
MEDICO-LEGAL EVIDENCE HANDLING: OPERATING ROOM

Site Applicability:

Richmond Hospital Operating Room

Practice Level:

RN, MD Basic Skill

Policy Statement:

Medico-legal evidence retrieved in the Operating Room will be handled by staff in a manner that provides proper preservation of evidence and control of exhibit(s) (continuity) from the time of recovery until proper transfer of the exhibit(s) to a law enforcement officer.

Exceptions:

There are mandatory and discretionary exceptions that permit release of patient/client information and these are set out in this policy. However, where information is released, staff must limit disclosure to *relevant information only* in accordance with the exceptions provided for in the policy.

Certain exhibit(s) or personal belongings may be seized by the Coroner under the authority of the Coroners Act 9 section 11) if related to the investigation of the death (a warrant is not required)

Definitions:

“Personal Information” means any information about an identifiable individual (including, but not limited to patients, clients, residents, volunteers, students, staff, physicians or members of the public), but it does not include business contact information (which is a person’s title, business telephone number, business address, email or facsimile number).

“Staff” means all officers, directors, employees, contractors, physicians, health care professionals, students, volunteers and other service providers engaged by VCH.

“Continuity” is a continuous succession of persons who are responsible for the evidence with the purpose of ensuring that there are no alterations or loss of evidence from collection until processed in a forensic lab.

Need to Know:

Follow routine Infection Control practices found in the VCH Infection Control Manual when handling all evidence, including patient’s belongings.

Watch for sharp items and **DO NOT DISCARD** anything associated with the patient as it is important that attention is given to the preservation of evidence.

Maintain patient confidentiality. Do NOT release any patient information on the phone.

Before disclosing any patient information, refer to VCH Policy IM_255: “Release of patient or Client Personal Information and Personal Belongings to Police and other Agencies”.

Exhibits seized prior to attendance of a law enforcement office are properly handled to ensure acceptability of evidence through a documented (chain of evidence) process.

The patient’s personal belongings may not be released to the law enforcement officer unless there is a valid search warrant or the patient/substitute decision maker provides consent.

- As per the law enforcement officer, complete the “Request for Release of Information to Law Enforcement or Safety Agency” form (VCH.0044) and place a copy on the patient’s chart (VCH Policy IM 255)
- Place a copy of the warrant on the chart (if any)
- Items/objects (such as bullets), weapons or other evidence removed from the patient that are named in the warrant are turned over to the law enforcement officer immediately.

Any evidence collected intraoperatively must be accompanied by a “Continuity of Evidence” form (VCH.CO.0044).

If there is a law enforcement officer accompanying the patient:

- The law enforcement officer may be requested to delay questioning of the patient if it interferes with the necessary surgical care
- In general, law enforcement officers do not come into the OR; if however, the patient is under arrest, or at risk for violent behaviour, a law enforcement officer may need to stay until the patient is anesthetized. Ensure OR Dress code policy is followed.

Procedure:

- Handle exhibit(s) as little as possible and ensure that gloves are worn at all times.
- Change gloves between handling each piece of evidence, including clothing items, to avoid cross contamination.
- When handling **clothing**:
 - Remove clothing by cutting along the seams or around the bullet or stab wound holes
 - Package each garment individually into a paper bag to prevent cross contamination
 - do not put items directly into plastic bags – any moisture will compromise the evidence
 - Remove stretcher linen and place into a separate plastic bag
 - Each item bagged should be numbered and labelled with the patient’s identification
- When handling the **bullet(s)**:
 - Rubber tipped forceps are used to handle the bullet(s)
 - The barrel of each gun leaves slightly different markings on a bullet as it is fired. Using metal forceps could alter these markings making it impossible to match the gun to the bullet that it fired
 - DO NOT rinse or clean the bullet. Washing may destroy trace evidence

