

ETHICS & CONFIDENTIALITY

MODULE 2

ALLIED TRADES ASSISTANCE
PROGRAM

PREVENTATIVE EDUCATION:
SUBSTANCE USE DISORDER



Confidentiality - “spoken, written, acted on, etc., in strict privacy or secrecy; secret”

People receiving substance use disorder and mental health services are protected by law; it is against the law to release most information about a client’s treatment, unless authorized by the client.

As you learned in the module “What is an EAP?” there are some exceptions.

WHAT IS CONFIDENTIALITY


CONFIDENTIALITY RULES ARE STRICT.

- The information kept confidential includes:
 - Identity
 - Attendance
 - Progress Notes
 - Diagnosis
 - Status and involvement in the program
 - Treatment plans
 - Physical whereabouts



YOU HAVE PRIVACY!

Under the Confidentiality Regulation, 42 Code of Federal Regulations (CFR) 2, information relating to substance use and alcohol treatment must be handled with a higher degree of confidentiality than other medical information.



TOP SECRET

The federal confidentiality law applies to all programs providing diagnosis, treatment, or referral services



Primary intent is to prevent disclosure of information – both written and verbal – that would identify a person as receiving substance use and/or mental health treatment

Health

Insurance

Portability

Accountability

Act



HIPAA

Health Insurance Portability and Accountability Act

Passed in congress in 1996

HIPAA DOES THE FOLLOWING:

- Provides the ability **to transfer and continue health insurance coverage** for millions of American workers and their families **when they change or lose their jobs.**
- **Reduces** health care **fraud** and **abuse**
- **Mandates** industry-wide **standards** for health care information on electronic billing and other processed
- Requires the **protection** and confidential handling of protected health information
- Requires health care providers and organizations, as well as their business associates, **develop and follow procedures that ensure the confidentiality** and security of protected health information (PHI) when it is transferred, received, handled, or shared- this applies to all forms of PHI, including **paper, oral, electronic**, etc.
- Furthermore, only the **minimum** health **information** necessary to conduct business **is to be used or shared.**



EXCEPTIONS

EXCEPTIONS TO THE GENERAL
CONFIDENTIALITY CONDITIONS:

HIPAA EXCEPTIONS

Patient consent – clients may sign a consent form to release specific information to specific people

Internal Communications – information may be shared among staff within a program, only if there is a legitimate need to know

Disclosures without identification of client – Programs may release information that does not include any identifying information about a client

Medical emergencies – If a situation poses an immediate threat to the health of the client or any other individual, and requires immediate medical intervention, such as a drug over dose or suicide attempt, necessary information may be disclosed to medical personnel.

EXCEPTIONS CONTINUED..

- **Court orders** – State and federal courts may issue orders authorizing programs to release information
 - However, there are procedures in place when court orders are issued:
 - The client will be notified of the request
 - The program and the clients must have an opportunity to make an oral or written statement to the court
 - Also, five criteria must be met before a court order can be released:
 - The crime is extremely serious (ex: threatening to cause death or serious injury)
 - The records sought will probably contain information that is significant to the investigation
 - There is no other feasible way to obtain the information
 - The public interest in disclosure outweighs any harm to the client, doctor-patient relationships and the agency's ability to provide services
 - The program has an opportunity to be represented by independent law counsel when law enforcement personnel seek the order

EXCEPTIONS CONTINUED..

- Research and audits – Researchers may obtain client-identifying information if certain precautions are applied
- Suspected Child and elder abuse reports – It is mandated by most state statutes that any information regarding suspected child abuse or elder abuse is reported.

DUTY TO WARN



- If a client poses a threat to somebody's life, the therapist must inform the intended victim.
 - This duty originated in Tarasoff versus Regents case:
 - A college student divulged to his therapist that he intended to kill another student. The therapist considered the threat to be serious and contacted the campus police: however, she did not warn the other student or anyone in her life. When this student returned from a trip overseas, she was murdered.

EXCEPTIONS CONTINUED:

- Penalties of law violation
 - Any individual who violates federal confidentiality rules has committed a misdemeanor criminal offense.
 - The penalty for the first offense is a fine, not less than \$500, and it is not more than \$5000 for each and every offense after that
 - A jail sentence cannot be given for the first or second offense; however, the client has the right to sue for damages.

ETHICS

- What are Ethics?
 - Act in the best interest of the client and in the best interest of the public.
 - Conduct business in an honest and ethical manner
 - Refraining from conflicts of interest
 - Example: Relationships with clients outside of the program.



**IF YOU OR SOMEONE
YOU KNOW IS
SUFFERING FROM
SUBSTANCE USE OR
MENTAL HEALTH
ISSUES, REACH OUT
TO SOMEONE FOR
ASSISTANCE.**

- Your EAP can help -

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