Certified Nursing Assistant’s Confidentiality Responsibility
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2 In-Service Hours
Course Objectives:

1. Define confidentiality and related key terms

2. Define the concepts concerning confidentiality

3. Understand what is considered confidential information

4. Understand the consequences that comes with a breach confidentiality

5. Understand responsibilities as a healthcare worker with private and confidential information.

6. Understand about informed consent

7. Recognize confidentiality related to HIV/AIDS patients
Summary

Patient confidentiality and privacy are a very important aspect within our jobs in the healthcare industry. Each and every day patients place their trust into the hands of health care providers.

Maintaining confidentiality will ensure that laws and policies won’t be broke. With legality issues so much on the rise today, we should always be ever so mindful to the problems at hand when confidentiality issues are violated. Smart charting and being aware of your company policy and procedures will go a long way in protecting you legally as you do your best to give high quality care to your patients. Confidentiality issues are also a standard of practice related to ethical and professional healthcare.

Defining Key Terms

Confidentiality is a term that entrusted with private info and the confidence of another. This means that it is intended to be private or secret. This includes information gained verbally or from resident or client records. All information is considered confidential when it pertains to medical care and client records. As a health professional a patient’s medical history is confidential as well.

A Breach of Confidentiality is a security violation. Telling someone else other than a health professional that is not on the care team of the resident or client. If a release form is obtained from the resident or client, only then can the caregiver release the information.
Indiscretion is an action in which you inadvertently share confidential information. There is no bad intent associated with an indiscretion.

Informed consent is more than simply getting a patient to sign a written consent form. It is a process of communication between a patient and physician that results in the patient’s authorization or agreement to undergo a specific medical intervention.

This permission is given by filling out a legal consent form, which becomes part of the resident or client’s permanent record.

Private is defined as not available for the public’s viewing or knowledge.

Privileged information is a term that refers to all information shared between an attorney and his client. This information is confidential and is not admissible in court. If someone was able to find out what an attorney and his client spoke about, it couldn’t be used against his client in court because its privileged information.

Scope of practice is the duties and responsibilities of an assigned job as designated by education or law.
Concepts concerning confidentiality

- Do no harm
- Be honest
- Use information proactively
- Irreversible
- Threat of self destruction

Do no harm- In regard to gathering, recording and sharing verbal or written information, “does no harm” means that the resident and healthcare provider will have an honest relationship in which sensitive data should be and shall be disclosed at no risk to the resident or client that there will not be a breach in confidential issues. In regard to privacy, “do no harm” means that.

Absolutely no health professional intentionally let a resident /client feel embarrassed while physically examined or treated.

Be honest-While caring for residents/clients make sure you’re using the up most honestly. Whether you’re dealing with the residents family members use honesty. Don’t be afraid to say you made a mistake.

Use information proactively- The main purpose to share information to obtain the most accuracy when diagnosing a patient, or being accurate in diagnosis, prescribing the best recommended treatment, and providing the best care.
Irreversible- Information that is already shared and cannot be unshared, erased, or deleted. Before you state something about a patient/clients, think about what you say before you say it. Once it’s said it can’t be taken back its irreversible.

Threat of self destruction- A claim of confidential or private matters can not be honored if concealment poses a threat to the resident or client. For example, everything should be shared confidence, but if a patient/resident tell you that they want to kill their self. Under no circumstance can you keep that confidential. You have to share this information to prevent a possible suicide.

**What is considered confidential?**

Information and actions that are confidential and private include, but are not limited to the following:

- Age
- Sex
- Race
- Religion
- Marital status
- Occupation
- Health information
- Social security number
- Insurance information
- Health conditions and problems
Confidentiality is held to a much higher standard, as it was stated in the beginning of this course. This is due to the rules and laws that have gone into affect under a law placed into effect by Congress and the Dept. of Health and Human Services. If you are unfamiliar with HIPAA, it is highly recommended to research HIPAA and know how this law affects YOU! It does and will affect any personnel in the healthcare industry, whether it's indirectly or directly. The fines and penalties that come to those who violate the law are quite intense.

Also considered confidential are:

- Lab tests and X-rays
- Blood work
- MRI and CT scan
- Any diagnostic procedure done on the patient
- Any physical contact that involves examination
- Personal care
- Toileting and dressing

Breach of Confidentiality

There are two types of OUTCOMES related to breach of confidentiality. Outcome can be POSITIVE or NEGATIVE.
**Positive outcomes**

Positive outcomes of a breach in confidentiality include:

- If you suspect abuse or neglect, it can be investigated
- Possible future abuse and neglect may be avoided or prevented
- A suicide or attempted suicide needs to be prevented
- Appropriate interventions may be initiated for a resident or client to get help in appropriate related areas.

Don’t think that someone else will get the information to the proper person.

