MEDICAL PRIVACY, CONFIDENTIALITY, AND PRIVILEGE
AND THEIR RELATIONSHIP TO THE INSTRUCTION
OF MEDICAL OFFICE TECHNOLOGY CURRICULA

by

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Abstract

The details of our personal lives are our property and no one else’s business. Those professionals who train medical office workers need to teach the medical law and ethics to those who will deal with these personal details of our lives.

The instructors of medical office technology indicate that the right to medical privacy and all that it encompasses are very essential in the instruction of this curricula. Yet, they are not as familiar as they should be with the laws, and they are not covering medical law and ethics thoroughly in all curricula.

Medical law and ethics should be taught as a separate core class in all medical office technology curricula, regardless of the length of training involved. Health care providers, their employees, and their agents have a legal duty to adopt security safeguards for the information they acquire and maintain—physical care of the recorded information, and care that employees are not verbally sharing the recorded information publicly. Verbal leakage of medical information may be the most dangerous due to how quickly information travels through the grapevine and the tremendous distortion of the information that occurs.
CHAPTER I

INTRODUCTION

Alan Westin defines privacy as "the claim of individuals, groups, or institutions to determine for themselves when, how and to what extent information about them is communicated to others."1 Specific protections of privacy were built into the Constitution by the framers in terms that were important to their era. With the subsequent inventions of the telephone, radio, television, and computer systems, more sophisticated legal doctrines were developed in an attempt to protect the informational privacy of the individual. Many diverse acts come under the heading of privacy violations. Most involving medical records are in the area generally described by Miller and Jentz as “disclosure of information which an ordinary, reasonable person would find objectionable.”2

The researcher was interested in the instruction for training programs in the medical office technology field wherein medical office workers receive training in working with confidential patient information in a medical setting.
Statement of the Problem

This study was undertaken to determine whether instructors of medical office technology curricula are familiar with the existence of the right to privacy through state and federal legislation; what constitutes a violation of the same; what recourse a patient has; and which legal concepts are taught and how in medical office technology curricula in the states of Montana, Oregon, Washington, New Mexico, Arizona, Colorado, Idaho, and Utah.

The specific questions to be answered by this study included:

1. Do instructors in medical office technology have a familiarity with the right to privacy?

2. Do instructors in medical office technology have a familiarity with what constitutes a violation of the right to privacy in medical offices?

3. Do instructors in medical office technology cover the state statutes and federal law which govern human resources in the curriculum in which they teach, and to what extent?

4. Do instructors in medical office technology have a familiarity with what state legislation currently governs human resources that have access to confidential patient information?

5. Do instructors in medical office technology have a familiarity with what constitutes a violation of existing federal or state law in the medical setting?

6. Do instructors in medical office technology have a familiarity with what legal recourse is available to a patient whose rights are violated under the law?
7. In the instruction of the medical office technology curricula, what medicolegal concepts are taught to those students who will enter the medical workplace in Montana, Washington, Oregon, Idaho, New Mexico, Arizona, Utah, and Colorado, and through what kind of curriculum and/or instructional process?

Need for the Study

This study was necessary to determine what medicolegal concepts are taught as an integral part of medical office technology curricula in order to provide those involved in medical office occupations with the professional knowledge needed to safeguard patient right to privacy.

Limitations of the Study

The scope of the study was limited to 30 responses of 42 medical office technology instructors surveyed, and included instructors in medical records.

The 42 instructors surveyed were from community colleges, vocational-technical centers, and technical institutes. The selected institutions currently offer programs in one or more of the following fields: medical office assistant, medical receptionist, medical records, medical transcriptionist, medical office management, medical word processing specialist, computerized medical billing clerk or administrative medical assisting.
Definition of Terms

The following definitions were given to aid the reader of this study:


**Ethics**: The rules or standards governing the conduct of the members of a profession. (American Heritage Dictionary, 1991: 467)

**Statutory Law**: Law that is prescribed by legislative enactments. (American Heritage Dictionary, 1991: 1191)

**Confidential Communication**: A statement made to someone such as one's doctor, who cannot be compelled to divulge the information in court. (American Heritage Dictionary, 1991: 308). A statement made under circumstances intended only for the ears of the person addressed. (Black's Law Dictionary, 6th Edition, 1990: 298.)

**Privileged Communication**: Those statements made by certain persons within a protected relationship such as attorney-client, priest-penitent which the law protects from forced disclosure on the witness stand about the publication of the witness, client, patient, spouse, or penitent. (Black's Law Dictionary, 6th Edition, 1990: 1198.)

**Violation of Privacy**: Public disclosure of private facts consisting of a cause of action given to private information about the plaintiff even though it is true and no action would lie for defamation. (Black's Law Dictionary, 6th Edition, 1990: 1195.)

**Harm**: The existence of loss or detriment in fact of any kind to a person resulting from any cause. (Black's Law Dictionary, 6th Edition, 1990: 718.)

