

Ethics Interface

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The column is meant to be an educational forum for life care planners. It is not designed to offer an authoritative opinion from the editor or editorial board of the *Journal of Life Care Planning*, the board of the International Academy of Life Care Planners (IALCP), or the board of its parent organization, the International Association of Rehabilitation Professionals (IARP), nor is it designed to represent or replace official opinions from the certifying body or other organizations associated with the practice of life care planning.

Ethical Dilemma

My concern is the proper and ethical way to dispose of medical records sent to me for review when I am retained to do a life care plan. Is it adequate to remove the person's name from the records and dispose of rest in recycling?

Response

When a person files a law suit, they wave their right to medical privilege. However, the federal court has recently required the removal of personal medical identification on any exhibits on a file. Privacy laws are likely to continue and become even more restrictive. Life care planners can best obtain their guidance in this area from the standards of practice or codes of ethics for life care planners and from those of their primary profession.

The Standards of Practice for Life Care Planners from the International Academy of Life Care Planners (IALCP) do not give obvious direction about the use or disposal of medical records. In IV. Standards of Performance, A. Ethical, 1. Confidentiality, it is stated, "Appropriate confidentiality is a sensitive and important concept" (IALCP, 2006, p.128).

Clearer guidance is noted in the Commission on Health Care Certification (CHCC) Standards and Examination Guidelines (now known as the International Commission on Health Care Certification/ICHCC) as it offers a direction to this question. Principle 6-Confidentiality: Rules of Professional Conduct: R6.4 states, "Disability examiners and life care planners will safeguard the maintenance, storage, and disposal of patient records so that unauthorized personnel shall not have access to these records" (ICHCC, 2007, p. 39).

The Commission on Rehabilitation Counselor Certification (CRCC) new Code of Professional Ethics for Rehabilitation Counselors effective January 1, 2010, states under B.6.e. Storage and Disposal After Termination: "Rehabilitation counselors store the records of their clients following termination of services to ensure reasonable future access, maintain records in accordance with national or local statutes governing records, and dispose of records and other sensitive materials in a manner that protects the confidentiality of clients" (CRCC, 2010, p. 9).

The American Occupational Therapy Association (AOTA) Occupational Therapy Code of Ethics and Ethics Standards (2010), Principle 3.H. states, "Occupational therapy personnel

shall maintain the confidentiality of all verbal, written, electronic, augmentative, and non-verbal communications, including compliance with HIPAA [Health Insurance Portability and Accountability Act] regulations" (AOTA, 2010, p. 6).

The American Association of Nurse Life Care Planners (AANLCP) Standards of Practice, Standard 12, Ethics states, "The Nurse Life Care Planner integrates ethical provisions in all areas of practice," and has as a measurement criteria: "The nurse life care planner... maintains patient confidentiality within legal and regulatory parameters" (AANLCP, 2008, p. 16).

The Code of Professional Conduct (with Disciplinary Rules, Procedures, and Penalties), of the Certified Disability Management Specialist (CDMS), Rules of Professional Conduct (RPC) 1.10-Records, b. Records Storage and Disposal states, "... records shall be destroyed in a manner assuring preservation of confidentiality and as required by applicable laws and/or regulations" (CDMS, 2009, p. 5).

For guidance about the manner by which a life care planner can destroy records, the HIPAA Privacy and Security Rules Frequently Asked Questions (FAQ) About the Disposal of Protected Health Information states,

Examples of proper disposal methods may include, but are not limited to:

- For Protected Health Information (PHI) in paper records, shredding, burning, pulping, or pulverizing the records so the PHI is rendered essentially unreadable, indecipherable, and otherwise cannot be reconstructed.
- For PHI on electronic media, clearing (using software or hardware products to overwrite media with non-sensitive data), purging (degaussing or exposing media to a strong magnetic field in order to disrupt the recorded magnetic domains) or destroying the media (disintegration, pulverization, melting, incinerating or shredding) (p. 1-2).

The publication further states that other examples of proper disposal methods may include, but are not limited to: "Maintaining PHI for disposal in a secure area and using a disposal vendor as a business associate to pick up and shred or otherwise destroy the PHI" (p. 2).

It seems clear from our various guidelines that life care planners need to responsibly destroy medical records to maintain the confidentiality of their evaluatees. While hand shredding is acceptable, it is likely a poor use of time in the life of a busy life care planner. Shredding services are available at a nominal cost. These companies come to the place of business even when the life care planner maintains an office out of the home. A certificate of disposal is provided upon the completion of the shredding service. Other acceptable methods of disposal are returning the records to the referral source or burning them. It may be helpful to discuss record disposal with the referral source.

Also, life care planners should know that if their office is large enough to utilize a digital copier, the hard drive on the copier (those built after 2002) will retain private information. When the company buys a new copier, the hard drive from the discarded digital copier should be destroyed. Be aware that when using an outsourcing service for copiers, the same issue applies. For more information on this topic visit http://news.cnet.com/8301-1009_3-20002904-83.html

References

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New Dilemma

The new dilemma for the next issue will cover electronic communications and ethical use and disposal.

A response to the above ethical dilemma will be published in the next issue of the *Journal of Life Care Planning*. The *Journal of Life Care Planning* welcomes the submission of real world ethical dilemmas. Submissions will be altered to promote confidentiality and be kept in strict confidence. Please send submissions to nancymitchell4574@yahoo.com.
