

General Statements About the Importance of Confidentiality

- ❑ The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility to patients first and foremost, as well as to society, to other health professionals, and to self. The following Principles adopted by the American Medical Association are not laws, but standards of conduct which define the essentials of honorable behavior for the physician. [...] A physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law. ^{58,3,11,68}
- ❑ The physician shall keep in confidence whatever she/he may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient. ^{65,3}
- ❑ Individuals have the right to be guaranteed the protection of the confidentiality of their relationship with their mental health and substance abuse professional, except when laws or ethics dictate otherwise. Any disclosure to another party will be time limited and made with the full written, informed consent of the individuals. Individuals shall not be required to disclose confidential, privileged or other information other than: diagnosis, prognosis, type of treatment, time and length of treatment, and cost. Entities receiving information for the purpose of benefits determination, public agencies receiving information for health care planning, or any other organization with legitimate right to information will maintain clinical information in confidence with the same rigor and be subject to the same penalties for violation as is the direct provider of care. Information technology will be used for transmission, storage, or data management only with methodologies that remove individual identifying information and assure the protection of the individual's privacy. Information should not be transferred, sold, or otherwise utilized. ³⁴
- ❑ The medical profession has long recognized the ethical principle that communication between a patient and physician should be treated as confidential and should not be revealed by the physician to any third party without the patient's consent or unless required by law. The physician/patient privilege is a legal doctrine that recognizes and protects the confidential nature of communication between patients and their physicians. Accordingly, the American Academy of Family Physicians opposes any effort to erode or eliminate the physician/patient privilege. ¹⁰
- ❑ A confidential relationship between physician and patient is essential for the free flow of information necessary for sound medical care. Only in a setting of trust can a patient share the private feelings and personal history that enable the physician to comprehend fully, to diagnose logically and to treat properly. The AAFP believes that patient confidentiality must be protected. Historically, the privileged nature of communications between physician and patient has been a safeguard for the patient's personal privacy and constitutional rights. Though not absolute, the privilege is protected by legislative action and case law. However, data sharing across state lines is

American Medical Association also endorsed by **the American Academy of Child & Adolescent Psychiatry, American Academy of Family Physicians, and the American Psychiatric Association**

Statement of the American Osteopathic Association, also endorsed by the **American Academy of Child & Adolescent Psychiatry**

American Nurses Association, American Psychiatric Association, American Psychological Association, National Association of Social Workers, and nine other organizations

American Academy of Family Physicians

American Academy of Family Physicians

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American Academy of Family Physicians (cont'd)

difficult given differing state patient privacy/confidentiality requirements. This Academy believes that state and federal legislators and jurists should seek a greater degree of standardization by recognizing the following principles regarding the privacy of medical information: a. The right to privacy is personal and fundamental. b. The privacy of medical information maintained by physicians is privileged. c. The patient should have a right of access to, and correction of, medical records. The right of access is not absolute. For example, in rare cases where full and direct disclosure to the patient might harm the patient's mental and/or physical well-being, access may be extended to his/her designated representative, preferably a physician.

d. The privacy of adolescent minors should be respected. Parents should not, in some circumstances, have unrestricted access to the adolescent's medical records. Confidentiality must be maintained particularly in areas where the adolescent has the legal right to give consent.

e. Medical information may have legitimate purposes outside of the physician/patient relationship, such as, billing, quality improvement, quality assurance, population-based care, patient safety, etc. However, patients and physicians must authorize release of any personally identifiable information to other parties. Third party payer and self-insured employer policies and contracts should explicitly describe the patient information that may be released, the purpose of the information release, the party who will receive the information, and the time period limit for release. Policies and contracts should further prohibit secondary information release without specific patient and physician authorization. f. Any disclosure of medical record information should be limited to information necessary to accomplish the purpose for which disclosure is made. Sensitive or privileged information may be excluded at the option of the physician unless the patient provides specific authorization for release. Photocopying of the medical record should not be allowed without the specific approval of the physician. g. Disclosure may be made for use in conducting legal medical records audits provided that stringent safeguards to prevent individual, medical identifiability are maintained.

