Liberation Acupuncture:

Educating the next generation of community acupuncturists

Privacy Manual

November 15, 2018

Contents

This manual contains an overview of privacy-related issues and policies which all POCA Tech community members should be familiar with. At the end of the manual is a self-graded quiz to confirm understanding of the information. Please read the manual, take the quiz, grade it, sign the form at the end of the manual and turn it in to your Circle's Operational Leader. Thanks!

Privacy Overview

According to Wikipedia, "Privacy is the ability of an individual or group to seclude themselves, or information about themselves, and thereby express themselves selectively. The boundaries and content of what is considered private differ among cultures and individuals, but share common themes. When something is private to a person, it usually means that something is inherently special or sensitive to them. The domain of privacy partially overlaps security (confidentiality), which can include the concepts of appropriate use, as well as protection of information." (https://en.wikipedia.org/wiki/Privacy)

In other words, privacy is related to autonomy. For POCA Tech, privacy isn't about following a set of semi-arbitrary rules, it's about supporting people's autonomy.

An Incomplete List of Privacy Issues for Marginalized People, or Why Does This Matter?

In POCA's early history -- pre-POCA, actually -- there was a lot of confusion about privacy in a community acupuncture setting, because acupuncturists who were opposed to community acupuncture as a model claimed that it inherently violated patients' privacy. (In some places this is still true; for example, the province of Quebec has some bizarre regulations that local community acupuncturists are trying to change.) It was very common for conventional acupuncturists to claim that all community acupuncture clinics were violating HIPAA, all the time, as part of their normal operations, and this was a reason why community acupuncture shouldn't exist. Obviously this hostile atmosphere was not conducive to a healthy conversation about privacy issues.

Part of the purpose of this manual is to clear up that confusion, including regarding HIPAA, so that POCA Tech students, faculty, and other community members are equipped to have better conversations about privacy and the community acupuncture model.

But first, let's step way back and consider some practical reasons why privacy in community acupuncture clinics is worth talking about. How do privacy issues relate to making acupuncture accessible to marginalized people? Here's an incomplete list; if you think of others,

please write to us at info@pocatech.org so that we can add them.

1) Health stigma

Many community acupuncture patients are seeking help with health problems that carry various degrees of social stigma, including: chronic/persistent pain, mental health conditions such as depression and anxiety, addictions, and chronic diseases such as HIV and Hepatitis C. HIV provides an example of the kind of impact that health stigma can have on someone's life; if you are perceived to have HIV, you face potential discrimination with regard to housing, employment, and all kinds of social interactions. This discrimination is of course illegal, but that doesn't mean it doesn't happen, and even as a potential, it's extremely stressful for people with HIV to deal with -- on top of managing an already stressful chronic illness.

One way to think about privacy is that it's important that we don't do anything to make our patients' lives any MORE stressful, like compromising their autonomy and inadvertently exposing them to social stigma. We want to protect patients who might be marginalized by having stigmatized conditions, which means having good practices around privacy for *everyone*.

2) Acupuncture stigma

There's also a specific stigma related to acupuncture for some patients in particular communities. For example, some Christian churches regard acupuncture as an occult practice. Working Class Acupuncture has had patients who chose to receive acupuncture because it helped them with specific chronic conditions, but who didn't want anyone from their faith communities to know because it would have created huge problems for them. In situations where they were depending on their communities for practical support around an illness, they really needed their use of acupuncture to remain confidential so that it didn't jeopardize their access to tangible resources like rides to the doctor, meal preparation, etc. You can't tell by looking at someone whether they're part of a community that frowns on acupuncture, so again, it's important to have good privacy practices in general.

3) Domestic violence and stalking

A thread on the POCA forums (https://www.pocacoop.com/forums/viewthread/9113/) described a situation in which a POCA clinic had to interact with a patient's (likely) abusive partner who was trying to get information about the patient. Domestic violence and stalking are depressingly wide-spread, and again, you can't tell by looking at someone whether they are dealing with this. Someone calling the front desk "just to check" on whether a patient is at the

clinic could be part of an abusive dynamic, so it's important never to give out information to anyone in this way.

4) Immigration status

There are a lot of community acupuncture patients who are affected by immigration trauma in one way or another, whether personally, with family members, or in their larger communities. Because of the nature of most POCA clinics' documentation and billing, POCA clinics may be more accessible to undocumented people than other kinds of healthcare that involve more gatekeeping. The stress of dealing with immigration enforcement can't be overstated, and so protecting patients' personal information is extremely important. Someone calling the front desk "just to check" on whether a patient is at the clinic could be employed by ICE.

