

MEDICAL CONFIDENTIALITY (professional secrecy)

Dr Melad Gad Paulis

Professor of Forensic Medicine & Toxicology

- Case study 1:

A physician sees his assistant on a social occasion. The assistant wanted to discuss the case of a particular patient. He was being very specific using the patient's name and personal data.

What should the physician do?



Case study 2

- **Imagine that you are taking care of a patient and a lady claiming to be his daughter calls on the phone to see how the patient is and what is going on with him.” The patient is asleep”**

What do you say?

Case 3

- *You see your Aunt at the hospital where you are working at. Can you tell your mom about it?*

Privacy and Confidentiality: Definitions

- **Privacy** is about the right not to be interfered with, to be free from surveillance, or more generally, a moral right to be left alone.
- **Confidentiality** is about the right of an individual to have personal, identifiable medical information kept out of reach of others.
- **Privacy** is concerned with the setting within which the patient's medical information is taken (i.e., the patient's body).
- **Confidentiality** is concerned with the information collected from/about the patient (i.e., the patient's information).



Measures to protect patients' privacy

- Make sure all **physical examinations** take place **in isolation** from other patients, unauthorized family members, and/or staff
- Provide **gender-sensitive** waiting and examination rooms.
- Provide **proper clothing** for inpatients.
- Make sure patients are **well covered** when transferred from one place to another in the hospital.

Measures to protect patient's privacy

- Make sure your **patient's body is exposed ONLY** as much as needed by the examination or investigation
- Make sure there is **another person (nurse) of the same gender** as the patient present throughout any examination
- Always **take permission** from the patient before starting any examination
- Ensure **privacy** when taking information from patients

Measures to protect patients' privacy

- **Avoid keeping patients for periods** more required by the procedure
- It is **prohibited** to examine the patient in **corridors** or waiting areas
- During an examination, **no unrelated hospital person** should be allowed to be present
- Give patients **enough time** to expose the body with **pain**
- **Only relevant personnel** are allowed to be in the **examination room** at any time during examination



Why confidentiality is important?

1. Respect for confidentiality is firmly established in codes of medical ethics ([Hippocratic oath](#)) [قسم الطبيب](#).
2. Breach of confidentiality is not only unethical, but also illegal ([slide 10 & 12](#)).
3. Respects patient's autonomy.
4. Respects natural human desire for privacy.
5. Protects from social embarrassment, discrimination, or stigmatization (as covid patient).
6. Prevents misuse of information against patient.
7. Builds confidence between doctor and patient.

Hippocratic oath

- "What I may see or hear in the course of the treatment or even outside of the treatment in regard to the life of men, which on no account one must spread abroad, I will keep to myself, holding such things shameful to be spoken about".

• قسم ابوقراط :

- " أقسم بالله العظيم أن أكون أميناً على الشرف والبر والصلاح في مزاولتي صناعة الطب وأن أسعف الفقراء مجاناً ولا أطلب أجراً يزيد على أجر عملي ، وأنى إذا دخلت بيتاً لا أتعرض لما لا يعنيني من أموره ولا أفشي سراً ، ولا أستعمل صناعتى فى إفساد الخصال الحميدة و ارتكاب الآثام ، ولا أعطى سماً البتة ولا أدل عليه ولا أشير به ولا أعطى دواء يضر الحوامل أو يسقط أجنتهن ، وأن أكون موقراً للذين علمونى معترفاً بفضلهم مسدياً لأولادهم ما فى استطاعتى من معروف وإحسان".

• قسم الطبيب: مادة (1) من لائحة مزاولة المهنة:

• " أقسم بالله العظيم أن أراقب الله في مهنتي ، وأن أصون حياة الإنسان في كافة أدوارها في كل الظروف والأحوال باذلاً وسعي في استنقاذها من الهلاك والمرض والألم والقلق ، وأن أحفظ للناس كرامتهم ، وأستر عورتهم ، وأكتم سرهم ، وأن أكون على الدوام من وسائل رحمة الله باذلاً رعايتي الطبية للقريب والبعيد ، للصالح والخاطئ ، والصديق والعدو وأن أثابر على طلب العلم أسخره لنفع الإنسان لا لأذاه ، وأن أوقر من علمني ، وأعلم من يصغرنني ، وأكون أخاً لكل زميل في المهنة الطبية متعاونين على البر والتقوى ، وأن تكون حياتي مصداق إيماني في سري وعلايتي ، نقية مما يشينها تجاه الله ورسوله والمؤمنين، والله على ما أقول شهيد".

المادة ٨- يحظر على مقدم الخدمة ما يلي:-

هـ إفشاء أسرار متلقي الخدمة التي يطلع عليها أثناء مزاولة المهنة أو بسببها سواء أكان متلقي الخدمة قد عهد إليه بهذا السر وأتمنه عليه أم كان مقدم الخدمة قد أطلع عليه بنفسه، ولا يسري هذا الحظر في أي من الحالات التالية:-

١- إذا كان إفشاء السر بناء على طلب متلقي الخدمة وبموافقته الخطية.

٢- إذا كان إفشاء السر لمصلحة الزوج أو الزوجة وتم إبلاغه شخصياً.

٣- إذا كان الغرض من إفشاء السر منع وقوع جريمة أو الإبلاغ عنها ويكون الإفشاء في هذه الحالة للجهة الرسمية المختصة.

٤- إذا كان مقدم الخدمة مكلفاً بذلك قانوناً.

٥- إذا كان إفشاء السر أمام اللجنة الفنية العليا.

