

Balancing Patient Care and Confidentiality Considerations in Obtaining Collateral Information

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Collateral information facilitates comprehensive mental health care and is consistent with recovery-oriented models of care. But providers are often faced with complex decisions about obtaining collateral information, particularly when patients do not consent to communication with third parties for information gathering. Such situations require a thoughtful balance of best clinical practices, legal and ethical responsibilities, and patient safety concerns. This column offers an overview of the clinical utility of collateral information as well as the ethical and legal regulations concerning confidentiality that guide the process of obtaining collateral information. The risk-benefit analysis process related to obtaining collateral information without patient permission is illustrated. Recommendations about clinical consultation and documentation that facilitate optimal and ethical patient care are offered.

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Obtaining collateral information facilitates comprehensive mental health care¹ and is consistent with recovery-oriented models of care.² Providers are faced with a dilemma when patients do not provide permission for outreach to third parties regarding their mental health treatment. In such situations, providers grapple with how to engage in best clinical practices, while also considering ethical and legal responsibilities such as respecting patient autonomy and confidentiality, and keeping concerns about the patient's safety paramount. This column offers recommendations for how to weigh the clinical, ethical, and legal considerations that inform the practice of obtaining collateral information.

THE ROLE OF COLLATERAL INFORMATION IN MENTAL HEALTH CARE

Collateral information serves many beneficial functions in mental health care. Gathering

information about a patient's mental health history, presenting problems, and baseline functioning augments a provider's ability to formulate a clinical case conceptualization and develop appropriate disposition recommendations.³ Providers may obtain collateral information by conducting an interview or utilizing structured assessments with significant others in the patient's life, such as family members, friends, or other health care providers.^{2,4,5} Because mental health issues may present differently depending on the setting and context, obtaining collateral information facilitates a more comprehensive assessment and treatment plan.^{3,6} A provider also may find collateral information crucial in forming an accurate clinical impression when medical or mental health issues, such as delirium, substance withdrawal, or acute injury after a suicide attempt, limit a patient's

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ability to participate in an interview.^{4,5} The perspective of an outside party may also improve clinical care when a patient is unwilling to disclose information pertaining to his or her mental health. Such hesitancy may occur when the patient has no ongoing, trusting relationship with a provider, such as in an emergency room setting.⁷ A patient may also be reluctant to disclose mental health-related information in an effort to avoid feeling shame and embarrassment or to avoid receiving unwanted recommendations for psychiatric hospitalization or medication.⁷

The acuity of the treatment setting may also play a role in the need to obtain collateral information. For example, providers in an emergency room are forced to make clinical decisions rapidly and with less historical information than providers who practice in settings that allow for regular, ongoing treatment. In such settings, collateral information is often necessary to quickly formulate a comprehensive assessment and offer clinically indicated disposition options. In addition, obtaining observational information from providers who are in regular contact with a patient may provide useful information about symptom presentation and course of illness.^{2,5}

Despite its importance, gathering collateral information may involve several challenges. First, a provider may encounter inconsistencies between information reported by the patient and by collateral informants. These discrepancies may provide valuable information about differential functioning depending on the setting or context,⁸ and attempts to explain the convergence or divergence of information may inform assessment and treatment planning.⁹ Second, collateral informants may be difficult to reach in a timely manner, or they may be reluctant to participate in the interview because of lack of interest in working with the provider or logistical barriers. Finally, a patient may be unwilling to consent to a provider inquiring about his or her mental health from third parties, so that the provider is forced to thoughtfully balance ethical and legal responsibilities (eg, maintaining confidentiality) with optimal patient care and safety needs.

ETHICAL AND LEGAL CONSIDERATIONS

Various sources of policy, including discipline-specific Ethics Codes, federal and state regulations, and organizational policies, inform a provider's

decision to gather collateral information in mental health care. It is not uncommon for a provider to experience confusion regarding the ethical nature of obtaining collateral information if a patient does not agree to this. In fact, issues related to confidentiality and disclosure of protected health information (PHI) are some of the most common ethical questions raised by mental health providers.¹⁰ Although different mental health disciplines are guided by separate ethics codes, common themes relevant to obtaining collateral information across disciplines include the need to maintain patient confidentiality and respect autonomy, while providing care that is consistent with the standards of the profession.¹¹⁻¹³

The standard of care pertaining to confidentiality requires that providers inform patients about how their health information will be used as well as limitations of confidentiality (eg, requirements to report abuse or neglect of children or vulnerable adults and imminent safety risk to self or others) at the beginning of treatment.¹³ Understanding these limitations facilitates decision-making when a provider is presented with these circumstances. Decisions are less clear when breaching confidentiality is warranted outside of those situations. In such cases, providers are required to balance the ethical principle of patient autonomy and the duty to provide optimal care. For example, when a provider is working with a patient who is not clearly experiencing a mental health emergency, such as when a patient reports suicidal ideation without intent, the decision to reach out to third parties for more information becomes nuanced.

