

Breach of Confidentiality, Invasion of Privacy and Resident Rights

Whether providing care for the elderly in their own homes, in an assisted living home (adult care home) or an assisted living facility, **breach of confidentiality** and **invasion of privacy** are the two most frequently violated resident rights.

Confidentiality

Individual states stipulate what constitutes breach of confidentiality and invasion of privacy. You, as a caregiver, are charged with knowing your state's laws as they pertain to you and your client.

In general the client is entitled to privacy (or confidentiality) in correspondence, communications, visitation, financial and personal affairs, hygiene, and health-related services.

Even if there are no specific state statutes to provide for the right to confidentiality, there is a legal presumption that clients should be able to provide health care professionals and caregivers with personal information in order to receive appropriate care without worrying that this information will be shared with others.

There are a few exceptions to the caregiver's obligation of maintaining confidentiality. Reporting of child, spousal or elder abuse or neglect, violent injury, contagious diseases, and criminal activity are a few examples that may require reporting to officials.

Each state is different. Know the laws of your state. Know who is responsible for reporting. And know to whom reports should be directed.

Breach of Confidentiality

Why would this be one of the most frequently violated resident rights?

It is not hard to understand how this happens. We are constantly reminded to maintain confidentiality, but all too often reminders of how it is breached and examples of how to avoid breaching confidentiality are difficult to come by. While doing research for this article, specifics were few and far between. The text

books let us know what confidentiality and breach of confidentiality are. They task us with knowing our state laws and move on. Therefore, I have included in this article some examples of situations of breach of confidentiality I have encountered.

Have you ever gone home and discussed a particularly difficult or frustrating resident with your spouse? Have you ever discussed a client over lunch or in an elevator? Have you paid attention to who is near enough to overhear you? Is the person you are having the discussion with in a need to know situation? How often have you breached your client's confidentiality?

One day when I was doing Medicare Case Management, I crossed paths with an HHA in a client's home. She had completed her work with our client and was headed to her next appointment, another client that we shared. She had some concerns about him and we stepped into the kitchen (from the dining room) to go over her concerns and cover some of mine.

When I returned to my client she asked me if the client we were talking about was Mr. F. I was absolutely astounded. She had been right. But the aide and I had not used Mr. F's name, rather described him as the quadriplegic we were caring for. Also, we did not think that the client who's home we were in would know who we were speaking of. I asked Mrs. T how she knew of our client. She bluntly told me that she might be "nearly blind, but never had a problem" with her ears. Mrs. T proceeded to inform me that her husband and she used to frequent the business Mr. F managed before his tragic accident and asked if I would send him her best wishes.

After completing our visit, I continued on to Mr. F's home. I told him of my error in maintaining his confidentiality and apologized. I also told him of Mrs. T's request to send her regards. I did not give her name or anything about her other than what she said to me about him and his connection to her and her husband. Amazingly Mr. F asked if my client was Mrs. T. (He was also right!) If so would I send her his regards and asked how she was.

I asked if I could divulge his current situation with Mrs. T, and asked Mrs. T if I could discuss her with him.

This situation turned out to be beneficial as I became a connection between the two who were very happy to finally reestablish contact. But, it could have been much different. The aide and I were wrong in not making sure if anyone could hear us. In the future I would step outside to discuss other clients with the aide, and then only after making absolutely sure no one could hear us.

One of my friends told me of a time when she went home thoroughly upset with the care that one of her clients had received in an acute care hospital. Prior to admission her client was ambulatory, continent