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A Systems-Level Approach to Resolve Tension between Research Misconduct and Confidentiality

Walter Limehouse, M.D.

Medical / Emergency Medicine, 169 Ashley Ave, MSB 300, Charleston, SC 29425, USA,
limehouw@musc.edu

Abstract

The author examines methods of resolving tensions between confidentiality and research conduct and methods of avoiding these tensions. He mentions universities are obligated to address misconduct allegations and considers how to do this while respecting confidentiality between patient and therapist. He comments an underlying aspect of research ethics is a core commitment to honesty and states students are obligated to self-report even when patient-therapist confidentiality restricts reporting.

Keywords

Disclosure; Cheating (Education); Corruption; Medical ethics; Mental health personnel; Organizational behavior; Privacy; Research; Client relations; Moral & ethical aspects; Research misconduct

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Walter Limehouse, M.D.

Mental health professionals may experience competing obligations when they work in a university setting. They have obligations to their employer, the university, as well as obligation to their patients. Here, I explore the patient-therapist relationship and point to some systems-level strategies to avoid these tensions.

The university has an obligation to address allegations of misconduct (fabrication, falsification, or plagiarism of data); however, this case presents the conundrum of how to do so while respecting patient-therapist confidentiality. Referencing the American Medical Association (AMA) Code of Ethics standard, the patient-therapist relationship is based on the clinician serving the patient's medical needs with mutual consent and trust. The clinician has a fiduciary responsibility to place patient welfare over self-interest and obligations to other groups (AMA Opinion 10.105 2013). A clinical encounter best serves the patient through the open exchange of relevant information, including truthful descriptions of contributing circumstances leading to the medical issue. This open exchange depends on an assurance of privacy. Thus, "the physician should not reveal confidential information without the express consent of the patient, subject to certain exceptions" and reveal only the minimal information required by law (AMA Opinion 5.05 2013). Maintaining patient-therapist confidentiality in the setting of a university mental health clinic has additional value in that breach or the perceived breach of patient-therapist confidentiality could jeopardize clinic use by other potential patients.

A core commitment to honesty underlies research ethics. The statutory behaviors defining research misconduct (fabrication or falsification of data, plagiarism) breach this core value. The students and faculty within academic institutions often have obligations under honor codes to report suspected violations. Honor codes prohibit cheating and stealing in university settings, including laboratory work and research. Stealing encompasses possession of university or another individual's private property without permission or knowledge. This student admits such possession. While patient-therapist confidentiality may restrict reporting by the mental health professional, under such honor codes the student, nevertheless, has an obligation to self-report.

Concurrently, federal regulations such as the Drug-Free Schools and Communities Act (e-CFR: 34§86.100–103 2013) requires academic institutions to implement a drug use prevention program and provide services for impairment related to observed or alleged improper use of alcohol and drugs. Institutional policies address impaired professional performance related to academic, clinical, or research work and/or constituting a danger to oneself or others and/or behavior disruptive to goals of the student's academic, clinical, or research programs. This student's actions do constitute such behavior, especially disrupting goals related to learning responsible conduct of research. Moreover, diversion of the study drug for ingestion by himself and later by others in his family potentially constitutes a physical danger to all of them, as the drug study is in early stage animal research testing for potential drug toxicities as well as side effects. Because the investigational drug may have no known human safety profile, the student and his family should seek medical evaluation. If the student is in a combined degree program and the investigational drug is a controlled substance, the mental health professional should advise the student that drug diversions may jeopardize future professional licensure and that diversion of controlled substance violates state and federal laws. Nevertheless, voluntary self-referral to a counseling center for treatment of substance abuse provides the self-reporting individual rights of confidentiality in accord with state and federal law. (e-CFR: 34§98.4 2013)

Counseling sessions should ensure that the student understands university obligations under Public Health Service (PHS) policy to foster an environment that "promotes responsible conduct of research, discourages research misconduct, and deals promptly with allegations or evidence of possible research misconduct" (e-CFR: 42§93.300 2013). Respect for research integrity should encourage a violator to assume responsibility for misconduct and self-report inappropriate actions, which may mitigate Public Health Service response following investigation of affected research. The purpose of Public Health Service response is remedial and proportionate to the seriousness of the misconduct and the need to promote integrity of Public Health Service-supported research and research process (e-CFR: 42§93.408 2013).

The AMA notes that a physician may disclose confidential information "as required by law or court order." The university general counsel could consider whether institutional assurance and federal regulations mandate breach of confidentiality and disclosure of these alleged violations of research integrity. The general counsel also could advise whether to seek court-ordered disclosure by the mental health professional if the student refuses self-disclosure to the principal investigator and other institutional officials. However, the

student's self-disclosure for treatment of substance misuse and his emotional response to his actions carries assurance of confidentiality. Preserving confidentiality of patient-therapist relationships seems a greater value than the concurrent obligation of the faculty member to report the student's research misconduct.

This does, however, introduce a systems problem regarding how best to meet the institutional federal assurance to address research misconduct and to minimize recurrence of similar events. Although institutions must regularly audit inventories of controlled drugs used in animal research, investigators may receive and store some investigational drugs in bulk, rather than in individual doses. To address the potential for diversion that bulk storage carries, the research institutional official could remind all principal investigators that controlled substances do require an inventory record subject to periodic audit. While university policy may not require an inventory for proprietary investigational drugs, some companies may require such records. Moreover, principal investigators are responsible for the appropriate use of such drugs. Well-maintained inventory records of batch-supplied investigational drugs may better preclude diversions or at least undocumented off-protocol use of these drugs in animal trials.

In this way, the institution may respond to the reported research misconduct at a system levels while protecting confidentiality of the individual patient-therapist relationship and the integrity of the counseling center toward confidentiality.

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