You’re assigned to a resident /client that’s your job. Make sure all bases are covered and the resident or client receives appropriate interventions as needed. Remember to always respect information given to you with; pretend like it was your personal confidential information. You wouldn’t want it ending up in the wrong hands.

**Negative outcomes**

Negative outcomes of a breach in confidentiality include:

- The facility or agency may reprimand a healthcare worker, such as disciplinary action against the employee for breaching confidentiality related to patient care issues.
- The resident or client may suffer embarrassment and emotional distress
- Irreversible damage may be done to the caregiver/ care receiver relationship.
• The resident or client can file charges against the healthcare worker, staff, and facility. Usually when a resident or client sues a facility and staff for breach of confidentiality they always win.

Remember, often times it is not WHAT you said, But rather HOW you said it and more importantly, WHO did you tell. Never forget that lives are affected by breaching confidentiality.

Responsibilities of Healthcare Workers with Private and Confidential Information.

Guidelines for protecting private and confidential information include the following:
• Discuss resident and client information ONLY in a place that is away from other residents, families and visitors. Only to the appropriate individual
• No report should be given at the nurses’ station, because this isn’t a private area, it’s a big opportunity for information to be overheard.
• Never discuss anything about patients in an elevator, in a hallway, cafeteria, or any other public place within or outside of the facility.
• Discuss resident information only with appropriate staff. Do not ever release information to media, newspapers or social media. Don’t release information to the police without first alerting a supervisor. Instead refer them to an appropriate manager.
• Do not keep a copy or make copies of resident/client information.
• The end of shift CNA needs to make sure when their shift is completed they discard all reports.
• Any item with a resident’s name or identifying medical information should be shredded and not placed in the same trash that is used for the public.

Responsibilities regarding private and confidential information include:

Research what you are expected: Check your job description. Ask your supervisor to explain anything you don’t understand.

Never discuss information that don’t understand and not sure of, make sure you are sharing the right information with the appropriate residents/clients. Want not all friends and family are to know about residents / clients information, Only if the resident/client authorize medical officials to disclose it.

Breaks or leaks should not consist of speaking about a resident/client.

Practice care that is private and behavior that guards confidence.

Always keep your supervisor informed with everything. Not only protects the facility you work for, it also protects you. Keep open lines of communication between your superior and yourself.
Patient privacy and confidentiality generally refers to a patient’s right to:

- Decide what personal health information can be shared with others
- Decide how that information can be shared, and with whom it may be shared
- Don’t discussed information about resident or client in areas where others could overhear

Privacy also refers to the right to have physical privacy (curtains pulled)

Patient confidentiality generally refers to a patient's trust that health information will only be shared with those who need to know, and in order to provide appropriate care.

For care to be appropriate authorized health care staff need full access to a patient’s medical record. But, patients may withhold important information if they fear it will not be kept private and confidential. By ensuring patient privacy and confidentiality, your facility will help patients feel a sense of trust and help assure them they will receive appropriate care. A patient will not feel comfortable or feel like they can trust you nor your facility.

Protecting patient privacy and confidentiality is vital to your organizations mission. It helps increase patient’s satisfaction and sense of dignity. It helps ensure that patients get the most effective care.
Protecting Patient Privacy and Confidentiality

Can Be a Challenge

New Technology and the growing use of computers help improve health care. This also can cause wrong information to be place in the data, and make it easier to illegally share information. For example, staff must make sure to protect patient privacy and confidentiality when using modern technology such as:

- Fax machines
- e-mail and other computer networks
- Electronic records
- Telephones and voice mail systems

Ethics and Standards

Ethics and Standards for professional behavior are very important in health care. For example, security measures can protect patient data only if staff uses them correctly and consistently.

Breach of confidentiality and patient privacy can result in lawsuits that will cost a lot for healthcare providers and facilities. By understanding and following your facility’s policies and guidelines, you can help prevent the
closing of your facility or the termination of your career.

**Federal and State Governments**

Federal and State Governments recognize that patient privacy and confidentiality is a critical issue. Actions they have taken include passing HIPAA and Patient Bill of Rights.

HIPAA is the Health Insurance Portability and Accountability Act. Congress passed HIPAA in 1996. HIPAA set deadlines for Congress and Federal agencies to pass laws to protect the confidentiality of medical records.

Patient Bill of Rights: Some states have a bill of rights that ensures a patient's right to quality care. This includes the right to have medical information kept private and confidential. The Federal government is working on similar laws.

**Who else monitors patient privacy?**

Agencies include:
- Joint Commission on Accreditation of Healthcare Organizations (JCAHO) This national organization accredits health care facilities that meet JCAHO standards. Patient confidentiality and privacy is an important part of these standards. If JCAHO surveyors evaluate your organization, they will expect you to know your organizations mission,
your organizations policies for protecting confidentiality, what efforts your department is making to improve patient privacy and confidentiality, and how your job relates to all of these.