h. Policy exceptions which permit medical records release: 1. To another physician who is being consulted in connection with the treatment of the individual by the medical-care provider; 2. In compelling circumstances affecting the health and safety of an individual; 3. Pursuant to a court order or statute that requires the physician to report specific diagnoses to a public health authority; and 4. Pursuant to a court order or statute that requires the release of the medical record to a law enforcement agency or other legal authority.

i. Electronic health information communication systems must be equipped with appropriate safeguards (e.g., encryption; message authentication, user verification, etc.) to protect physician and patient privacy. Individuals with access to electronic systems should be subject to clear, explicit, mandatory policies and procedures regarding the entry, management, storage, transmission and distribution of patient information.⁹

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□ The American College of Emergency Physicians believes that all physicians have an important ethical and legal duty to guard and respect the confidential nature of the personal information conveyed during the patient-physician encounter. Emergency physicians implicitly promise to preserve patient confidentiality, a promise that in turn promotes patients' autonomy, privacy, and trust in their emergency physicians. ACEP believes patient confidentiality is an important but not absolute principle. Confidential patient information may be disclosed when patients or their legal surrogates agree to disclosure, when mandated by law, or when there exist overriding and compelling grounds for disclosure, such as the prevention of substantial harm to identifiable other persons. ACEP also acknowledges that there are circumstances in which no societal consensus exists about whether to disclose patient information. Specific problem areas include but are not limited to cases involving minors, drug testing, employee health, perpetrators and victims of violent crimes, medical records, the media, and communicable and sexually transmitted diseases. Such cases can require an extraordinary degree of sensitivity, discretion, and judgment on the part of emergency physicians.⁴¹

**American College of
Emergency Physicians**

□ Emergency physicians should be compassionate and truthful in all of their communications with patients. Emergency physicians also have a responsibility to protect the confidentiality of patient information. Sensitive information may only be disclosed when such disclosure is necessary to carry out a stronger conflicting duty, such as a duty to protect an identifiable third party from serious harm or to comply with a just law.³⁸

**American College of
Emergency Physicians**

□ Privacy refers to the ability of the individual to maintain control over the time, place, manner, and extent to which information about one's self, beliefs, or person, is shared. Safeguarding privacy, respecting confidentiality and protecting against disclosure of information except when required by law or authorized by the client are essential to foster the establishment of a trusting relationship, preservation of the dignity and autonomy of the individual, and an increase in the likelihood that those who need services will seek them.³⁵

**American College Health
Association**

□ The patient-physician relationship is the central focus of all ethical concerns, and the welfare of the patient should form the basis of all medical judgments. The obstetrician-gynecologist should serve as the patient's advocate and exercise all reasonable means to ensure that the most appropriate care is provided to the patient. The physician-patient relationship has an ethical basis and is built on confidentiality, trust, and honesty. [...] The obstetrician-gynecologist has an obligation to obtain the informed consent of each patient. In obtaining informed consent for any course of medical or surgical treatment, the obstetrician-gynecologist should present to the patient, or to the person legally responsible for the patient, in understandable terms, pertinent medical facts and recommendations consistent with good medical practice. Such information should include alternate modes of treatment and the objectives, risks, benefits, possible complications, and anticipated results of such treatments. [...] The obstetrician-gynecologist should respect the rights of patients, colleagues, and others and safeguard patient information and confidences within the limits of the law. If during the process of providing information for consent it is known that results of a particular test or other information must be given to governmental authorities or other third parties, that should be explained to the patient.⁴²

**American College of
Obstetricians and
Gynecologists**

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American College of Physicians

