Continuing Education Module

Confidentiality in Childbirth Education

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ABSTRACT

Protecting the confidentiality of the personal information that childbirth educators receive from their clients is crucial. Without this respect for privacy, educators will not be able to get the information essential to meeting their objectives. Childbirth educators who work in schools may come under federal law that protects individual student records (Family Educational Rights and Privacy Act, or FERPA). Childbirth educators who are employed in a health-care facility may come under federal law that protects individual health information (Health Insurance Portability and Accountability Act, or HIPAA). All childbirth educators must be thoughtful advocates of the rights to privacy and self-determination of expectant parents.

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Lamaze International has created a continuing education homestudy based on this article. Visit the Lamaze Web site (www.lamaze.org) for detailed instructions regarding completion and submission of this homestudy module for Lamaze contact hours.

QUESTION FROM A CHILDBIRTH EDUCATOR

I met a physician from a local hospital at a party recently, and he asked me how one of my childbirth couples was doing in class. I assumed that they were his patients, and talked with him about them for a little bit. Later, the mother came to me. She is upset, because he was not her doctor. He was her ex-husband! That was bad enough. Now [identity deleted], who teaches at a local university, told me that I might have violated a federal law about confidentiality. All I do is teach childbirth classes. Please help! And keep my identity confidential!

COLUMNIST'S REPLY

I would need answers to many questions in order to tell you whether you have “violated a federal law about confidentiality” in this particular case. For example, do you teach independently, or are you an

employee? If you are an employee, do you work for a school or a hospital? What policies does your employer have about sharing client information? To whom and how do the couples pay for the classes?

Regardless, respect for confidential information is crucial in childbirth education. When our clients/students answer any questions that we ask about their pregnancy, their history, their caregiver, or their relationships, they give us that information trusting we intend to use it to help them reach the goals of the class. They do not intend it to be party conversation. In fact, if they even suspected that anything about their class participation would be discussed without their knowledge and their consent, they would be much less likely to share with us. The result would be that we would find it much harder to meet their needs in our class. For that reason, I think we should act as if all confidentiality

laws apply to us as childbirth teachers, whether they do or not. Without respect for the information that our couples give us in class, and behaviors that reflect our respect, we will be handicapped in trying to do our job of education and advocacy for them.

You apparently realize that you should have been more careful in this situation, and that your judgment was off. You recognize this is an important issue. Seeking more information and planning ahead, as you are doing now, can help you guard yourself and your couples from this kind of problem in the future.

We all have the right to privacy. The special need for professionals to protect personal information that they receive in the course of practicing their profession is expressed in their codes of ethics. This was even part of the original Hippocratic Oath. Section 1.07 of the *Code of Ethics for Lamaze Certified Childbirth Educators* contains guidelines for privacy and confidentiality that are consistent with those of other professions and with laws that impact education and health care.

The legal right to privacy in the United States evolved in constitutional law from the Bill of Rights to the U.S. Constitution as well as the Liberty Clause in the Fourteenth Amendment. The current trend is toward requiring professionals to protect personal and/or health information given to us by a client. We hold it in trust for that client, which means we must use it for the client's benefit. If you think you need to share some of this information and are not sure your couples know you are doing it, I suggest you create a form that lets them know what you need to share, and gives them an opportunity to consent or to make an alternate choice. That practice is called "informed consent." Informed consent protects the rights to autonomy and self-determination that we also have under the Constitution.

If you are an employee, your employer likely has policies in place and some consent forms related to the sharing of client information already developed. (You have seen examples of these forms every time you have gone to a doctor or were treated or tested in a hospital.) I suggest you ask for a copy of any of your employer's procedures or guidelines for protecting and sharing client information.

Here is a quick overview of federal laws of confidentiality, since you asked. Confidentiality really means protecting someone's privacy. A university faculty member might have been referring to "FERPA," the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), which is a federal

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law that creates standards to protect the privacy of individuals' student education records. Do you teach for a school that receives funds under a program of the U.S. Department of Education? If not, FERPA does not apply to you. Nurses and other health-care providers are more familiar with "HIPAA," the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d). HIPAA is a federal law that creates standards to protect the confidentiality of individuals' health information. If neither you nor your employer submits certain transactions electronically, HIPAA does not apply to you.

Now let's get back to your situation. The fact that your fellow party-going doctor is an ex-husband made your violation of trust more obvious but does not alter the underlying problem. You were careless with information, and both you and the expectant mother you intended to help suffered the consequences. In the future, you will tell whoever asks that you do not talk about individuals in your classes to anyone without their consent. You will verify anyone's need to know the information before you even consider obtaining or using that consent. Out of this experience, you can grow and become a thoughtful advocate for respecting and protecting information about anyone in your childbirth classes. The result will be that your clients and colleagues will respect you, and you will better serve them. That is a "win-win."

NOTE TO READERS

"Ask an Expert" answers are not official Lamaze International positions and are not intended to substitute for consulting with your own attorney or other certified professional. Nayna Philipsen, coordinator of the "Ask an Expert" column, welcomes your questions or your own expertise on various topics for publication in a future column (e-mail her at nphilipsen@coppin.edu).

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To view the Code of Ethics for Lamaze Certified Childbirth Educators, visit the Lamaze Web site (www.lamaze.org), click on "Who We Are," click on "Policies," then click on "Certification."

More information about FERPA is available from the U.S. Department of Education (<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>). More information about HIPAA is available from the U.S. Department of Health and Human Services (<http://www.hhs.gov/ocr/privacy/>).