



Module 1933

Patient confidentiality in the pharmacy

From this pharmacy CPD module you will learn about:

- What patient confidentiality means in the pharmacy
- When it is appropriate to disclose confidential information
- How this information should be stored
- How to communicate this information to other healthcare professionals

SAŠA JANKOVIC

Pharmacy professionals have a professional and legal duty to keep confidential the information they obtain during the course of their practice.

This duty of confidentiality is a legal obligation that is derived from case law arising when one person discloses information to another (for example, patient to pharmacist), in circumstances where it is reasonable to expect the information will be held in confidence.

Patient information includes electronic and hard copy data with:

- personal details
- information about a person's medication (prescribed and non-prescribed)
- other information about a person's medical history, treatment or care that could identify them
- information that people share that is not strictly medical in nature, but that the person disclosing it would expect to be kept confidential.

Confidential information does not include:

- anonymous information – information from

which individuals cannot reasonably be identified

- coded information – information from which individuals cannot reasonably be identified, but which enables information about different people receiving care to be distinguished (eg to identify drug side effects)
- information that is already legitimately in the public domain.

Disclosing confidential information

Maintaining confidentiality is an important duty, but there are circumstances when it may be appropriate to disclose confidential information. These are when you:

- have the consent of the person under your care
- have to disclose by law
- should do so in public interest.

You should take the necessary steps to ensure that any disclosure being asked for is appropriate and meets the legal requirements covering confidentiality. In its latest guidance on confidentiality, the General Pharmaceutical Council (GPhC) advises that pharmacy professionals should also take the Data Protection Act (DPA) into account in these circumstances,

as the requirements of the DPA need to be followed. Under the DPA, information can be shared when express consent (specific permission to do something) is given. If you are unsure whether you have the person's consent to share their information, you should contact them and obtain it.^{1,2}

If you are disclosing information with consent, you must also make sure the person in your care understands:

- what information will be disclosed
- why the information will be disclosed
- who it will be disclosed to
- the likely consequences of disclosing and not disclosing the information.

Disclosures required by law

There are circumstances when the law says a pharmacy professional must disclose information. These circumstances include when a person or body is using their powers under the law to ask for the information, for example:

- the police or another enforcement, prosecuting or regulatory authority
- a healthcare regulator, such as the GPhC or the General Medical Council
- an NHS counter-fraud investigation officer
- a coroner, procurator fiscal, judge or relevant court that orders that the information should be disclosed.

If you are unsure about the basis for a request for disclosure, ask for clarification in writing from the person making the request.

Sharing information with relatives and carers

Pharmacy staff can often receive requests for confidential information about people under their care from a variety of people (for example, a person's relative, partner or carer) or organisations such as the police or a healthcare regulator. Once again, decisions about disclosing information should be made on a case-by-case basis and after fully considering all relevant factors.



Patient information includes electronic and hard copy data with personal details and medical information

When it comes to disclosing information about children and young people to parents or carers, there are some important things to take into account. According to the NHS Code of Practice, young people aged 16 or 17 years are presumed to be competent for the purposes of consent to treatment and are therefore entitled to the same duty of confidentiality as adults.³ Children under 16 years who have the capacity and understanding to take decisions about their own treatment are also entitled to make decisions about the use and disclosure of information they have provided in confidence (for example, they may be receiving treatment or counselling that they do not want their parents to know about).

Storing information

Disclosing information is one thing, but pharmacy staff also have a duty to keep patient information physically and electronically secure.

The NHS Code of Practice requires that manual records must be: inaccessible to members of the public; stored closed when not in use, so that contents are not seen accidentally; and held in secure storage with clear labelling.

With electronic records, staff must always: log out of any computer system or application when work on it is finished; never leave a terminal unattended and logged-in or share logins with other people; and always clear the screen of a previous patient's information before seeing another.

Patient access

Patients have a right to see and/or have copies of their health records under the DPA.

One area where this affects community pharmacy is services such as the summary care record in England, the pharmacy care record in Scotland and the Choose Pharmacy service in Wales. All staff need to be aware of the correct way to access, handle and process this kind of information confidentially, just as they would with any other patient data.

Capacity and confidentiality

If a patient is unable to give consent or to communicate a decision, due to a mental or physical condition, your decisions about the use of their information needs to take into account the patient's best interests and any previously expressed wishes, as well as be informed by the views of relatives or carers as to the likely wishes of the patient. If a patient has made his or her preferences about information disclosures known in advance, this should be respected.

