TEAM CHARTING AGREEMENT IMPLEMENTATION GUIDE

This document accompanies the Team Charting Agreement (TCA) and answers frequently asked questions about implementing the agreement.

SOME DEFINITIONS

'Health Service Organization' (HSO) is used as an umbrella term to encompass Health Authorities and other similar entities such as First Nations Health Service Organizations.

'Primary Care Practice' is meant to encompass a medical clinic run by a Physician or Nurse Practitioner that is a recipient of staff from a Health Service Organization. While typically a Primary Care Practice provides longitudinal community care, a Primary Care Practice may also include focussed care such as community maternity providers. Within a Primary Care Practice with multiple physicians, a Medical Director is generally nominated to be "the Custodian" of health records.

GENERAL INFORMATION

1. What does the Team Charting Agreement do?

- The TCA addresses the new relationship between Health Service Organizations (e.g. Health Authority) and the Primary Care Practice due to the placement of HSO staff into the Primary Care Practice as a result of an approved Service Plan. The agreement:
    - sets out the roles and responsibilities for information governance as it pertains to charting by HSO Care Team members,
    - provides for HSO access to patient records for performance management of Care Team members,
    - requires patient notification as per requirements under the Personal Protection and Privacy Act.
- The PCN Integrated Activity Agreement (scheduled for distribution later in 2020) will provide a framework for information sharing between Members of a Primary Care Network and will focus on secondary use purposes including planning, administration, quality improvement and evaluation.

2. Do I need to have a Team Charting Agreement in place?

Yes. Each receiving Health Service Organization employed Care Team Members (i.e. those employed by another organization) should have a TCA in place. The only exception is Northern, where physicians have developed their own agreement (that the TCA was based on) over the past six years: we don't want to needlessly throw away that work and make them sign something new. Northern clinics will need to sign on to the PCN Integrated Activity Agreement when it is available and at that time their version of the "Team Charting Agreement" will likely be replaced so that there is a single provincial standard.

3. Does the TCA apply in HSO-run clinics?

No, the TCA only applies in situations where HSO-employed resources are joining a private practice as part of the PCN. If there are only HSO-employed resources at a clinic then the TCA does not apply.

4. Why is my local Health Authority asking my practice to sign another agreement that looks similar to the GPSC TCA?

While the Health Authority may have a separate MOU or Services Contract that covers non-information sharing issues, such as the specifics of overhead funds-transfer for HA employed Care Team Members working in a Primary Care Clinic, the requirements of the TCA should not be duplicated by another agreement. If your Health Authority asks you to sign their version of the TCA, you can request the GPSC TCA that was developed through an extensive engagement process with PCN stakeholders.

5. Who should sign the agreement on behalf of the Primary Care Practice?

- The Primary Care Practice Representative, as defined in Section 17 of the TCA, will sign the agreement on behalf of the practice. The practice may be:
    - a sole proprietorship,
    - an incorporated group of physicians or nurse practitioners,
    - a clinic owned by a third party (e.g. Shoreline Medical, Wellhealth, Seymour Group, etc.), or
    - a group of individual physician- or nurse practitioner-owners who are co-located.
- The (group of) physician/nurse practitioner owners on whose behalf the Primary Care Representative is signing the TCA should be identified in Schedule C of the agreement.
- Physician/nurse practitioner owners who join the Primary Care Practice after the agreement is signed should confirm they understand their obligations under the TCA by signing the form in Exhibit C of the agreement.

6. Can I add provisions to the TCA that the Health Authority and Primary Care Practice agree to?

Yes, however, these should be added to Schedule A (Additional Terms and Conditions) to the Agreement as opposed to altering the base TCA which is standardized across the province. Both parties must agree, and items inserted to support Secondary Use of Data cannot be added until the PCN Integrated Activity Agreement is in place.

FUNDING

7. What funding is available for the staff time required to for the onboarding, training, EMR use and other technology requirements of the additional HSO Care Team Members joining my office?

The PCN Change Management, GPSC Change Management programs and the overhead allocation for PCN resources will together provide funding towards the costs associated with change management and overhead due to receiving HSO Care Team Members.

