

**IMPROVING PATIENT HEALTH OUTCOMES AND  
SATISFACTION THROUGH PATIENT ENGAGEMENT:  
Disclosures and Liability**

## **CONTENTS**

### **1. Confidential Information: Disclosure by Physician**

- Disclosure in general
- Keeping Records
- Compromising/Abusing Medical Records

### **2. Disclosure and Patient Consent to Treatment**

- Patient Consent in General
- Disclosure Before Patient Consent

### **3. Disclosure and Minors**

- Disclosure in General
- Who Consents?

### **4. Disclosure of Gunshot Incidents**

### **5. General Disclosures Prescribed by Law**

## Disclosure in General

- **SS. 26 & 27 NHA:** A physician shall respect a patient's right to confidentiality, but it is ethical to disclose confidential information when:
  - a court order, or any law requires that disclosure;
  - the patient consents to it;
  - In the case of a request by a parent/guardian in the case of a minor or mentally incapacitated person; or
  - when there is a real and imminent threat of harm to the patient or to others and this threat can only be removed by a breach of confidentiality.

This must be made clear to the patient at the time of the confidential disclosure by the patient

## Record Keeping

- **CMDPIP v Emelumadu:**
  - Medical ethics makes it mandatory for doctors to clerk their patients fully and record all their findings in the case notes.
    - See Section 25 of the National Health Act
  
- **S. 28, NHA:** Confidential information may be shared among health care workers/establishments:
  - if it is necessary for any legitimate purpose within the ordinary course of duties, and in the interest of the patient
  - For research/study purposes, provided identities are kept confidential
  
- **CMDPIP v Dr. Chukwuma Ohadugha:**
  - Any doctor arriving at the scene of an emergency must first get from those at the scene an account of all the treatments given before his arrival in order to accurately determine the next best course of action.

## **Compromising/Abusing Medical Records**

- Any person who abuses the records/record keeping system of the medical facility shall be liable on conviction to imprisonment for a period not exceeding two years or to a fine of N250,000.00 or both. See S. 29(2) of the NHA
- Staff NDAs recommended (consider the cases of Muna Obiekwe and Chaz B)

## Patient Consent in General

- Written consent is recommended before biopsies and surgeries. Consent forms should be signed by witnesses.
  
- For other procedures, voluntary self offer for professional care is the consent. E.g. in the case of:
  - Rectal examination;
  - vaginal examination;
  - auroscopy;
  - fundoscopy;
  - breast examination;
  - male genitalia examination;
  - blood transfusion, etc.

## Disclosure Before Patient Consent

- Before consent is issued:
    - The patient's health status, except in circumstances where there is substantial evidence that the disclosure of the patient's health status would be contrary to the best interests of the patient
    - The range of diagnostic procedures and treatment options generally available to the patient
    - The benefits, risks, costs, and consequences generally associated with each option; and
    - The patient's right to refuse health services and explain the implications, risks, obligations of such refusal
- are to be clearly laid before the patient, or in the case of minors, or mentally incapacitated persons, their next of kin (See S. 23 NHA)
- For irreversible procedures (e.g. sterilisation, amputation, etc) 3 counselling sessions over a period of 4 weeks is recommended. This is if the clinical situation permits.
    - The choice resides with the patient. The physician must recognise the inherent right of the patient to his own body and life

## Disclosure and Minors: General

- NHA (Nigeria) allows disclosure at request of guardian/parent
  
- In England disclosure (in relation to contraceptives and abortion) to parents is not required, and treatment can be given if:
  - The minor is Gillick Competent
  - The minor is likely to begin, or to continue having sexual intercourse with or without contraceptive treatment
  - The minor's physical and/or mental health is likely to suffer without the treatment
  - It is in the minor's best interest to be treated without parental consent



## Disclosure and Minors: Who Consents?

- In England, Canada, and Australia, a physician can administer treatment with the consent of either the parent OR the minor IF:
  - The minor is “Gillick Competent”
  
- Court Consent overrides the consent or non-consent of the parent and/or the minor
  
- In England for the prescription and issuance of contraceptives or the performance of an abortion if a Gillick Competent minor refuses treatment, the parent/guardian or the court can issue consent

## Disclosure of Gunshot Incidents

- **Section 4(2)** of the “Robbery and Firearms (Special Provision) Act states: “It shall be the duty of any person, hospital or clinic that admits, treats or administers drug to any person suspected of having bullet wounds to immediately report the matter to the police.”
  - Refusal or rejection of gunshot and accident victims is a crime. Under section 10/4/Z of the Federal Road Safety Code, and it attracts a fine of not less than N50, 000.00

## General Disclosures Prescribed by Law

- At every health care facility the following information should be disseminated and displayed:
  - The types of health services available
  - The organisation of health services
  - Operating schedules and timetables for visits
  - Procedures for laying complaints
  - The rights and duties of patients and health care providers

See Section 24 of the National Health Act

Thank  
you