



NEDA TOOLKIT for Parents

Confidentiality issues



Parents of children of legal age or friends of a person with an eating disorder may want to help navigate insurance issues and finding treatment facilities, or participate in treatment, but cannot talk with health professionals or facilities on a patient's behalf without the patient's permission because of certain regulations protecting medical privacy. The Health Insurance Portability and Accountability Act of 1996, or HIPAA, protects individuals' medical records from becoming public knowledge. HIPAA states that under normal circumstances, medical records are private and that anyone with access to them, like healthcare professionals, healthcare facilities, or insurers, cannot share that medical information with anyone but the patient. HIPAA protection also extends to human resources (HR) departments at employers. If a person discloses his/her medical condition to HR personnel when talking about health insurance benefits, HR is required to maintain confidentiality. If HR divulges information without permission, the harmed party can file a civil rights complaint. HIPAA requires companies to have policies that provide for sanctions against any HR person who releases confidential medical information. The Americans with Disabilities Act may provide recourse for anyone fired from a job because of a medical condition.

If a friend or family member is helping a patient through the treatment process, the patient can give oral permission for that person to see the patient's records and participate when talking with healthcare providers or insurers. That person may also make doctors' appointments for the patient. A friend or family member cannot see a patient's medical files or transport the files or lab samples if the patient is absent, even if permission has been given orally.

To grant a friend or family member access to medical records, the patient must provide a durable power of attorney (POA) document. This document varies by state so it's best to have a lawyer create it. Anyone with a POA can sign legal documents for the patient and read or transport medical records in the patient's absence.

Other documents worth knowing about include a medical POA, which lets someone make medical decisions about the patient's healthcare if the patient is incapable of making these decisions. The rules about medical POAs vary by state and it's best to consult a lawyer to write one. Advanced directives are another set of documents that the patient authorizes for future treatment in case the patient cannot make decisions at that time. Most hospitals have forms for patients to fill out to specify instructions.

In most states parents have medical POA over their children as long as the children are younger than age 18 although the exact regulations depend on the state. Parents do not have medical or durable POA over children who are older than age 18, even if the children are covered under the parents' health insurance policy. If a child is in college, is over age 18, but is still covered by the parents' insurance, then the parents and child must go through the usual legal process to set up POA. This can be a problem if the child does not want treatment or is at odds with the parents, which is sometimes the case. Parents have no legal authority to force a legally adult child into treatment.

KEY SOURCES:

National Eating Disorders Association
ECRI Institute www.bulimiaguide.org