TRAINING

8. Who is responsible to train new Care Team Members to chart and use the Primary Care Practice's electronic medical record (EMR). What training would be appropriate?

- Each clinical environment is different and so are the learning needs of each new Care Team Member. Required training areas may include the clinic's EMR, clinic workflows, new encounter coding, team-based care processes and general clinic administrative processes (eg. privacy and security). Care team members may have additional training needs such as learning to use a device, learning to remote login to the EMR, and learning to work with other non-clinical applications.
- There are a variety of appropriate training resources available:
    - Doctors of BC has a range of programs available through the Doctors Technology Office and Practice Support Program targeted at Team Based Care, Small Group EMR Functionality, EMR Optimization, Panel Management and others.
    - HSOs may have resources dedicated to training and on-boarding HSO employed staff.
    - EMR vendor training is available at a cost, through the clinic's EMR vendor.
- HSO employees must complete regular privacy and security training as part of their employment. If a care team member has not completed appropriate privacy and security training within their HSO, they can complete the "Security in Low Doses: Safeguarding Patient Information in Private Practice" eCourse through UBC Continuing Professional Development.
- Ensure all Care Team Members know who the Primary Care Practice Privacy Officer is so they know who to go to with patient record requests or other issues related to privacy and security.
- The Primary Care Practice may choose to delegate some training activities to their HSO.

PRIVACY AND SECURITY

9. Who ensures new HSO Care Team Members sign a Confidentiality Agreement and what template should be used?

- Regardless of who their employer is, all Care Team Members, including physicians, medical office administrators and 3rd party vendors/contractors, working in a private practice should sign a Privacy and Confidentiality Agreement. Several templates are available through the BC Physician Privacy Toolkit forms section:
    - **Confidentiality Agreement for Health Authority Employees Working in a Physicians Private Practice**
    - Confidentiality Agreement for Employees
    - Confidentiality Agreement for Third Parties
    - New HSO Care Team Members joining the practice may have signed a confidentiality agreement at their HSO. At the current time, most HSO confidentiality agreements are focussed on HSO-specific information. If, however, the HSO confidentiality agreement encompasses information at the Primary Care Practice, it may be sufficient for the team member to only sign

that one agreement. If they have not done so, please have them sign the **Confidentiality Agreement for Health Authority Employees Working in a Physicians Private Practice**.

- If your Primary Care Practice utilizes its own Agreements, the Practice may have each new HSO Care Team Member sign their Agreement or may delegate this activity to another entity (such as the HSO).
    - NOTE: regardless of delegation, it remains the responsibility of the Primary Care Practice to ensure that the Agreement is signed and appropriate Privacy and Security training is completed.

10. What do I do if I become aware that an HSO Care Team Member is inappropriately accessing patient information? Is there any guidance on how to manage such incidents?

- Guidance on managing inappropriate access is provided in Section 10 of the BC Physician Privacy Toolkit.
- The Primary Care Practice should notify the HSO about their concerns. If they intend to suspend the EMR access of an HSO Care Team Member, they should first discuss the situation with the Care Team Member's HSO HR Manager as there may be HR/disciplinary actions that need to take place by the HSO.
- NOTE: If a Custodian suspects other inappropriate behaviour(s) by an HSO Care Team Member, they should contact their HSO employer.

11. Is the Primary Care Practice required to actively monitor for inappropriate access to EMR records (commonly referred to as "snooping") by HSO Care Team Members?

- It may not be practical for practices to do this proactively.
- Investigations will often be complaint-driven.
- The Primary Care Practice may want to work with their HSO to determine how best to manage audits/compliance as the HSO may have expertise the Primary Care Practice can leverage.

TEAM CHARTING

12. The Custodian of the EMR must store, retain and destroy Team Charting in accordance with the College of Physician and Surgeons bylaws as per the *Health Professions Act*. Is there a guide to complying with the act?

The recently updated Medical Records, Data Stewardship and Confidentiality of Personal Health Information Practice Standards from the College of Physicians and Surgeons outline these requirements. Until the BCNNP develops such guidelines, it's recommended that Nurse Practitioners follow the CPSBC Practice Standards.