- **National Committee for Quality Assurance (NCQA)** This National organization evaluates managed care plans. It also accredits managed care organizations. NCQA teamed up with JCAHO to develop special recommendations to help managed care organizations protect patient privacy and confidentiality. Areas that these recommendations address include: staff education, patient consent, and systems to ensure confidentiality.

- **Health Care Financing Administration (HCFA)** HCFA is a part of the U.S. Department of Health and Human Services. It administers Medicare, Medicaid and Child Health Insurance Programs. HCFA’s responsibilities include: ensuring that Medicare, Medicaid and the Child Health Insurance Programs are properly run by state agencies. HCFA also plays a part in evaluating health care facilities and services.

Healthcare facilities and providers must meet strict guidelines to be certified by HCFA. These include guidelines related to patient privacy and confidentiality.

You can help build a foundation for protecting patient privacy and
confidentiality. The best way to ensure meeting legal requirements and your facility’s standards is to UNDERSTAND POLICY AND PROCEDURES, FOLLOW IT.

All staff must get familiar with
- Who has access to patient information
- Security measures for handling patient health information
- Proper procedures for destroying patient health information

Developing an environment of trust is another key factor. Trust develops when patients see a facility’s commitment to protecting privacy and confidentiality. Staff should handle medical records smart and carefully. Be sure to never leave them open or unattended in public areas where other unauthorized people can gain access to it. Receive informed consent from residents/clients whenever health information needs to be released. This included MARS and TARS, which need to be closed when not in use, and removed from the tops of medication carts and treatment carts when not in use as well.

Research your facility’s “need to know policy”. Healthcare staff should be the only ones that have access to information needed for their job. It is important to keep researching what information really needs to be known.
The question you need to ask yourself, “Do I want to know this information or do I NEED to know it?” “Do I have a right to know this information?”

Follow your facility’s policies and procedures; using common sense is one of the most important ways to help protect patient privacy and confidentiality.

For example: Think before you speak, Be aware of whether someone is listening or if others can over hear your conversation, If you think that certain information might be confidential, treat it as such.

Show courtesy and respect to yourself and to the person in your care.

This is a key part of protecting patient privacy and confidentiality. It is important to treat all patients with respect and honesty, Handle patients’ medical records with the same care that you would want your own medical records handled.

Respect every patient's right to privacy.

INFORMED CONSENT

Informed consent involves giving patient needed information for making decisions about his or her care. One aspect involves the informed and
voluntary release of confidential health information.

Informed consent policies should reflect today’s high technological environment. Patients must be informed who will receive information and how it will be used.

For consent to be truly informed the patient must be told:
- Who the information will be sent to
- Who requested the information
- How the information will be used
- How long the consent is valid

The patient must also be able to make decisions as defined by law.

**The law states, in general:**
Every adult is considered to be competent to make all of his or her decisions unless proven otherwise by a court of law. If the patient is proven incompetent, the patient’s proxy (surrogate) or court appointed guardian makes decisions on his or her behalf.

When the patient is a minor, a parent or legal guardian is generally asked to give consent. Law states a minor cannot make any decision dealing with their health. Parent or legal guardian will have to make the decision for the minor.

Healthcare staff must use language that patient can understand or get the appropriate person to speak to them; a qualified interpreter may be needed.
It must be clear that the patient understands the information by discussing questions a patient has, and giving more written or verbal information. Ask questions for example, “Who do you think will see your medical records?” which will help you determine if they understand you.

Remember that consent must be voluntary- the patient must give consent without feeling pressured. No patient should feel obligated to give consent if they don’t want to. Consent that is not voluntary is not legally binding.

Patients should have the chance to review their medical records before giving informed consent.

**Some information has to be released**

Some information must be released with or without consent. In general, healthcare staff must report abuse, criminal activity, or threats from patients.

**Confidentiality and HIV/AIDS**

Every state requires reporting of HIV positive status and AIDS cases. While the data is used for infection control purposes, the requirement is still controversial, because in some states, facilities must report a patient’s name, address or other identifying information.
It’s very important to protect HIV/AIDS information. Anyone who improperly releases a patient’s HIV/AIDS status can face serious legal action, as well as severe reprimand by the Board of Nursing. Laws vary from state to state, be sure to research your state’s laws in regards to HIV and AIDS.

**Other related rules regarding confidentiality**

In many states, Minors can give consent for certain medical care. This includes care for pregnancy, sexually transmitted diseases, and drug dependency. Some minors, such as those who are married or in the armed forces, can make all their own decisions about medical care. It’s imperative to research different states laws.

Special laws and policies apply to the release of patient information mental health or substance abuse. Staff needs to be aware of any laws and policies affect release of information to the patient and others.

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