

ICBC AND DISCLOSURE OF PATIENT INFORMATION

The provision allowing ICBC to access information with the new legislative changes on April 1, 2019 remains substantively similar to the previous language in the [Insurance Vehicle Act \(IVA\)](#), which has always allowed ICBC to compel health professionals to provide patient information, by law, if need be.

An excerpt from the *Act*:

Medical reports for accidents before April 1, 2019

28 (1) If any of the following persons attends to, diagnoses, treats or is consulted by a person injured in an accident occurring in British Columbia before April 1, 2019, he or she must, whenever the corporation requests, provide the corporation, as soon as reasonably practicable, with a report of the injuries and their diagnosis and treatment and a prognosis, in any form or manner established by the corporation:

(a) a medical practitioner;

(a.1) a nurse practitioner;

(b) a person entitled to practise as a chiropractor under an enactment;

(c) a person entitled to practise dentistry under an enactment;

(d) a person entitled to practise physical therapy under the Health Professions Act;

(e) an employee of a hospital as defined in the Hospital Act.

(2) The form of the report and the manner of providing the report may be different for different persons referred to in subsection (1) (a) to (e) and may be different depending on the purpose for which the report is requested.

Health care reports for accidents on or after April 1, 2019

28.1 (1) This section applies to a health care practitioner who provides health care to a person injured in an accident occurring in British Columbia on or after April 1, 2019.

(2) A health care practitioner referred to in subsection (1) must provide the corporation with a report that includes the following information, to the extent that the information is known by the health care practitioner:

- (a) the nature and extent of the injured person's injuries;
- (b) the injured person's diagnosis;
- (c) the injured person's condition at the time health care was provided;
- (d) the treatment provided or recommended by a health care practitioner;
- (e) the injured person's prognosis.

(3) The report referred to in subsection (2) must be provided

- (a) as soon as reasonably practicable after a request by the corporation, and
- (b) in any form or manner established by the corporation.

(4) The form of the report and the manner of providing the report may be different for different health care practitioners and may be different depending on the purpose for which the report is requested.

Provisions in the *Personal Information Protection Act (PIPA)* may also apply.

[Section 18\(i\)](#) allows an organization to disclose information without consent where it is authorized by law to do so. Section 28 of the *IVA* allows ICBC to make use of that provision to access information through a court order although the preference is that patients will see the benefit in having providers connect with ICBC to assist with managing their claims.

In response to the April 1, 2019 changes, ICBC published a resource document on [Obtaining Patient Consent for Reports Submitted to ICBC](#) (PDF).

In summary, consider the following:

- Advise ICBC patients at the outset what kinds of information they will share with ICBC prior to obtaining consent.
- If the patient refuses to or revokes consent for sharing of information, the physical therapist should encourage the patient to connect with ICBC or their lawyer to discuss any concerns they may have. The physical therapist would refrain from sending the report pending that outcome.
- The physical therapist may ultimately be required to provide records or reports to ICBC regardless of patient's wishes as per Section 28.1 of the *Insurance Vehicle Act*.
- On a case-by-case basis, if you have specific legal concerns about disclosing a patient's information to any third party, most malpractice insurers provide pro bono legal advice and may offer a legal opinion on a specific case.

If you have ICBC-specific questions, you can reach out to Stephanie Adams, Business Process Advisor at ICBC by emailing Stephanie.adams@icbc.com or by calling (604) 982-4477.