

## MEDICAL ETHICS - CONFIDENTIALITY

Medical Ethics embrace the principles which govern the "proper conduct" of physicians. These principles derive from several inputs, including social and religious, and are occasionally subject to such change as may occur in society's thoughts and attitudes. In large part, however, medical ethics are relatively constant, representing what doctors ought to do in general, in regards to the sick and in regards to each other.

When a patient visits a doctor, he/she literally puts himself/herself "in the hands" of the doctor and makes revelations such as are not usually made during regular social intercourse. The doctor, by dint of skilled probing, sometimes more subtle than at others, gets such a physical and psychological profile of the patient as to be often in a position to declare - truthfully - that he knows the patient "inside-out"!! These measures are designed to elicit a proper diagnosis and therefore institute correct treatment, such treatment not always being limited to the patient alone but also extending to other family members and/or social "contacts".

It is clear that the doctor - patient relationship could not be engendered, nurtured or survive without some form of "agreement" as to what will and will not be done - some form of "unwritten contract" delineating the "rules of the game"! This contract includes the consent of the patient - for the doctor to do what is necessary - and the tacit agreement that whatever the doctor learns during the exercise will be used exclusively for the benefit of the patient and not be divulged to other inquisitive parties! This then is the issue of "Confidentiality", the zealous preservation of knowledge acquired during medical procedures.

### **SOURCE OF CONFIDENTIAL INFORMATION:**

This is primarily the patient but may include relatives, other health personnel or anyone who "refers" the patient for medical examination (eg. employer, policeman etc.) the information may be provided verbally, in writing or by other media eg. electronically.

### **TYPE OF CONFIDENTIAL INFORMATION:**

This varies widely from the purely personal (number, size and state of organs) to the familial (brother with asthma), the recreational (likes "sniffing" glue), the social (drinks in Joe's bar every Friday night)

### **WHO HAS ACCESS TO CONFIDENTIAL INFORMATION?**

This is normally the doctor, nurse or other member of the immediate health care team but may include members of the "expanded" team eg. Secretaries, Accounting Clerks, Ambulance Driver and even the Porter - taking the patient to/from the "O/R"!

### **WHAT HAPPENS IF IMPROPER DISCLOSURE IS MADE?**

It is clear from the nature of the confidential information gleaned that any improper disclosure can lead to deleterious consequences, contrary to the principle of the Hippocratic Oath - "primum non nocere". The patient may suffer loss of image, family, job, self-esteem while the doctor may suffer loss of reputation, patients, practicing privileges or even liberty!

### **SOME EXCEPTIONS TO NON-DISCLOSURE:**

Confidential medical information may be released whenever the patient, fully comprehending the consequences of such an action, so authorizes. If the patient does not fully understand or is unable by virtue of mental incapacity, unconsciousness etc. then he/she is not in a position to authorize disclosure.

Other exceptions include:

- i) when it is in the patient's own interest
- ii) when the doctor has an "over-riding" duty to society
- iii) when the law so dictates/statutory duty
- iv) for purposes of medical research

### **PROBLEM AREAS OF POTENTIAL FOR DISCLOSURE:**

- a) Minors - eg. seeking contraceptive advice/abortion
- b) Case of HIV infection - should the family be told?
- c) Police/other legal "pressure"
- d) Employer pressure
- e) The sad case of Tanya Tarassoff!

### PRE-DISCLOSURE PRINCIPLES!

Whenever a doctor contemplates/is faced with disclosure he/she should

- i) seek to get the patient involved in the disclosure
- ii) contemplate the consequences of disclosure/non-disclosure
- iii) seek advice/be prepared to justify his action

### SUMMARY

The delicacy of the interplay between doctor and patient dictates that trust and confidentiality are integral to a successful outcome. Indeed the Hippocratic Oath, International Code of Medical Ethics and the Declaration of Geneva - all include the premise that secrecy is vital between doctor and patient and, in some countries, the doctor who breaks confidentiality may not only suffer the penalties prescribed by the local medical regulatory authority but also the stings of both the civil and the criminal law!

"VERBUM SAPIENTI SAT EST"!

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