- ❑ Patients have a basic right to privacy that includes the information contained in patient medical records. Medical personnel who collect health information have a responsibility to protect patients from invasion of their privacy. [...] The very nature of medicine depends on the physician-patient relationship. Patients need to be treated in an environment in which they feel comfortable disclosing sensitive personal information to a physician that they trust. Otherwise, they may fail to fully disclose conditions and symptoms, thereby reducing the effectiveness of treatment and perhaps seriously imperiling their health. Or, they may avoid seeking care altogether for fear of negative consequences that could result from disclosure.⁴⁶

American College of Physicians

- ❑ Confidentiality is a fundamental tenet of medical care. It is a matter of respecting the privacy of patients, encouraging them to seek medical care and discuss their problems candidly, and preventing discrimination on the basis of their medical conditions. The physician must not release information without the patient's consent (often termed a "privileged communication"). However, confidentiality, like other ethical duties, is not absolute. It may have to be overridden to protect individual persons or the public—for example, to warn sexual partners that a patient has syphilis or is infected with HIV—or to disclose information when the law requires it. Before breaching confidentiality, the physician should make every effort to discuss the issues with the patient. If breaching confidentiality is necessary, it should be done in a way that minimizes harm to the patient and that heeds applicable federal and state law. [...]

Physicians should be aware of the increased risk for invasion of patients' privacy and should help ensure confidentiality. Within their own institutions, physicians should advocate policies and procedures to secure the confidentiality of patient records.

Discussion of the problems of an identified patient by professional staff in public places (for example, in elevators or in cafeterias) violates confidentiality and is unethical. Outside of an educational setting, discussions of a potentially identifiable patient in front of persons who are not involved in that patient's care are unwise and impair the public's confidence in the medical profession. Physicians of patients who are well known to the public should remember that they are not free to discuss or disclose information about a patient's health without the explicit consent of the patient. [...]

Ethically and legally, patients have the right to know what is in their medical records. Legally, the actual chart is the property of the physician or institution, although the information in the chart is the property of the patient. Most states have laws that guarantee the patient personal access to the medical record. The physician must release information to the patient or a third party at the request of the patient [...] To protect confidentiality, information should only be released with the written permission of the patient or the patient's legally authorized representative. [...]

To make health care decisions and work intelligently in partnership with the physician, the patient must be well informed. Effective patient-physician communication can dispel uncertainty and fear and can enhance healing and patient satisfaction.⁴⁷

General Statements About the Importance of Confidentiality

- ❑ Concern about the privacy of medical information has always been a tenet of responsible medical care. However, these concerns have been heightened in recent years by new forms of data that are highly sensitive and could, if discovered and used improperly, damage an individual's psychological well-being as well as their employability and insurability. [...] Organizations that deliver medical care, or conduct biomedical, epidemiologic or health services research, or retain medical data, such as health insurers, must be responsible and accountable for the development and implementation of appropriate policies to ensure protection of confidentiality of medical information through such mechanisms as adherence to accreditation standards and state laws and regulations, physical security safeguards, administrative policies and procedures, and electronic information security systems. These mechanisms should be reviewed by Institutional Review Boards.⁴⁸

- ❑ Our AMA affirms the following key principles that should be consistently implemented to evaluate any proposal regarding patient privacy and the confidentiality of medical information: (a) That there exists a basic right of patients to privacy of their medical information and records, and that this right should be explicitly acknowledged; (b) That patients' privacy should be honored unless waived by the patient in a meaningful way or in rare instances when strong countervailing interests in public health or safety justify invasions of patient privacy or breaches of confidentiality, and then only when such invasions or breaches are subject to stringent safeguards enforced by appropriate standards of accountability; (c) That patients' privacy should be honored in the context of gathering and disclosing information for clinical research and quality improvement activities, and that any necessary departures from the preferred practices of obtaining patients' informed consent and of de-identifying all data be strictly controlled; and (d) That any information disclosed should be limited to that information, portion of the medical record, or abstract necessary to fulfill the immediate and specific purpose of disclosure.⁵⁷

