

1: *Oath of Hippocrates* (Greece, 5th century B.C.)

Whatever, in connection with my professional practice, or not in connection with it, I see or hear, in the life of men, which ought not to be spoken of abroad, I will not divulge, as reckoning that all such should be kept secret.

2: *Principles of Medical Ethics -- American Medical Association* (1980)

A physician . . . shall safeguard patient confidences within the constraints of the law. (Section 4)

3: *Advice to a Physician -- Haly Abbas* (Persian Code, 10th century A.D.)

A physician should respect confidences and protect the patient's secrets. In protecting a patient's secrets, he must be more insistent than the patient himself.

4: *Principles of Medical Ethics -- American Medical Association* (1957)

A physician may not reveal the confidences entrusted to him in the course of medical attendance, or the deficiencies he may observe in the character of patients, unless he is required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or the community. (Section 9)

5: *American College of Physicians Ethics Manual* (1984)

The patient's right to confidentiality of his medical record is a fundamental tenet of medical care. The physician must keep secret all he knows about the patient and release no information without the patient's consent, unless required by the law or unless resulting harm to others outweighs his duty to the patient. If the physician thinks that his commitment to the patient's welfare overrides his duty to obey a court order, he may ethically refuse to give the courts information not released by the patient but must be prepared to accept the legal consequences of his actions.

Discussing problems of an identifiable patient in public areas by professional staff (in elevators or cafeterias) violates patient confidentiality and is unethical.

6: *Patient's Bill of Rights -- American Hospital Association* (1972)

The patient has the right to every consideration of his privacy concerning his own medical care program. Case discussion, consultation, examination, and treatment are confidential and should be conducted discreetly. Those not directly involved in his care must have the permission of the patient to be present. (Section 5)

The patient has the right to expect that all communications and records pertaining to his care should be treated as confidential. (Section 6)

7: *Five Commandments and Ten Requirements* (China, 1617)

The secret diseases of female patients should be examined with a right attitude, and should not be revealed to anybody, not even to the physician's own wife.

8: *CURRENT OPINIONS of the Judicial Council of the American Medical Association*

§5.05 **CONFIDENTIALITY.** The information disclosed to a physician during the course of the relationship between physician and patient is confidential to the greatest possible degree. The patient should feel free to make a full disclosure of information to the physician in order that the physician may most effectively provide needed services. The patient should be able to make this disclosure with the knowledge that the physician will respect the confidential nature of the communication. The physician should not reveal confidential communications or information without the express consent of the patient, unless required to do so by law.

The obligation to safeguard patient confidences is subject to certain exceptions which are ethically and legally justified because of overriding social considerations. Where a patient threatens to inflict serious bodily harm to another person and there is a reasonable probability that the patient may carry out the threat, the physician should take reasonable precautions for the protection of the intended victim, including notification of law enforcement authorities. Also, communicable diseases, gun shot and knife wounds, should be reported as required by applicable statutes or ordinances.

9: Code of Ethics -- American Medical Association (1847)

Secrecy and delicacy, when required by peculiar circumstances, should be strictly observed; and the familiar and confidential intercourse to which physicians are admitted in their professional visits, should be used with discretion, and with the most scrupulous regard to fidelity and honor. The obligation of secrecy extends beyond the period of professional services -- none of the privacies of personal and domestic life, no infirmity of disposition or flaw of character observed during professional attendance, should ever be divulged by him except when he is imperatively required to do so. The force and necessity of this obligation are indeed so great, that professional men have, under certain circumstances, been protected in their observance of secrecy by courts of justice. (Chapter I, Article I, Section 2)

10: International Code of Medical Ethics -- World Medical Association (1949)

A doctor owes to his patients absolute secrecy on all which has been confided to him or which he knows because of the confidence entrusted to him.