In addition to ethical considerations, federal and state regulations should also be taken into account in determining when to obtain collateral information. The *Health Insurance Portability and Accountability Act* (HIPAA) of 1996 provided the first set of federal regulations that protects patients' health information and guides how it is used in health care. HIPAA delineates the authorized use of PHI without patient permission by "covered entities" (eg, health plans such as Medicaid and Medicare, health care clearinghouses, and providers).¹⁴ According to HIPAA, providers should disclose only the "minimum necessary" amount of information required by the particular circumstances, in this case to obtain collateral information. The minimum necessary standard is meant to protect individuals

from the superfluous or inappropriate use of their PHI, but it is also designed to allow providers to determine, on the basis of their own clinical judgment, what level of disclosure constitutes “minimally necessary.”¹⁴

Although HIPAA is federally mandated, regulations regarding the use of PHI may differ from state to state and between the federal and state level. A provider’s practice will also be informed by the policies of the agency for which he or she works and by the ethics code that guides the clinical practice of the provider’s discipline. Although institutional and discipline-specific policies are often consistent with federal and state regulations, these areas may conflict in certain situations. In the event of inconsistency between any of these sources, it is recommended that providers operate in the most conservative manner in terms of protecting information. However, providers may benefit from consulting with colleagues in their institution, state licensing board, and/or discipline to ensure that appropriate clinical decisions are being made.

RISK-BENEFIT ANALYSIS AND RECOMMENDATIONS FOR CARE

Certain situations may compromise confidentiality but still warrant obtaining collateral information and possibly disclosing confidential information in the interest of providing optimal care. An analysis of the costs and benefits of obtaining or not obtaining collateral information is warranted in such circumstances. Ideally, a provider and patient discuss the need for collateral information and make a collaborative decision about obtaining information that may support assessment and treatment planning. However, if a patient does not allow a third party to provide input regarding his or her mental health, the provider has several options depending on the clinical context in which the patient presents. The following hypothetical vignette illustrates such a situation, with recommendations offered regarding how to conduct such a risk-benefit analysis.

A 35-year-old male is brought to the emergency department by paramedics after he was found unconscious by his roommate secondary to an overdose on alcohol and psychotropic medications. The medical team requests a psychiatric

consultation from you to determine the patient’s acute suicide risk. Following medical stabilization, you interview the patient and he denies intentionally overdosing and current suicidal ideation. After providing the patient with a rationale for why you would like to obtain additional information from his family and/or friends and attempting to collaboratively make this decision, the patient denies your request to do so.

The provider in this scenario could opt to refrain from obtaining the collateral information at the wish of the patient. This decision is consistent with the ethical standards of respecting patient autonomy and confidentiality, but it may leave the patient and provider at greater risk for adverse consequences. If the provider is blind to information that could inform the assessment of suicide risk, this patient may not receive the appropriate disposition plan. For example, the patient could be discharged home when he is, in fact, at high acute risk for suicide, or he may be needlessly hospitalized when he is not at high acute risk. While legal regulations may motivate a provider to firmly maintain patient confidentiality given a patient’s preference against obtaining collateral information, this approach may prove difficult to justify in the event of an adverse outcome. If the patient engages in self-directed violence after release from the hospital, absent any effort to obtain collateral data to assist in risk stratification, the evaluation, case formulation, and clinical disposition could be deemed inadequate or beneath the standard of care.