**Ethics**: Of or relating to moral action, conduct, motive, or character. Professionally right or befitting; conforming to professional standards of conduct. (Black's Law Dictionary, 6th Edition, 1990: 553.)

**Emotional Harm**: Pertaining to a response involving physiological changes as a subjective response. (Dorland's Medical Dictionary, 24th Edition, p. 206.)

Psychological Harm: Pertaining to the mind or emotions. *(Dorland’s Medical Dictionary, 24th Edition, p. 498.)*

Unprofessional Conduct: That which is by general opinion considered to be unprofessional because immoral, unethical, or dishonorable. It involves breach of duty which professional ethics enjoin. *(Black’s Law Dictionary, 6th Edition, 1990:1538.)*

**Organization of the Study**

This research project was organized into five chapters. The first chapter contained the introduction to the study, the statement of the problem and the questions to be answered, the need for the study, the limitations of the study, and the definition of terms.

Chapter two was the review of literature arranged according to the following areas:

1. Introduction
2. The confidential relationship and privileged communication
3. Montana’s laws
4. Privacy and other risks of breach of confidentiality
5. The electronic medical record
Chapter three defined the various procedures used in completing this study. Included were sources of data, construction of the survey instrument, administration of the survey instrument, and analysis of the data as well as time line.

The results of the study were outlined in Chapter four. The findings of the questionnaire were presented and analyzed.

The last chapter of this research project included a summary of the study along with conclusions and recommendations.
CHAPTER II

REVIEW OF LITERATURE

Introduction

Information in health care records is highly personal, and, if disclosed improperly may cause emotional, physical, psychological, and/or economic harm to the patient. As seen in the case of Congresswoman Nydia Velazquez (D-NY), medical record information may be misused and abused if not safeguarded. Ms. Velazquez is now suing a New York hospital for $10 million for breach of her right to privacy.3

The Doctor-Patient Relationship. Confidentiality has always played a critical role in the provision of health care. Without the trust inherent to confidentiality, a patient will be unwilling to supply information candidly for his/her benefit. Thus the nature of the physical-patient relationship is one of which trust is the foundation--trust for the care of physical and mental health, for well being and trust that diagnoses and medical details will remain with the physician. Other confidential relationships exist between lawyer and client, teacher and student, professional counselor and client, clergy and congregationalist.

The threat to the confidentiality of health care information has increased over the past decades. The emergence of third-party payment plans; the exponential use of computers and automated information/billing systems; and the faxing and
electronic transfer of medical records have put substantial pressure on confidentiality protection.

For these reasons courts, state legislatures, and health professional organizations have struggled to develop law and policy that restore patient privacy protection. Two types of health record legislation are common to virtually every state. Statutes in every state require health care providers to report certain types of patient information to state agencies. This reporting concerns patients who have the following:

1. Venereal disease
2. Certain congenital defects
3. Injuries from child abuse
4. Gunshot and knife wounds
5. Contagious or infectious diseases
6. Occupational illnesses or injuries
7. Tuberculosis.

The Provider-Patient Privilege. Almost every state recognizes some type of provider-patient privilege. The privilege permits the patient to restrict his/her physician from disclosing information received in confidence from the patient about the patient’s health without the patient’s written permission. (South Carolina, Texas, and Vermont do not have health-care provider-privilege statutes.) These statutes
expressly provide that the privilege belongs to the patient (and thus can be waived by
the patient.) Some circumstances compel physicians through subpoena to provide
information to a court without patient permission such as these:

1. The patient relies upon his medical condition as a defense.
2. Child abuse is at issue.
3. Involuntary hospitalization is at issue.
4. Court ordered examination

Depending on where one lives, the patient, might have far more difficulty
getting his/her medical records than would attorneys, employers, insurance
companies, government agencies, and media.

In November, 1986, a reporter somehow obtained the medical record of right-
wing lawyer Ray Cohn from the National Institute of Health and published it in
*Harper's* magazine, complete with information confirming that Cohn had AIDS.⁴
This is a tremendous irony when 21 states currently have no law guaranteeing patients
access to their hospital and physician's records. Only 23 states and the District of
Columbia let patients see both kinds of records. Many patients give up in frustration
due to costliness and time consumption simply to obtain a personal medical record.
Before 1959, no court recognized that patients had the right to have access to their
own medical records.
More than twenty years ago, the Watergate scandal led to a national debate about the lack of protection for privacy rights. Congress then passed The Privacy Act of 1974. This prompted state legislatures to adopt the Uniform Health Care Information Act (with recommendation from the American Psychiatric Association, the American Medical Records Association, and the American Medical Association as well as the Privacy Protection Study Commission, *Personal Privacy in an Information Society*, 283 (1977.) Montana is one such state to adopt this act.

**Montana’s Laws.** Article II, Sec. 10 of the Montana Constitution guarantees the right of privacy.

Title 50-16-501 of the M.C.A. is cited as the Uniform Health Care Information Act.

