

Confidentiality Principle in Doctor-Patient Relationship and Its Conflict with Other Moral Issues

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Stating the case

In this case, which is a case from my own experience; there is a man who checks his blood cholesterol due to high cholesterol in his blood. He goes to his doctor, who is his friend also, to check the level of cholesterol in his blood on a regular basis. The man's doctor knows him very well and he also knows that the man is going to get married in one month. The doctor gets a sample of his patient's blood and asks a biochemistry lab to check the sample to find out about its cholesterol level. Incidentally, the person who is in charge of the lab finds out that there is a sign of blood cancer in the sample. Therefore, he carries out the test for the blood cancer and the result is positive. The lab employee informs the doctor of the blood cancer, which is affiliated to the doctor's friend. The doctor gets upset and asks the lab employee to carry out the test again to make sure about the blood cancer. The lab employee does the test again and the blood cancer is verified one more time. The doctor also finds out that the cancer is a very harsh one that kills his victim in at the most about eight months if the victim does not choose chemotherapy. The doctor, however, knows that if his patient chooses chemotherapy, he can postpone his death for about one more year. In other words, if the patient knows about his situation and chooses chemotherapy, he will probably die in about one year and eight months. The doctor feels so sorry for his friend and he doesn't know what to do thereafter. The

patient's fiancée is also one of the doctor's patients and, therefore, she is a client of the doctor too.

I need to explain one important cultural fact in the patient and his fiancée's country before stating the dilemma that the doctor is in. This cultural fact focuses on women and an important issue about their marriage in the patient and his fiancée's country. In that country, women are better off to be a virgin when they want to get married. Once an unmarried woman does not have her virginity, she has lost some of her value as an unmarried woman. That is, women have a better chance of having a decent marriage in that culture if they keep their virginity until they get married. In other words, unmarried women who have lost their virginity are considered as second hand women in men's minds in that area. The other important fact in that culture is that women strongly depend on men and they can have less freedom if they stay single.

The dilemma should be a little clear to readers now. The doctor does not know if he has to tell his patient about the cancer right away or he has to wait till he gets married. The doctor also suspects that he had better inform the girl about her fiancé's cancer due to professional client relationship he has with her. The doctor knows that if the woman gets married to the patient, she will lose her virginity after getting married. But the important issue here is that the patient is going to die in at the most a year and eight months and his wife will stay a widow if he gets married with her. In this case, as I mentioned about the man and the woman's culture, the woman's chance of having a decent future marriage will be seriously jeopardized if she chooses to get married with the man. As you can see, the doctor is in a big dilemma and he doesn't know if he has to inform the woman about the man's disease. If the doctor tells the woman about the man's cancer, he is not abiding

by the confidentiality that he has to respect as a result of having a professional-client relationship with the man. If the doctor chooses not to tell the truth to the woman, he will ruin the woman's future marriage and he is not considering the woman's benefit as he is supposed to do because of the professional -client relationship he has with the woman. On the other hand, if the doctor does not tell the truth to his patient, he will lose the opportunity to choose the chemotherapy and he will die one year earlier.

As you can see the doctor is in a big dilemma.

The issue

The issue is whether the doctor must abide by confidentiality and not tell the woman about his patient's health situation. More precisely, the issue is whether the doctor must tell one of his patients (the man's fiancée) about the health situation of another patient (the man). And the question is whether the doctor can provide the benefit for the man's fiancée at the price of violating confidentiality that he must respect when he is dealing with his other patient (the man).

The other issue in this case is the time that doctor should tell the truth to the man. The question is whether the doctor should behave paternalistically to the man and tell the truth to him whenever he thinks it is better for the man or he has to tell the truth right away.

Options for action

The doctor can take following actions in this case.

- 1-The doctor can tell his patient about the cancer right away and leave it up to him whether he wants to tell to his fiancée the truth.
- 2-The doctor may tell his patient about the cancer after he gets married to let the man gets married in peace. Again, he refuses to tell the patient's fiancée about the cancer.

3-The doctor can inform his patient's fiancée about the cancer before she gets married and refuse to tell the man about his disease.

4-The doctor can refuse to tell both the man and his fiancée about the man's health situation.

5-The doctor can inform the patient and his fiancée about the cancer right away.

Moral Principles Relevant to the Case

The most important moral principle in this case is confidentiality. The principle is a kind of confidentiality that exists between professionals and clients. This principle postulates a duty to protect confidences against third parties under certain circumstances. "Sissela Bok: The Limits of Confidentiality-Page 232". This principle obligates professionals not to distribute information related to their clients to other people. This principle allows clients to have autonomy over their own personal information. "Sissela Bok: The Limits of Confidentiality-Page 232". Professionals, however, may release information related to their clients when a serious case has happened and that information is absolutely needed. For example, we can consider a case in which releasing information may result in saving somebody's life. Releasing information to police to stop a criminal from taking many lives is a good example of these cases.

