

Maintaining Confidentiality

(1 credit)

After completing this section you should be able to:

1. Define confidentiality and explain concepts concerning confidentiality
2. Explain the Health Insurance Portability and Accountability Act (HIPAA)
3. List what is confidential information
4. List ways to protect residents' and clients' privacy
5. List possible outcomes of a breach of confidentiality

1. Define confidentiality and explain concepts concerning confidentiality

Confidentiality preserves the privacy of the persons in your care by holding all information related to them in strict confidence for use only by the team of care providers. This includes information gained verbally or from resident/client records.

The concepts of confidentiality include the following:

Do no harm.

In regard to gathering, recording and sharing verbal and written information, "do no harm" means that the resident/client and healthcare provider will have an honest relationship in which sensitive personal information should be/may be disclosed at no risk to the resident/client. In regard to privacy, "do no harm" means that the resident/client will not be unnecessarily exposed or intentionally embarrassed while physically examined or treated.

Be honest.

Deal honestly with residents/clients and peers.

Use information proactively.

Information shared will be used for the sole purpose of being accurate in diagnosis, prescribing the best treatment, and providing the best care.

Sharing information is irreversible.

Information once shared cannot be unshared, erased or deleted.

Threat of self-destruction.

A claim of confidential or private matters cannot be honored if concealment poses a threat to the resident/client (e.g. suicide).

2. Explain the Health Insurance Portability and Accountability Act (HIPAA)

To respect confidentiality means to keep private things private. You will learn confidential (private) information about your residents/clients. You may learn about health, finances, and relationships. Ethically and legally, you must protect this information. You should not tell anyone except members of the care team anything about your residents/clients.

Congress passed the Health Insurance Portability and Accountability Act (HIPAA)

in 1996 to regulate the common use of computers in businesses and healthcare facilities. It was refined and revised in 2001 and again in 2002. One reason for this law is to keep health information private and secure. All healthcare organizations must take special steps to protect health information. They and their employees can be fined and/or imprisoned if they break rules to protect patient privacy. This applies to all healthcare providers. This includes doctors, nurses, nursing assistants, and all care team members.

If privacy is violated unintentionally, there may still be civil liabilities, including a fine of \$1000 and up to one year in jail.

Criminal liabilities are in place for people who try to make money from confidential health information, such as trying to sell “guaranteed coverage” cancer insurance to a person who has cancer.

3. List what is confidential information

Under HIPAA, all health information must be kept private. It is called **protected health information (PHI)**. PHI includes the patient’s name, address, telephone number, social security number, e-mail address, physical characteristics, medical history and medical record number. Only those who must have information for care or to process records should know this information. It must not become known or used by anyone else. It must be kept confidential.

PHI includes the following topics:

Resident/Client Data

- Age
- Sex
- Race

- Religion
- Marital status
- Occupation
- Diagnosis
- Resident/client medical history
- Physical findings

Diagnostic Tests

- Blood work
- Biopsies

Lab Results

- Blood work
- MRIs
- CAT Scans
- X-rays

Body parts

- The body of the resident/client
- Dentures, artificial limbs

Physical contact

- Physical examinations
- Bathing
- Toileting
- Dressing



All healthcare documents/records must be secured within the facility and when transmitted to other healthcare business asso-

ciates. Charts and records must be kept under lock and key, and all Internet transactions must be encrypted. All healthcare facilities must give notification of all uses of PHI. All healthcare consumers must be informed of their rights and must sign an authorization for non-routine use and disclosure of information. Release of information is limited to the minimum information necessary.

