



## **ETHICS COLUMN**

What does it mean to maintain **CONFIDENTIALITY** ?

Keeping patient/client information secret is one of the most fundamental ethical duties of all health professionals. What is not always clear is how absolute this requirement is and when and how disclosure may or should be made.

Guidelines and prescriptions for maintaining confidentiality are found in several publications. These include the HPCSA Rules ; Codes of Ethics, our Standards of Practice Document; HPCSA Codes of Conduct; Case Law; The Constitution of the Republic; Legislation, and The Patients Right Charter

Our closer review certain fundamental principles become obvious.

1. Maintenance of confidentiality is a basic health professional duty/obligation
2. Confidentiality is not an absolute, which means that certain circumstances may require or even demand disclosure
3. Disclosure is always a last resort and consent is always sought before disclosure may be made

What should be kept confidential ?

- Any information which you ought to; what a reasonable (most) client would wish the practitioner to keep secret and that which a particular client may want you to keep secret
- The Standards of practice for Occupational Therapists (HPCSA – Professional Board – February 2006) states that a registered occupational therapist “keeps confidential all information learnt about a patient/client that ought not to be disclosed”.

When may disclosure be made ?

- When the patient/client or guardian gives consent for you to do so

- When you are ordered by a Court of Law to do so
- When you have a moral obligation to make disclosure for a 3<sup>rd</sup> party where genuine or serious risk of harm exists (the principle : Protective privilege (privacy) ends where public peril (danger) begins")
- It is in the patient/clients interest (eg. insurance claim)
- Statutory law requires disclosure as in the case of communicable disease, suspected child/elder abuse, dangerous behavior
- When you need to defend yourself in a disciplinary hearing

When making a disclosure it is always the last resort and must be done firstly with consent of the patient/client, should this not be given and a real danger to an identified 3<sup>rd</sup> party exist (eg. to be infected with HIV) the individual needs to be counseled as to the danger to 3<sup>rd</sup> party and other consequences, informed of the need for disclosure of information and offered support whilst making such disclosure – but if all fails the patient/client needs to be informed that you are ethically bound to disclosure of such information as will protect a member of the public.

Some practical implications :

- You are responsible to ensure that your staff (secretarial) are aware of and abide by ethical rules
- Ensure confidential custody of all information sent to other parties (eg. that reports to parents are received by the parent and is not open to others).

## EVERYDAY ETHICS

### **Advertising Services – What is right and what is not ?**

- As practitioner you we can promote your practice through any of the media (newspapers, magazines, public notice boards, notices and pamphlets)  
How we do it is however determined by our profession and the HPCSA.
- A few principles apply when promoting services.
  - First and foremost we need to keep in mind that patients and their families who are ill or have disabilities may not be well informed and are particularly vulnerable to persuasive influences. They may be misled by exaggerated or even dishonest claims of success or need for expensive equipment or intervention. It is our professional ethical duty to ensure that this never happens and that our patients/clients are not misled by the unprofessional promotion of our services or improper competitive activities.
  - Patients/clients may therefore only be gained through evidence of effective practice (i.e. word of mouth) and the provision of honest, factual information on stationery/notices
  - You may not promote yourself as better than others (eg. extensive experience in Vocational Rehabilitation)
  - You may not promote yourself by improperly drawing attention to your own practice through the use of titles (eg. Professor ),attainments (eg. prize for best occupational therapist); personal qualities, superior knowledge skills or length of experience (eg. 15 years of excellent service in paediatrics; best service in the area !)  
Regardless of the fact that it may be true – we may not use such information to canvass patients/clients
  - You may not use inappropriate notices (eg. huge banners) special offers (eg. 20% discount) or special facilities (eg. use of swimming pool) as part of your advertisement
  - Discounts can only be negotiated after you have accepted a client/patient for intervention

- You may not use underhanded devious or means to get referrals such as guarantees of recovery; special benefits not related to occupational therapy service (eg. next 10 clients get free toy box).
- Notices may not contain photos. Logos maybe used but these should not be anatomical structures, or contain the word hospital or clinic. Where more than one health care practitioner (eg. occupational therapy and physiotherapist) use a facility it may be called a Health Centre

What you may do !

1. Publish information using all the media
2. Write an article about occupational therapy for example for Occupational Therapy Week under your name and title (BUT you may not divulge in details of your practice – this will be seen as touting)
3. Any notice/brochure must be factual and honest and may contain the following :
  - 3.1 Name (first name and surname)
  - 3.2 Profession as registered with HPCSA (not in lay terms)
  - 3.3 Qualifications (professional and academic). Not short courses/workshops attended
  - 3.4 Address, contact numbers
  - 3.5 Fields of practice/Areas of interest (eg. paediatrics, general physical or you may list conditions or types of problems dealt with, but can not make claims about successes or experience)
  - 3.6 Hours of consultation
  - 3.7 Partnership/Directors/Associates
  - 3.8 Financial arrangements (eg. cash only, medical aid rates, no mention of discounts, specials – these can be negotiated later)
4. Pamphlets may be mailed to post boxes or delivered to homes but bulk distribution at shopping malls, or to passing motorists is not permissible Pamphlets may be made available for issue to existing patients at rooms of health care professionals and at public places such as libraries and museums
5. Information about change of address, new partners, services provided may be communicated to colleagues
6. Practice names are preferably kept to that of the practitioner(s); partners/associates

- The Bottom Line –

Keep it honest and factual !!

Direct any questions about advertising to the Editor-Focus.

Compiled by Dain van der Reyden (Ethics Committee OTASA)

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