

MAINTAINING PROFESSIONAL CONFIDENTIALITY OBLIGATIONS IN THE DENTAL PROFESSION

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As a treating dentist, you have access to patients' sensitive health information and your obligations regarding privacy and confidentiality are paramount. This article discusses a clinical scenario where a dentist had breached their confidentiality obligations and provides safeguards to prevent this.

WHAT ARE YOUR OBLIGATIONS WITH REGARD TO CONFIDENTIALITY AND PRIVACY?

The Dental Board of Australia's Code of Conduct (Code) sets out a dentist's professional obligation to protect the confidential information of their patients or clients, who, according to the Code have a right to expect that practitioners and their staff will hold information about them in confidence, unless release of information is required by law or public interest considerations.¹ The aim of these confidentiality rules is to maintain a patient's trust in their practitioner, and to ensure there is full disclosure between patients and practitioners so the best care can be provided.

The obligation to maintain confidentiality is paramount to a dentist's duties and breach of it can lead to significant consequences, which may include a complaint to the relevant regulators, or even legal action by the patient themselves. Dentists must also consider their obligations with respect to documentation or information that may be subject to the Commonwealth or State based privacy laws, which can also accrue significant penalties.

CLINICAL SCENARIO

John attends his dentist, Sam, for a check-up. John was a suspected alcoholic and could not remember what medications he was on. Sam obtained John's permission to contact John's GP and make the relevant enquiries. Sam wrote himself a post-it note which said the following:

"To do: Call John Smith's GP re patient meds and alcoholism!!"

Sam left this note on the computer monitor for the rest of the day. On the following morning, another patient who knew John attended the clinic and saw the post-it note on the monitor. He later told others as well as John what he had seen.

John was naturally upset and made a complaint, and Sam was found to have breached his confidentiality and privacy obligations by inappropriately disclosing and storing John's health information.

LEARNINGS AND SAFEGUARDS

While Sam's note was a way to remind himself of his patient's needs, it was done outside of a secure note taking software and in an environment where other unauthorised people could see it. Further, while Sam meant well, it has eroded John's trust in him, potentially leading to a poorer outcome for John's treatment. While it may be appropriate, and indeed necessary, to share health information about patients with other health professionals for health care purposes, such discussions and the relevant notes should take place and be stored in appropriate ways.

Safeguards against confidentiality breaches for practitioners include fully understanding their obligations and ensuring they comply with them. This process includes ensuring they regularly seek updates to refresh their knowledge on what those obligations are and committing to continual education. Some specific examples of ensuring compliance may include:

1. always being alert to your surroundings when discussing a patient and erring on the side of caution, if you believe a conversation may result in a breach;
2. ensure that their health record keeping database is secure and accessed appropriately, and that patient notes are only recorded in that software; and
3. it is not uncommon for practitioners to switch between their personal and professional email addresses when communicating with patients. Practitioners should only use their professional email accounts when communicating with patients.

Safeguards against confidentiality breaches for clinics include ensuring that reception and clerical staff along with practitioners are properly made aware of their obligations to maintain confidentiality, having a clear policy in relation to patient confidentiality, privacy, and social media use, and ensuring staff are regularly educated on the policy.

If there is any doubt as to whether something may breach professional obligations, practitioners are encouraged to seek assistance from a senior colleague or other professional advisor.

This article was co-authored by Graduate William Harris.

1 Code of Conduct

GET IN TOUCH



KATE HUGHES
SPECIAL COUNSEL

+61 3 9909 6312
kate.hughes@bnlaw.com.au