

Managing Complaints in the Modern Hospital

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by David Sobel, PhD

Pam, a critical care nurse at a teaching hospital, logged into her e-mail account and opened the following message: “Just thought you’d like to know that Carol had 104 degrees of fever with chills and she is getting blood cultures, blood work, x-rays, agglutinins for legionella, and influenza. This is really interesting. I’ll keep you posted.” This e-mail message was sent in error and it was a breach of confidentiality. But Pam had no one to complain to about this breach of confidentiality.

Dr. G., head of the infectious diseases department, learned that a list of patients recently seen at an HIV/AIDS clinic had been provided to a major law firm in the state. The list contained the name of an influential member of the community who was about to announce his candidacy for public office. Dr. G was livid when he learned about the breach. Because he didn’t know where to lodge the complaint, his first call was to the clinic manager.

Mrs. R. sent an e-mail to the Web site of a community hospital. In the message she complained about her recent visit and perceived poor care. The e-mail contained details of her medical history and the name of an employee who Mrs. G believed did not treat her kindly. This e-mail, like others posted to this site, was read by a public relations assistant who, not knowing what to do, forwarded it to several other persons within the organization.

What Do I Do Now?

Responding to complaints used to be so much easier. Hospitals were smaller and they were integral parts of a community. If the switchboard operator received a complaint, it was immediately referred to and handled by the same person who had handled complaints for years. Fewer people were involved in healthcare, which meant that it wasn’t difficult to learn what happened and resolve the issue.

Times have changed. Today, healthcare is more complex and more people than ever are involved in providing healthcare services. Therefore, no one should be surprised by the volume and types of complaints. In fact, calls should be expected.

As the information security manager at a major teaching hospital for several years, I received complaints about breaches of confidentiality from patients, patients’ family members, employees and physicians who were treated as patients, legislators, and physicians, nurses, and other healthcare professionals about the egregious behaviors of colleagues. I also received complaints from local and national media sources because they were denied access information on patients-access that would have resulted in violations of patients’ rights. This article deals with complaints involving alleged breaches of confidentiality and provides some ways to effectively respond to these complaints.

Educate the Hospital Community

First, all hospitals and healthcare systems need to tell patients, patients’ family members, and members of the community how to voice their concerns about the confidentiality of their medical information. Hospitals and healthcare systems should also have a process in place that results in a meaningful response to these concerns.

HIPAA privacy regulations require that healthcare organizations appoint a privacy officer, and that one of the privacy officer’s responsibilities is responding to complaints. Additionally, another privacy regulation is to provide patients with a notice of health information practices.

Given these new rules, consider the following suggestions:

- If you already have a patient representative program or team responsible for receiving and responding to complaints, then there may be no need to change what is already in place. However, if you don’t have patient representatives, it’s

time to **think about a new point person and a back-up.**

- When developing a notice of health information practices, **indicate the contact person's name along with his or her address and telephone number.** In this regard, your organization's notice will clearly inform the public about its rights and who to contact if they have a question or concern about their confidentiality. In some cases it may be the patient representative. For others, it may be the privacy officer.
- As part of your educational awareness program, **educate employees and physicians about your notice of health information practices** so that they understand the content, as well as who to contact when complaints come into the organization.

The easy part is identifying a contact person. The more challenging part is responding to and documenting complaints, resolving them in ways that satisfy aggrieved parties, and then making sure that steps are taken to prevent similar occurrences.

Establish a Process

To handle complaints about healthcare confidentiality, take action before you receive them: establish a process that will enable you to respond to complaints in a timely, efficient, and effective manner. Specifically, consider the following:

- Obtain the agreement from senior management that as the privacy officer, **you are now the point person** to respond to all complaints regarding the confidentiality of healthcare information. Then, this decision must be communicated to legal counsel, risk management, and public relations.
- Second, your name, business address, and telephone number should be listed on the notice of health information practices. **Persons with complaints need to know who to contact.** Additionally, notify key individuals like administrative secretaries, switchboard operators, security, public affairs, and others who are often the first to receive complaints about confidentiality. Inform these persons that all complaints regarding confidentiality should be forwarded to you or, if you are absent, to your back-up.
- **New staff orientation** should include a few moments reviewing the notice of health information practices and explaining the importance of referring calls to you. This message should be reinforced during annual training programs. People within the organization need to know who to contact and to whom to refer callers in order for you and the organization to respond effectively.

Take Action

Problem-solving skills can be put to the test when listening to a patient or former patient describe an egregious breach of confidentiality. While you are listening to and documenting the complaint, consider the following points:

- if the issue is something you believe you can handle by yourself, take on the issue and bring it to a rapid conclusion
- if the issue involves the attention of other staff members, notify the others (preferably in person) and, as a group, resolve the issue as quickly as possible
- if the issue appears to be more serious and rises to the level of a security incident, you may want to refer this matter to your organization's incident response team (IRT). A security incident is an issue that may result in irreparable harm to patients, have legal implications, or become a public relations nightmare. In some cases, a complaint may go beyond the IRT and necessitate involving local, state, or federal law enforcement

As the contact person, your responsibility is to rapidly assess the severity of the concern, assure the caller of your concern and commitment, and then do what is necessary to resolve the issue.

It's easy to write a rule requiring that complaints about confidentiality be handled by privacy officers. It is far more difficult to establish a process that works for a healthcare organization. There will be days when you wish those with confidentiality complaints could leave a message on an anonymous voice mailbox. On the other hand, Pam, Dr. G, and Mrs. R need to have someone respond to their complaints. While not all complaints will be resolved according to everyone's satisfaction, it's important to know that a healthcare organization has a contact person and a process in place. Stated simply, the public appreciates knowing that a healthcare organization is committed to safeguarding protected healthcare information. And the public recognizes this when they can share a concern with a prepared professional.

David Sobel is president of Confidentiality Matters, Inc., a firm that provides information security services to healthcare organizations and a member of the In Confidence editorial advisory board. He can be reached at dsobel@confmatters.com. For more information on Confidentiality Matters, visit www.confmatters.com.

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