

Confronting Ethical Dilemmas on the Job: An HIM Professional's Guide

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What would you do if asked to do something on the job you suspected might be unethical? HIM professionals encounter these situations often. Our author takes us back to the original code of ethics and shows us how its principles can still apply today.

Today's HIM professionals operate in increasingly complex environments, both technically and ethically. With the many complex uses and demands for health information, how can we be sure that we are doing our jobs not only correctly but ethically? This article examines some basic principles of ethics as they relate to HIM and shows how you can apply them to day-to-day dilemmas in your workplace.

Many Shades of Gray

Although the primary purpose of healthcare documentation is patient care, health information is also used for quality review, financial reimbursement, legal protection, education, research, public health, and planning and marketing for healthcare services.¹ Often, insurance companies and other requesters obtain access to detailed clinical information beyond what they "need to know," violating patient privacy. The history and physical, frequently copied in entirety, includes family and social information, such as behaviors, risk factors, or genetic conditions, that can be used in discriminatory ways in employment and insurance.

The ability to protect patient privacy is challenged by the amount of information collected, the increasing number of requesters, and the information released. The HIM professional must balance patients' privacy rights and confidentiality with third parties' increased access to health information. To complete these duties, we must demonstrate "...behavior that reflects integrity, supports objectivity, and fosters trust in professional activities."²

Complex situations, like volatile quality assurance outcomes, inappropriate sharing of clinical information, and intentional fraud or abuse must be assessed quickly and carefully. Current ethical questions include:

- What is the role of the HIM professional in protecting patient information beyond the primary release? For example, what if genetic information is released in response to a valid request, and it is subsequently determined that the information was used to discriminate against the patient in employment or insurance? Should the policies be changed, given the increase of future requests of this nature?
- What should be done when a principal investigator of a major research project has gained access to patient information that is not part of the research project or the researcher wants to place research outcomes in the clinical database that patient has not authorized?
- How can access to clinical information be protected, within the context of a computerized system, when demands for information are clearly in violation of "need-to-know" criteria?
- What should be done when contracts are signed to share information, such as those in managed care systems or for insurance companies that would result in clear violations of patient privacy?
- What should be done with volatile audit outcomes that are politically, clinically, and administratively undesirable and it has been made clear that the HIM professional's job is in jeopardy if the true outcomes are disclosed?

- What are the options for the HIM professional who works for a vendor and is the only member of the team who consistently raises privacy and confidentiality issues and is repeatedly ignored?

How HIM Ethics Evolved

A review and comparative analysis of the 1957, 1977, 1988, 1993, and 1998 Professional Codes of Ethics reflect many core values of the profession.³ Over the years, the language has changed somewhat to reflect changes in the healthcare system, but the values have remained the same. The code incorporates the values and professional standards that acknowledge the importance of the groups served: patients and the healthcare team, the public, the employer, the professional association, and the individual. When we are faced with difficult ethical issues, we should revisit these values to determine the right course.

Obligations to Patients and the Healthcare Team

Regardless of the site (patient care, research organization, governmental agency, law firm, pharmaceutical company, vendor, and others), the patient's privacy must be an HIM professional's focus. To support this ethical imperative include, the HIM professional should:

- **Provide service.** The primary role of the HIM professional is to provide service to others in relation to clinical information. This means placing service before material gain, the honor of the profession before personal advantage, and the health and welfare of patients before all personal and financial interests. Those served include patients, providers, administrators, researchers, insurance and government agencies, vendors, and others who have a legitimate need to access information from the clinical information system. In the past, the patient was almost exclusively the focus of the decisions made. Today, there are many stakeholders with an interest in accessing information, and the competing interests can be in direct conflict with privacy protection. These requesters must be considered, but the HIM professional cannot abdicate the core responsibilities of protecting the patient's privacy and providing service.
- **Protect medical and social information.** It is increasingly apparent that health information systems contain not only medical information but social information that requires special attention. An individual may not want an employer to know about a particular illness or procedure in his or her medical history. Yet this information may be less significant than some social and family history, such as smoking, drinking, hobbies, genetic conditions, or the health of family members. Discrimination against those with AIDS, psychiatric diagnoses, genetic risks, and other conditions that can have a social component is a real danger. Protection of social information and risk factors, including genetic, requires constant vigilance.
- **Promote confidentiality.** The responsibility to protect confidential information includes teaching others about confidentiality. "Valuing" confidentiality is not sufficient; HIM professionals also should ensure that others fully understand the complexities in this arena. The code also values advocacy on behalf of patients and the healthcare team to assure confidentiality.
- **Advance technological safeguards.** Privileged health information must be held in absolute confidence. As medical records are automated and computerized, protecting and preserving health information must include electronic security measures. As a result of technology, databases and detailed secondary records and registries are created and must also be protected.
- **Promote healthcare research and education.** HIM education has always included clinical medicine, pharmacology, biostatistics, and quality improvement methodologies. HIM professionals must be able to read and interpret clinical information and work with all members of the healthcare team to constantly improve the system. Further, HIM professionals must support research that will improve quality of care.
- **Stay within scope of responsibility.** We cannot assume the right to make ethical determinations in professional areas outside the scope of HIM practice. The responsibility to condemn potential wrongdoing based on clinical judgment on the quality or appropriateness of the care or services rendered rests with clinical personnel. Peer review or quality assurance outcomes might result in action against an individual or group, but the HIM professional's responsibility is to honestly and reliably report the facts and the outcomes of the studies. If a physician is found to be incompetent through audit results (documentation of drug abuse, repeated missed diagnoses, or misinterpretation of test results or other