- ❑ From ancient times, physicians have recognized that the health and well-being of patients depends upon a collaborative effort between physician and patient. Patients share with physicians the responsibility for their own health care. The patient-physician relationship is of greatest benefit to patients when they bring medical problems to the attention of their physicians in a timely fashion, provide information about their medical condition to the best of their ability, and work with their physicians in a mutually respectful alliance. Physicians can best contribute to this alliance by serving as their patients' advocate and by fostering these rights: (1) The patient has the right to receive information from physicians and to discuss the benefits, risks, and costs of appropriate treatment alternatives. Patients should receive guidance from their physicians as to the optimal course of action. Patients are also entitled to obtain copies or summaries of their medical records, to have their questions answered, to be advised of potential conflicts of interest that their physicians might have, and to receive independent professional opinions; (2) The patient has the right to make decisions regarding the health care that is recommended by his or her physician. Accordingly, patients may accept or refuse any recommended medical treatment; (3) The patient has the right to courtesy, respect, dignity, responsiveness, and timely attention to his or her needs; [and,] (4) The patient has the right to confidentiality. The physician

**American College of
Preventive Medicine**

**American Medical
Association** also endorsed by
**American College of
Preventive Medicine**

**American Medical
Association**

General Statements About the Importance of Confidentiality

American Medical Association (cont'd)

should not reveal confidential communications or information without the consent of the patient, unless provided for by law or by the need to protect the welfare of the individual or the public interest.⁵³

American Medical Association

- The information disclosed to a physician during the course of the relationship between physician and patient is confidential to the greatest possible degree. The patient should feel free to make a full disclosure of information to the physician in order that the physician may most effectively provide needed services. The patient should be able to make this disclosure with the knowledge that the physician will respect the confidential nature of the communication. The physician should not reveal confidential communications or information without the express consent of the patient, unless required to do so by law. The obligation to safeguard patient confidences is subject to certain exceptions which are ethically and legally justified because of overriding social considerations. Where a patient threatens to inflict serious bodily harm to another person or to him or herself and there is a reasonable probability that the patient may carry out the threat, the physician should take reasonable precautions for the protection of the intended victim, including notification of law enforcement authorities. Also, communicable diseases and gun shot and knife wounds should be reported as required by applicable statutes or ordinances.⁵²

American Medical Association

- In the context of health care, emphasis has been given to confidentiality, which is defined as information told in confidence or imparted in secret. However, physicians also should be mindful of patient privacy, which encompasses information that is concealed from others outside of the patient-physician relationship. Physicians must seek to protect patient privacy in all of its forms, including (1) physical, which focuses on individuals and their personal spaces, (2) informational, which involves specific personal data, (3) decisional, which focuses on personal choices, and (4) associational, which refers to family or other intimate relations. Such respect for patient privacy is a fundamental expression of patient autonomy and is a prerequisite to building the trust that is at the core of the patient-physician relationship. Privacy is not absolute, and must be balanced with the need for the efficient provision of medical care and the availability of resources. Physicians should be aware of and respect the special concerns of their patients regarding privacy. Patients should be informed of any significant infringement on their privacy of which they may otherwise be unaware.⁵⁹

American Nurses Association

- The nurse promotes, advocates for, and strives to protect the health, safety, and rights of the patient. [...] The nurse safeguards the patient's right to privacy. The need for health care does not justify unwanted intrusion into the patient's life. The nurse advocates for an environment that provides for sufficient physical privacy, including auditory privacy for discussions of a personal nature and policies and practices that protect the confidentiality of information. [...] Associated with the right to privacy, the nurse has a duty to maintain confidentiality of all patient information. The patient's well-being could be jeopardized and the fundamental trust between patient and nurse destroyed by unnecessary access to data or by the inappropriate disclosure of identifiable patient information. The rights, well-being, and safety of the individual patient should be the primary factors in arriving at any professional judgment concerning the disposition of confidential information