The legislative findings of fact indicate that health care information is personal and sensitive information that if improperly used or released may do significant harm to a patient’s interests in privacy and health care or other interests.

Patients need access to their own health care information to enable them to make informed decisions about their health care and to correct inaccurate information about themselves.

Health care providers must implement reasonable safeguards for all health care information which they maintain. Reasonable security safeguards may include personnel security standards such as background checks; administrative security
standards; physical security safeguards; and in automated records systems, technological security standards such as user access codes. A private investigative firm was indicted by a Denver grand jury for using investigators dressed as hospital personnel to obtain and subsequently sell health care information.

In order to retain full trust and confidence of patients, health care providers have an interest in assuring that health care information is not improperly disclosed and in having clear and certain rules for disclosure of health care information.

The movement of patients and their health care information across state lines, the access to and exchange of health care information from automated data banks, and the emergence of multistate health care providers creates a compelling need for uniform law, rules and procedures governing use and disclosure of health care information.

“Health care information” is defined by Montana state law as any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and relates to the patient’s health care.

A health care provider, an individual who assists a health care provider in the delivery of health care, or an agent or an employee of a health care provider may not disclose health care information about a patient to any other person without the patient’s written authorization.
Depending on the nature of the information about a patient which is leaked, civil remedy is available for damages from $5,000-$20,000, plus reasonable attorneys fees, and other pecuniary relief as stipulated.15

**Privacy Falls Hard.** Demands for information have grown into an unchecked torrent. Privacy has fallen hardest to insurance companies, employers, and government agencies who now foot 70 percent of all medical bills in the country. In one month, for example, Stanford University Hospital receives 1,500 requests for medical record information—from insurers, physicians, attorneys, and federal and state law officers with subpoenas. The patient starts the flood of information by signing a waiver at the clinic/hospital which authorizes any physician, hospital, or medical provider to release *any* information regarding your medical history, symptoms, treatment, examination results or diagnosis. If a doctor charges $600 for a physical, the insurance company can delve into your records without telling you.

The doctor's office or hospital, then, may breach patient confidence in an effort to be efficient. Perhaps the insurance company wants to know if the patient has an asthma condition, but that patient saw the same doctor 5 years ago for a VD infection. What is released may be more than the insurer, the employer, or the government agency needs to know.
Hospitals also contribute to their own unique leaks because of the “traveling chart.” A chart may be looked at by X-ray and ultrasound technicians, respiratory therapists, dieticians, occupational therapists, physical therapists, student nurses, pharmacists, medical students, social workers, medical technologists, registered nurses and licensed practical nurses, certified nurse’s aides, transcriptionists and filing clerks. If the patient has an unusual condition or illness, the number will increase. Then there are the elevator conversations which, although they take place in house, breach the Hippocratic Oath as well as medical ethics and law.¹⁶

**At Stake: More Than Your Privacy.** Four-fifths of the nation’s 1,500 largest firms now run and finance their own insurance companies. When a patient submits a claim, the personnel office, the boss and others will discover that the patient has had, say, an abortion. Here is where more than privacy is at stake. The American Psychiatric Association’s Committee on Confidentiality reports several cases across the country in which school teachers had been fired or demoted after undergoing psychiatric treatment billed through their employer’s insurance. An estimated 15 percent of employees with company-run insurance programs pay for covered psychiatric treatment themselves because they fear repercussions from their employers.¹⁷

A Los Angeles teacher’s decision to take an AIDS test before his marriage ended in his suspension when the University of Southern California Hospital
mistakenly told the LA School District that he had AIDS. Because California law prohibits releasing such information without written patient consent, this teacher regained his job through out-of-court negotiations. But this improper disclosure caused his fiancee to leave him and his church to shun him.

With each pass from doctor to doctor, with each medical transcriptionist who keys your records, with each file clerk who files documents or collects faxes, with each change of doctors or insurance companies, medical information becomes vulnerable to be intercepted and to be passed on to someone else not involved in health care.

The damage from improper disclosure, mistakes or incorrect information in a medical record can be physical, economic, psychological, and emotional. A person could be turned down for postgraduate school, for job interviews, for career advancement, and rejected for insurance. Incorrect misdiagnosis as recorded information can be responsible for not receiving timely treatment for physical or mental ailments as needed, thus contributing to physical harm to an individual.

All states permit one to sue your doctor, clinic, or hospital if breach of confidentiality occurs. But if you really want to keep your privacy, bringing suit will be self-defeating. Medical secrets, no matter how personal and intimate, will become public when you bring suit. Then additional humiliation and embarrassment will add insult to injury for the patient. The trust in the confidential relationship will have
been severed. Protection from further harm can be attempted by bring suit as a "Doe" case.  

**Genetic Privacy - Your DNA.** Medical records include genetic predictors of diseases likely to show up in years to come. Potential discrimination will increase. The potential dangers lurking in DNA will not allow a patient’s claim to a clean bill of health. Employers admit to using employee’s medical insurance information available through commercial data banks maintained by institutions like hospital networks, health maintenance organizations (HMOs), and drug companies. Health and life insurance companies use the same information to winnow “risky” customers. Who will be interested in trolling the digital medical record data stream?

