

Protecting Confidentiality Rights: An Ethical Practice Model

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I. PREPARE

- A. Understand Clients' Rights and Your Ethical Responsibilities in Behalf of Those Rights
- B. Learn the Laws that Can Affect Your Ability to Protect Confidential Information
- C. Clarify Your Personal Ethical Position About Confidentiality and its Legal Limits
- D. Decide When/How You Will Limit Confidentiality Voluntarily
- E. Develop Plan for Ethical Response to Laws That Require You To Disclose "Involuntarily"
- F. Choose Reliable Ethics Consultants and Legal Consultants and Use as Needed
- G. Devise Informed Consent Forms that Reflect Your Real Intentions
- H. Prepare to Discuss Confidentiality and Its Limits in Understandable Language

II. TELL CLIENTS THE TRUTH "UP FRONT" (Inform Their Consent)

- A. Inform Prospective Clients About the Limits You Intend to Impose on Confidentiality
- B. Explain Any Roles or Potential Conflicts of Interest That Might Affect Confidentiality
- C. Obtain Informed Client's Consent to Accept Limits as a Condition of Receiving Services
- D. Reopen the Conversation If/When Patient's Circumstances (Or Your Intentions) Change

III. OBTAIN TRULY INFORMED CONSENT TO DISCLOSE VOLUNTARILY

- A. Respect the Rule: Disclose Without Client Consent Only if Legally Unavoidable
- B. Inform Client Adequately About Content and Implications of Potential Disclosures
- C. Obtain and Document the Client's Consent Before Disclosing

IV. RESPOND ETHICALLY TO LEGALLY-IMPOSED DISCLOSURE SITUATIONS

- A. Notify Client Of Pending Legal Requirement for a Disclosure Without Client's Consent
- B. Respond According to Plan (from Step 1,E above)
- C. Limit Disclosure of Confidential Information to the Extent Legally Possible

V. AVOID THE "AVOIDABLE" BREACHES OF CONFIDENTIALITY

- A. Avoid Making Unethical Exceptions to the Confidentiality Rule
- B. Establish and Maintain Protective Policies and Procedures; Train Non-Clinical Staff
- C. Monitor Note Taking and Record Keeping Practices
- D. Avoid Dual Roles that Create Conflicts of Interest in Courtroom and Elsewhere
- E. Anticipate Legal Demands; Empower Clients to Act Protectively in Their Own Behalf
- F. Protect Client Identity in Presentations, Research, Consultations
- G. Prepare a Professional Will to Protect Client Confidentiality In Event of Illness or Death

VI. TALK ABOUT CONFIDENTIALITY

- A. Model Ethical Practices; Confront Others' Unethical Practices
- B. Provide Peer Consultation About Confidentiality Ethics
- C. Teach Ethical Practices to Students, Supervisees, Employees, Agency
- D. Educate Attorneys, Judges, Consumers and the Public

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