Alternatively, a provider may decide to obtain collateral data despite the patient’s objection to doing so. A notable advantage of this decision is that the information obtained could improve the provider’s ability to formulate a suicide risk assessment and a conceptualization of the presenting problem. With that information, the provider can offer clinically indicated recommendations for disposition and follow-up care. However, this approach requires that the provider consider the ethical implications of proceeding against the patient’s wishes. In addition, the provider should consider what impact this would have on the therapeutic relationship, given that a strong therapeutic alliance is a protective factor against suicide.¹⁵

TABLE 1. Example of a Risk-Benefit Analysis Concerning a Decision to Obtain Collateral Information

<i>Decision</i>	<i>Risk</i>	<i>Benefit</i>
Obtain collateral information without consent	Minimal disclosure of confidential information Weakens the therapeutic relationship	Adherence to standard of mental health care, especially when safety concerns are present Opportunity to inform comprehensive suicide risk assessment and relevant disposition recommendations Opportunity to examine convergence and divergence of information between patient and collateral informant's report
Refrain from obtaining collateral information without consent	Inadequate assessment and treatment planning, which increases risk for adverse outcomes Rigid adherence to legal regulations imparts false sense of security for providers	Respects autonomy of patient

Table 1 summarizes the risks and benefits of these 2 options. After evaluating this information, a provider may conclude that the benefits of obtaining collateral data outweigh the risks in such a situation. Enacting this option can be accomplished in a manner that attends to the ethical, legal, and clinical requirements discussed in this column.

Any attempt to obtain collateral data should be thoughtfully completed in a manner that minimizes the disclosure of confidential information. It is important to note that it is not necessary to release details related to the patient's mental health and treatment to third parties when obtaining collateral information. For example, a provider may only explain his or her professional credentials and make a request for specific information about an individual when seeking to obtain collateral data. The information about the provider's credentials may prompt the informant to make an inference about the individual's involvement in mental health care. Although this inference may represent a minimal disclosure of confidential information, it may be unavoidable and justified, particularly in emergency situations or cases involving safety concerns.^{1,5} Providers may modify the level of detail offered to an informant on the basis of the acuity level of the patient or the type of informant (eg, family member vs. another provider). For instance, it may be medicolegally justifiable to offer other

health care providers confidential information in an effort to facilitate treatment, especially in emergency care settings. To minimize the disclosure of confidential information, providers may find it helpful to first clarify the purpose of the collateral contact, define the extent of the information they wish to gather, and prepare a list of specific questions to ask the collateral informant.^{9,16} Providers must be mindful to ask questions in a manner that elicits information without unnecessarily divulging PHI. A patient's family members or friends may also ask questions about their loved one's safety or well-being. In this instance, a provider may alleviate their concerns and prevent unnecessary disclosure of PHI by validating their feelings, explaining the confidentiality requirements, and encouraging the informant to contact the patient directly regarding their concerns.

The decision as to whether or not to obtain collateral information may be facilitated by consultation with other health care providers. Additional members of the patient's treatment team may provide valuable insight into the risks and benefits of obtaining collateral information. A provider may find it especially helpful to consult about potential sources of collateral information and how formulating a clinical impression and treatment recommendations both with and without such information might affect outcomes. If it is not

possible to consult with colleagues on the treatment team or in the same health care system, it may be necessary to consult with external colleagues; in this case, it is important to maintain patient confidentiality during the consultation.

Comprehensive documentation of the process of obtaining collateral information should include information about the effort made to obtain a patient's consent to collateral involvement, the patient's response to this request, and the rationale for contacting a third-party informant without a patient's consent, including any professional consultation obtained. If a provider attempts to obtain collateral information, it is important to document the informant(s) who were contacted (even if the attempts were unsuccessful), any information that was provided, and steps taken to minimize disclosure of confidential information. Regardless of the outcome, documenting the clinical decision-making process provides cogent justification for a provider's actions⁵ and constitutes medicolegally sound practice.

SUMMARY

In this column, we have described the important role collateral information plays in mental health care, along with clinical, ethical, and legal considerations that guide this practice. Obtaining collateral information without a patient's consent is a complex decision that is facilitated by weighing risks and benefits. It may be warranted and consistent with standard practice to obtain collateral information despite the patient's objection; however, it is of utmost importance to optimize confidentiality in such situations. Rigid adherence to legal regulations that govern patient confidentiality may lead a provider to engage in defensive practices that result in negative outcomes for both the patient and provider. Finally, engaging in consultation and documenting one's decisions and actions throughout the process of obtaining collateral information further facilitates comprehensive patient care and sound medicolegal practices.

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