**The Computerized Record.** Hospitals are now rushing to digitize medical records to compact disk in order to save space and to allow for quick transfer of medical information. Pharmaceutical firms wanting to build direct-mail advertising lists for a new drug will pay top dollar for names and addresses of people taking competing medications. Life insurance companies could save lots of money if they know in advance which of their applicants were likely to get sick and die. The *Sunday Times* of London found that for a fee of $225, British detective agencies routinely obtain medical records by phoning doctors’ receptionists and pretending to
be another doctor’s secretary. Would a national electronic health network multiply this problem? It could if an electronic break-in occurs.

Some Pros Exist. Does the widespread collection of electronic health information have benefits for the American public? One benefit can be a national health database, experts say. With such a system accident victims could have their records punched up quickly for doctors to determine the best treatment. Public health officials could keep better track of epidemics and the emergence of drug-resistant bacteria. Researchers could identify apparent risk factors in the population that increase a woman’s chances of developing breast cancer. The National Health Service of Britain has created a network of linked records.

The Curriculum Connection. How can this legal and ethical content be brought to light through curriculum and instruction? An example of a one-year curriculum for a medical office receptionist is shown on page 17. The medical law and ethics class fits in nicely in the spring, and is included in the required credits for completion of the program.
Medical Office Receptionist.

<table>
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<td>Intro/ Technical Writing</td>
<td>Bus Math</td>
<td>Bus Communications</td>
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<tr>
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<td>Word Processing</td>
<td>Medical Law &amp; Ethics</td>
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<td>Med Terminology II</td>
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<td>Machine Transcription</td>
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<td>Ofc Careers Survey</td>
<td>Pre-Employment Sem</td>
<td>Medical Network Lab</td>
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Summary

There are about a billion visits annually in the United States to doctors' offices, clinics, and hospitals. Each visit either generates a new medical record or adds to an existing one. Medical records are maintained to document the patient's history, conditions, and treatment; to aid in continuity of care; and to provide a record for billing. The purpose of the medical record is also to provide protection of the legal interests of the patient, the hospital, and the practitioner. The medical record is created by the provider, but the information contained within the record belongs to the patient. Providers have custody of the records and strong interests in them, but the patient has an even stronger interest. The patient's interest is strong enough to give the patient a legal and an ethical right of access to the information contained in the records and a right to a complete copy of the medical records themselves.
What is meant by the terms "confidentiality," "privilege," and "privacy"?

Almost all of the law dealing with access to medical records by persons other than the patient can be categorized under the headings of confidentiality, privilege, and privacy.

Confidentiality. As commonly used, to tell someone something in confidence means that the person will not repeat the information to anyone else. Confidentiality presupposes that something "secret" will be told by someone to a second party (such as a doctor) who will not repeat it to a third party (such as an employer). Relationships such as attorney-client, and doctor-patient are confidential relationships. In the doctor-patient context, confidentiality is understood as an expressed or implied agreement that the doctor will not disclose the information received from the patient to anyone not directly involved in the patient's care and treatment.

Privilege. A communication is privileged if the person to whom the information is given is forbidden by law from disclosing it in a court proceeding without the consent of the person who provided it. The privilege belongs to the client, not to the professional.

Privacy. There are at least two senses in which the term privacy is generally used. The first describes a constitutional right to privacy found in the liberty interests protected by the 14th Amendment of the Constitution of the United States. In the more traditional sense, the right to privacy has been defined as "the right to be let
alone, to be free of prying, peeping, and snooping," and as "the right of someone to keep information about himself/herself or his/her personality inaccessible to others."*

Is the maintenance of confidentiality a legal or an ethical obligation of health care providers and their agents? It is both. Health care providers must often know the most personal and possibly the most embarrassing details of the patient's life in order to help the patient. Patients are not likely to disclose these details freely unless they are certain that no one else not directly involved in their care will learn of them.

Many patients fear having very sensitive information such as a psychiatric diagnosis or the diagnosis of AIDS in their record. If this information is "leaked" it could affect their housing, employment, and insurance status.

A court can conclude that the unauthorized disclosure of medical records is an actionable invasion of privacy even without a state statute that specifically forbids it. "Unauthorized disclosure of intimate details of a patient's health may amount to unwarranted publication of one's private affairs with which the public has no legitimate concern, such as to cause outrage, mental suffering, shame, or humiliation to a person of ordinary sensibilities."22

Invasion of privacy can be divided into four categories:

1. Appropriation of plaintiff's name or likeness for the defendant's benefit;
2. Intrusion upon the plaintiff's solitude or private concerns;
3. Public disclosure of embarrassing private facts; and
4. Publicity that places the plaintiff in a false light in the public eye.

