MDT GUIDE AND TOOLKIT

5: Ethical and Legal Considerations

Chapter 5: Summary

There are a number of issues your MDT will need to discuss as the framework for the MDT begins construction. The decisions associated with these issues are then formalized in written protocols, which are simply a compilation of the MDTs procedures. Protocols are important in that they provide structure, predictability, and accountability for the MDT. Confidentiality is a topic that engenders considerable debate and passion, but by no means is an insurmountable barrier to information sharing.

Issues to Discuss

At this point, your community has discussed a number of meta-issues such as organizational structure and MDT members. In this chapter, more micro-level issues are raised for discussion, including cultural competency (see Exhibit 1). Ultimately, these decisions will form the foundation for writing protocols that will articulate members' responsibilities and ensure consistency in their work, but for now, your community can discuss the various options associated with each of the issues listed in the Toolkit item: Issues for Initial MDT Discussions.

Take the Time

Be prepared to spend considerable time up front discussing these issues. This process takes more time than many anticipate and it may become frustrating for some members of the MDT. However, this

groundwork is crucial for the functioning of the MDT.

Translating Decisions into Protocols

Eventually, your community may want to formalize decisions made about the issues discussed by writing protocols, which are documents that contain information about how the MDT is going to operate, i.e., the procedures. (For examples see the Toolkit item: Sample Protocols and Policies). Procedures describe the steps taken to complete a specific function in the day-to-day operations of the organization and are critical to well-functioning MDTs. Protocols should be somewhat flexible. Too much specificity contained in the protocols can be used against the MDT under certain circumstances.

Memorandum of Understanding (MOU) or Interagency Agreement (IAA)

Having recruited members for the MDT, many communities then use a memorandum of understanding (MOU) or an interagency agreement (IAA) to formalize the MDT.

MOUs are formal agreements between two or more parties that outline the roles, responsibilities, and expectations of each party, a document that is typically signed annually. MOUs generally are developed to ensure that the participants understand the scope and boundaries of their relationship to one another (see Toolkit item: Sample Memorandum of Understanding (MOUs), for examples).

A formal MOU or IAA will need to be reviewed by agency attorneys and signed by all authorized representatives of the MDT that clearly commits the signed parties to the MDT model. Your community will want to discuss what to include in the MOU, typically:

  The agency's commitment to having an appropriate person attend agreed-upon meetings and a designated back up representative who is authorized to attend meetings when conflicts in scheduling arise.

  A clear description of the process for conflict resolution.

  The explicit expectation that all members of the MDT are routinely involved in investigations and/or interventions.

A clear description of the procedures for information sharing and group decision-making.

Affirmation that the procedures are consistent with legal, ethical and professional standards of practice in the community and state.

Linkage agreements

In addition to an MOU or IAA, you will want to develop linkage agreements with external service providers. The linkage agreement defines how the MDT will transfer relevant information to individuals who provide direct services but are not officially part of the MDT.

Confidentiality

Information sharing is a central aspect of an MDT that facilitates a holistic approach to the service needs of the individual as well as facilitating the investigation. Yet confidentiality concerns are sometimes used to justify not sharing information among MDT members.

In addition to client confidentiality, information exchanged at case review meetings could be subpoenaed or may be "discoverable" in civil proceedings. Therefore, confidentiality is a serious issue that warrants considerable attention. However, confidentiality does not have to preclude information sharing.

Definition of Confidentiality: Confidentiality (which is about data) involves restricting the flow of information. Black's Law Dictionary defines confidentiality as a "term that applies to something that has the quality of being confidential, secret or privileged."

Confidentiality Policy

Each agency on the MDT will have its own confidentiality requirements. However, the MDT must develop a confidentiality policy that meets the needs of the MDT while not

violating any one agency's confidentiality policy. See Toolkit item: Sample Protocols and Policies, for a sample confidentiality policy and sample confidentiality forms.