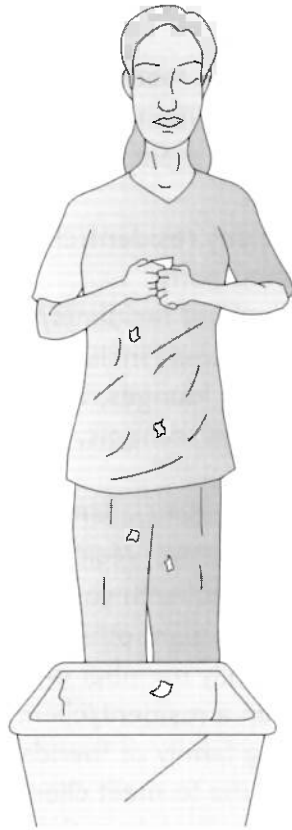
4. List ways to protect residents' and clients' privacy

Everyone is responsible for maintaining the HIPAA standards. Care team members cannot give out any resident/client information to anyone not directly involved in the resident/client's care. For example, if a neighbor asks you how a resident/client is doing, reply, "I'm sorry, but I cannot share that information. It's confidential." That is the correct response to anyone who does not have a legal reason to know about the resident/client.

Guidelines for protecting resident/client privacy and ensuring compliance with HIPAA include:

- Make sure you are in a private area when you listen to or read your messages.
- Know with whom you are speaking on the phone or sharing information with. If you are not sure, get a name and number. Call back after you get approval.
- Do not leave information for a client on an answering machine. Leave only your name and number when asking clients or family members to call you back.
- Make or accept telephone calls about clients—even to or from the agency—in a private area.
- When calling another client to let him or her know you are running late, be aware that Caller ID can identify the client from whose house you are calling. Use another phone not in the home.
- When talking to a care team member on the phone, do not use cellular phones. They can be scanned.
- Close the door and lower your voice when talking to other care team members about confidential resident/client information.
- Use confidential rooms for reports to other care team members.
- Post signs to prevent entry of unauthorized people.
- Do not give any resident/client information to a third party.
- Do not talk about residents/clients or in public. Public areas include elevators, grocery stores, lounges, waiting rooms, parking garages, schools, restaurants, etc.
- If you see a resident/client's family member or a former resident/client in public, be careful with your greeting. He or she may not want others to know about the family member or that he or she has been a resident/client.
- Do not bring family or friends to the facility or home to meet clients. Do not leave family or friends in the car while you are visiting a client.
- Refer any questions to your supervisor.
- Make sure nobody can see private and protected health or personal information on your computer screen while you are working.
- Log off when you are not on your computer. Computers must be secured when not in use.
- Do not give confidential information in e-mails. You do not know who has access to them.

- Make sure fax numbers are correct before faxing information. Use a cover sheet with a confidentiality statement.
- Store and file documents according to your facility's policy.
- Do not leave papers or documents where others may see them.
- Shred notes and discarded information regarding residents/clients.



- If you find documents with a resident/client's information, give them to the supervisor.

5. List possible outcomes of a breach of confidentiality

There are two types of outcomes of a breach of confidentiality—positive and negative.

Positive outcomes of a breach in confiden-

tiality include:

- Suspected abuse or neglect can be investigated.
- Possible future abuse or neglect may be prevented.
- The chain of infection may be broken.
- A suicide (or an attempt) may be stopped.
- Appropriate intervention may be initiated for the resident/client.

Do not assume that someone else will take care of getting the information to the proper person. Remember to always respect information you are given.

Negative outcomes of a breach in confidentiality include:

- The facility or agency may reprimand a healthcare worker, such as giving a verbal warning or a written warning attached to the worker's personnel file.
- The resident/client may suffer embarrassment and emotional damage.
- Irreversible damage may be done to the caregiver/care receiver relationship.
- The resident/client may file charges against the healthcare worker, staff, and facility.

All healthcare workers must follow HIPAA regulations no matter where they are or what they are doing. There are serious penalties for violating these rules.

Penalties differ depending upon the violation. They can include:

- Fines ranging from \$100 to \$250,000
- Prison sentences of up to ten years

Confidentiality is a legal and ethical obligation. It is part of respecting your residents/clients and their rights. Discussing a resident/client's care or personal affairs with anyone other than members of the care team violates the law.