Because medical records are highly personal, improper disclosure of patient information can easily constitute invasion of privacy. A provider or an agent or employee thereof can be liable for an invasion of privacy if improper disclosure of information in its patients' medical records takes place.

Under the Constitution of Montana, Article II, Section 10\(^2\) the right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest. In Title 50 of the Montana Codes Annotated, 50-16-525,\(^2\) disclosure by health care provider is addressed.

In any clinical setting, any office worker is an employee of the facility. As an employee the office worker represents the medical doctors as well as the firm by which the worker is employed. Any leak of confidential patient information from an office worker creates a liability to the physicians and the medical setting which the worker represents.

The American public is more worried about its privacy now than ever before. The paradox of the patient in deciding to bring unprofessional conduct to light through the court system is that then the entire medical record is a matter of public knowledge, and it is the patient who forfeits constitutional and statutory right in order to prove violation of the same.
CHAPTER III
PROCEDURES

The purpose of this chapter is to describe the procedures followed in completing this study. The following areas were examined:

1. Sources of data.
2. Construction of the survey instrument.
3. Administration of the survey instrument.
4. Analysis of the data.

Sources of Data

The study was limited to instructors in the medical office technology curricula at the post-secondary level in Montana, Idaho, Washington, Oregon, New Mexico, Arizona, Utah, Colorado, and Idaho. The data were obtained from questionnaires sent to instructors at these institutions. Names of the institutions were obtained by doing a computer search of available training sites for the curriculum areas of medical office assistant, medical transcriptionist, medical records, medical receptionist, and medical office management.
The following schools were surveyed:

<table>
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<tr>
<th>Blue Mountain CC</th>
<th>Stevens Henager College</th>
<th>North Idaho CC</th>
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<tbody>
<tr>
<td>Denver Institute of Technology</td>
<td>Pueblo CC</td>
<td>Mesa State College</td>
</tr>
<tr>
<td>Denver Technical College</td>
<td>Miles CC</td>
<td>MSU College of Technology - GF</td>
</tr>
<tr>
<td>Flathead Valley CC</td>
<td>Tacoma CC</td>
<td>North Seattle CC</td>
</tr>
<tr>
<td>Clark College</td>
<td>Whatcom CC</td>
<td>Grays Harbor CC</td>
</tr>
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<td>Walla Walla CC</td>
<td>Renton Technical College</td>
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<tr>
<td>Phoenix College</td>
<td>Central Arizona College</td>
<td>Chaparral College</td>
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<tr>
<td>Western New Mexico U</td>
<td>Central Oregon CC</td>
<td>Clatsop CC</td>
</tr>
<tr>
<td>SW Oregon CC</td>
<td>Scotsdale CC</td>
<td>Green River CC</td>
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<tr>
<td>Edmonds CC</td>
<td>Big Bend CC</td>
<td>WMC of the U of M</td>
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Construction of the Survey Instrument

The review of literature provided the basis for the content of the survey instrument used in this study. This included current newspaper articles, professional publications, texts related to medical record law and ethics, articles from periodicals, and interviews.

The researcher chose to determine familiarity on the part of instructors with the state and federal law concerning the right to privacy and violation of the same which
governs the medical office worker. An instructor not familiar with the laws and the breach of the right to privacy does not have a firm knowledge of his or her subject matter in the medical field. Like any other subject matter component, an instructor will teach what subject matter he or she is familiar with, and, conversely, will not teach what he or she is unfamiliar with.

The researcher chose five core components of medical law and ethics and asked the extent of coverage of these topics in the instructors' classrooms. These five core components should all be taught and covered thoroughly if an instructor is aware how closely protected medical information is by the law.

The researcher asked instructors which particular curricula he or she instructs to prepare medical office workers. Some medical office careers require only one year of training and background; others require two or more years of training and background.

The researcher was interested in knowing if instructors see medical law and ethics as an essential curriculum component in all curricula for training the medical office worker.

A survey containing eight questions was mailed with a cover letter to medical office technology instructors to obtain the research information.
Analysis of the Data

This study was conducted to ascertain if the right to privacy is an integral curriculum component in medical office technology curricula. Information was gathered regarding familiarity with medicolegal concepts by professionals instructing classes in common medical office careers and to what extent they are taught. The data will be reported through the use of pie charts.

Time Line

Approval of the Instrument  September, 1994
Approval of the Cover Letter  August, 1994
Mail survey and cover letter  April, 1997
Data Analysis  July, 1997
Final Report  July, 1997

The researcher has provided sample forms in the appendix which were used in the research process.
CHAPTER IV

FINDINGS

Introduction. The findings of the researcher’s survey questions are presented in the order the questions were listed on the survey instrument. A pie chart represented the findings in visual form, followed by the researcher’s response and comment.

Question 1. To what extent are you familiar with your statute of the patient’s right to privacy in the medical field?

Figure 1 shows that not all respondents consider themselves comfortable enough with the right to privacy to say they are very familiar.
**Question 2.** To what extent are you familiar with what constitutes a violation of the right to privacy with regard to medical information?