13. The Custodian should accommodate in their EMR, to the best of their ability, the requirements of other Regulatory Colleges' charting and information management requirements whenever possible. Why is this necessary?

- Regulatory Colleges may need access to the EMR for audit purposes, particularly with health professionals new to the field. For example, the BCCPS Physician Practice Enhancement Program Assessment Standards: Unified Medical Record. The BC College of Nursing Professionals may have similar guidance.
- The Custodian should at all times know who is charting within their EMR and acknowledge that different Colleges may have different information management

bylaws than their own. For example, physicians, nurses, pharmacists and social workers.
- However, the Care Team Members are ultimately responsible for what they chart within the Primary Care Practice's EMR.

REPORTING

14. What do I do if the HSO requires reporting (commonly referred to as Minimum Reporting Requirements or MRRs)?

- The Ministry of Health requires Health Authorities to track and report mental health/substance use and home care patient information referred to as Minimum Reporting Requirements.
- Under the current TCA, Primary Care Practices are **not required** to report MRRs to the HSO.
- If such reporting is required in the future, a reporting schedule will be added to the TCA and both parties will need to agree how the data will be shared with the HSO.
- **Until the legal authority for this kind of data sharing is created through the PCN Integrated Activity Agreement this type of data sharing is not possible in BC.**

15. Is Encounter Reporting required from the Primary Care Practice for activities undertaken by the HSO Care Team Member?

- No, until such time as the PCN Integrated Activity Agreement is in place, the Ministry does require encounter reporting by HSO Care Team Members—beyond that done through Teleplan for nurses.

16. What recourse do I have if the HSO demands access to my EMR?

The HSO has no authority to demand access to your EMR for any reason other than that identified and agreed to by both parties in the TCA. If such an event were to occur, contact the legal counsel for the HSO, your PCN Steering Committee, or the Ministry of Health Primary Care Team.

17. What do I do if the HSO requires HSO Care Team Members to chart in both my EMR and their clinical systems?

As identified in the TCA, double-charting is not desirable and should be minimized to only what is necessary for the provision of care. Having said that, current technical infrastructure does not allow information to automatically flow from one system to another, so double-charting may be required in limited instances. From a PCN resource utilization perspective, it would be useful to track how much time is spent in these activities and then have a conversation with the HSO and your PCN Steering Committee about the value of that time vs provision of care—all PCN stakeholders agree that double-charting should not negatively impact the provision of care.

LIABILITY

18. What is the CMPA & BCCNP's stance on the liability of Nurses or Nurse Practitioners charting in a Primary Care Practice EMR?

According to the CMPA and the BCCNP, a Physician/Nurse Practitioner will only be held liable for the actions of a nurse working in the Primary Care Practice if the

Physician/Nurse Practitioner direct a specific action be taken, rather than allowing the nurse in their professional judgement to decide how to proceed based on their scope of practice and the standard of care.

- For example, if a nurse saw a patient for a diabetes check-up, and the Physician/Nurse Practitioner specifically directed the nurse to stop the patient's long-acting insulin (or to switch the patient to a medication that the patient actually had an allergy to), then liability would transfer from the nurse to the Physician/Nurse Practitioner.
- If, however, the Physician/Nurse Practitioner asked the nurse to provide lifestyle and other recommendations regarding diabetes management, and the nurse stopped the patient's long-acting insulin, then the nurse would retain the liability should a negative outcome occur.
- NOTE: the nurse's employer (i.e. the HSO) would also hold employer-relationship liability in this second situation.

PATIENT NOTIFICATION

19. Do I need to notify patients that I might have to provide access to the HSO for issues relating to the HSO Care Team Members working in my practice?

Yes, you do. A patient notification process has been designed to help you in this regard. Please go to the PCN Toolkit website to get a copy of the patient notification poster and the accompanying brochure.

- Put up the poster in a prominent place in your practice.
- Have copies of the brochure available if someone asks for more information.
- Send patients with more questions to the website.
- Be prepared to answer a few questions from your patients about what being a part of a Primary Care Network means to them.

