



PATIENT'S RIGHTS AND RESPONSIBILITIES: RAPID REVIEW

¹Dr. Gauri Niranjana, ^{2*}Dr. Sharique Ahmad and ³Dr. Saeeda Wasim

¹Junior Resident, Department of Pathology, Era's Lucknow Medical College and Hospital, Lucknow, Uttar Pradesh-226003.

²Department of Pathology, Era's Lucknow Medical College and Hospital, Lucknow, Uttar Pradesh-226003.

³Nova IVF Fertility, Hazratganj, Lucknow, U.P., India-226001.

***Corresponding Author: Prof. Dr. Sharique Ahmad**

Department of Pathology, Era's Lucknow Medical College and Hospital, Lucknow, Uttar Pradesh-226003.

Article Received on 21/09/2020

Article Revised on 11/10/2020

Article Accepted on 01/11/2020

ABSTRACT

The purpose of describing patient rights is to ensure the ethical treatment of person receiving medical or other professional health care services.^[1] One way to look at patient's rights is to view the legal implications that occur when patient's rights are violated. Torts, which are defined as civil injustices recognized as grounds for a lawsuit, are often involved in medical injury claims and malpractice claims. However, if patients have rights, they should remember that patient rights also come with responsibilities. Violence against medical fraternity is reported every day.

KEYWORDS: Patient's Right, health care, malpractice, medical fraternity.

INTRODUCTION

Many issues comprise the rights of patients in the medical system, including a person's ability to sue a health plan provider; access to emergency and speciality care, diagnostic testing, and prescription medication without prejudice; confidentiality and protection of patient medical information; and continuity of care. Deep understanding of this aspect should begin with undergraduate teachings and should be taught in priority during internship and PG learning programs.

Patient's Rights

Patient rights encompass legal and ethical issues in the provider patient relationship, including a person's right to privacy, the right to quality medical care without prejudice, the right to make informed decisions about care and treatment options, and to refuse treatment.

Formalized in 1948, the Universal Declaration of Human Rights recognizes "the inherent dignity" and the "equal and unalienable rights of all members of the human family".^[2]

And it is on the basis of this concept of the person, and the fundamental dignity and equality of all human beings, that the notion of patient rights was developed. It varies in different countries and in different jurisdictions, often depending upon prevailing cultural and social norms.

A patient has the right to respectful care given by competent workers, he has the right to know the names and the jobs of his or her caregivers. He has the right to privacy with respect to his or her medical condition, and has the right to have his or her medical records treated as confidential and the information about him will be released only with permission from the patient or as required by the law.

A patient has the right to request amendments to and obtain information on disclosures of his or her health information, in accordance with law and regulation. He has the right to good quality care and high professional standards that are continually maintained and reviewed.

A patient has the right to make informed decisions regarding his or her care. He has the right to information from his or her doctor in order to make informed decisions about his or her care. He will be given information about his diagnosis, prognosis, and different treatment choices.

A patient given the option to participate in research studies has the right to complete information and may refuse to participate in the program. He who chooses to participate has the right to stop at any time. Any refusal to participate in a research program will not affect his access to care.

A patient has the right to refuse any drugs, treatment or procedures to the extent permitted by law after hearing the medical consequences of refusing the drug, treatment or procedure. He has the right to another doctor's opinion at his or her request.

A patient has the right to be given information in a manner that he or she can understand.

Upon request, he has the right to access all information contained in the patient's medical records within a reasonable timeframe. This access may be restricted by the patient's doctor only for sound medical reasons. He has the right to have information in the medical record explained to him or her.

A patient has the right to access people or agencies to act on the patient's behalf or to protect the patient's right under law. He has the right to have protective services contacted when he or she or the patient's family members are concerned about safety.

A patient has the right to be informed of his or her rights at the earliest possible time in the course of his or her treatment. He has the right to make advance directives (such as a living will, health care power of attorney and advance instruction for mental health treatment) and to have those directives followed to the extent permitted by law.

Medicare patient has the right to appeal decisions about his or her care to a local Medicare Review Board. The Facility will provide the name, address, and phone number of the local Medicare Review Board and information about filing an appeal.

A patient has the right to be free from all forms of abuse or harassment. He has the right to be free from the use of seclusion and restraint, unless medically authorized by the physician. Restraints and seclusion will be used only as a last resort and in the least restrictive manner possible to protect the patient or others from harm and will be removed or ended at the earliest possible time.