Sharing information with other healthcare professionals

There may be instances where you need to share patient information with other clinicians – for example, if a hospital pharmacist calls to confirm their medicines history.

NHS Code of Practice advice is to check enquirers are who they say they are. Ask for official identification or, if they are on the phone, check their identity by calling them back (using an independent source for the phone number). Check that they have a legitimate right to have access to that information.

Disclosure after death

The duty of confidentiality applies to information about any person, whatever their age, and continues to apply after their death.

Although when someone has died it is unlikely that information relating to them remains legally confidential, an ethical obligation to the relatives of the deceased exists and health records of the deceased are public records and governed by the provisions of the Public Records Act 1958.⁴ This permits the use and disclosure of the information within them in only limited circumstances. The Access to Health Records Act 1990 permits access to the records of deceased by those with a claim arising out of the individual's death.⁵ This right of access is negated, however, if the individual concerned requested that a note denying access be included within the record prior to death.



The GDPR came into effect in May and places greater obligations on how organisations handle personal data

GPhC guidance

The GPhC guidance on confidentiality is covered by seven of the standards for pharmacy professionals, one of which says: "Pharmacy professionals must respect and maintain a person's confidentiality and privacy."

The regulator also requires pharmacy professionals keep up to date and comply with the law, for example: the DPA (at tinyurl.com/confidentiality1) and the Human Rights Act 1998; the common law duty of confidentiality; and any NHS or employment policies on confidentiality that apply to their particular area of work. The Information Commissioner's Office enforces the DPA and produces advice and guidance on it.^{6,7}

It is also worth noting that the General Data Protection Regulation (GDPR) – which came into effect as a European-wide law on May 25, 2018 – sits alongside the DPA and places greater obligations on how organisations handle personal data.⁸

Differences across the UK

There are no major differences in confidentiality across the UK's pharmacy organisations in Northern Ireland, Wales, Scotland and England.

In general, all uphold the four main requirements to maintain and improve a confidential service, which are:

- Protect – look after the patient's or service user's information
- Inform – ensure that individuals are aware of how their information is used
- Provide choice – allow individuals to decide, where appropriate, whether their information can be disclosed or used in particular ways
- Improve – always look for better ways to protect, inform and provide choice.

NHS Scotland's Code of Practice for protecting patient confidentiality also helpfully reminds staff the law says that you do not process information relating to yourself or your family, friends, colleagues, acquaintances or anyone else unless you are authorised to do so as part of your role.⁹



The same duty of confidentiality to patient information applies when posting on social media

Protecting patient conversations

Many customers who come into your pharmacy will be concerned about having to share their personal details and health information in an environment where others can hear. You and your team should ask people at the start of a conversation if they would prefer to discuss something in private, away from other customers in a consultation room. Check that the layout of the pharmacy does not mean conversations can be overheard on the phone or face-to-face, and that computer screens are not visible, to avoid information being accidentally disclosed.

If you and your staff live in the community where your pharmacy is situated, you may find that some customers prefer to go to larger multiples for certain products or requirements – such as Viagra Connect or emergency hormonal contraception – as they

may feel you know them too well for them to feel comfortable receiving them from you. Similarly, look out for family members of your staff coming in and having a casual conversation about what is actually a private health matter.

Social media minefields

While social media provides excellent opportunities for pharmacists to connect with other pharmacy colleagues and healthcare professionals to keep up to date with practice developments and find out about professional development opportunities, if you use it to share patient information, the same duty of confidentiality applies.

Make sure that the more casual feel of using social media does not encourage a more relaxed attitude to your use of patient information. It may be pertinent to discuss

cases with colleagues for professional reasons (to gain advice, or share experience and knowledge), but care must be taken to ensure others do not overhear these conversations. Generally, there is no need to identify the patient concerned.

Accidental disclosures

Is it also possible to accidentally leak patient information – for example, by throwing away medicine with a patient label on it. You should also ensure that appropriate standards are applied in respect of emails, faxes and surface mail.

NHS England's advice is to only use fax where no other communication method is available. Before sending a fax, confirm with the recipient that the number is correct; and after sending a fax, confirm with the recipient that they have correctly received your transmission. It is also important that any changes in your pharmacy's contact details are shared with relevant healthcare contacts to ensure that information is not sent to out-of-date or out-of-service numbers.

Confidentiality is not something that stops with the pharmacist; the entire team has a duty of care to treat patient information sensitively. Bear in mind that breach of confidence, inappropriate use of health records or abuse of computer systems may lead to disciplinary measures, bring into question your professional registration and possibly result in legal proceedings. If you

are in any doubt, ask your indemnity insurance provider, union, professional body or other pharmacy organisation, or an independent legal adviser, for clarification.