20. What do I do if a patient doesn't want their information shared? Is this possible?

As per the Team Charting Agreement, information is shared with the HSO for the following purposes:

a. *performance management, including matters related to a Collective Agreement between an HSO Care Team Member and the HSO;*

b. *responding to patient or custodian complaints about the HSO Care Team Member;*

c. *responding to legal claims or as required by law;*

d. *service delivery reporting to the Ministry of Health in relation to the applicable service delivery plan for the placement of HSO Care Team Members into the Primary Care Practice or other reporting as may be required by the Ministry of Health and as agreed to and documented by the Parties in a Schedule A to this Agreement.*

Patients may "opt-out" of information sharing only if they have not yet seen an HSO Care Team Member. Once they see an HSO Care Team Member, they are no-longer able to opt out.

To be clear, if a patient wants to opt out, then they cannot be seen by an HSO Care Team member. They would have to be seen by a Physician/Nurse Practitioner or other employee of the primary care practice. Alternatively, they could be referred to an HSO service not operating as part of the Primary Care Practice.

ADDITIONAL RESOURCES

Further resources to support Primary Care Network implementation can be found in the Primary Care Network (PCN) Toolkit website: https://www.pcnbc.ca/pcn.

CHANGE LOG

Date	Change(s)
2020-Mar-07	• **Question 2**. Clarified that the TCA is not required in Northern where a similar agreement has been developed with Physicians over the past six years. • **Question 6**. Clarified that Schedule A can only be modified with conditions supporting Secondary Use of Information once the PCN Integrated Activity Agreement is in-place. • **Question 15**. Indicated that the Ministry does **not** currently require encounter reporting other than that done through Teleplan.

LEGAL AUTHORITIES

CTA INFORMATION SHARING

This document pertains to information sharing when there is the deployment of regional health authority staff to augment the existing staff complement in a private-practice clinic.

RECOMMENDED OPTION

No HA control over patient's records, except in limited circumstances where specific components of the patient record are disclosed to the HA to perform their legal obligations, such as managing the employer-employee relationship.

LEGAL AUTHORITIES AND EXPLANATION OF HOW THIS WORKS

Primary Care Practice

- Implied consent under s. 8(3) of PIPA applies.
- A notice stating, in plain language, the purposes for which the clinic intends to collect, use or disclose the patient's personal information is required. Patients can opt out of information sharing.
- The notice should specifically speak to the purposes of providing care for the patient and performance management of practice resources.

Health Authority

- In general terms, FOIPPA does not apply because the HA does not have custody or control of the records.
- There will be a provision that HAs have a right to request and receive copies of the limited, necessary personal information (i.e. the HA will be entitled to the PI), if specific situations occur. The legal term for this is called "a condition precedent". In these situations, and where the private practice discloses a copy of the PI to the HA, the HA will collect it under FOIPPA and control of *that copy* would transfer to the HA. In circumstances where the HA is provided with view access only to the EMR to fulfill their legal obligations, the HA will been deemed to have temporary custody of the PI solely to perform their permitted purpose and control of the record within the EMR will remain with the private provider under PIPA. The notice (mentioned above) will include the purposes for the practice to disclose to the HA. As such, the disclosure by the practice would be in accordance with s. 8(3) of PIPA, and the HA collection would be authorized by FOIPPA ss. 26(c), 26(e) (likely also applicable) and s. 27(1)(a)(i))[pursuant to s. 8(3) of PIPA].

CONDITIONS OF HA DEPLOYMENT INTO A PRIVATE-PRACTICE CLINIC

- No HA control, except for limited circumstances where a copy of pertinent records are disclosed to the HA (98% PIPA, FOIPPA 2%).
- HA Care Team Member only **viewing** PI from, and recording PI into, the practice's EMR.
- HA not recording any PI in their clinical information system (i.e., staff only record in practice's EMR).
- No ongoing HA custody over PI when it is in practice's EMR.
- HA has no requirement to document or retain information in a HA system regarding. the care provided to the patient at the practice's EMR.