



AMERICAN
SPEECH-LANGUAGE-
HEARING
ASSOCIATION

Confidentiality

Board of Ethics

Issues in Ethics Statements: Definition

From time to time, the Board of Ethics determines that members and certificate holders can benefit from additional analysis and instruction concerning a specific issue of ethical conduct. Issues in Ethics statements are intended to heighten sensitivity and increase awareness. They are illustrative of the Code of Ethics and intended to promote thoughtful consideration of ethical issues. They may assist members and certificate holders in engaging in self-guided ethical decision-making. These statements do not absolutely prohibit or require specified activity. The facts and circumstances surrounding a matter of concern will determine whether the activity is ethical. This Issues in Ethics statement was revised to update references to the Code of Ethics as revised in 2003.

Introduction

This Issues in Ethics statement is presented for the guidance of ASHA members and certificate holders in matters relating to confidentiality.

ASHA members and certificate holders are employed in a variety of work settings and are faced daily with issues of confidentiality of client/student/patient information. Some examples include records management, information exchanged in the course of the client-clinician relationship, disclosure, release of information, access to records, exchange of records between professionals. The following information is provided in an attempt to heighten sensitivity, increase awareness, and enhance judgment

in situations dealing with confidentiality of information.

ASHA members and certificate holders are also faced with issues of confidentiality in their relationships with colleagues and information they obtain as they serve in roles such as site visitors, consultants, supervisors, or reviewers.

Background

Confidentiality of client/student/patient information is specifically addressed by the ASHA Code of Ethics through Principle of Ethics I, Rules K and L.

K. Individuals shall adequately maintain and appropriately secure records of professional services rendered, research and scholarly activities conducted, and products dispensed and shall allow access to these records only when authorized or when required by law.

L. Individuals shall not reveal, without authorization, any professional or personal information about identified persons served professionally or identified participants involved in research and scholarly activities unless required by law to do so, or unless doing so is necessary to protect the welfare of the person or of the community or otherwise required by law.

The ASHA Code of Ethics, through Principle of Ethics IV, Rules B, F, I, and J, addresses confidentiality in relationships with colleagues.

B. Individuals shall not engage in dishonesty, fraud, deceit, misrepresentation, sexual harassment, or any other form of conduct that adversely reflects on the professions or on the individual's fitness to serve persons professionally.

F. Individuals' statements to colleagues about professional services, research results, and products shall adhere to prevailing professional standards and shall contain no misrepresentations.

Reference this material as: American Speech-Language-Hearing Association. (2004). Confidentiality. *ASHA Supplement 24*, 43-45.

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I. Individuals who have reason to believe that the Code of Ethics has been violated shall inform the Board of Ethics.

J. Individuals shall comply fully with policies of the Board of Ethics in its consideration and adjudication of complaints of violation of the Code of Ethics.

Confidentiality of Client/Student/Patient Information

Discussion

Confidentiality of privileged information stems from codes of ethics, federal law, and state law. If one works in an educational setting (such as a college or school) there are relevant laws that specify the management of school records including access to information and release of information. If one works in a health care setting (such as a hospital, nursing facility, or rehabilitation setting) there are relevant laws for the management of medical records. If one works in a private practice setting confidentiality of client/student/patient information must be protected. Speech-language pathologists and audiologists, regardless of setting, are responsible for obtaining and adhering to laws and guidance policies for records management in that setting.

Records management guidance will typically cover

- record storage;
- ownership of records;
- access of clients and their legal guardians to records;
- record retention and statutes of limitation;
- transfer of information;
- requests for information by someone other than the client/student or the client's/student's legal guardian; and
- use of client/student records for research.

Guidance

1. Speech-language pathologists and audiologists must be aware of who owns the records. In a medical setting, the hospital owns the record. In a private practice the individual who is legally responsible for the practice owns the records. In a school setting, the school district owns the record. For example, a school district maintains one "official" record on each student. Speech-language pathology or audiology reports are the property of the school district and may not be released to anyone without appropriate, signed releases of information. A report prepared by a speech-language pathologist or audiologist in

the course of employment in a particular setting is not "owned" by the speech-language pathologist or audiologist.

2. Persons other than the client/student may request information about the client's communication problem. Requests might come from an off-site clinic supervisor, Clinical Fellowship supervisor, a professional who supervises student teachers, reporters, insurance companies, and government agencies. Again, information cannot be disclosed without signed releases.

3. It is important to be aware of what information is required and what information is appropriate to be included in the client's legal record and to exercise professional judgment in making notations in the client's/student's record.

4. Data and the personal identities of individual participants in clinical activities and research must be kept confidential. Some reasonable precautions to protect and respect the confidentiality of participants include

- dissemination of clinical service and research findings without disclosure of personal identifying information, if possible;
- secure storage and limited access to clinical and research records by authorized personnel only;
- removal, disguise, or coding of personal identifying information; and
- written, informed consent from participants, parent, or guardian to disseminate findings observable from photographic/video images or audio voice recordings in which personal identifying information may be disclosed to others.

Summary

It is incumbent on the speech-language pathologist or audiologist to be knowledgeable about federal and state laws, professional codes of ethics to which they must adhere (in addition to the ASHA Code of Ethics), and work-site specific procedures regarding the handling of patient information.

Confidentiality in Relationships With Colleagues

Discussion

Speech-language pathologists and audiologists function in a variety of roles and activities that allow access to information of a personal and confidential

nature. For example, speech-language pathologists may be reviewers of manuscripts/publications authored by others or of grant, fellowship, or scholarship applications; site visitors; consultants; supervisors; administrators; or participants in groups dealing with confidential and personal information.

Individuals reporting or responding to alleged violations of codes of ethics or professional codes of conduct are also dealing with a confidential matter and acting in a confidential relationship with the adjudicating body.

Adjudicating bodies typically follow rules of confidentiality (some dictated by law and regulation, some dictated by the organization's internal governance policies and procedures) regarding disclosure of decisions.

Guidance

1. In the multiple roles and activities in which speech-language pathologists and audiologists are engaged, confidentiality of proprietary and personal information obtained in conjunction with the activity/role is paramount.

2. With regard to reporting/responding to alleged violations of codes of conduct, respect for the confidentiality of the matter is the responsibility of all individuals involved. It would be prudent to consider all aspects of a matter confidential until a final decision is rendered.

3. With respect to disclosure of decisions by adjudicating bodies, individuals need to inform themselves of pertinent laws and organizational policies regarding disclosure of information.

Summary

It is incumbent on speech-language pathologists or audiologists to honor their responsibilities to the profession and their relationships with colleagues in matters of confidentiality of proprietary and personal information.

2001; revised 2003