Further advice and support

- GPhC guidance on confidentiality (revised May 2017) at [tinyurl.com/confidentiality2](https://www.gphc.org.uk/your-legal-obligations/confidentiality).
- Confidentiality: NHS Code of Practice (England) at [tinyurl.com/confidentiality3](https://www.gphc.org.uk/your-legal-obligations/confidentiality).
- The Pharmaceutical Society of Northern Ireland (PSNI) Professional Standards and Guidance for Patient Confidentiality at [tinyurl.com/confidentiality4](https://www.gphc.org.uk/your-legal-obligations/confidentiality).
- Department of Health Code of Practice on Protecting the Confidentiality of Service User Information at [tinyurl.com/confidentiality5](https://www.gphc.org.uk/your-legal-obligations/confidentiality).
- Protecting patient confidentiality NHS Scotland Code of Practice at [tinyurl.com/confidentiality6](https://www.gphc.org.uk/your-legal-obligations/confidentiality).
- Confidentiality: Code of Practice for Health and Social Care in Wales at [tinyurl.com/confidentiality7](https://www.gphc.org.uk/your-legal-obligations/confidentiality).
- Information governance for summary care records (England) at [tinyurl.com/confidentiality8](https://www.gphc.org.uk/your-legal-obligations/confidentiality).
- Pharmacy care record (PCR) (Scotland) at [tinyurl.com/confidentiality9](https://www.gphc.org.uk/your-legal-obligations/confidentiality).
- Choose Pharmacy (Wales) at [tinyurl.com/confidentiality10](https://www.gphc.org.uk/your-legal-obligations/confidentiality).

CD Update Plus

References

1. General Pharmaceutical Council (revised May 2017) In practice: guidance on confidentiality.
2. Data Protection Act 2018.
3. Department of Health (November 2003) Confidentiality: NHS Code of Practice (England).
4. The Public Records Act 1958.
5. Access to Health Records Act 1990.
6. Human Rights Act 1998.
7. The Information Commissioner's Office (2019) Your data matters.
8. The Information Commissioner's Office (2019) The General Data Protection Regulation (GDPR).
9. NHS Scotland (2003) Protecting Patient Confidentiality NHS Scotland Code of Practice.

Patient confidentiality planned learning

What are you planning to learn?

I want to learn more about what patient confidentiality means in the pharmacy, when it is appropriate to disclose confidential information and how patient information should be stored. I also want to learn about how to communicate patient information with other healthcare professionals.

This learning will help me to ensure that professional and legal guidance is followed when my pharmacy team give advice to patients and carers.

How are you planning to learn it?

- I plan to read the GPhC guidance on confidentiality at tinyurl.com/confidentiality2.
- I plan to read more about data security and Caldicott guardianship on the Patient website at tinyurl.com/confidentiality11.
- I plan to read the information about focussing on privacy and confidentiality in pharmacy on the GPhC website at tinyurl.com/confidentiality12.
- I plan to ensure that my pharmacy staff also have training on patient confidentiality, so that we are compliant as a team when providing advice to patients and carers.

Give an example of how this learning has benefited the people using your services.

A lady asked to speak to me about data security, as she had been the victim of identity theft and was now concerned about any organisation that kept information about her, including the pharmacy and the GP surgery. She asked who could access her data. I was able to explain about patient confidentiality and reassure her that we would not pass on any information without her permission. I also signposted her to further information.

Take the 5-minute test online

1. Patient information includes electronic and hard copy data with personal details, medication and medical history details, and other non-medical information.
True or false
2. Information that is anonymous or coded must also be kept confidential.
True or false
3. Circumstances when it may be appropriate to disclose confidential information include if disclosure is required by law or it is in the public interest.
True or false
4. When disclosing information with consent the patient does not need to be informed of who it will be disclosed to.
True or false
5. Young people aged 16 or 17 years are entitled to the same duty of confidentiality as adults.
True or false
6. According to the Data Protection Act, patients do not have an automatic right to see and have copies of their health records.
True or false
7. When sharing patient information with other clinicians, pharmacists should check that they have a legitimate right to have access to that information.
True or false
8. The duty of confidentiality no longer applies to a person after their death.
True or false
9. Confidentiality regulations in England are very different to those in Northern Ireland, Wales and Scotland.
True or false
10. Pharmacists should not process information relating to themselves or their family, friends, colleagues or acquaintances unless authorised to do so as part of their role.
True or false



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