

DO's & DON'Ts of Curbside Consults with the MLP Legal Team

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with input from the Technology, Data, and Information Sharing Committee of the Kaiser Permanente Medical-Legal Partnerships

Curbside Consults are an opportunity to assess whether a situation with a patient is appropriate for referral to the medical-legal partnership (MLP) legal team. They are also a chance to provide legal education in response to healthcare staff questions about general legal topics. Curbside Consults can take place during Office Hours created specifically for the MLP. However, Curbside Consults can also take place in a one-on-one setting or when the legal team participates in an existing case review meeting or rounds.

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DO MAKE IT SHORT AND TO THE POINT. GIVE CONTEXT WITHOUT SHARING TOO MANY DETAILS.

Share basic information about what is going on / what the potential legal problem is. If relevant, highlight basic information about the patient and impacted household members without disclosing any PII or PHI to the legal team.



DO ENSURE YOU KNOW THE PATIENT'S GOALS AND COMMUNICATE THEM TO THE LEGAL TEAM

Let the legal team know what the patient hopes to learn or hopes will occur.



DO BE CLEAR ABOUT YOUR GOALS

Let the legal team know what YOU hope to learn or hope will be resolved for the patient.

x DON'T



DON'T SHARE PERSONALLY IDENTIFIABLE INFORMATION (PII) OR PROTECTED HEALTH INFORMATION (PHI) WITH THE LEGAL TEAM.

Only speak about patients broadly (e.g., "I have a patient with this problem..."). Because Curbside Consults can turn into referrals, details should be as limited as possible to protect privacy in the event a referral is made in the future.

Refer to the MLP consent job aid for a detailed discussion of PII, PHI, and protocols for disclosing this information.



DON'T SEEK ADVICE ABOUT SUBPOENAS OR OTHER SITUATIONS WHERE ANTICIPATED LEGAL ACTION INVOLVES THE HEALTHCARE ORGANIZATION OR HEALTHCARE STAFF PERSON.

When the healthcare organization or a healthcare staff person are involved in a current or anticipated legal action, that legal issue needs to be presented to the healthcare organization's own attorneys, not the MLP legal team. The MLP legal team cannot get involved. If presented with such an issue, the MLP legal team will refer the staff person back to the healthcare champion.



DON'T SEEK ADVICE ABOUT PERSONAL LEGAL ISSUES.

Questions about an employee's personal or family legal issues are not appropriate during a Curbside Consult. However, some healthcare employees or people in their families may also be patients who are eligible to be referred for legal services. Those issues should be discussed in the same way as other patient issues, protecting PII and PHI.

Example 1: What Can A Patient Do While Waiting for Their Landlord to Take Action?

"I'm a case manager working with a patient who recently filed a complaint against her landlord due to racial discrimination. She is a person of color and so are her family members. Two weeks later, the landlord stopped accepting rent and told the patient that the landlord plans to start an eviction case. The patient hasn't gotten any court papers yet. The patient is wondering what her rights are. They want to move, but on their own timeline; they don't want to be forced out. From a [healthcare organization] perspective, I would like to know if there are things that a patient in this situation could do NOW to prepare in case the landlord really does file for eviction. Should I refer this to the legal team? If not now, at what point should I re-consider a referral to the legal team?"

Example 2: How Can Patient with HIV Appeal Housing Voucher Denial?

"I'm a care coordinator working with a patient who has HIV. Although I'm not disclosing the patient's name during this Curbside Consult, I do have a signed release because of the HIV-related issue just in case this turns into a referral.

The patient has applied for a housing voucher and subsidy for people living with HIV, and her application was denied. I'm unfamiliar with this type of housing subsidy, and I'm looking for some help understanding the program and what steps the patient can take, if any, to appeal her denial."



EXAMPLES OF APPROPRIATE CASE CONSULTS

Each of these examples:

- Shares context without sharing PII or PHI (except where a written release was signed in advance in example #2.)
- Are clear about what the patient and/or healthcare staff person want from the consult.

It's okay if a consult question is about a general issue, program, or law, and not about a specific patient as in example #3.

Example 3: Can Landlords Evict People Without Going to Court?

"In the past, through my role as a care coordinator, I've spoken with several patients who got behind on their rent, and then their landlord told them they had to leave, otherwise he was going to padlock their doors and throw all their belongings into the front yard. So, they left and ended up shelters with their stuff in storage.

Can landlords do that when people get behind on rent? What can tenants do when landlords say or do things like that?"

Example 4: Is This Appropriate for Referral?

A patient tripped and fell in the main area of his apartment building last we week and suffered an injury. Now he can't work at all until his injury heals. He wants to sue his building and get unemployment. Does the legal team help with that kind of case?"

Example 5: Wrongly Sharing PII and PHI; No Stated Goal

"I'm working with patient Jane Doe, MRN 123456789, who lives at 123 Main Street in Springfield. She is 45 years old, works full time at City Hall, and has poorly controlled diabetes and hypertension. She lives with her spouse John and their child, James. She recently filed a complaint against her landlord due to racial discrimination. Two weeks later, the landlord stopped accepting rent and told the patient that the landlord plans to start an eviction case against her."

Example 6: Wrongly Sharing Mental Health Info w/o Additional Consent

"I'm a patient navigator working with a patient who is receiving mental health services. Her landlord is threatening to file an eviction case against her due to non-payment of rent from the winter. She was out of work for a few months, but she started a new job last month."

Sensitive PHI (like receiving mental health services) should not be shared even when no other identifying information is communicated. If it's necessary to the Curbside Consult to reveal that the patient is receiving these services, Healthcare staff should obtain a written authorization before talking with the legal team.



EXAMPLES OF INAPPROPRIATE CASE CONSULTS

Example 7: Anticipated Legal Action Involving Healthcare Staff

"I'm a social worker, and I got served with a subpoena asking me to provide documents and testify in a child custody matter. Do I have to testify about this in court? I'd rather not get in the middle of it."

This question must be presented to the healthcare organization's attorneys, not MLP attorneys.

Example 8: Seeking Personal Advice

"My sister recently got a letter from Social Security saying that they were going to cut off my nephew's SSI check. What should she do?"