



## Maintenance of Client Records Policy

**Effective date:** January 15, 2023

**Amended:**

### About this policy

The purpose of this policy is to outline a Registered Massage Therapist's (RMT's) duty to maintain accurate and complete client health records and other documentation relating to any professional interaction. The client records exist as a guide for the therapist, as well as their associates or successors, and requirements apply whether the records are in paper or electronic form.

For the purposes of this policy:

- A **“client health record”** is any document related to the assessment or treatment of a client. Records must be maintained, stored, transferred, and disposed of in a way that keeps client information confidential and secure. It is critical that RMTs, and/or business owners, understand they are custodians of the file while the client is the sole "owner" of the information contained within it.
- **“Personal health information”** is information about an identifiable individual that relates to the physical or mental health of the individual, the provision of health care to the individual, the individual's entitlement to payment for health care, the individual's health card number, insurance information, the identity of providers of health care to the individual, or the identity of substitute decision-makers on behalf of the individual.

There are four primary reasons for keeping a client's health record.

- It assists RMTs in recalling details of the client's history, condition, and the treatment provided.
- It assists the continuity of care if colleagues or a locum are called upon to treat the client.
- It provides a record for medical legal purposes when the client requires a report relating to the illness or injury treated; and

- It provides a record of events for the RMT in the event subsequent inquiries relating to the treatment are made by insurers or a complaint against the RMT is submitted to MTANS.

### **Our responsibilities to members**

- MTANS will share this policy with members, and it will revisit the policy from time to time to ensure the information remains relevant and accurate.

### **Member responsibilities**

RMTs must ensure client health records are kept in compliance with Nova Scotia's *Personal Health Information Act (PHIA)* that governs the collection, use, disclosure, retention, disposal, and destruction of personal health information. The *Act* recognizes both the right of individuals to protect their personal health information and the need of custodians to collect, use, and disclose personal health information to provide, support, and manage health care.

RMTs working in ALL scenarios (including but not limited to independent contractors, tenants/subtenants, employees), should have a clear, written agreement covering file storage and custodianship. The agreement should also cover how records will be handled in the following situations:

- Termination of employment, partnership, or other agreement.
- Death or critical illness that restricts RMT ability to give guidance; or
- Closing, relocating, or selling the practice.

Please note that no agreement between an RMT and any other person or business can supersede the individual RMT's duty to a client with respect to maintaining health records.

### **Guidelines**

#### **Record keeping: general.**

RMTs must protect the confidentiality of all reports and records, including protection from loss, tampering, interference, or unauthorized use or access. In keeping with established practice, RMTs must retain health records for 10 years from the date of the last entry or, in the case of minors, 10 years from the time the client would have

reached the age of majority or until the RMT ceases to practice if some conditions are met, e.g., relocating files.

RMTs must:

- Take reasonable steps to ensure that client personal health information is as accurate, complete, and up-to-date as necessary for providing treatment;
- Ensure that client personal health information is protected against theft, loss, and unauthorized use or disclosure and protected against unauthorized copying, modification, or disposal;
- Notify the client at the first reasonable opportunity if their personal health information is stolen, lost, used, or disclosed without consent; and
- If using electronic methods to collect, use, share, modify, retain, or dispose of personal health information, RMTs must ensure any changes or modifications to records are tracked.

### **Termination of employment agreement**

An RMT who terminates a relationship with a facility should decide if the health records will be stored by the facility or with the RMT. If the facility is maintaining the original records, a copy of the records should be kept by the RMT or an agreement is reached allowing the RMT access to the records as needed. If the RMT is keeping the client records, the facility should be provided with information on the RMT's new practice location so that clients who wish to access their records can contact the RMT to do so. In addition, the RMT may advise the clients on how to obtain a copy of their records. A form to assist with this step is available.

It is professional misconduct to abandon a client without providing advance notice and making a referral. In the event that a client has crossed boundaries, these obligations do not apply. RMTs also have a responsibility to contact clients and notify them that they are leaving the practice. This may be done in person, by telephone, or by letter. A sample letter is available to assist with this step. The purpose of this contact is to assist the client with the transfer of care to another provider, if necessary, and to let them know how they can access their health record in the future.

Please note that continuity of care only applies in situations where the client is in need of care, and that care does not necessarily mean with another RMT. Continuity of care can be applied to referrals to another health-care professional who is adequately qualified to treat the client's condition.

### **Closing a practice**

An RMT closing a practice due to retirement or relocation out of the area should:

- Give clients as much notice as possible that the practice is closing and, if feasible, provide a referral;
- Advise clients that the RMT is required to keep their records for 10 years, or 10 years after the client's 18<sup>th</sup> birthday if the client is less than 18 years old and provide information on how they may obtain a copy of the record in the future. (The retiring RMT may store the records or may appoint a custodian who will store and monitor access to the records.)

Note: If the member has died or becomes incapacitated, their estate may elect to store the records and respond to client requests for information, or they may choose to transfer the records to another individual who will act as custodian.

### **Selling a practice**

An RMT selling their practice should:

- Give clients as much notice as possible that the practice is being sold and if feasible, provide a referral;
- Respect the client's choice if they wish to choose a new practitioner not associated with the clinic;
- Advise the client of the arrangements that have been made for storage and access to the records. Always respect the client's wishes if they want their record transferred to another provider and ensure you retain a copy or have access to all data you created; and
- Remember that an RMT is selling the assets and goods of the practice. Client files are not part of the assets and cannot be sold as part of the practice. There can be an agreement that they remain with the practice and are maintained by an appointed custodian.

### **Buying a practice**

- Keep in mind that if you are buying a practice, you may assume custodianship of the files, but the client is the only "owner" of the information contained within it. This applies whether the purchaser is an RMT or an owner who is not an RMT.

### **Relevant documents**

- Client Record Request Form
- Sample Letter Regarding Practice Closure
- *Personal Information Protection and Electronic Documents Act (Canada)*
- *Personal Health Information Act (PHIA) (Nova Scotia)*