

Confidentiality

Professionals are not allowed to share confidential information their clients discuss with them. This is called the duty of professional secrecy. This duty exists so people can open up freely if they need help, and professionals can take whatever steps are necessary.

Professional secrecy protects different types of information. Examples include a patient's conversation with a psychologist, a social worker's case notes and a lawyer's legal opinion. Professional secrecy can also protect a person's identity. For example, a doctor is not allowed to tell the parents of a 16-year-old that their daughter received medical care, even if the reason for the visit is not mentioned.

Professional secrecy protects the client, but not the professional.

In general, a professional cannot be forced to talk about protected information that concerns a client. It is the client's decision whether or not to reveal the confidential information, or whether to give the professional permission to share it.

Conditions for Professional Secrecy to Apply

Not all the information you give to a professional is protected. Professional secrecy applies if these three conditions are met:

1. The person who receives the information has a duty to respect the client's confidentiality.

Every professional who belongs to a professional order has a duty to respect professional secrecy. (An order is an association that oversees a profession.) This includes doctors, psychologists, nurses and lawyers, as well as hundreds of thousands of members belonging to Quebec's 40 or so professional orders. Professional secrecy also applies to priests, ministers, pastors and other spiritual advisors who hear confession.

2. The information is private.

The information was shared with the understanding that it would be kept private, that is, not told to anyone else. For example, when a patient authorizes a doctor to send medical records to an insurance company, the information is no longer considered confidential as regards the insurer.

3. The information is shared as part of the professional's job.

Only the information that involves the relationship between the professional and the client is protected. This means only the information shared with professionals as part of their job is covered. So, if you tell your doctor stories about your children, this is not covered by professional secrecy. But if you tell the doctor about a health problem, this information could be protected.

Lastly, a professional's co-workers and employees sometimes have access confidential information so they can do their jobs. Professional secrecy applies to them too. For example, a medical secretary who has to see a patient's information to schedule a follow-up appointment must continue to protect the information.

Confidentiality Not Respected: Solutions

If a professional does not respect your right to confidentiality, you can contact the disciplinary council of the professional order concerned, for example, the Collège des médecins (professional order for doctors) or the Barreau du Québec (professional order for lawyers). An investigation will be conducted to decide whether to proceed with a formal complaint against the professional. If the disciplinary committee decides the professional did not respect your right to confidentiality, it can impose penalties that range from a warning to not being allowed to work in the profession.

You can also go to court to sue the professional and ask for compensation.

In Court

According to the Quebec Charter of Human Rights and Freedoms, judges must make sure that professional secrecy is respected. For example, they may remind witnesses who have a duty to respect professional secrecy that they are not allowed to talk about a client's confidential information. Sometimes, judges also have to separate information that is covered by professional secrecy from information that is not.

Conflict of Interest

A conflict of interest in business normally refers to a situation in which an individual's personal interests conflict with the professional interests owed to their employer or the company in which they are invested. A conflict of interest arises when a person chooses personal gain over the duties to an organization in which they are a stakeholder or exploits their position for personal gain in some way.

All corporate board members have fiduciary duties and a duty of loyalty to the corporations they oversee.

If one of the directors chooses to take action that benefits them at the detriment of the firm, they are harming the company with a conflict of interest.

One example might be the board member of a property insurance company who votes on the induction of lower premiums for companies with fleet vehicles—when they, in fact, own a truck company. Even if the institution of lower premiums isn't a bad business move for the insurer, it could still be considered a conflict of interest because the board member has a special interest in the outcome.

In legal circles, representation by a lawyer or party with a vested interest in the outcome of the trial would be considered a conflict of interest, and the representation would not be allowed.

Additionally, judges who have a relationship with one of the parties involved in a case or lawsuit will recuse themselves from presiding over the case.

Special Considerations

A conflict of interest may lead to legal ramifications as well as job loss. However, if there is a perceived conflict of interest and the person has not yet acted maliciously, it's possible to remove that person from the situation or decision in which a possible conflict of interest can arise. Using the prior example of a board member who owns a truck company, they could simply remove themselves from all decisions that could positively or negatively affect their personal business.

Common Types of Conflicts of Interest

Self-dealing is the most common type of conflict of interest in the business world. It occurs when a management-level professional accepts a transaction from another organization that benefits the manager and harms the company or the company's clients.

Gift issuance is also a very common conflict of interest. It happens when a corporate manager or officer accepts a gift from a client or a similar type of person. Companies normally circumvent this issue by prohibiting gifts from customers to individual employees.

Troublesome situations may also arise when, in the course of professional duties, an individual collects confidential information. Any information of this type used for personal gain by an employee is a huge conflict of interest, at least in the United States. The financial industry constantly grapples with this type of conflict of interest in the form of insider trading.

Finally, the hiring of, or showing favorable workplace treatment to, a relative or spouse—known as nepotism—can result in a potential conflict of interest.

Occupational crime

Occupational crime is crime that is committed through opportunity created in the course of legal occupation. Thefts of company property, vandalism, the misuse of information and many other activities come under the rubric of occupational crime. The concept of occupational crime - as one of the principal forms of white collar crime - has been quite familiar and widely invoked since the publication of Clinard and Quinney's influential *Criminal Behavior Systems: A Typology*. More recently, however, the term occupational crime has been applied to activities quite removed from the original meaning of white collar crime, and it has been used interchangeably with such terms as occupational deviance and workplace crime. In the interest of greater conceptual clarity within the field of white collar crime the argument is made here for restricting the term 'occupational crime' to illegal and unethical activities committed for individual financial gain - or to avoid financial loss - in the context of a legitimate occupation. The term 'occupational deviance' is better reserved for deviation from occupational norms (e.g. drinking on the job; sexual harassment), and the term 'workplace crime' is better reserved for conventional forms of crime committed in the workplace (e.g. rape; assault). The conceptual conflation of fundamentally dissimilar activities hinders theoretical, empirical, and policy-related progress in the field of white collar crime studies.