similar outcomes), the data must be reported accurately and with integrity. If the information is ignored, the HIM professional should continue to report the findings.

- **Promote interdisciplinary collaboration.** The HIM professional works with all members of the healthcare and administrative teams. It is important to respect and understand the responsibilities of these individuals and to facilitate collaboration that will improve care and services.

Obligations to an Employer

- **Demonstrate loyalty to employer.** Loyalty to the employer and honorably discharging responsibilities are essential. HIM professionals may need to change jobs, but they are responsible for giving notice of the impending resignation. It is unethical to abandon a job, given an HIM professional's many responsibilities. This is more important today than ever, given the mobility of our society and the shortage of HIM professionals.
- **Protect committee deliberations.** Professional medical staff and health service committees are the mechanism by which the problems related to patient care, organizational policies, procedures, and risks are discussed and resolved. The results of these deliberations must be kept private, just like the patient's clinical information.

What Would You Do?

The number of delinquent medical records far exceeds the allowable percentage allowed by the accreditation standards. The hospital administrator has made it clear that the reported number should not exceed the allowed delinquency rate and that the continued employment status of the HIM professional is linked with the reported data. How many delinquent records should be reported for the survey? If the factual number is reported, is there a risk of unemployment?

- **Comply with regulations.** Knowledge of and compliance with laws, rules, regulations, and other standards that affect the health information system, including state and federal laws, accrediting and licensing standards, or employer policies and procedures is critical. Compliance is a necessary but insufficient guideline for ethical behavior. An action can be legal but not ethical. For example, a small employer group could ask for a printout of pharmaceutical costs. Although no patient names would be revealed, the employer might be able to quickly determine who might have AIDS or cancer or some other major illness. Legally, the company might be entitled to this information. Ethically, it could violate patient privacy. If laws, regulations, and policies are not in the best interests of patients, the HIM professional should become an advocate for changing them.

What Would You Do?

The release of information request is signed prior to the documentation being requested. Should the request be processed? There is sensitive information in the documentation, as a result of the current hospitalization. Should the patient be contacted prior to the release? What happens when the insurance company threatens not to pay the claim, if the information is not released (even though the information did not affect on the cost of the hospitalization)?

- **Recognize your authority and power.** The authority and power to protect and secure health information are given to HIM professionals. We must work to prevent inappropriate access to health information that could be detrimental to patients and others.
- **Accept compensation only in relationship to responsibilities.** Monetary compensation should be what is customary and lawful for the services rendered. Although certain persons or organizations may be willing to pay for access to information about a patient, physician, or diagnosis, it would be unethical for the HIM professional to acquire money in this manner.

Obligations to the Public

- **Advocate necessary policy change.** Today's HIM professional must be an organizational change agent, leading the initiatives to change laws, rules, and regulations that do not protect privacy and confidentiality. For example, there are rules about time constraints for signing verbal orders. HIM professionals are accountable for meeting these regulations; however, not every order is signed within the designated time constraint. Those who continue to pursue signatures beyond the specified time are colluding with others to pretend that the orders were signed on time. If the regulation is consistently violated, the HIM professional should either work to change the rule or honestly identify those cases outside the rule. Consistently lying is not ethical behavior and could ultimately harm the integrity of the practitioner.
- **Refuse to participate or conceal unethical practices.** Given the responsibility to review patient documentation, the HIM professional is responsible for noticing trends or potential problems in relationship to a provider of care, a diagnosis, a procedure, or other similar categorization. Illegal, incompetent, or unethical behaviors of individuals or organizations should not be concealed.
- **Report violations to the proper authorities.** Once a problem is identified (through quality assurance audits or other data collection process), the results must be reported to the proper authorities. The violations can include those related to external standards, employer policies and procedures, or professional practice standards. For example, quality assurance or other audit results might indicate that an individual physician is acting inappropriately or an institution, insurance company, or other agency discriminates against employees due to clinical information. The HIM professional's responsibility includes bringing the potential or actual problem to the attention of those responsible for the delivery and assessment of care and services.