11: Code for Nurses -- American Nurses Association (1950)

The nurse safeguards the client's right to privacy by judiciously protecting information of a confidential nature. (Section 2)

12: American College of Physicians ETHICS MANUAL - 4th ed

Confidentiality is a fundamental tenet of medical care. It is a matter of respecting the privacy of patients, encouraging them to seek medical care and discuss their problems candidly, and preventing discrimination on the basis of their medical conditions. The physician must not release information without the patient's consent (often termed a "privileged communication"). However, confidentiality, like other ethical duties, is not absolute. It may have to be overridden to protect individual persons or the public. For example, to warn sexual partners that a patient has syphilis or is infected with HIV or to disclose information when the law requires it. Before breaching confidentiality, the physician should make every effort to discuss the issues with the patient. If breaching confidentiality is necessary, it should be done in a way that minimizes harm to the patient and that heeds applicable federal and state law.

Confidentiality is increasingly difficult to maintain in this era of computerized record keeping and electronic data processing, faxing of patient information, third-party payment for medical services, and sharing of patient care among numerous medical professionals and institutions. Physicians should be aware of the increased risk for invasion of patients' privacy and should help ensure confidentiality. Within their own institutions, physicians should advocate policies and procedures to secure the confidentiality of patient records.

Discussion of the problems of an identified patient by professional staff in public places (for example, in elevators or in cafeterias) violates confidentiality and is unethical. Outside of an educational setting, discussions of a potentially identifiable patient in front of persons who are not involved in that patient's care are unwise and impair the public's confidence in the medical profession. Physicians of patients who are well known to the public should remember that they are not free to discuss or disclose information about a patient's health without the explicit consent of the patient. In the care of the adolescent patient, family support is important. However, this support must be balanced with confidentiality and respect for the adolescent's autonomy in health care decisions and in relationships with health care providers (18). Physicians should be knowledgeable about state laws governing the right of adolescent patients to confidentiality and the adolescent's legal right to consent to treatment.

Occasionally, the physician receives information from a patient's friends or relatives and is asked to withhold the source of that information from the patient (19). The physician is not obliged to keep such secrets from the patient. The informant should be urged to address the patient directly and to encourage the patient to discuss the information with the physician. The physician should use sensitivity and judgment in deciding whether to use the information and whether to reveal its source to the patient. The physician should always act in the best interests of the patient.

13: *President's Commission Recommendations on Confidentiality*

1. Respect for patients' legitimate expectations of privacy is an important part of ethical health care practices, as well as the foundation on which a relationship of mutual trust and benefit can be built between patient and professional.

2. Health care institutions and providers are urged to educate the public about their expectations and practices on private medical matters.

-- In particular, patients need to be better informed about the scope of confidentiality and to be given the opportunity to give waivers for specific information rather than blanket waivers.

-- Specific warnings should be made if disclosures of patient information are anticipated without prior consent.

3. Instances of unconsented disclosures are to be regarded as exceptions to the general norm of confidentiality and require special justification, such as an important public purpose.

4. When information is provided based upon a general consent by a patient (for example, permission for a hospital to send records to a third-party payor), no more information should be disclosed than is necessary for the functions to be performed by the third party.

-- Efforts should be made to permit patients to review for accuracy any records to be disclosed.

-- Third-party recipients of confidential information are encouraged to find economical methods of notifying patients whose records they are requesting or when they plan to pass along individually identifiable information to other persons or organizations.

14: *Patient's Bill of Rights -- American Hospital Association (1993)*

The patient has the right to every consideration of privacy. Case discussion, consultation, examination, and treatment should be conducted so as to protect each patient's privacy. (Section 5)

The patient has the right to expect that all communications and records pertaining to his/her care will be treated

as confidential by the hospital, except in cases such as suspected abuse and public health hazards when reporting is permitted or required by law. The patient has the right to expect that the hospital will emphasize the confidentiality of this information when it releases it to any other parties entitled to review information in these records. (Section 6)

15: Declaration of Lisbon on the Rights of the Patient (34th World Medical Assembly, 1981)

d) The patient has the right to expect that his physician will respect the confidential nature of all his medical and personal details.

16: Code of Ethics for Nursing (Canadian Nurses Association, 1991)

VALUE: The nurse holds confidential all information about a client learned in the health care setting.