5) Identity theft/hacking

Many community acupuncture patients are dealing with stress in every area of their lives: physical, mental, economic. Identity thieves can wreak an amazing amount of havoc with a seemingly tiny amount of private information (for example, full names and birthdates). We don't want to be part of adding this kind of stress to anyone's life, so it's important to be careful with information security -- even though POCA clinics generally collect and store much less personal information than other healthcare facilities do.

Patient Privacy at POCA Tech

What do you *need* to know?

In dealing with patient information as part of your work in the clinic or at the front desk, it's good to ask yourself what you really need to know in order to do your job, and always restrict your interaction with patient information to that. Don't collect information that you don't absolutely need, for curiosity or any other reason. Information is power and we're trying to level all the power dynamics that we can. Please treat information respectfully and carefully.

What kind of information do you need to *protect*?

Please review the Student Clinic Handbook pgs 48 -54.
https://docs.google.com/document/d/1UWfI6y73x4KwiFzxMfVlPajMDdEdlM_kd42Vu3eW31g/edit#heading=h.0p7vkye8nrec

The POCA Tech Student Clinic has specific patient confidentiality requirements designed to protect patient information.

1. POCA Tech student interns, observers, clinic supervisors, and clinic staff have access to patient records. In addition, POCA Tech shares the patient database of Working Class Acupuncture, and as such POCA Tech and WCA acupuncturists and employees have access to patient records.

2. The identity of or information pertaining to any patient may not be revealed to any source without the specific written permission of the patient. Exceptions are outlined below.

3. Staff, clinic supervisors, student interns, and observers are prohibited from responding to any inquiries about patients without specific written consent to release patient information.

Protected Health Information

Protected Health Information (PHI) refers to any health information, combined with personal unique identifiers, which can be used to identify a specific person, and includes information that we create and/or receive from other sources such as:

Written paper records and documents
Electronic records (computer records)
Oral communication
Audio recordings
Image, photos, and video files

Personal Unique Identifiers

Personal unique identifiers include the following list of personal types of information which could used to identify a specific individual:

Name
Address
Name of relatives
Name of employers
E-mail address and/or Web URL
Internet protocol address
Fax and/or Telephone numbers
Birth Date
Finger/Voice prints
Photographs
Social Security number
Vehicle or device serial numbers
Health record numbers

Health plan beneficiary number

Account numbers

Certificate and/or license numbers and other unique identifying numbers, characteristics, or codes.

Social Media Guidelines

The Oregon Medical Board has guidelines on page 38 (https://www.oregon.gov/omb/licensing/Documents/licensee-handbook.pdf) of their Licensee Handbook:

"Healthcare professionals have an obligation to protect patient privacy and confidentiality in all environments. Identifiable patient information – even seemingly minor details of a case or patient interaction – must never be posted online. Healthcare professionals must never discuss a patient's medical treatment or answer a patient's health-related question through personal social media. E-mail must be secure if used to communicate medical information to patients. Healthcare professionals must use discretion and consider all information posted online to be public."

An Incomplete List of Common Things to Be Careful About at POCA Tech

Please email us at info@pocatech.org if you have ideas about good additions to this list.

Identifying information in emails

Sample scenario: an intern wants to let another intern and/or supervisor know that one of their regular patients will be showing up on a different shift, and they forgot to note in the patient's chart that being woken up on time is VERY important to this particular patient, and they want to make sure there are no issues with wake up times. "Dear Intern and Supervisor, Jane Everypatient has a lot of anxiety about falling asleep and not being able to catch the 4:45 bus home. Can you please make sure to wake her up no later than 4:30 when she comes in next Friday? Thanks!"

Fix: Instead of writing the patient's name, identify the patient with their initials and the time that they have scheduled on the new shift. "Patient JE is scheduled for 3:30 with you next Friday; wake up times are really important to them, can you please check in about that when you see them? Usually needs a wake up time of 4:30. Sorry I forgot to put this in the chart notes.

Thanks!"

Wake up times on white boards

Sample scenario: an intern (or a patient) writes a patient's full name for wake up times on a whiteboard in the clinic. "Jane Everypatient 4:30!"

Fix: erase last name, leave first name and wake up time. "Jane, 4:30"

Friends/family asking for info

Sample scenario: Regular patient says to their intern, "Hey, did my friend Jane Everypatient ever make an appointment with you? I've been nagging her for months to get acupuncture!"