If the doctor refuses to tell to the man's fiancée about the man's health situation, he is abiding by the confidentiality duty he has as a result of the professional-client relationship he has with the man. Otherwise, the doctor is violating the confidentiality he is supposed to respect and he is providing a benefit for his other client instead. The other client who is supposed to get married with the man can take advantage of information about the man's health to decide whether she still wants to marry him.

The other controversial moral issue in this case is autonomy. Autonomy is defined in professional-client relationships as follows: Clients have autonomy in their relationship with professionals if they have control over their affairs and their independence.

The other important issue in this case is one kind of relationship between professionals and clients called the “Paternalistic Relationship”. In a paternalistic relationship, the professional acts regardless of the client’s consent and the professional believes that this is a beneficial action to take. ‘Michael D.Bayles: “The Professional -Client Relationship. Page 116”.

Relevant facts and the Consequences of Each Option

In this part, I will discuss the consequences of each option I considered in this case.

If the doctor informs the patient about the cancer right away and refuses to tell the patient’s fiancée about the cancer, as is the case in the first option, there would be morally bad consequences. The patient’s fiancée does not know that the patient is going to die in at most one year and eight months. Therefore, she will probably choose to get married with the patient without having information about the bad prognosis of her future husband’s disease. The patient will die in about one year and eight months, according to the doctor’s diagnosis, and his fiancée’s future marriage will be ruined as a result of losing her virginity. Once the woman becomes a widow and loses her virginity, she will have a hard time to have a good marital and social status according to her culture (as I explained before). The other bad point with this option is that the man cannot get married in peace as a result of getting informed about his bad health condition.

The good point with this option is that the patient learns about his bad medical situation and he has an opportunity to choose chemotherapy to postpone his death. The other good

point with this option is that the doctor does not give any private information about the man's health to anybody. Therefore the doctor abides by the confidentiality principle he has to respect as a result of having professional-client relationship with the patient.

If the doctor chooses the second option, he refuses to tell the truth till the man gets married. He also refuses to tell the man's fiancée about the cancer. This option has the same problems and benefits as the first option does. This option, however, has one more problem and also one extra benefit. The problem is that the man's chemotherapy would be postponed if the patient wants to choose chemotherapy and, therefore, his lifetime would be shorter. The good point is that the man gets married when he does not know about his severe health condition and he will have a peaceful marriage.

If the doctor chooses the third option, there would be problems and benefits. One problem with that option is that the doctor lets the man's fiancée know about the man's medical situation while the man may not agree with that. So the doctor is violating the confidentiality principle. The other problem with this option is that the patient will not be informed about his bad medical situation and cannot choose possible treatments like chemotherapy to postpone his death. In this case, the doctor is treating his patient paternalistically and he does not care about his patient's autonomy. The good point with this option, however, is that the patient's fiancée finds out about her future husband's health and she can freely decide whether she wants to marry him. Therefore, the woman's future marriage will not get ruined as a result of losing her virginity. The other good point in this option, as I pointed out in the other option, is that the man does not find out about his bad future and he gets married in peace.

If the doctor chooses the fourth option, there would be some benefits and harms. One benefit in this option is that the doctor abides by the confidentiality and he does not release any information about his patient's health to any other person. The other benefit to this option is that the man does not find out about his health condition and he would get married happily. One problem with this option is that the man does not know about his health situation and he cannot choose chemotherapy for himself.

In this case, again, the doctor is treating the patient paternalistically and he ignores the patient's autonomy. The other problem with this option is that the doctor does not provide information for the patient's fiancée about the patient's health and, therefore, the doctor does not act according to the benefit of the patient's fiancée who is the doctor's client too. Therefore the woman may get married with someone who is going to die soon and this fact jeopardizes the woman's future marriage.

If the doctor chooses the fifth option, again, there would be some benefits and harms. The benefit of this option is that the patient knows about his health problems and he can manage how to deal with his disease, as is the case in the first option. The other benefit of this option is that the doctor provides the patient's fiancée with information about the man's health. Therefore, the man's fiancée can decide whether she still wants to get married with the man. Therefore, the woman is aware not to jeopardize her future marriage as a result of losing her virginity. The bad point with this option is that the doctor violates the confidentiality principle and gives the woman information about her fiancé's health. The other bad point is that the doctor will ruin the happy marriage for both the man and his fiancée if they still agree to get married.

My Resolution and its Justification:

Personally, I believe that the fifth option is the best choice that the doctor can make. In other words, I believe, the doctor should inform the man and the man's fiancée about the man's blood cancer right away.

However, there may be other issues that obligate the doctor not to tell the truth to the patient. For example, if the doctor thinks that the patient may commit suicide once he finds out about his disease, he should not tell the truth to his patient “**Sissela Bok** in **Lying and lies to the Sick and Dying** page 148 and **Edmund D. Pellegrino**- in **Reading file**- page 57”. In this case the doctor, I believe, must tell the truth to his patient's fiancée only and ask her to not tell the truth to the patient. In the special cases like this, the doctor must choose option 3 and asks the man's fiancée to not tell the truth to the patient.

