

Theoretical Essay –
Ethical and Legal Responsibilities of Midwives with Regards to Privacy of Health Information

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Ethical and Legal Responsibilities of Midwives with Regards to Privacy of Health Information

All healthcare providers have a legal and ethical responsibility to protect the personal and health information of all their clients. Midwives, their assistants, and students are all considered health care providers that have access to personal and health information. Because of this they are expected to uphold Health Insurance Portability and Accountability Act, or HIPAA laws and regulations. The HIPAA standards were set forth to standardize the ways in which protected health information (PHI) could be used and shared.

“Protected health information (PHI) is any demographic information that can be used to identify a patient or client of a HIPAA-beholden entity. Common examples of PHI include names, addresses, phone numbers, Social Security numbers, medical records, financial information, and full facial photos” (Compliance Group, 2021). This can also include electronic communications such as emails, text messages, phone calls, and other forms of communication. “Privacy protections need to be in place not only for Internet-related health activities, but also to protect individually identifiable information in paper and electronic formats, wherever they exist” (Lumpkin, 2000).

As midwives we are expected to keep our clients information private and secure. Some ways to do this are to never discuss our clients personal or health information with anyone without written permission. This includes family, friends, and peers. We should never leave files where they can be seen by other people. All files should be kept in a folder that closes and be secured in a lockbox, locked closet, or locked storage room when not in use. For electronic records, computers and tablets should be password protected, have screens that time out, and be backed up onto a secure remote server. Always remember to close the screen when not in use. When sending information to another health care provider for a consult or transferring care, electronically or by paper, we should only send the information that is necessary and pertinent.

“Three interrelated concepts relate to controlling access to health data...” (Lumpkin, 2000), those are privacy, security, and confidentiality. Privacy includes protecting PHI, puts limits and conditions on sharing information, and gives clients rights over their health information. Security entails a “series of administrative, technical, physical, and organizational security standards to ensure the confidentiality and security of electronic PHI “(Anthony et al, 2014). And confidentiality refers to protecting a person’s privacy including any identifying information. Although these three rules are the most common ones a midwife might need to remember, we should also be aware of the rules regarding breach notification, self-audits, remediation plans, employee training, documentation, business associates, and incident management.

HIPAA violations can happen to anyone, but we should take careful precautions to avoid them.

Some common causes of HIPAA violations and fines are listed here:

- Stolen laptop
- Stolen phone
- Stolen USB device
- Malware incident
- Ransomware attack
- Hacking
- Business associate breach
- EHR breach
- Office break-in
- Sending PHI to the wrong patient/contact
- Discussing PHI outside of the office
- Social media posts

These HIPAA violations commonly fall into several categories:

- Use and disclosure
- Improper security safeguards
- The Minimum Necessary Rule
- Access controls
- Notice of Privacy Practices (Compliance Group, 2021)

It can be difficult to protect against every possible scenario, but we can take standard precautions to avoid breaches in security. These precautions might include virus protection and passwords on electronic devices and not discussing clients outside the office or making posts about our clients on social media.

There are several reasons why midwives should protect the personal and health information of the clients. The two main reasons are because it is the right thing to do, and it is the law. I believe that as we make this a priority in our private practices we can avoid serious legal ramifications, earn the respect of our peers, and keep the trust of our clients.

References

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