Obligations to the Individual and the Association

What Would You Do?

The surgeon begins the dictation of an operative report by saying, "Please type the date of dictation to be the same as the date of the surgery." The surgeon makes this request to assure compliance with accreditation standards and hospital policy; however, the report is being dictated one week after the operation. Does the transcriptionist tell the truth and type the actual date of dictation, knowing that the surgeon could get angry and create conflict for the transcriptionist, or comply with the surgeon's request? Will the director support the transcriptionist if the true date is typed? Will the CEO support the director? Will the chief of surgery support truthful documentation or allow the surgeon to insist on an inaccurate dictation date?

- **Be truthful.** Truth and accuracy are core principles in the code. Credentials, degrees, educational certification programs, and work experiences should be accurately represented. The HIM professional should disclose any dual interests, such as working for a healthcare facility and a vendor. In these two capacities, proprietary information might become available that would place one employer in jeopardy in relationship to the second employer.
- **Commit to lifelong learning.** HIM professionals are expected to be lifelong learners, assuring expertise and application of current knowledge. They should commit to personal competence as well as to the improvement of services rendered. Health information is a practice-oriented career and requires degrees and research to improve professional contributions. The code requires action and commitment to acquire degrees, enroll in continuing education sessions, keep up with professional literature, self-assess learning needs, design personal educational programs to meet these needs, and communicate with peers about solutions to problems. Competency through self-improvement is an important directive that ensures the continuance of the profession.
- **Perform Association duties honorably.** HIM professionals can volunteer, be appointed, or be elected for Association positions. Just as privileged information is known at the clinical level and must be protected, the information that is learned in an official capacity while working on behalf of the professional associations at the local, state, and national levels must also be protected.
- **Strengthen professional membership.** The recruitment and education of the next generation of the profession is a responsibility for all. Professional practice standards require constant recruitment of new students into the profession so that they can continue its evolution.

- **Represent profession to the public.** Educate the public regarding an HIM professional's role and range of responsibilities. If the public is confused about what HIM professionals do on their behalf, the professional should accept some responsibility for this confusion. The Association's mission, guiding principles, and values must be supported when dealing with the public.
- **Promote research.** HIM professionals do not have a long-standing tradition of professional practice research; rather, they have mostly assisted other members of the healthcare team with clinical research. This is changing as professionals acquire advanced degrees and presents an important opportunity for professional advancement. As with all research, one should act with integrity and avoid conflicts of interest.

Setting an Example

As we examine the professional Code of Ethics over the years, we see that AHIMA's leaders launched this profession based on essential values and principles: competence, integrity, honesty, trust, compassion, dedication to others, and courage. We need these values today, more than ever.

HIM professionals have always exemplified ethical behavior. We need to honor and support these principles, knowing that situations will get increasingly complex and frightening. We are essential teachers in the emerging healthcare system and can educate our colleagues and the public about our expertise and ethical decision making.

As a profession, we will also need to continually examine the Code of Ethics to ensure that it continues to be a necessary framework for ethical decision-making. Neither the legal or ethical standards require perfection, and mistakes happen. And when mistakes happen, we need to acknowledge them and not hide or ignore them. This is not easy—but, as the founders of this Association recognized, we must be courageous.

Notes

1. Cofer, J., ed. (1994). *Health Information Management, 10th ed.* Chicago: Physicians' Record Company, 1994, pp. 30-31.
2. AMRA Code of Ethics and Bylaws, 1998, preamble.
3. Code of Ethics for the Practice of Medical Record Science, 1957; AMRA Bylaws and Code of Ethics, amended 1977; AMRA Code of Ethics and Bylaws, amended 1988; AHIMA Code of Ethics and Bylaws, amended 1993; AHIMA Code of Ethics and Bylaws, amended 1998.
4. Harman, L.B. "HIM and Ethics: Confronting Difficult Decisions." Paper presented at the AHIMA National Convention, Anaheim, CA, 1999.
5. Huffman, E. K. *Manual for Medical Record Librarians*. "Pledge and Emblem of the American Association of Medical Record Librarians." Berwyn, IL: Physicians' Record Company, 1963.

A Visionary Pledge

HIM professionals' definitive and unambiguous ethical obligation to protect patient privacy was clearly defined in the 1934 Pledge of the American Association of Medical Record Librarians. Presented by Grace Whiting Myers at the first annual professional association meeting in Boston, it reads:

"I pledge myself to give out no information from any clinical record placed in my charge, or from any other source to any person whatsoever, except upon order from the Chief Executive Officer of the Institution which I may be serving."

