

Comments submitted to the Personal Health Information Task Force

By the New Brunswick Advisory Council on the Status of Women

June 22, 2007

The Advisory Council on the Status of Women applauds the provincial government's initiative to introduce Personal Health Information legislation. The time limits of the current Task Force do not allow for a complete review of the situation and of the issues that could be potentially addressed by these Acts. We submit a few situations and questions for the Task Force's study:

Emergency contraception

Since emergency contraception has been available without a prescription but behind the pharmacy counter (April 2005), women requesting it from pharmacists in New Brunswick must answer questions relating to their last period, their use of contraception and the sexual incident that makes them think they are at risk of becoming pregnant. These questions, usually asked at the cash, and the computer record of this information including identifying data, represent an invasion of privacy.

Personal health information must be collected and recorded only when necessary, and consultations should only be conducted where confidentiality can be ensured. The Society of Obstetricians & Gynecologists of Canada says this morning-after pill should be available on shelves, which shows the minimal health risk involved.

When Manitoba pharmacists began asking and recording the same type of information when selling emergency contraception, the Ombudsman ruled that women can remain anonymous, that pharmacists can ask questions pertaining to the purchaser's health, and pharmacists don't have to record the information. The New Brunswick Ombudsman could not accept a similar complaint since his office does not have a mandate over private sector handling of such information.

This is a case where personal health information is collected when it is not necessary. When the need to collect and record such information is established, the health information privacy legislation should apply to anyone handling it.

Language

When service is not available in the patient's official language, staff or patients sometimes use interpreters, including patients in the next-bed, a secretary, a neighbour, etc. Right to privacy is compromised. In these situations, some patients would not get all the information they are seeking, and not ask all the questions they would otherwise.

Co-ed hospital rooms

Several New Brunswick hospitals place women and men in the same hospital rooms, on a regular or occasional basis. This raises concerns about personal safety and well-being, but also about privacy. This lack of respect for New Brunswick values, during a stressful time that heightens a person's vulnerability in many ways such as hospitalization, offends many women. Some have left hospital early or not sought medical attention. Many do not sleep well in a co-ed room and feel uncomfortable and fearful. Many report they don't feel free to ask questions of attending health care staff while in such rooms. This is an invasion of privacy and places people's personal information and quality of health care at risk. Usually victims of domestic or sexual violence can obtain a non co-ed room if they disclose this, and they must often do so repeatedly.

Addictions

In New Brunswick, despite what is known in the field to be effective, few addiction services are provided in women-only groups, and women-specific treatment is not the norm. Women and men differ in how and why they abuse substances. For many women with addiction problems, their experience of abuse and exploitation is relevant to their addiction and to their treatment. Women often resist disclosure in a mixed group, and non-disclosure is counter productive to their recovery. Sex workers in a recent New Brunswick study report that staff at detox centres are very judgmental. They also state that women-only and women-centred services are key to their requesting help and potentially leaving the sex trade.

Abortion

In the case of abortion, non-health care motivated regulations that are in place in New Brunswick to limit access to abortion, have the potential effect of placing inaccurate information in a patient file. Physicians who are assisting women who want to have an abortion, must give a reason, according to the Medicare form. This is not legally required, and the forms should be modified so that they can just check off "medically required". Inaccurate information could later be used against the patient in an insurance or other case.

Additional Questions

The time limits imposed by the Task Force do not allow for a complete review of the situation. Given the time, we would have explored the following questions, which we urge the Task Force to consider and address:

Do all government services that have personal information follow the same protocol regarding training of personnel and control of information? We have received expressions of concern about administrative support staff in physicians' offices, their access to information and anecdotes displaying lack of care in communicating this information. We also have questions about whether all information on a patient is made available to all persons with access to health care data and would prefer a system where various levels of clearance would be used, based on the need to know

Women who are attempting to keep a former partner from contacting them or knowing their whereabouts have reported that their partner was able to obtain information from a government service, such as by asking where the (federal) child tax credit was being sent.

Information held in the files of sexual assault counselors in community services must be protected from public access.