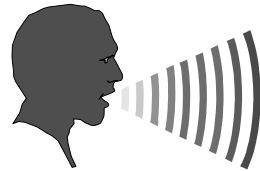


Privacy & Confidentiality

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Concepts of Privacy



- × **PHYSICAL PRIVACY**
- × **INFORMATIONAL PRIVACY**
- × **DECISIONAL PRIVACY**

[Allen, 1995]

Physical Privacy

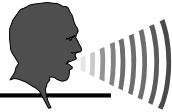


- × freedom from contact with other people, limited physical accessibility, seclusion and solitude conducive to peace and intimacy.



“Good Night, Mommy. Good night, Daddy.”

Informational Privacy

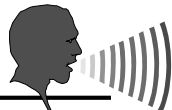


× secrecy, confidentiality, anonymity, limits on the accessibility of personal information



"I could elaborate on that four-month gap in my employment history, but then I'd have to kill you."

PRIORITIES



What's more personal: getting physically intimate with somebody you love for the first time, or sharing with that person the details of your financial life?

The answer for many people is obvious.

It's the money.

Jeff D. Opdyke, "When is the right time to get personal?"
The Wall Street Journal SUNDAY, June 20, 2004.

Decisional Privacy

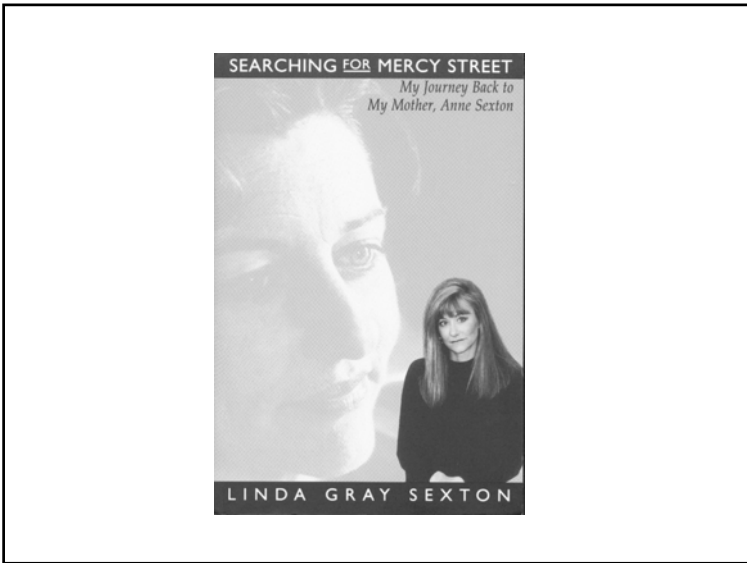
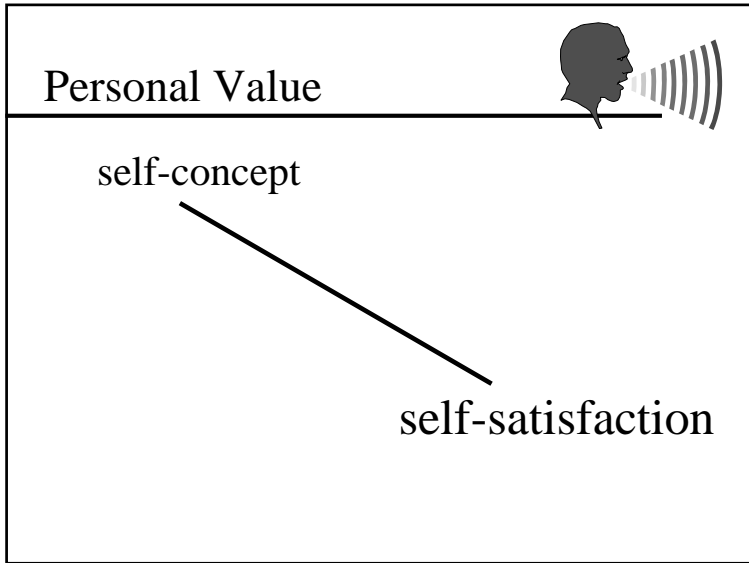