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- Place the bullet onto a dry gauze and place into a dry, non-metal container (ie. plastic specimen container)
 - The surgeon should be the one who places the bullet(s) into the container(s) in order to limit the number of people in contact with the exhibit(s) (continuity of possession of the exhibit(s))
 - When handling **knives**:
 - Try to only touch areas of the knife that are not normally to preserve finger prints (ie, do not hold the knife by the knife handle)
 - Package knife in a cardboard box when possible
 - Exhibit(s) is/are labelled with the following information:
 - Patient's identification
 - Exhibit type, site of collection
 - Date and time of seizure
 - Person who collected the exhibit (ie. surgeon)
 - Number each individual container or envelope
 - Complete the "continuity of Evidence" form (VCH.CO.0044) and if required, the "Request for Release of Information to Law Enforcement or Safety Agency" form (VCH.0044).
 - The law enforcement officer signs for it's receipt
 - Retain a copy of each for the patient's chart
 - If the law enforcement officer is not present it is important that the continuity of the exhibit(s) is documented. Continuity establishes the identification of all people that handled the evidence to ensure that the evidence was in secure possession at all times.
 - The Charge RN places the exhibit(s) into an envelope and locks it in the old narcotic cupboard until the exhibit(s) is turned over to a law enforcement officer.
 - The Charge RN and Circulating RN need to place their signature across the seal of the envelope and cover the signatures with clear cellophane tape.
 - The Charge RN will keep the locked cupboard key on his/her person until a law enforcement officer takes control of the exhibit(s)
 - When the exhibit is transferred, the following information will be provided and must be documented on the patient's chart (add nurses notes if chart already gone to floor):
 - Date and time of transfer
 - Person giving the exhibit
 - Person receiving the exhibit
 - Receiving officer's name, badge number and jurisdiction
 - Integrity of the container/envelope in order to establish that there has been no evidence of tampering, such as loose seal or ton envelope (example: *exhibit envelope intact*)

Documentation:

"Continuity of Evidence" form (VCH.CO.0044)

http://print.vch.ca/VCH_FORMS/VCH/CO/VCH.CO.0044.PDF

"Request for Release of Information to Law Enforcement or Safety Agency" form (VCH.0044)

http://print.vch.ca/VCH_FORMS/VCH/VCH.0044.PDF

OR Record (00051804)

Related Documents:

OR Dress Code policy

http://www.vcha.ca/policies_manuals/patient_care_manual/acute_care/specialty_areas/operating_room/_docs/binary_53644.pdf

VCH Policy IM_255 “Release of patient or Client Personal Information and Personal Belongings to Police and other Agencies”.

http://www.vcha.ca/policies_manuals/reg_policy_business_affairs/foi_office/_docs/binary_24203.pdf

VCH Policy IM_101 “information Privacy and Confidentiality”.

http://www.vcha.ca/policies_manuals/reg_policy_business_affairs/information_privacy/_docs/binary_24194.pdf

VCH Infection Control Manual (2010)

http://vchconnect.vch.ca/programs_services/infection_control/guidelines/guidelines/_docs/guidelines/binary_10354.pdf

References:

Coastal HSDA. Policy: POCG A-15: Handling Medicolegal Evidence in the Operating Room (OR). Revised June, 2011.

Early, S. Forensic nursing and the peri operative nurse. Slide presentation note (February, 11, 2012).

BC Freedom of Information and protection of privacy Act (FOIPPA)

Operating Room Nurses Association of Canada. (2011) Standards, Guidelines, and Positions Statements for Perioperative Registered Nursing Practice.

Porteous, J. (2005). *Don't tip the scales: care for patients involved in a police investigation*. Canadian Operating Room Nursing Journal. 23(3), 12-14, 16.

Rothrock, Jane C. (2007 – 13th Edition). *Alexander's care of the patient in Surgery*. Mosby: St. Louis.

Developed By:

Perioperative Nurse Clinician – Lion's Gate Hospital, Coastal HSDA	June 2011
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Endorsed By:

Coastal Area Nursing Practice Advisory Council (CANPAC)	March 2, 2011
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Clinical Resource Nurse, OR	July 27, 2012 (adapted for Richmond)
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