Wrong: "Why yes, Jane comes in every Friday"/"Hmm, I don't think so…let me check the database… how do you spell that? No, no Jane Everypatient here, I guess you'll need to keep nagging!"

Fix: "Hey, thanks for your enthusiasm about the clinic! We can't disclose patient information, but we appreciate you sending your friends our way."

Clinic journals

Sample scenario: intern writes entry about how challenging it is to treat Jane Everypatient's anxiety because she just can't get comfortable in her chair, she's constantly checking her phone to make sure she doesn't miss her bus, and this in turn makes the intern anxious.

Fix: don't use Jane's name. There's no need to use *any* identifying patient information in clinic journals, because the point of the clinic journal is for the intern to reflect on their own experience. Pro tip: it's not really about the patient, it's about you and your learning process. If you must refer to a patient, use a first initial.

Celebrities, etc.

Sample scenario: intern walks into clinic and notices something different in the lobby. In addition to the usual familiar folks drinking tea or chatting with the receptionist after their

treatment, there are two professionally dressed, steely-eyed individuals sitting near the door, giving everybody appraising glances as they go in or out. "Who are those people?" whispers the intern to their supervisor. "They're bodyguards," the supervisor replies, "Look at the schedule." The intern does, and sees to their surprise that an Important and Famous Person is right now snoozing in a recliner alongside all the ordinary, un-famous patients in the back. The intern is so taken aback that they say loudly, "OMG, _____ is a patient HERE?!?"

It is highly tempting to talk about the fact that not only musicians but rock stars, not only actors but movie stars, not only public servants but famous politicians, are community acupuncture regulars. (The list goes on: famous novelists, prominent athletes, locally notorious criminals, etc.) It's especially tempting to talk about it to other acupuncturists when they're trashing community acupuncture as second rate. (OK, maybe not the locally notorious criminals.) It's *validating* to have celebrities in your patient base, right?

Fix: remember they're patients first and foremost, and they deserve to access community acupuncture with the exact same peace and privacy that everybody else does. Treat their information with the same care, the same "need to know", the same caution that you do everyone else's. (Remember that they might have to worry about stalkers even more than your average patient, and having to worry about stalkers is terrible.) Celebrities in the clinic need your protection.

Meeting patients in public

Sample scenario: intern is in the grocery store/post office/yoga class and they notice a patient is across the room. Patient notices them too.

Wrong:

Intern waves and yells, "Hi Jane Everypatient, how's that bladder infection?"

OR

Intern looks away, embarrassed, and ignores patient as if patient were someone with whom they had had a spectacularly awkward one-night stand.

OR

Intern dives for cover behind grocery display/ mailbox/other humans in order to protect

against any disclosure of protected health information, and hides until patient has gone away.

Fix:

Intern meets patient's eyes, smiles, and gives patient the opportunity to speak first. If they don't, intern goes about their business like a normal human being.

Other sample scenarios:

Intern is in the grocery store/post office/yoga class and they notice a patient is across the room. Patient notices them too. Patient shrieks with delight, grabs the person standing next to them, and drags them over to intern. "Oh, it's SO good to see you! This is my sister Clara, I've been telling her ALL about you, Clara this is my acupuncturist _____, I can't even tell you how much they've helped me with my recurrent bladder infections! Even though they're only a student, ha ha! You really need to go see them! It's too bad bladder problems run in our family, I just wish our mother could have gotten acupuncture, she had the worst incontinence before she passed away, but you know Clara, it's not too late for you!"

Wrong: Intern melts into puddle of embarrassment and tries to slink into crowd of other embarrassed bystanders who are edging away from this unfolding exhibition of personal health information.

Fix: Intern smiles politely and says, "So nice to meet you, Clara."

Or: Intern is in the grocery store/post office/yoga class and they notice a patient is across the room. Patient notices them too. Patient waves and says, "Hi _____!" but intern can't remember patient's name.

Fix: There's nothing to fix. Demonstrate your knowledge of privacy practices by not using the patient's name, and just smile warmly and wave back.

Take home message: There is an extremely wide range of attitudes and behaviors with regard to privacy. Some patients don't want anybody in their lives to know that they're getting acupuncture, let alone why they're getting acupuncture. Other patients would love to discuss intimate details of their medical history with an audience (the bigger the better) and will initiate such discussions in public with you, while you are innocently going about your life. Your job is to respect everyone's autonomy, be kind and friendly, and say as little as possible in these conversations. Try to save detailed conversations for the clinic (though the patient's side of the

conversation is not under your control). When in doubt, nod and smile -- and bring up the situation in a Case Discussions class or Circle meeting later to figure out if you could have done anything differently.

