

Overview

You assess needs, provide information and education to patients, give advice, distribute and discuss written materials, refer patients to other providers and programs in your community if necessary and monitor their progress. It is important to become proficient in documenting that information in the patient's record for continuity of care and for legal reasons (The Regional Training Center for Family Planning, 1992).

Tips for Documenting Substance Use

- ✓ Document observable behavior, appearance, and direct quotations.
- ✓ Do NOT diagnose or include words that could be construed as diagnosis (such as "abuse" "alcoholic" "addict" "dependent" "co-dependent" etc.) unless it is in fact a substance-related diagnosis and treated as such. Instead, document:

*amount,
frequency,
type of substance used, and
most recent use*
- ✓ Document patient's physical appearance, mood, and behaviors which may be related to substance use.
- ✓ Document any educational materials which were provided.
- ✓ Document any referrals made as well as the follow-up to those referrals.
- ✓ Have the proper "Consent for the Release of Confidential Information" forms signed.

Confidentiality & Documentation

Information that is documented may be considered confidential and protected by the Federal Confidentiality Laws and Regulations. *Any substance abuse information* is considered confidential and protected by Federal Laws and Guidelines if your program meets the criteria (see prior section) or if it is obtained from a program that meets the criteria (for example, you receive progress reports from a substance abuse treatment center). This information must be documented and stored in such a way that access is limited to appropriate providers and may not be released unless the proper "Consent for the Release of Confidentiality" forms have been signed by the patient.

Confidentiality & Modern Technology

Computers: When records were exclusively on paper, they could be made more secure. Now, the same patient record may be linked via a network to other desk top computers in a clinic. It can also be copied onto a disc and carried from location to location.

The basic principles guiding the collection, storage and disclosure of patient records apply no matter how the records are gathered and disclosed.

Laptop Computers: If information can be secured and patient-identifying information protected from disclosure, staff could be allowed to travel with patient files on laptop.

Consent: In the event that all of a program's files are stored and disclosed electronically, the program will either need to use a scanning device to input the patient's signature or will need to have an individual patient identifying system by which the patient, and no one else, can indicate consent on the computer file.

Locking and blocking electronic files. A second issue is that using networks and discs increases the number of people in an agency who have access to patient records. The solution is to create a parallel system to the locked file by using computer file security.

Just as with paper records, staff access to computerized records **must be limited** to the staff who need the information for specific tasks.

Related Issues

Cellular phones: In general it is probably NOT a good idea to use a cellular phone to discuss confidential information.

Voice mail: If one assumes that voice "mail" has the same security as mail which is addressed to an individual, then patient-identifying information can probably be left on voice mail. However, staff should be cautious about leaving detailed messages on a voice mail system when they do not know the degree of confidentiality provided.

Faxing: The federal regulations do not require programs to have "original" consent forms in their possession in order to make disclosures. If the program acts with reasonable caution, there is no reason not to accept a fax or a photocopy of a consent form.

When faxing patient-identifying records know whether the fax will be received in a confidential manner. It makes sense for a program to find out where a receiving fax machine is located, and who has access to it, before sending a fax.

Another suggestion for faxing records is that when a program has a proper consent form from a patient who wants information faxed to a third party, the program should first fax the third party a "test sheet" or otherwise verify that it has the third party's correct fax number, and then fax the required information.

Finally, a cover sheet with the appropriate notification on the prohibition of re-disclosure of confidential information should accompany any confidential information (see Handout 2, Section 2).

Reprinted from the 1995 edition of **Confidentiality: A Guide to the Federal Law and Regulations** by the Legal Action Center. To order a copy of the book, please send your check for \$29.95 each (\$25 for 3 or more copies) to Legal Action Center, 153 Waverly Place, New York, NY 10014-3872