Patient has the right to designate visitors who shall receive the same visitation privileges as the patient's immediate family members, regardless of whether the visitors are legally related to the patient.

A patient has the right to pastoral care and other spiritual services. He has the right to appropriate pain management. Has the right to be free from financial exploitation by the health care facility.

Patient's Responsibilities

Autonomous, competent patients control the decisions that direct their health care. With that exercise of self-governance and choice comes a number of responsibilities.

The move from overt paternalism towards increased patient autonomy is illustrated by the change in the adjectives used by medical authorities over the course of a century to describe patients who do not follow medical advice. The terms evolved from the "vicious" and "ignorant" TB patients of the early 1900s, the "recalcitrant" after World War II, to the "non-compliant" patient that emerged in the 1970s^[3]. Ironically the term non-compliant, which was developed specifically to be a non-judgmental phrase, has been criticized for its implication that patients should necessarily follow physician recommendations.

Patient Responsibilities are^[4]

1. Patients are responsible for providing correct and complete information about their health and past medical history.
2. Patients are responsible for reporting changes in their general health condition, symptoms, or allergies to the responsible caregiver.
3. Patients are responsible for reporting if they do not understand the planned treatment or their part in the plan.
4. Patients are responsible for following the recommended treatment plan they have agreed to, including instruction from nurses and other health personnel.
5. Patients are responsible for keeping appointments.
6. Patients are responsible for treating others with respect.
7. Patients are responsible for following facility rules regarding smoking, noise, and use of electrical equipment.
8. Patients are responsible for what happens if they refuse the planned treatment.
9. Patients are responsible for paying for their care.
10. Patients are responsible for respecting the property and rights of others.
11. Patients are responsible for assisting in the control of noise and the number of visitors in their rooms

When can confidential information be disclosed?

Confidential information can be disclosed if

- A patient gives his/her express or implied consent to the disclosure.
- The disclosure is required by law or is justified in the public interest.

Consent to the disclosure can be considered to be implied in a number of circumstances, listed below^[5]

1. When healthcare practitioners share information within the healthcare team?

All members of staff who provide care to the patient are bound by a duty of confidentiality and the patient should be informed of this.

2. For the purposes of clinical audit

Information for clinical audit should be anonymized where possible; when anonymized, the information ceases to be confidential. Confidential information can

be included in a clinical audit only if a patient is informed of this and he/ she does not object. Express consent should be sought for the disclosure of identifiable information for any clinical audit conducted outside the team that has provided care.

3. Disclosures where express consent should be sought

If information is required by third parties, such as an insurer, employer, or agency assessing benefits, express consent should be sought for such disclosures. A copy of the report should be offered to the patient unless.

- The patient informs you otherwise.
- The information could cause serious harm to the patient or others.
- The report reveals information about another person who does not consent.

Disclosure without consent

As mentioned above, disclosure of personal information can be made without the patient's consent if it is required by law or justified in the public interest.

Disclosures required by law

Disclosures required by law according to General Medical Council (GMC) guidance are^[6]

- notifications of specific infectious diseases
- Disclosures to various regulatory bodies (e.g. the GMC). Certain regulatory bodies have statutory powers to access patient records. Despite the fact that consent is not required for such disclosure, the patient should be informed unless it would undermine the purpose
- Disclosure to courts if information is ordered by a judge or presiding officer of a court. You can object to disclosing confidential information that you feel is irrelevant to the proceedings. You must not disclose information without the patient's consent to a solicitor, police officer, or officer of court unless it is required by law or justified in the public interest.

The British Medical Association (BMA) gives additional examples of disclosures required by statute^[7]

- Abortion Regulations 1991—a doctor carrying out a termination of pregnancy must notify the Chief Medical Officer, giving a reference number and the date of birth and postcode of the woman concerned
- Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1985—deaths, major injuries, and accidents resulting in more than 3 days off work, certain diseases, and dangerous occurrences must be reported
- Road Traffic Act 1988—healthcare professionals must provide to the police, on request, any information that may identify a driver alleged to have committed a traffic offence
- Terrorism Act 2000—all citizens, including healthcare professionals, must inform police as soon as possible of any information that may help to prevent an act of terrorism, or help in apprehending or prosecuting a terrorist

- Information Sharing Index (England) Regulations 2006 (Contact Point)—healthcare professionals must provide basic identifying information to the local authority for every child up to the age of 18 years.