What is HIPAA?

HIPAA is a law, originally enacted in 1996 as an attempt at healthcare reform. It was designed to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify administration of health insurance, and for other purposes. Though not initially intended as a health-related information privacy protection, the provisions on privacy were added in response to congressional concerns about the expansion of health information technology. (https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1194&context=jcl)

After the law was passed, the Department of Health and Human Services had to translate its intentions into regulations. One particular goal was to define uniform standards for transferring health information among healthcare providers, health plans, and clearinghouses (covered entities) while securing health information and ensuring patient privacy and confidentiality. (http://hipaa.bsd.uchicago.edu/background.html)

HIPAA applies to health plans, healthcare clearinghouses, and to healthcare providers that electronically transmit health information in connection with standard transactions. Please look at this flowchart that describes who is a "covered entity" under HIPAA: http://hipaanews.org/Documents/Flowcharts.pdf The flowchart includes a list of covered transactions.

Based on reviewing these charts, POCA Tech is not a covered entity under HIPAA because POCA Tech does not conduct covered transactions transmitted in electronic form. Similarly, many/most POCA clinics are not HIPAA covered entities for similar reasons.

Patient privacy at POCA Tech isn't related to HIPAA, it's about practical issues related to protecting patients from having their private information used against them in some way.

Student Privacy at POCA Tech

Student privacy policies at POCA Tech are about access and control over student

educational records and transparency about peer involvement in school processes.

What is FERPA?

The Family Educational Rights and Privacy Act (FERPA) affords eligible students certain rights with respect to their education records. (An "eligible student" under FERPA is a student who is 18 years of age or older or who attends a postsecondary institution at any age.) The law applies to all educational agencies and institutions that receive funds under any program administered by the Department of Education.

FERPA does not apply to POCA Tech, as POCA Tech receives no funds from the Department of Education.

However, the rights of students under FERPA are as follows, and since they're entirely reasonable, POCA Tech affirms that its students have these rights:

The right to inspect and review the student's education records within 45 days after the day POCA Tech receives a request for access. A student in good standing should submit to the registrar a written or emailed request that identifies the record(s) the student wishes to inspect. The school official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the school official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

The right to request the amendment of the student's education records that the student believes is inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

A student who wishes to ask the school to amend a record should write the school official responsible for the record, clearly identify the part of the record the student wants changed, and specify why it should be changed.

If POCA Tech decides not to amend the record as requested, POCA Tech will notify the student in writing of the decision and the student's right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

The right to provide written consent before POCA Tech discloses personally

identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

POCA Tech discloses education records without a student's prior written consent under the FERPA exception for disclosure to school officials with legitimate educational interests. A school official is typically includes a person employed by the POCA Tech in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff); a person serving on the board of trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or on a sociocratic governance Circle which is involved in some way. A school official also may include a volunteer or contractor outside of the POCA Tech who performs an institutional service of function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, or collection agent or a student volunteering to assist another school official in performing his or her tasks. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibilities for the POCA Tech.

Confidentiality of Student Information

POCA Tech's Confidentiality of Student Information Policy: Administrative circle, which includes student employees, has access to student records and POCA Tech employee files. Administrative and student employees are obligated to abide by the code of ethics and confidentiality.

Administrative employees report to the Executive Director and student employees specifically are trained by and report to the administrative circle, which includes the Executive Director, Registrar, and the Dean. Student employees have access to records as described within their job description. Records of student files include financial information and disciplinary actions. While student employees have access, they are not responsible for disseminating individual student financial and disciplinary information to students.

Administrative employees generate students' bi-annual progress reports, which are then approved by the Dean. The Dean gives the students' their progress reports during their bi-annual conference. Signed copies are filed in the students' permanent files. Students may contact the registrar to request access to their POCA Tech files, and the registrar may delegate the duty of assisting the student to access their file to a student employee.

Student records are kept in locked file cabinet in the POCA Tech office. They are not removed from the office.

Message to Students Regarding School-wide Transparency at POCA Tech

POCA Tech is a sociocratically-managed school, meaning that students and faculty are involved in most aspects of how the school is run. As a student of POCA Tech you are consenting to peer-involvement in processes that may involve personal information. Student employees will be interacting with your permanent files, grades and records. Students may also be asked to participate in grievance procedures regarding other students as outlined in the grievance policy in the student handbook.

