

Privacy and confidentiality of medical information

Importance of information and privacy today

- Our society as a society of information, more and more people are engaged in processing of information in their profession
- Information as a commodity
- Some information touches the personal spheres of individuals
- Privacy becomes one of the most discussed aspects of human life

The requirement of ethics



Part of the Hippocratic oath



I will respect the privacy of my patients, for their problems are not disclosed to me that the world shall know

Special sensitivity of health information

- Many health information are sensitive
- (sexual life, mental state, alcohol and drug addiction, career and career goals)
- Some other information are generally less sensitive, especially if they can not be easily kept secret
- They may be sensitive to specific patients (with regard to employment, family, religion, etc.)

The legal concept of privacy



Charter of Fundamental Rights and Freedoms (Art. 10)

- Everyone has the right to preserve his dignity, honor, reputation and protect his name.
- Everyone has the right to protection against unauthorized intrusion into private and family life.
- Everyone has the right to protection against unauthorized gathering, publication or other misuse of his personal data

Privacy

- The right not to be part of the public
 - The right to "personal area"
 - The right to withhold information about yourselves
 - The right to decide if and how should be facts from personal privacy revealed to others (Pavlik),
 - United States: Right to be let alone
- The right to privacy extends to every individual, regardless of age or legal capacity

Personality

- Life
- Expressions of a personal nature
- Dignity
- Privacy
- Seriousness, honor
- The right to live in a favorable environment
- Health
- Dignity


Specific regulations in healthcare

- The patient has the right during the provision of healthcare services to:
 - esteem, decent treatment, courtesy and respect for privacy during the provision of health services,
 - reject the presence of persons who are not directly involved in providing of health services,
 - know the names of healthcare professionals and students


The rules of the Civil Code

- No person shall intervene into the privacy of another, unless...
 - Legal reason,
 - Permission
- Without permission you cannot:
 - disrupt Private Spaces of a man,
 - watch his private life,
 - capture audio or video recording,
 - use the images recorded about the private life of a person by a third party,
 - spread such records of his private life.

Protecting human appearance



Capture a human appearance by any way, so that it is possible to determine his identity, is possible only with his permission.



Spread human appearance is possible only with his permission.

How to obtain a consent

In Writing

Orally

Tacitly

Confidentiality of a healthcare professional

(Medical secret)

Law on Healthcare Services

- The Provider is obliged to maintain confidentiality about all the facts that he has learned in connection with the provision of health services

Who is bound by the obligation of confidentiality?

- Health workers and other professionals in connection with the exercise of their profession, including those who are no longer in employment, and information obtained in connection with the former exercise of the profession of healthcare professional
- persons acquiring competence to pursue the profession of healthcare professional (aka students)

“Medical secret”

- From the perspective of the law :
 - Confidentiality of a healthcare professional
 - Confidentiality of a healthcare provider
- Much, **MUCH(!)** higher standards of confidentiality than other professions
- Break only in cases precisely defined by the Law

Confidentiality conceived in very broad terms

- All facts with which healthcare professionals meets
 - Diagnosis
 - Medical procedure
 - Information about relatives (family history)
 - Any information regarding patient

Privacy contra Confidentiality

Privacy

- Protection from identifying and collecting personal data
- Protection against unauthorized access to information
- Protection from capturing photographs, recordings and records

Confidentiality

- Preventing the spread of information to which the medic gained access
- Even if you obtained that information legally

Handling medical documentation



Medical documentation

- What do you imagine under it?
- Writing doctor into papers?
- Is it really just a paperwork?
- It would be impossible to cure anyone rationally in practice without medical documentation!
- Medical documentation contains a lot of confidential data and therefore deserve special protection and treatment!

The Provider is obliged to keep and store medical records and dispose of them according to this Act and other legal regulations. Health documentation is a set of information:

- Patient's identification data
- the sex of the patient
- identification data of the healthcare provider
- informace o zdravotním stavu pacienta
- information on the patient's state of health
- data from the family, personal and occupational history of the patient, and (if justified) also from social history
- data relating to the death of the patient

Example of a data in a medical documentation

- Mrs Hancock was treated in her teens with anorexia, she underwent two abortions by her request and is HBsAg positive and has been diagnosed with cervical cancer; she lives with her mother, who is on a disability pension due to schizophrenia and a sister who is a prostitute. Her father shot himself when she was little.



Remember!
Medical documentation always contains
sensitive personal data!!!

maintenance of a medical records

Conditions for maintenance of a medical records are set by the law and the directive of the Ministry of Health

Medical documentation can be kept

- In a paper form
- In an electronic form
- In a combined paper and electronic form

Medical documentation

- The law imposes to keep medical records conclusively truthfully and legibly! The information in it must be continuously and promptly updated
- It always must be clear who carried which notation!