This is a clear obligation: Give nothing to no one, except as authorized. The pledge was expanded in 1935, when the Association's emblem was approved and some statements were added, reinforcing the importance of ethical conduct. The amended pledge incorporated the following standards for conduct:

"Recognizing that the American Association Of Medical Record Librarians seeks to develop and enforce the highest standards of work among its members, I hereby pledge myself, as a condition of membership, to conduct myself in accordance with all its principles and regulations.

"In particular I pledge myself to pursue the practice of my profession in a spirit of unselfishness, and of loyalty to the Association and to the institution which I am called to serve; to bear always in mind a keen realization of my responsibility; to seek constantly a wider knowledge of my profession through serious study, through instruction by competent approved teachers, throughout interchange of opinion among associates, and by attendance at meetings of this and of allied associations; to regard scrupulously the interests and rights of my fellow-members, and to seek counsel among them when in doubt of my own judgment.

"Moreover, I pledge myself to give out no information concerning a patient from any clinical record placed in my charge, or from any other source, to any person whatsoever, except upon order from the chief executive officer of the institution which I may be serving; and to avoid all commercialization of my work.

"Finally, I pledge myself to co-operate in advancing and extending by every lawful means within my power, the influence of the American Association of Medical Record Librarians."⁵

The founders recognized the moral agency of the HIM professional to protect health information. The core values of the pledge are as important today as they were at the initiation of the profession.

The pledge was sufficient for ethical guidance in the professional work environment for more 20 years, and the first Code of Ethics was not adopted until 1957.

The Right Way or The Highway: Building Ethics Into Your Job

Suggestions for incorporating the values and professional practice standards from the Code of Ethics into your professional life and work environment include:

1. Further your education. Continue your education, no matter what degrees or credentials you currently hold. Our role in healthcare depends on our continued expertise. Further, build ethical courses into your professional plan for continuing education and Vision 2006 roles to understand values and ethical principles as they apply to HIM intricacies. Include your staff in this initiative. Others need to know that we are capable of managing the information system and this requires constant lifelong learning. To assess your education needs, ask yourself these questions:
 - Are you familiar with the AHIMA Professional Code of Ethics and how the code specifically applies to your professional area of expertise?
 - Do you understand ethical and professional guiding principles, as they relate to HIM decision making? Do all decisions incorporate ethical criteria, in addition to cost, regulation, or technological feasibility?
 - Do you understand your values and how these influence HIM decisions, given that values are deeply embedded and must be examined within the decision-making process?
 - Do you understand the need to unite both technical competency and ethical literacy within HIM?
 - Can you frame impending ethical dilemmas as you implement your educational plan for the Vision 2006 roles?

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2. Consult with your ethics committee. HIM ethical issues are as important as clinical ethical issues. Don't try to resolve them in isolation; take them to your peer colleagues and your organization's ethics committee, if you have

- one. Although these teams typically deal with clinical bioethical decisions, they are experts who are well positioned to help form arguments and counterarguments for HIM issues (e.g., release of information, sharing data in a relational database, fraud and abuse issues, issues related to problems with computerized software and security, and many others). Ideally, the committee engages the full clinical team to resolve issues, because one voice cannot adequately protect privacy and confidentiality. Further, don't limit your use of the ethics committee to issues that deal with official research-based problems. Include committee members in decisions related to cost, regulation, policy, or technological feasibility. If you feel uncomfortable about a decision, it most likely has an ethical component and you need advice.
3. Change the organizational culture. Be loyal to your employer and help to change the organizational structure, systems, policies, and procedures if they don't support ethical behavior and assure patient privacy. Comply with laws, rules, and regulations but not at the expense of ethical behavior. We need organizational integrity to enable HIM practitioners to be ethical. If the systems create the problems, it's difficult to take the correct course of action. If what is legal and what is ethical don't coincide, strive to make the necessary policy changes. Be an advocate for patients, their healthcare teams, and those who work on their behalf, either in direct patient care or through administrative agencies. Take your role of protecting patient privacy very seriously. There will be times when yours is the only voice of caution at the negotiation table or the committee deliberation. Recognize your power and authority and use your expertise, including ethics, to facilitate the correct action.
 4. Be a role model. HIM students and practitioners need to understand and use ethical principles in the work environment. Clinical experiences are chosen so that the students can see positive models of behavior. Students learn to incorporate ethical principles when they observe others facing difficult decisions. Demonstrate your integrity and be a role model for HIM students by teaching them the complexities of the issues that we confront—not only the rules and regulations but also the range of choices that must be considered. If our students see unethical behavior, we will lose them. Help our next generation of professionals to learn to have courage in the face of ethical dilemmas. There is no greater gift for those who represent the future of this profession.

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