_____

Disciplinary / Grievance Process / Corrective Action Plan Clarifications / Proposals

More concrete corrective action plan that includes having Administrative Circle form/delegate an ad-hoc committee to create a corrective action plan that addresses the disciplinary problems that have been previously determined by initial filing of disciplinary issue. Ad-Hoc committee to include student representation (possibly a member of a different cohort than student(s) involved in disciplinary issue), relevant circle representation, and faculty and/or clinic supervisor(s). *Administrative Circle should first decide if they think it is necessary to form the ad-hoc committee given the individual circumstances. The student involved can also specifically request that an ad-hoc committee be formed. The student can also request that a student member not be included in the committee if that is their preference.

Ad-Hoc committee members sign a confidentiality agreement covering their work on the committee.

Electronic documents for disciplinary action will be restricted to the Ad-Hoc committee only. Corrective Action Plans, disciplinary action results, and other written documents that must be part of the student record will be filed by student employees. Filing of these documents by student employees falls under confidentiality agreements previously signed.

Accessing My Student Records

Please see the Catalog p. 56
https://docs.google.com/document/d/1LYeRJ4I0YM-fcW_FXl2K9s2nhS-dLC4SEHDnwmg-TGw/edit#heading=h.gjdgxs

Confidentiality and Code of Ethics

Please see Catalog. p.44

POCA Tech

Employee Confidentiality Agreement

As a POCA Tech Employee, you will encounter and have access to student privacy information including, but not limited to, academic records, disciplinary actions, and student financial information. POCA Tech employees are expected to safeguard student record information and adhere to the guidelines described in the privacy manual. Access to student record information is related to respective job functions and on a need to know basis. While employees may have access, they are not to disseminate individual student information to students, unless stated in the role description or otherwise part of an ad-hoc committee's work.

Code of Ethics

Please see Catalog. p.44

POCA Tech employees are expected to comply with the Code of Ethics

POCA Tech employees are expected to act in responsible and considerate ways toward other employees and students.

Privacy Manual

POCA Tech employees are expected to safeguard student record information and adhere to guidelines written in the Privacy Manual.

https://docs.google.com/document/d/1dKraZY7JjF2xQxymT6Kt0qJ-Qk2Cvih2UquiCgE9wzc/edit

I have read the above POCA Tech Confidentiality Agreement and been given the opportunity to ask any questions.

Name   Signature   Date

Receptionists

POCA Tech students act as receptionists as part of their clinical training. They sign WCA/POCA Tech Confidentiality agreements as part of training for reception.

<u>Working Class Acupuncture/POCA Tech Confidentiality Statement</u>

This is to certify that I,_____, a POCA volunteer at Working Class Acupuncture/student receptionist, understand that any information (written, verbal or other form) obtained during the performance of my duties must remain confidential. This includes all information about members, clients, families, employees and other associate organizations, as well as any other information otherwise marked or known to be confidential.

I understand that any unauthorized release or carelessness in the handling of this confidential information is considered a breach of the duty to maintain confidentiality.

I further understand that any breach of the duty to maintain confidentiality could be grounds for immediate dismissal and/or possible liability in any legal action arising from such breach.

Volunteer Signature_____Date_____

Print Name_____

FOR OFFICE USE ONLY:_____

POCA Tech Privacy Practices Quiz

1. T/F HIPAA means that if you see a patient in public, you must hide before they see you.

2. HIPAA was originally intended as health care reform, in order to prevent _____ in healthcare.
   a) waste
   b)fraud
   c) abuse
   d) all of the above.

3. T/F If someone who identifies themselves as a family member calls the front desk of the clinic and asks if a certain patient is getting acupuncture there, it's OK to check the schedule and answer their question.

4. T/F POCA Tech is not a HIPAA covered entity.

5. T/F It's OK to write full patient names on clinic whiteboards for wake up times.

6. T/F It's OK to use full patient names in emails.

7. Student privacy policies at POCA Tech include:

a. students have the right to inspect and review their own educational records
b. students have the right to request to change inaccurate or misleading information in their educational records
c. POCA Tech will not share students' educational records without written consent (except under certain circumstances)
d. all of the above

8. T/F Under the student privacy policies at POCA Tech, any student at any time can get a key to the locked filing cabinet and go and get their own educational record out to read at any time.

9. T/F Even when you run into a movie star at a POCA clinic, you still need to protect their confidentiality, which means not telling your friends that this particular movie star gets

community acupuncture.

10. T/F If you treat somebody famous in the POCA Tech student clinic, it's OK to ask them to autograph your clinic journal, as long as you are not planning to sell it later.

Answers:

1. F

2. d

3. F

4. T

5. F

6. F

7. d

8. F

9. T

10. F