Disclosures in the public interest

This is to protect individuals or society from risk of serious harm, such as crime or serious communicable disease. The patient must be informed of the disclosure even if you have not sought the consent. The disclosure would be justified in order to assist in the prevention, detection, or prosecution of serious crime and to protect others, including children, from various type of violence.

If a patient's identifiable information is required in the public interest, the patient's consent should be sought unless it will put you or others at risk of serious harm or undermine the purpose of disclosure. The other exception would be in cases where action must be taken quickly and there is insufficient time to contact the patient.

Information can be disclosed in the public interest if it will benefit society over time for use in medical research, epidemiology, public health surveillance, health service planning, and education.

A mentally competent patient who is at risk of serious harm and who declines information to be shared must be warned of the risks, but the patient's decision must be respected. Information can, however, be shared without the patient's consent if failure to do so will put other people at risk of serious harm.

Mentally incapable adults

When deciding whether to disclose information about mentally incompetent adults, you must make the care of the patient your first concern, encourage the patient to get involved, respect their dignity, and take into account their previous wishes, feelings, beliefs, and values. If incapacity is temporary, you should consider whether the decision making could be delayed.^[8]

People who have died

The duty of confidentiality continues after a person dies, especially if the person asked for information to remain confidential.^[9]

Relevant information about a person who has died should be disclosed in the following circumstances:

- To help a coroner or procurator fiscal with an inquest or fatal accident enquiry
- If required by law, authorized under section 251 of the National Health Service(NHS) Act 2006, or justified in the public interest (e.g. for education or research purposes)
- For National Confidential Inquiries or for local clinical audit
- On death certificates

- For public health surveillance (anonymized or coded information)
- If a parent asks for information surrounding a child's death
- When a partner, close relative, or friend asks for information about the circumstances of an adult's death and you have no reason to believe that the patient would have objected to such a disclosure
- When a person has a right of access to records under the Access to Health Records Act 1990 or Access to Health Records (Northern Ireland) Order 1993.

Children

The same duty of confidentiality applies to children and young people as to adults. To share information, consent should be sought from a competent minor otherwise consent can be obtained from a person with parental responsibility.^[10,11]

If a child lacks capacity and cannot be persuaded to involve his/her parents, personal information can be disclosed to parents or authorities if it is in the child's best interests.

Information can be shared without consent in cases where^[12]

- There is an overriding public interest in the disclosure, including when.
 - A child is at risk of abuse
 - For the prevention of serious crime
 - If child's behavior may put them or others at risk of serious harm
- When the disclosure is in the best interests of a child who does not have the maturity to understand the decision about the disclosure
- It is required by law.

CONCLUSION

Patient rights are continually evolving and are linked to governmental agencies and their regulations. Failure to respect these patient rights may have severe penalties imposed on those individuals, businesses, and ancillary health agencies that violate patient rights.

However, if patients have rights, they should remember that patient rights also come with responsibilities. When there is mutual respect and honesty between healthcare professionals and patients, there is seldom any problems with patient rights.

REFERENCES

1. <https://www.surgeryencyclopedia.com/Pa-St/Patient-Rights.html>. [Accessed on: 25-05-2020].
2. <https://www.who.int/genomics/public/patientrights/en/> [Accessed on: 13-06-2020].
3. <https://journalofethics.ama-assn.org/article/responsible-patient/2003-04> [Accessed on: 09-06-2020].
4. Patient Responsibilities. Encyclopedia of Bioethics. . Encyclopedia.com. 11 Aug. 2020
5. <https://www.ncbi.nlm.nih.gov/books/NBK236546/> [Accessed on: 22-05-2020].
6. <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/confidentiality/disclosures-for-the-protection-of-patients-and-others> [Accessed on: 16-05-2020].
7. <https://www.guidelinesinpractice.co.uk/your-practice/all-healthcare-staff-have-a-duty-of-confidentiality/352639.article> [Accessed on: 28-06-2020].
8. <https://www.guidelinesinpractice.co.uk/your-practice/all-healthcare-staff-have-a-duty-of-confidentiality/352639.article> [Accessed on: 14-05-2020].
9. <https://www.themdu.com/guidance-and-advice/guides/disclosure-after-death> [Accessed on: 15-05-2020].
10. <https://www.guidelinesinpractice.co.uk/your-practice/patients-who-may-lack-capacity-need-careful-assessment/352536.article> [Accessed on: 02-06-2020].
11. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6745603/> [Accessed on: 11-06-2020].
12. <https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/0-18-years/principles-of-confidentiality> [Accessed on: 26-05-2020].