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received from or about the patient, whether oral, written or electronic. The standard of nursing practice and the nurse's responsibility to provide quality care require that relevant data be shared with those members of the health care team who have a need to know. Only information pertinent to a patient's treatment and welfare is disclosed, and only to those directly involved with the patient's care. Duties of confidentiality, however, are not absolute and may need to be modified in order to protect the patient, other innocent parties and in circumstances of mandatory disclosure for public health reasons. Information used for purposes of peer review, third-party payments, and other quality improvement or risk management mechanisms may be disclosed only under defined policies, mandates, or protocols. These written guidelines must assure that the rights, well-being, and safety of the patient are protected. In general, only that information directly relevant to a task or a specific responsibility should be disclosed. When using electronic communications, special effort should be made to maintain data security.⁶²

**American Nurses
Association** (cont'd)

- In keeping with the nursing profession's commitment to patient advocacy and the trust that is essential to the preservation of the high quality of care patients have come to expect from registered nurses, the American Nurses Association supports the following principles with respect to patient privacy and confidentiality[.] [1] A patient's right to privacy with respect to individually identifiable health information, including genetic information, should be established statutorily. Individuals should retain the right to decide to whom, and under what circumstances, their individually identifiable health information will be disclosed. Confidentiality protections should extend not only to health records, but also to all other individually identifiable health information, including genetic information, clinical research records, and mental health therapy notes. [2] Use and disclosure of individually identifiable health information should be limited. [3] A patient should have the right to access his or her own health information and the right to supplement such information so that they are able to make informed health care decisions, to correct erroneous information, and to address discrepancies that they perceive.

**American Nurses
Association**

[4] Patients should receive written, easily understood notification of how their health records are used and when their individually identifiable health information is disclosed to third parties. [5] The use or disclosure of individually identifiable health information absent an individual's informed consent should be prohibited. Exceptions should be permitted only if a person's life is endangered, if there is a threat to the public, or if there is a compelling law enforcement need. In the case of such exceptions, information should be limited to the minimum amount necessary. [6] Appropriate safeguards should be developed and required for the use, disclosure and storage of personal health information. [7] Legislative or regulatory protections on individually identifiable health information should not unnecessarily impede public health efforts or clinical, medical, nursing, or quality of care research. [8] Strong and enforceable remedies for violations of privacy protections should be established, and health care professionals who report violations should be protected from retaliation. [9] Federal legislation should provide a floor for the protection of individual privacy and confidentiality rights, not a ceiling. Federal legislation should not preempt any other federal or state law or regulation that offers greater protection.⁶⁴

General Statements About the Importance of Confidentiality

American Psychiatric Association

- 1. Psychiatric records, including even the identification of a person as a patient, must be protected with extreme care. Confidentiality is essential to psychiatric treatment. This is based in part on the special nature of psychiatric therapy as well as on the traditional ethical relationship between a physician and patient. Growing concern regarding the civil rights of patients and the possible adverse effects of computerization, duplication equipment, and data banks makes the dissemination of confidential information an increasing hazard. Because of the sensitive and private nature of the information with which the psychiatrist deals, he/she must be circumspect in the information that he/she chooses to disclose to others about a patient. The welfare of the patient must be a continuing consideration. 2. A psychiatrist may release confidential information only with the authorization of the patient or under proper legal compulsion. The continuing duty of the psychiatrist to protect the patient includes fully apprising him/her of the connotations of waiving the privilege of privacy. [...] 8. Psychiatrists at time may find it necessary, in order to protect the patient or the community from imminent danger, to reveal confidential information disclosed by the patient.⁶⁸