![Figure 2](image)

**Figure 2**

Figure 2 indicates that not all respondents teaching classes for medical office careers consider themselves to be *very familiar* with what constitutes a violation of the right to medical privacy. The answers to questions 1 and 2 tend to raise the question of whether this core component is being covered if the instructors are not entirely familiar with the right to privacy.
**Question 3.** To what extent are you familiar with what constitutes a violation of existing federal or state law in the medical environment?

![Pie chart showing familiarity levels](chart.png)

**Figure 3**

It is interesting to note that one-third of professional instructors surveyed are merely *somewhat familiar* with what constitutes a violation of the laws. This raises the question to the researcher as to whether this component is being taught in curricula if instructors do not have a thorough enough background to respond that they are only *somewhat familiar.*
**Question 4.** To what extent are the statutes of state and federal law which govern human resources in a medical office covered in your curriculum classes?

![Diagram showing options: Covered thoroughly, Covered somewhat, Covered not at all]

**Figure 4**

It seems that one-third of respondents indicate that the medical law is covered only *somewhat* or *not at all*, yet these instructors are the individuals training students for the world of work in the medical office field. This indicates to the researcher that instructors do not cover what they are not familiar with as subject matter in the medical office curricula.
Question 5. Please indicate which medicolegal concepts are addressed in your classroom. (Check all that apply.)

![Diagram showing the number of respondents covering each concept]

- Federal law
- State law
- Confidential Communication
- Right to privacy
- Recourse of patient

Figure 5

Figure 5 shows that not all respondents cover the five essential core topics of medical law and ethics in their classrooms. Respondents were given the opportunity to write in other medicolegal concepts taught and through what method. These included risk management, insurance company processes, confidentiality videos, policy setting for personnel, and the Federal Drug & Alcohol Law.
**Question 6.** Please indicate in which area of the medical curricula you teach.

(Check all that apply.)

![Pie chart showing medical curricula areas](image)

**Figure 6**

The five most common curriculum areas were included in this question. Other areas as written in by respondents include occupational therapy assisting, computerized medical billing, medical office software, medical word processing specialist, and administrative medical assisting.
Question 7. Please indicate in which state you teach, and at what institution (for survey results).

<table>
<thead>
<tr>
<th>State</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Washington</td>
<td>10</td>
</tr>
<tr>
<td>Colorado</td>
<td>4</td>
</tr>
<tr>
<td>Oregon</td>
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<tr>
<td>Montana</td>
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<td>Idaho</td>
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</tr>
<tr>
<td>New Mexico</td>
<td>2</td>
</tr>
<tr>
<td>Utah</td>
<td>1</td>
</tr>
</tbody>
</table>

The state of Washington shows the best responsiveness to the survey instrument. The researcher notes that the state of Washington offers programs in the medical curricula at many institutions.
**Question 8.** Do you see this (the right to medical privacy) as an essential component for the medical office technology student?

![Figure 8](image)

**Figure 8**

Figure 8 tend to show that all respondents consider the right to medical privacy as a *very essential* curriculum component in the teaching of medical office technology. The majority know it to be very essential, yet the data show by the other responses to the survey instrument that this component is not being covered thoroughly, nor do the instructors feel completely familiar with the core curriculum components of medical law and ethics. This indicates to the researcher that the class medical law and ethics should be offered as part of every medical office technology program curriculum.
Summary

These data show that not all instructors in medical office technology in the eight states surveyed are completely familiar with the right to privacy, what constitutes a violation of medical privacy, or what is defined by their state statute as violation of medical privacy. The laws are not covered thoroughly in all parts of medical office worker curricula at post-secondary institutions teaching and training workers for a medical setting occupation. All instructors returning the survey instrument feel that the teaching of medical law and ethics principles is a very essential component of the medical office technology curricula.
CHAPTER V
CONCLUSIONS AND RECOMMENDATIONS

Conclusions From the Related Literature. Based on the review of the related literature, the author concludes the following:

- The right to privacy of personal information is guaranteed by the Montana Constitution, Article II, Sec. 10.
- The right to privacy is implied by the U.S. Constitution.
- The right to medical privacy is protected by the Uniform Health Care Information Act as published in Title 50-16-501 of the Montana Code Annotated.
- Public disclosure of medical information can have devastating effects for the patient and for his or her family, whether the patient is living or now deceased.
- A medical provider has a duty of care over the recorded medical facts which covers all personnel that may come in contact with such records.
- Technology influences are now threatening medical privacy through the creation of medical databases, faxing of documents, and e-mailing.
- Pros do exist to the electronic formation of databases nationally for research, disease control, and patient treatment when traveling.
- A medical patient has the right to a copy of his/her personal medical record.

Conclusions From the Study. Based on the study, the author concludes the following:

- Instructors of medical office technology surveyed in eight northwestern states are not very familiar with the right to privacy and the violation of the right to privacy.
• All instructors of medical office technology surveyed in eight northwestern states do not describe themselves as *very familiar* with the state statute and Congressional laws which govern human resources in any medical setting.

