

CONFIDENTIALITY - EDUCATIONAL GUIDE

PURPOSE

The purpose of this document is to provide an educational guide that addresses the legal and ethical reasons for health care providers to maintain patient confidentiality. This guideline augments, but does not supersede, the Administration policy No. 158B or each individual departmental policy regarding confidentiality of health information.

BACKGROUND

Confidentiality is a basic expectation of patients entering a health care institution. In essence, confidentiality means that information provided by or about a patient will not be revealed to anyone not involved in the patient's care without the consent of the patient. This information includes all information about patients and their families, including health care, financial, and social information.

Confidentiality serves two important functions in medicine. "First, it acknowledges respect for the patient's sense of individuality and privacy. Second, confidentiality is important in improving the patient's health care--a basic goal of medicine."¹ The bond of trust that is formed between the patient and health care provider allows the patient to communicate in an honest and open manner. The result is more appropriate treatment.

As health care providers, we have a legal and ethical responsibility to safeguard the privacy of all patients and to protect the confidentiality of their health care information. A breach of confidentiality can give rise to adverse consequences which may impact on the patient, the community, and the Medical Center. In addition, a breach of confidentiality can be a basis for liability in litigation.

GUIDELINES - Legal and Ethical Considerations

Professional codes of ethics, as well as the Patient's Bill of Rights, emphasize our legal and ethical responsibility as health care providers to safeguard the privacy of all patients and to protect the confidentiality of their health care information.

- The Code of Medical Ethics (AMA, 1994) states, "The information disclosed to a physician during the course of the relationship between physician and patient is confidential to the greatest possible degree."
- The Code for Nurses with Interpretive Statements (ANA, 1986) states, "The rights, well-being and safety of the individual client should be the determining factors in arriving at any professional judgement concerning the disposition of confidential information received from the client relevant to his or her treatment."
- New York State Department of Health, Acute Care: Patient's Bill of Rights - Right No. 13 assures "Privacy while in the hospital and confidentiality of all information and records regarding your care."

¹ M. Seigler, "Confidentiality in Medicine--A Decrepit Concept," *NEJM* 307, no. 24 (December 1982): 1518-21.

- New York State Department of Health, Long-term care states, "The resident has the right to personal privacy and confidentiality of his or her personal and clinical records. Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups..."

When reviewing conflicts regarding confidentiality, one should consider the following:

- The fairness principle--do unto others as you would have them do unto you.
- Would I want this information broadly known in the community?
- Ask yourself if this information is relevant to your job. Do I need to know this information in order to perform my job? If not, then I should not have access to this information and/or the information should not be discussed.

While all would acknowledge the seriousness of the commitment to confidentiality, it is important to recognize ways in which it may be inadvertently breached:

- Allowing unauthorized access to medical records and computerized data.
- Disclosing a patient's health status to family members or other individuals without proper authorization.
- Providing information over the telephone to individuals whose identity has not been verified.
- Speaking about patients in public areas (including, but not limited to, the elevators, cafeteria, hallways, and nurses' stations) and in social situations off hospital grounds.
- Revealing inadvertently attained confidential patient information.

Confidentiality is not an absolute obligation on the part of health care providers. There are situations in which disclosure may occur:

- When specifically authorized or required by federal or state law, or by a court order (eg., reporting of communicable disease, suspected child abuse).
- When the safety of an innocent third party is at risk (eg., reporting threats to another's life made by a dangerous patient, disclosing confidential HIV related information to a contact without disclosing the protected individual's identity).
- When a patient is transferred from one facility to another.