Access to a medical documentation

- Healthcare professionals
- Patient
- Family, relatives, survivors
- Students

Healthcare professionals

- persons with the legal capacity to practice the medical profession
- in direct connection with the provision of health services
- to the extent strictly necessary for the pursuit of the profession
- to perform tasks under HcAct or other legal regulations
- when assessing the correct procedure for providing health services

Patient

- In the presence of an employee authorized by the provider
- The right to make copies or extracts

Family, relatives, survivors

legal representative or guardian (minors)

person specified by the patient, legal representative or guardian

persons close to the deceased patient:

- information on the state of health of the patient who died and information on the outcome of the autopsy if done, including the right to inspect the medical records kept about the deceased or other medical records relating to his / her state of health and to obtain extracts or copies thereof.
- the deceased could forbid this access in advance

Students and a medical documentation

- Persons practicing for the profession of a medical professional may inspect the medical documentation to the extent strictly necessary for teaching.
- The patient may prohibit access to his medical documentation to students.

Sanctions

- The Health Services Act imposes penalties for improper management of medical documentation.
- The unauthorized disclosure of the information contained in the medical documentation is always a violation of the mandatory confidentiality

Communication with family members and public authorities



Information requests about the health status of a patient by persons other than the patient



Family members



Public authorities (for example, the Police of Czech Republic, courts, various administrations, etc.)

Family of a patient

- Caution! Fully competent patient decides on the disclosure of information about his health condition by himself, even towards the family members of the patient (persons close).
- A patient may designate any person (even unrelated) who may receive information about his health and vice versa, without his consent it is not possible to disclose confidential information even to persons close to the patient.
- The exception is if the patient's condition requires that these people have to care about the patient, or it is necessary to protect their health.
- In a case of a patient who is not fully sui juris, the right to decide on disclosure of information about the health of this patient to third parties has fundamentally his legal representative or guardian (determined by a court).

Disclosure of health information

- Information about health of a patient are being given by the attending medical personnel!
- Students of medical faculties do not give any information about health of patients to anyone, even family members of the patient!

Information on patients' health requested by public authorities

- Compulsory confidentiality of healthcare professionals is required by law and has great social significance
 - Remember the right to privacy
- Public authorities, including the police and the courts, can require information about health of a patient only in cases determined by a law.
 - For an example it is not enough that a policeman comes to the hospital and asks about the patient's health condition (typically at injuries caused by the other person).

Obligation to notify

- In certain cases there is the so-called notification obligation when everybody (not only a healthcare professional) has to notify the Police of the Czech Republic upon the fact that a crime of cruelty or wilful grievous bodily harm (a serious injury) was committed.
- In certain cases of children patients it is necessary to inform the authority of social and legal protection of children.
 - Such as underage drinking, abuse of addictive substances, or when there is suspicion that a crime endangering health or life, human dignity or moral development was committed on them.
- At the hospital, however, this reporting obligation should be primarily met by the attending healthcare professionals, not students.

When is it possible to breach a confidentiality?

- Consent of a patient
- Providing follow-up services
- Protection of your rights
- Communication of data for the purpose of criminal proceedings
- Fulfilling the duty to thwart or report the offense

Remember!

Not everyone who cares about the health of the patient is entitled to this information!

This also applies to family members of the patient and public authorities.

Conclusion

Students should not be providing information about the health status both to the patient and third parties (family members, public authorities and others).

Sanctions for unauthorized breach of confidentiality



Criminal penalties

- Penalties shall be given to who, even if negligently, violates the obligation of secrecy by unlawfully disclosing, communicating or making available to a third party personal data obtained in connection with the exercise of his profession, occupation or function, thereby causing serious harm to the rights or legitimate interests of the person
- Up to three years or a ban on activity
- If deliberately - up to 8 years

Administrative sanctions

Breach of the Provider's Obligations arising from HcAct

- A fine of up to CZK 1,000,000

Breach of the Provider's Obligations under the Personal Data Protection Act

- A fine of up to CZK 5,000,000 (after the upcoming amendment it will be several times higher - up to 4% of turnover)

Private Law Penalties

Labor-law sanctions

- Even the immediate termination of employment

Exposure to the risk of bringing a lawsuit

- Compensation for non-material damage

Disciplinary sanctions

Every citizen has the possibility to submit complaints to doctors at no cost to the CMC organs, at all times, if he thinks that the physician was acting improperly or acting unethically.

Fine up to CZK 30.000

Exclusion from the Czech Medical Chamber

- Actual ban on activity up to 5 years

The significance of this
lecture for clinical teaching

During clinical education

- Respect the patient's right to privacy and his personal zone
 - Including storage space for personal items
- If the patient does not want your presence, leave
- Do not make hidden recordings or patient photos in any way
 - Even not for personal use, even if the patient is not directly recognizable
- Do not make copies of medical records (without explicit consent of the patient)
- the patient can not be recognized from the context of an informal conversation with classmates

Photography and writing records of student work, and presentations

- Any listings and information gathered
- Photos of the patient or parts of the body
 - Always with the patient's consciousness and consent
 - Never unconscious patients
 - Minimize interventions to privacy
 - agreement with the recording and its further distribution are two separate consents, consenting to one does not mean consent to another
- Each collected information must have its purpose!

Collecting patient's data for final work

- Always with the provider's acknowledgement
- The provider provides consent from the patient

Thank you for your
attention