• Instructors of medical office technology in eight northwestern states surveyed do not address all five core components and concepts in medical law and ethics which would indicate thorough instruction in those areas.

• Instructors of medical office technology in eight northwestern states surveyed indicate the instruction of medical law and ethics is a *very essential*, relevant curriculum component.

**Recommendations**

Based on the research of related literature and the research information provided by the survey respondents, a course on medical law and ethics should be included in every curriculum relating to medical office workers. Formal education provides a safeguard to prevent unnecessary harm, embarrassment, and humiliation from occurring to patients as well as a safeguard to prevent litigation for the breach of privacy.

Following are recommended topics, methods, and materials suggested for instructing such a course:

• State constitution coverage of the right to privacy; U.S. Constitution
• The Uniform Health Care Information Act; patient rights; improper release of information, recourse of patient, record of disclosure.
• Duty of Care
• Risk Management/Physician-Hospital liability
• Genetics and Confidentiality
• Guest Speakers; patient testimonials; medical library reps; physician insurance company reps.
Video - “Confidentiality Speaking” - Oregon Health Information Management Association
Privileged Communication
Subpoena and Court Orders
Photocopying of Records
Patient Consent for spouse, relatives, FBI/CIA, Medicare, a Medical Examiner, Board of Medical Examiners, an employer, friends, police, schools
Federal Drug & Alcohol Law
Telephone Requests
Cellular phones, faxing, and e-mailing
Minors, the mentally incompetent, and the deceased
HIV and release of information
Medical databases, purpose, pros, and cons
Control in the supervision and management of medical information
Case law of misuse, breach, and their consequences
Dental records
Disclosure of test results
Policy setting for personnel
Good Samaritan law
REFERENCES CITED


7. Ibid.

8. Ibid.

9. 50-16-511, M.C.A.


11. 50-16-511, M.C.A., p. 132.

12. Ibid.

13. 50-16-503, p. 133.

14. 50-16-525, p. 135.

15. 50-16-553, p. 143.


20. Ibid.

21. Ibid.


23. Montana Constitution, Article II, Section 10.


Research Questions to be Answered

The major purpose of this study is to determine whether instructors of medical office technology curricula are familiar with the existence of the right to privacy through state and federal legislation; what constitutes a violation of the same; what recourse a patient has, and which legal concepts are taught and how in medical office technology curricula in the states of Montana, Washington, Oregon, and Idaho, New Mexico, Utah, Arizona, and Colorado.

1. Do instructors in medical office technology have a familiarity with the right to privacy?

2. Do instructors in medical office technology have a familiarity with what constitutes a violation of the right to privacy in medical offices?

3. Do instructors in medical office technology have a familiarity with what federal law governs human resources in the curriculum in which they teach, and to what extent?

4. Do instructors in medical office technology have a familiarity with what state legislation currently governs human resources that have access to confidential patient information?

5. Do instructors in medical office technology have a familiarity with what constitutes a violation of existing federal or state law in the medical setting?

6. Do instructors in medical office technology have a familiarity with what legal recourse is available to a patient whose rights are violated under the law?

7. In the instruction of the medical office technology curricula, what medicolegal concepts, if any, are taught to those students who will enter the medical workplace in Montana, Washington, Oregon, Idaho, Wyoming, New Mexico, Utah, Arizona, and Colorado and through what kind of curriculum and/or instructional process?
This survey is to be completed by an instructor in the medical office technology curricula area.

1. To what extent are you familiar with your statute of the patient's right to privacy in the medical field?
   ______ Very familiar ______ Somewhat familiar ______ Not at all familiar

2. To what extent are you familiar with what constitutes a violation of the right to privacy with regard to medical information?
   ______ Very familiar ______ Somewhat familiar ______ Not at all familiar

3. To what extent are you familiar with what constitutes a violation of existing federal or state law in the medical environment?
   ______ Very familiar ______ Somewhat familiar ______ Not at all familiar

4. To what extent are the statutes of state and federal law which governs human resources in a medical office covered in your curriculum classes?
   ______ Covered thoroughly ______ Covered somewhat ______ Covered not at all

5. Please indicate which medicolegal concepts/statutes are addressed in your classroom. (Check all that apply.)
   ______ Federal Law ______ State Law ______ Confidential Communication
   ______ Right to Privacy ______ Recourse of Patient ______ None

   Other medicolegal concepts which you emphasize (please list) and how (such as guest speakers):

6. Please indicate in which area of the medical curricula you teach. (Check all that apply.)
   ______ Medical Ofc Assistant ______ Medical Receptionist ______ Medical Transcriptionist ______ Medical Ofc.
   ______ Management ______ Medical Records/Health Information ______ Other __________________________

7. Please indicate in which state you teach, and at what institution.
   ______ Washington ______ Oregon ______ Montana ______ Idaho ______ Utah
   ______ Colorado ______ Arizona ______ Wyoming ______ New Mexico

   Institution_____________________________________________________

8. Do you see this an essential curriculum component for the medical office technology student?
   ______ Yes, very essential ______ Somewhat essential ______ No, not relevant

COMMENTS:
April 1, 1997

Dear Professional Instructor of Medical Office Technology:

RE: Teaching the Right To Privacy in Medical Office Technology

As a graduate student at Montana State University-Bozeman in Business Education, I am completing research focused on the right to privacy, if it is taught, and in which classes through the curriculums related to the field of medical office technology.