Possible Approaches for Handling Confidentiality: MDTs have struggled with confidentiality since their inception. However, innovative MDTs have developed approaches for managing – not ignoring – confidentiality that allows MDTs to share information among team members while maintaining client confidentiality. Below is a list of possible solutions.

Some issues of confidentiality are addressed in statutes (see Toolkit item: MDT Statutory Review). For example:

Colorado stipulates that information shared among the MDT is confidential.

Illinois' Elder Abuse and Neglect Act (Illinois Public Act 85-1184) provides immunity to any appropriate provider of services who consults with the elder abuse provider agency in the development of a service case plan for a victim of substantiated abuse.

California's statute expressly allows MDTs to share information with one another.

Maine's Elder Abuse Fatality Review Team relies on a Maine statute which allows team members to obtain information from other team members and also provides immunity to team members who share that information and thereby avoid a HIPAA violation.

Some entities have offered clarification of policies, for example in the context of Health Insurance Portability and Accountability Act (HIPPA) and financial institutions.

Include a confidentiality provision in the MOU (see Toolkit item: Sample MOU from Denver).

Individuals who are not MDT members but are attending a case review meeting for a specific purpose may sign a confidentiality pledge prior to the meeting.

Ask clients to sign consent forms to share case information with other MDT members.

Have all MDT members sign a confidentiality agreement at each meeting.

Use pseudonyms or initials when discussing cases during a case review meeting.

Include written reminders about confidentiality (with applicable state code sections) and place the confidentiality reminder on the case review meeting

agenda.

Prohibit note taking during case review meetings except for the MDT Coordinator.

Establish procedures to protect documents shared during a meeting, such as collecting all paper documentation after the meeting and shredding duplicate documents.

Ensure that any paper or digital files are appropriately kept confidential and safe. For example, keep documents in locked file cabinets and store electronic files on password protected computers behind a firewall.

Periodically provide verbal reminders not to use names during case review meetings.

Remind people not to present "discoverable" information during a case review meeting.

Have each agency's attorney submit a ruling (interpretation) permitting the agency representative to share information with other MDT members.

Exhibit 1. Enhancing Cultural Competency

Cultural competency is receiving increased attention in the field of elder abuse (Imbody & Vandsburger, 2011). Cultural competency involves adopting practices that are sensitive to the range of diverse populations (ethnic, gender, ageism, sensory impairments, sexual orientation, socioeconomic status, literacy, educational status) with which the MDT members will interact. However, your MDT will need to be sensitive to the cultural values and beliefs of the MDT members as well as clients.

The following are some suggestions for enhancing the MDT's cultural competency:

Materials are available in languages that reflect the MDT's community.

Mechanisms for translation services (not family members) are in place (NCCC, 2015).

Bi-or multilingual professionals are available to respond to victims (including ASL) (NCEA, 2007).

During case review, cultural competency is considered when making decisions about a family.

Victims are involved in the case management process to guard against insensitivity.

Protocols include a reward structure for MDT members who participate in cultural competency training.

MDT members are actively encouraged to recruit staff, volunteers, and board members that reflect the demographics of the community.

The MDT guards against ageism in part by following the UN's Principles for Older Persons (United Nations, 2000).

Relevant cultural information (country of origin, language spoken, religion) is collected on the intake form.

Within immigrant populations, social workers view the older adults' beliefs about interdependence as both healthy and necessary in their everyday lives (Lee & Fatona, 2009).

Toolkit Items

⭐ List of Professional's Code of Ethics

⭐ Sample: Memorandum of Understanding (MOU) - Denver

⭐ Sample: Memorandum of Understanding (MOU) - TEAM Institute

⭐ Sample: Confidentiality Form - Denver

⭐ Sample: Confidentiality Form - TEAM Institute

⭐ Sample: Confidentiality Form - Lifespan

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Sample: Confidentiality Policy - TEAM Institute

⭐ Statutory Review of Multidisciplinary Teams and Information Sharing

⭐ Chapter 5 (with Citations)

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