× autonomous choices about the personal and intimate matters that constitute private lives

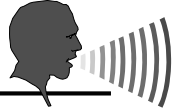


The Value of Privacy

- × **PERSONAL**
- × **ASSOCIATIONAL**
- × **SOCIAL**



Associational Value



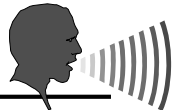
- × privacy as the “capital” of intimacy

Social Value



- × Sheltered groupings and social functions
 - (i.e. the family as “character factory,” responsibility as caregivers, etc.)
 - Concern that the shelter of privacy may help perpetuate violence & oppression of the powerless -- especially women and children.

The Protection of Privacy



- × “privacy protection practices are found in every culture” [Allen, 2068]
- × “Strikingly, what is treated as private can vary significantly from society to society.” [Allen, 1068]
- × Legal protections measured in terms of sensitivities of “reasonable person,” not individual or “subjective” standard.

Some Limitations



- ✎ Justice Scalia: Athletes are accustomed to giving up privacy, so random drug testing is no invasion for them.
- × Issues in the Clinical Setting
 - Standard: “subjective” or “objective”
 - Protection Measures
 - Informing patients about limitations





Confidentiality

Confidentiality concerns the communication of private and personal information from one person to another where it is expected that the recipient of the information, such as a health professional, will not ordinarily disclose the confidential information to third persons. . . . Confidentiality, like privacy, is valued because it protects individual preferences and rights.

[Winslade, 1995:452]

Confidentiality

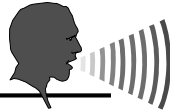
. . . Relinquishing personal privacy is a precondition for establishing confidentiality. Confidentiality requires a relationship of at least two persons, one of whom exposes or discloses private data to the other.

[Winslade, 1995:452]

Confidentiality

. . . Confidentiality depends not only on the information, but also on the context of the disclosure as well as on the relationship between the discloser and the recipient of the information. Confidentiality applies to personal, sensitive, sometimes potentially harmful or embarrassing private information disclosed within the confines of a special relationship." *[Winslade, 1995:452]*

American Hospital Association
PATIENTS BILL OF RIGHTS



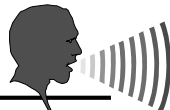
5. The patient has the right to every consideration of privacy. Case discussion, consultation, examination and treatment should be conducted so as to protect each patient's privacy.

American Hospital Association
PATIENTS BILL OF RIGHTS



6. 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.

American Hospital Association
PATIENTS BILL OF RIGHTS



6
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.

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



x 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.

Principles of Medical Ethics
American Medical Association (1957)



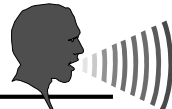
- × A physician may not reveal the confidences entrusted to him in the course of medical attendance, or the deficiencies he may observe in the character of patients, unless he is required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or the community.

Principles of Medical Ethics
American Medical Association (1980)



- × A physician . . . shall safeguard patient confidences within the constraints of the law.

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



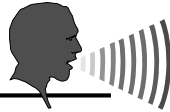
- × A physician should respect confidences and protect the patient's secrets.
- × In protecting a patient's secrets, he must be more insistent than the patient himself.

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.

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



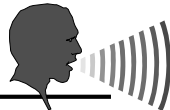
- × A doctor owes to his patients absolute secrecy on all which has been confided to him or which he knows because of the confidence entrusted to him.

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.

Society of Professional Journalists, SDX: CODE OF ETHICS

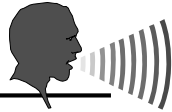


- × The news media must guard against invading a person's right to privacy.



“Do you promise to maintain strict waiter-patron confidentiality?”

HIPAA



- × Health Insurance Portability and Accountability Act
- × Requires special protections for medical records

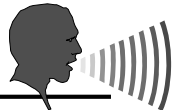
<http://www.hhs.gov/ocr/hipaa/>

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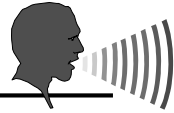
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