As a professional instructor in the medical office technology curricula, your responses given on the enclosed questionnaire may lead to improved instruction and will be used to better meet student instructional needs and to better meet the needs of employers in medical offices as well.

Will you please contribute by filling out the enclosed survey in a timely fashion by April 15, 1997? The results will be shared with you, if you see this as a necessary curriculum component in medical office technology.

Thank you for helping me as a fellow professional.

Yours truly,

(Mrs.) Bobbi Haugen, CPS
Instructor, Business/Technology Division
Dawson Community College
Graduate Student, MSU - Bozeman

Enclosure
Medical ethics breached in elevators, researcher claims

PHILADELPHIA (AP) — Two doctors were deep in conversation, trying to decide whether it would be best for their patient to remove one or two lobes of his lung.

Their intentions were good, but their supposedly private conference had a captive audience: an elevator filled with people, including the patient’s wife.

Hospital elevators are ripe with indiscretion, a Philadelphia researcher concludes after a study of the conversations in five Pittsburgh institutions.

His assistants heard bad jokes about patients, and medical workers questioning their own fitness. Worst of all, they heard not everyone is under oath to not talk about their work,” said the researcher, Dr. Peter Ubel, a staff physician at the Veteran’s Ad-

ministration Medical Center and faculty member at the University of Pennsylvania’s Center for Bioethics.

In a report to be published this fall in the American Journal of Medicine, Ubel says doctors are identifying patients and re-
citing their medical histories within earshot of perfect strangers.
A medical record disclosure nightmare

Congresswoman Nydia Velazquez (D-NY) knows the terrible impact improper release of a medical record can have—it nearly ruined her career and personally devastated her.

Velazquez' nightmare began three weeks after she won the democratic nomination to Congress from New York last year. In a hard-fought primary battle in a district that includes Manhattan, Queens and Brooklyn, Velazquez had upset a sitting congressman and knocked off five Latino rivals to win the Democratic nomination for the House of Representatives—a win tantamount to victory in this democratic stronghold.

As the first Puerto Rican woman ever elected to Congress, Velazquez made a big splash in the press. But this press honeymoon quickly turned to tabloid trauma when her campaign manager got a call from the New York Post three weeks after the primary.

Velazquez' records were leaked

The New York Post reporter told Karen Ackerman, Velazquez' campaign manager, that the Post had a copy of Velazquez' hospital medical records which had been sent anonymously to the newspaper by fax. The paper was going with the story that the congresswoman-elect had attempted suicide the year before. Did she want to comment?

"Nydia was absolutely destroyed. This information was known to no one and all of a sudden her most private moments were being exposed to the world," Ackerman told MRB.

There was no doubt that Velazquez' entire medical record had fallen into the hands of the press. And what was most upsetting was that Velazquez had never told her parents, who are in their 80's, about her mental health problems because she didn't want to upset them. Unfortunately, they learned about her suicide attempt in the newspaper.

To date details of how Velazquez' medical record came to the attention of the New York Post remain unsolved. The Manhattan District Attorney's office is investigating. Needless to say, Velazquez strongly supports privacy legislation—particularly a law to safeguard medical records confidentiality. She hasn't yet finalized what bill she will support. "But you can be assured she will be out front on this issue," says Ackerman.
Confidentiality suit targets Helena doc, 3 employees

By the IR Staff

A woman whose identity is being protected by the courts sued her Helena physician, three of his employees and the medical clinic at which they work Friday, claiming they leaked confidential case information.

District Judge Jeffrey Sherlock allowed the woman to be listed in the lawsuit only as “Jane Doe” to protect her from embarrassment and further harm.

The suit claims that employees of Dr. William M. Batey divulged medical case information to the general public in violation of the state Uniform Health Care Information Act.

Employees named in the suit are Brenda Ruckeaschel, Colleen Vonada and Cindy Farrell, all of whom work with Batey at the Hawkins-Lindstrom Clinic.

Doe was a patient of Batey for several years, according to the suit, and told him as part of their patient-physician relationship that she had conceived a child while she was a teen-ager, had placed the child up for adoption and had contracted a sexually transmitted disease.

During the past year, each of the defendants named in the suit disclosed the confidential information without permission from Doe, the suit states.

The woman claims that Batey’s office neglected to create safeguards and policies to prevent employees from gaining access to and disclosing confidential information, and that Batey and the clinic failed to properly supervise its employees.