLP, and Dee, the Social Worker, review the referral and any accompanying documentation.
  - Both professionals carry out a joint assessment which involves meeting with the patient and family together. They then separate, and Michael administers a communication assessment with the patient while Dee meets with the family to go through a coping checklist.
  - Michael and Dee meet and they decide who will write the report; usually they take it in turns.
- Does this comply with the CASLPO Records Regulation?



# Scenario: Record Keeping Community SLP

- Michael is a regulated health professional, Dee is regulated, but she is not a health professional and is governed by different legislation (*Social Work Act*).

## Records Regulation

30 (2) However, if a member is practising the profession in collaboration with any other person, the member shall take reasonable steps to ensure that the records are up to date and made, used, maintained, retained and disclosed in accordance with this Regulation.

- Michael must ensure that the record is maintained, e.g., the background history, assessment information, recommendations, referrals to health professionals etc. is in patient record.



# Scenario: Record Keeping Community SLP

A report is not required by the Records Regulation.

Patient Health Records must contain:

- i. each assessment relating to the patient,
- ii. each clinical finding relating to the patient,
- iii. any recommendation made by the member to the patient,
- iv. each treatment performed, and
- v. any advice given to the patient, including any pre-treatment or post-treatment advice, and the identity of the person who gave the advice if that person was not the member.

Records Regulation 32, 2) 5

- Dee can write a joint report, which Michael must review.

# Scenario: Record Keeping Community SLP

Dee leaves the Aphasia Centre and is replaced by Sondra who is a psychologist and a regulated health professional.

- (4) Despite subsections (2) and (3), a member is not required to maintain a patient health record in either of the following circumstances:
  - 1. The member is part of a multi-disciplinary team whose purpose is to provide a treatment plan, a report or ongoing services to a patient and the patient's health record is maintained by a person who is part of the team and who is a member of a College under the *Regulated Health Professions Act, 1991*.

Sondra can write the report or make a patient record notation on behalf of Michael and herself.