There is another possibility that obligates the doctor to not choose the fifth option. The doctor might tell the truth to his patient's fiancée and he finds out that she still wants to get married with the man anyway. In this special case, the doctor should not tell the truth to his patient till he gets married and, therefore, let the man have a peaceful marriage. The doctor can tell the truth to his patient after he gets married with his fiancée. Therefore, the patient can choose chemotherapy to postpone his death and he can take advantage of his wife's mental support to challenge his disease.

If the above special cases do not apply, the doctor must choose the fifth option.

Now I focus on the fifth choice and explain why it is the best choice considering conditions and cultural facts I mentioned at the beginning of this article. The issue here is

the possibility of ruining the woman's future marriage. The fact here is that the man, the patient, is going to die in one year and eight months in the best scenario.

As I explained the confidentiality principle, professionals may ignore confidentiality and distribute any information about their clients when there is a special and important issue. The issue here is saving a woman's future marriage and, therefore, her future life according to the cultural conditions I explained earlier. If the doctor lets the woman know about the truth, she has an opportunity to decide to not get married with the man and, therefore, saves her own future life. Otherwise, the woman probably chooses to get married with the man and her life gets ruined as a result of that. If so, I believe that the doctor is morally responsible in this case. On the other hand, the doctor will give the patient the opportunity of choosing the chemotherapy right away if he decides to tell the truth to his patient.

None of other options have the advantages of the fifth option. The first option ruins the woman's future if the patient chooses to not tell the truth to his fiancée and decides to get married with her. The second option, again, ruins the woman's life and postpones the chemotherapy for the man as well. The third option saves the woman's future life but it postpones the chemotherapy for the man and it shortens his lifetime. The fourth option, which is the worst one, ruins the woman's future life and takes the chemotherapy choice from the man.

Therefore, I conclude, the fifth option is the best option the doctor could consider in our case if the mentioned special cases do not apply.

REFERENCES:

- Bruce, Jo Anne Czecowski *Privacy and Confidentiality of Health Care Information*
Chicago: American Hospital Publishing, 1984
- Lubab, David *Corporate Counsel and Confidentiality*. College Park: Center
for Philosophy and Public Policy, University of Maryland ,1981
- Rachels, James. "Why Privacy is Important." *Philosophy and Public Affairs* 4:4
(1975):323-33
- Roth, Loren H, and Alan Meisel. "Dangerousness, Confidentiality and the duty to Warn ." *American Journal of Psychiatry* 134 (1977):508-11
- Siegler, Mark "Confidentiality - A Decrepit Concept." *New England Journal of Medicine*
307 (1982): 1516-21.
- Thurman, Samuel D. "Limits to the Adversary System of Justice: Interests that Outweigh
Confidentiality." *Journal of the Legal Profession* 5 (1980): 5-19
- Bok, Sissela. "Deceptive Social Science Research." In *Lying : Moral Choice in Public
and Private Life, chap. 13*. New York: Pantheon , 1978
- Kant, Immanuel. "Duties Towards Others: Truthfulness." In *Lectures on Ethics*
[1775-80], ed. Louis Infield, pp. 224-35. London: Methuen, 1930;
reissued New York: Harper and Row, 1963.
- Kelly, William D., and Stanley R. Friesen. "Do Cancer Patients Want to Be Told?"
Surgery 27 (1950): 822-26.
- Oken, Donald. "What to Tell Cancer Patients. " *Journal of the American Medical
Association* 175 (1961): 1120-28.
- Mappes, E. Joy Kroeger. "Ethical Dilemmas for Nurses: Physicians' Orders versus
Patients' Rights." In *Biomedical Ethics*, 2nd ed., ed. Thomas A. Mappes
and Jane S. Zembaty, pp. 127-34. New York: McGraw-Hill, 1986.
- Szasz, Thomas S., and H. Marc Hollender. "The Basic Models of the Doctor -Patient
Relationship." *American Medical Association Archives of Internal*

Medicine 97- (1956): 585-92.

Van De Veer, Donald. "The Contractual Argument for Withholding Medical Information." *Philosophy and Public Affairs* 9:2 (1980): 198-205.

Walton, Douglas N. *Physician-Patient Decision-Making: A Study in Medical Ethics*. Westport, CT: Greenwood, 1985.

Zembaty, Jane S. "A limited Defense of Paternalis m in Medicine." In *Proceedings of the 13th Conference on Value Inquiry: The Life Sciences and Human Values*, pp. 145-58. State University of New York College at Geneseo, 1979. Rpt. in *Biomedical Ethics* 2nd ed., ed. Thomas A. Mappes and Jane S. Zembaty, pp. 60-66. New York: McGraw-Hill, 1986.