American Psychiatric Association

- [C]onfidentiality is an essential element of high quality health care. Some patients refrain from seeking medical care or drop out of treatment in order to avoid any risk of disclosure of their records. And some patients simply will not provide the full information necessary for successful treatment. Patient privacy is particularly critical in ensuring high quality psychiatric care. Both the Surgeon General's Report on Mental Health and the US Supreme Court's *Jaffee v. Redmond* decision conclude that privacy is an essential requisite for effective mental health care. The Surgeon General's Report concluded that "people's willingness to seek help is contingent on their confidence that personal revelations of mental distress will not be disclosed without their consent." And in *Jaffee*, the Court held that "Effective psychotherapy depends upon an atmosphere of confidence and trust...For this reason the mere possibility of disclosure may impede the development of the confidential relationship necessary for successful treatment." [...] The right of consent is perhaps most important for those persons seeking and receiving mental health services. Mental health records can contain for the purpose of treatment particularly sensitive and potentially stigmatizing personal information if inappropriately disclosed. Considering the sensitivity of mental health records, patients should have the right to consent to their use and disclosure to insurers and other third parties.⁶⁶

American Psychological Association

- Psychologists respect the dignity and worth of all people, and the rights of individuals to privacy, confidentiality, and self-determination. Psychologists are aware that special safeguards may be necessary to protect the rights and welfare of persons or communities whose vulnerabilities impair autonomous decision making. [...]

Psychologists have a primary obligation and take reasonable precautions to protect confidential information obtained through or stored in any medium, recognizing that the extent and limits of confidentiality may be regulated by law or established by institutional rules or professional or scientific relationship. [...]

- (a) Psychologists discuss with persons (including, to the extent feasible, persons who are legally incapable of giving informed consent and their legal

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representatives) and organizations with whom they establish a scientific or professional relationship (1) the relevant limits of confidentiality and (2) the foreseeable uses of the information generated through their psychological activities. (b) Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant. (c) Psychologists who offer services, products, or information via electronic transmission inform clients/patients of the risks to privacy and limits of confidentiality. [...]

(a) Psychologists include in written and oral reports and consultations, only information germane to the purpose for which the communication is made. (b) Psychologists discuss confidential information obtained in their work only for appropriate scientific or professional purposes and only with persons clearly concerned with such matters. [...]

(a) Psychologists may disclose confidential information with the appropriate consent of the organizational client, the individual client/patient, or another legally authorized person on behalf of the client/patient unless prohibited by law. (b) Psychologists disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose such as to (1) provide needed professional services; (2) obtain appropriate professional consultations; (3) protect the client/patient, psychologist, or others from harm; or (4) obtain payment for services from a client/patient, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose. [...]

(a) Psychologists maintain confidentiality in creating, storing, accessing, transferring, and disposing of records under their control, whether these are written, automated, or in any other medium. (b) If confidential information concerning recipients of psychological services is entered into databases or systems of records available to persons whose access has not been consented to by the recipient, psychologists use coding or other techniques to avoid the inclusion of personal identifiers. (c) Psychologists make plans in advance to facilitate the appropriate transfer and to protect the confidentiality of records and data in the event of psychologists' withdrawal from positions or practice. [...]

When obtaining informed consent to therapy [...] psychologists inform clients/patients as early as is feasible in the therapeutic relationship about the nature and anticipated course of therapy, fees, involvement of third parties, and limits of confidentiality and provide sufficient opportunity for the client/patient to ask questions and receive answers.⁶⁹

- Except for very narrow purposes (including public health surveillance) APHA supports the fundamental right of individuals' health information to remain private. Not only is this a basic right of privacy, we believe, but it is essential to the public health that individuals perceive their personal health information is being handled with care.⁷²