OBLIGATIONS:

1. The rights of persons to control the amount of personal information revealed applies with special force in the health care setting. It is, broadly speaking, up to clients to determine who shall be told of their condition, and in what detail.

2. In describing professional confidentiality to a client, its boundaries should be revealed:

a) Competent care requires that other members of a team of health personnel have access to or be provided with the relevant details of a client's condition.

b) In addition, discussions of the client's care may be required for the purpose of teaching or quality assurance. In this case, special care must be taken to protect the client's anonymity.

Whenever possible, the client should be informed of these necessities at the onset of care.

3. An affirmative duty exists to institute and maintain practices that protect client confidentiality -- for example, by limiting access to records or by choosing the most secure method of communicating client information.

4. Nurses have a responsibility to intervene if other participants in the health care delivery system fail to respect the confidentiality of client information.

LIMITATIONS: The nurse is not morally obligated to maintain confidentiality when the failure to disclose information will place the client or third parties in danger. Generally, legal requirements or privileges to disclose are morally justified by these same criteria. In facing such a situation, the first concern of the nurse must be the safety of the client or the third party.

Even when the nurse is confronted with the necessity to disclose, confidentiality should be preserved to the maximum possible extent. Both the amount of information disclosed and the number of people to whom disclosure is made should be restricted to the minimum necessary to prevent the feared harm.

17: Solemn Oath of a Physician of Russia (1992)

Whatever I may see and hear during treatment or outside of treatment concerning a person's life, which should not be divulged, I will keep to myself, regarding such matters as secret.

18: European Guide to Medical Ethics (Council of Europe, 1987)

7. The doctor is necessarily the patient's confidant. He must guarantee to him complete confidentiality of all the

information which he may have acquired and of the investigations which he may have undertaken in the course of his contacts with him.

The death of a patient does not absolve a doctor from the rule of professional secrecy.

A doctor must respect the privacy of his patients and take all necessary steps to prevent the disclosure of anything which he may have learned in the course of his professional practice.

Where national law provides for exceptions to the principles of confidentiality, the doctor should be able to consult the Medical Council or an equivalent professional authority.

8. Doctors may not collaborate in the establishment of electronic medical data banks which could imperil or diminish the right of the patient to the safely protected confidentiality of his privacy. A nominated doctor should be responsible for ethical supervision and control of each computerised medical data bank.

Medical data banks must have no links with other data banks.

19: *Principles of Veterinary Medical* American Veterinary Medical Association [1990 revision]

The ethical ideals of the veterinary profession imply that a doctor of veterinary medicine and the veterinarian's staff will protect the personal privacy of clients, unless the veterinarian is required, by law, to reveal the confidences or unless it becomes necessary in order to protect the health and welfare of the individual, the animals, and/or others whose health and welfare may be endangered.

20: *Ethical Principles of Psychologists* (American Psychological Association, 1992)

§5.05 Disclosures

(a) Psychologists disclose confidential information without the consent of the individual only as mandated by law, or when permitted by law for a valid purpose, such as

(1) to provide needed professional services to the patient or the individual or organizational client,

(2) to obtain appropriate professional consultations,

(3) to protect the patient or client or others from harm, or

(4) to obtain payment for services, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose.

(b) Psychologists also may disclose confidential information with the appropriate consent of the patient or the individual or organizational client (or of another legally authorized person on behalf of the patient or client), unless prohibited by law.

21: *Model Rules of Professional Conduct* (American Bar Association, 1983). Rule 1.6 Confidentiality of Information

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).

(b) A lawyer may reveal such information to the extent the lawyer reasonably believes necessary:

(1) to prevent the client from committing a criminal act that the lawyer believes is likely to result in imminent death or substantial bodily harm; or

(2) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon the conduct in which

the client was involved, or
to respond to allegations in any proceeding concerning the lawyer's representation of the client.

22: *Society of Professional Journalists, SDX: CODE OF ETHICS*

2. The news media must guard against invading a persons's right to privacy.

23: *United Nations Universal Declaration of Human Rights (1948).*

Article 12: No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honor and reputation.
