Disclosure in Routine Referral Letters - Do you have Consent?

By Erin Walton on 14/01/2015 Clinical

Disclosure in routine referral letters - do you have consent?

HIV positive patients – with low viral loads and perfectly well in terms of their condition – are finding that their status is shared without their knowledge in referral letters to secondary practitioners, wrote Kate Adams recently in the British Medical Journal. [1]

While some doctors argue that disclosure of HIV status and other touchy healthcare concerns is a must in order to maintain quality care across the board, it hasn't all been rosy for patients. Some have experienced uncomfortable (and unexpected) conversations about their status with non-treating staff, while others have reported being victims of discrimination after secondary care doctors double gloved during treatment, or refused to operate at all.

Discrimination or Information?

In 2015, we can only hope that the days of unquestioning discrimination against the HIV positive community are long gone. But even while recognising that confidentiality is a legal requirement in Australia (remembering that information may be disclosed "if it is required in connection with the further treatment of a patient, or transferred electronically between hospitals for the treatment of patients," [2]) Adams' story raises a number of important questions.

Should full disclosure in routine referral letters be essential? Do healthcare providers need to 'cover' themselves upfront, anticipating that a secondary care professional might prescribe medication which seriously interacts with a patient's current prescription? Or does supporting nondisclosure and maintaining a hush-hush attitude towards HIV status, and other uncomfortable issues, only serve to reinforce social stigma?

Clearly, a patient's rights must be considered. But are they clear?

Obtaining Consent

When disclosing information, patient consent may be explicit or implied. While explicit consent involves the practitioner and patient clearly discussing the option to disclose a condition, implied consent supposes the professional's confidence that their patient understands that information about their health may be shared. But for this to work, simply 'supposing' is not enough; **patients must know that their HIV status, or other condition, is potentially share-able. They must also know with whom it could be shared.**

As Adams writes, the General Medical Council outlines that "a patient's decision to refuse sharing of information must be respected unless

there is an over-riding public interest or other legal obligation to disclose." [3] Insurance reports and medical literature destined for a patient's employer may fall under this category of necessary disclosure.

Do you safeguard confidentiality?

As medical professionals, writing referral letters is a common activity. But what sorts of systems are in place in your clinic? Do you click a button on a software program and watch while entire medical histories are automatically imported into a referral template and sent off into the cloud? Do you check that your patients understand implied consent and explain why disclosure might be beneficial for their healthcare? Are you rigorous and professional in maintaining confidentiality regarding the conditions of patients who are referred to you? Have you thought of how your non-medical and administrative staff fit into the issue of confidentiality?

When disclosing sensitive information in routine referral letters, although healthcare professionals and patients must work together, it's up to practitioners to guide patient understanding. Ultimately, when it comes to disclosure, patients must not be left in the dark.

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References

[1] Routine referral letters share clinical data without patients' consent BMJ 2014;348:g2419
[2] Privacy and confidentiality Law Handbook, Victoria
[3] General Medical Council. Confidentiality. 2009.

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