**American Psychological
Association** (cont'd)

**American Public Health
Association**

General Statements About the Importance of Confidentiality

National Association of Social Workers

- (a) Social workers should respect clients' right to privacy. Social workers should not solicit private information from clients unless it is essential to providing services or conducting social work evaluation or research. Once private information is shared, standards of confidentiality apply. (b) Social workers may disclose confidential information when appropriate with valid consent from a client or a person legally authorized to consent on behalf of a client.
- (c) Social workers should protect the confidentiality of all information obtained in the course of professional service, except for compelling professional reasons. The general expectation that social workers will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or other identifiable person. In all instances, social workers should disclose the least amount of confidential information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed.
- (d) Social workers should inform clients, to the extent possible, about the disclosure of confidential information and the potential consequences, when feasible before the disclosure is made. This applies whether social workers disclose confidential information on the basis of a legal requirement or client consent. (e) Social workers should discuss with clients and other interested parties the nature of confidentiality and limitations of clients' right to confidentiality. Social workers should review with clients circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. This discussion should occur as soon as possible in the social worker-client relationship and as needed throughout the course of the relationship [...]
- (h) Social workers should not disclose confidential information to third-party payers unless clients have authorized such disclosure. (i) Social workers should not discuss confidential information in any setting unless privacy can be ensured. Social workers should not discuss confidential information in public or semipublic areas such as hallways, waiting rooms, elevators, and restaurants.
- (j) Social workers should protect the confidentiality of clients during legal proceedings to the extent permitted by law. When a court of law or other legally authorized body orders social workers to disclose confidential or privileged information without a client's consent and such disclosure could cause harm to the client, social workers should request that the court withdraw the order or limit the order as narrowly as possible or maintain the records under seal, unavailable for public inspection. (k) Social workers should protect the confidentiality of clients when responding to requests from members of the media.
- (l) Social workers should protect the confidentiality of clients' written and electronic records and other sensitive information. Social workers should take reasonable steps to ensure that clients' records are stored in a secure location and that clients' records are not available to others who are not authorized to have access. (m) Social workers should take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones

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and telephone answering machines, and other electronic or computer technology. Disclosure of identifying information should be avoided whenever possible. (n) Social workers should transfer or dispose of clients' records in a manner that protects clients' confidentiality and is consistent with state statutes governing records and social work licensure. (o) Social workers should take reasonable precautions to protect client confidentiality in the event of the social worker's termination of practice, incapacitation, or death.

(p) Social workers should not disclose identifying information when discussing clients for teaching or training purposes unless the client has consented to disclosure of confidential information. (q) Social workers should not disclose identifying information when discussing clients with consultants unless the client has consented to disclosure of confidential information or there is a compelling need for such disclosure. (r) Social workers should protect the confidentiality of deceased clients consistent with the preceding standards. [...]

(a) Social workers should provide clients with reasonable access to records concerning the clients. Social workers who are concerned that clients' access to their records could cause serious misunderstanding or harm to the client should provide assistance in interpreting the records and consultation with the client regarding the records. Social workers should limit clients' access to their records, or portions of their records, only in exceptional circumstances when there is compelling evidence that such access would cause serious harm to the client. Both clients' requests and the rationale for withholding some or all of the record should be documented in clients' files. (b) When providing clients with access to their records, social workers should take steps to protect the confidentiality of other individuals identified or discussed in such records. [...]

Social workers should respect confidential information shared by colleagues in the course of their professional relationships and transactions. Social workers should ensure that such colleagues understand social workers' obligation to respect confidentiality and any exceptions related to it.⁸⁶

- Whether as independent or agency-based practitioners, social workers should have available for all new clients written information about records, release of records, information required by managed care and other insurers if applicable, and the legal and ethical limits of confidentiality or privileged communication and should ensure that clients understand these issues. Social workers should become familiar with HIPAA. [...] The following five client principles should guide social workers: 1. Clients should be used as the primary source of information about themselves. 2. Only information that is demonstrably related to the solution of clients' problems should be received, recorded, or released. 3. Clients will be fully informed about the implications of sharing personal information, including the ethical and legal obligations of the social worker to respect privacy and protect the confidentiality and legal constraints and limitations that impinge on both the client and the social worker. 4. Clients' informed and authorized consent will be a prerequisite to transmitting information to or requesting it from third parties. 5. Clients will be appraised of the kind of records maintained by the social worker or agency and should have the right to verify the accuracy of the records personally.⁸⁷

**National Association of
Social Workers** (cont'd)

**National Association of
Social Workers**

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