المادة ٢٠ - مع عدم الإخلال بأي عقوبة أشد ورد النص عليها في أي تشريع آخر:-

أ- يعاقب كل من يخالف أحكام المادة (٧) والفقرات (أ)، (ج)، (د)، (هـ)، (و)، (ز) من المادة (٨) من هذا القانون بغرامة لا تقل عن (٣٠٠٠) ثلاثة آلاف دينار ولا تزيد على (٥٠٠٠) خمسة آلاف دينار.

What are patient's information that covered by confidentiality:

Confidentiality includes all identifiable patient information as:

- The individual's past, present, or future physical or mental health or condition;
- Any clinical information about an individual's diagnosis or treatment;
- Pictures, photographs, videos, audiotapes, or other materials of the patient;



- **Confidentiality includes all identifiable patient information as:**
- Who the **patient's doctor** is and what clinics patients attend and when;
- Anything else that may be used to identify patients directly or indirectly;
- The past, present, or future **payment** for the providing of health care to the individual.



Confidentiality

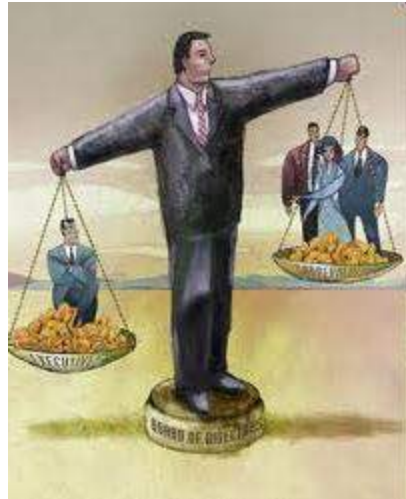
- A health care provider is not allowed to disclose patient's information to others unless the individual has given specific permission for such release.
- Such information should be available only to the treating physician and other medical personnel involved in the patient's care.
- Children, elderly, mentally disabled and the dead all have the same right to confidentiality.

• *There are three points that should be considered in accusing a physician of revealing patient's secret :*

1. There was revealing of a secret.
2. The secret was known to the physician through his profession.
3. The disclosure of the secret lead to harm or damage to the patient (physical or psychological).

When can confidentiality be breached?

Confidentiality is **NOT** an absolute obligation. Situations arise where the harm in maintaining confidentiality is **GREATER** than that brought by disclosing information.



Disclosure of professional secrecy may be:

I- With patient`s expressed consent.

II- with patient`s implied consent .

III- Without patient`s consent.

I- Disclosures where patient's expressed consent is needed:

1- For purposes such as research, epidemiology, registries.

a- Approved by ethics committee.

b- Ensure no harm to patient.

c- Delink patient's identifiable data.

2- To insurance companies.

3- In pre-employment examination.

II-Patients may give implied consent to disclosure for:

- **Consultation or second opinion:** sharing information in the health care team or with others providing care. Only necessary information for effective care of patient is disclosed.
- **Send the patient to another specialist as sonography with provisional diagnosis or complain**

(may I refer this case of chronic abdominal pain for abdominal US)

III-Disclosures without patient`s consent :

- **Certain patient information is required by law and reports to proper authorities are required without patient consent.**

I- Disclosure required by Law:

- 1. Notification of births, deaths, abortion, accidents, poisoning.**
- 2. Order of court, malpractice cases, criminal cases (violence), compensation.**
- 3. Threats of serious harm to another (prevent crimes)**
- 4. Child abuse (physical/sexual)**
- 5. RTAs involving drugs/alcohol.**
- 6. Public health risk: A reportable communicable infectious diseases :tuberculosis, hepatitis, AIDS, typhoid fever, tetanus, meningococcal meningitis, diphtheria, anthrax, malaria, poliomyelitis, smallpox, brucellosis, leprosy.**

II- Disclosure for patient's benefit:

- In times of emergency.
- If the Patient is incompetent or minor.
- To prevent harm to patient e.g epilepsy, Psychotic patients.
- When a patient may be a victim of neglect or abuse.

III- Disclosure to prevent harm to others:

- Psychotic patients.
- To prevent the occurrence of crimes.
- Infectious diseases (HIV, Hepatitis)

IV- Disclosure to safeguard national security: e.g. terrorist activity.

Discovering signs of abuse and neglect

- ✓ ALL forms of physical, emotional, sexual, and neglect that results in actual or potential harm to the child's health, survival, development or dignity.
- ✓ It is a part of your role as a healthcare provider to **discover and report** any case of child abuse or neglect as if it is caught early, the child has a much better chance of making a full recovery.
- ✓ Nearly 3 in 4 children aged 2–4 years regularly suffer physical punishment and/or psychological violence at the hands of parents and caregivers
- ✓ There are different kinds of abuse; all are harmful.

Child abuse

```
graph TD; A[Child abuse] --> B[Physical]; A --> C[Sexual]; A --> D[Emotional]; A --> E[neglect];
```

Physical

Sexual

Emotional

neglect

Doctors do not diagnose child abuse or report it for several reasons:

- ✓ **Fear.**
- ✓ **It is not my concern (avoiding responsibility).**
- ✓ **Lack of confidence in authorities to stop abuse.**
- ✓ **Uncertainty as to the cause of the injury.**
- ✓ **If the patients are boys, abusive fractures are often misdiagnosed. Injuries are more common for boys, so the assumption is the fracture is accidental.**

Case study:



A patient has been tested positive for Hepatitis . He asks his physician not to report his case or he will lose his job.

What is the ethical behavior that should be adopted by the physician in such a case?

- **The physician should report the case to the health authorities as it imposes a great risk on public health.**



Public Health
Prevent. Promote. Protect.

Ethics of Dealing with Communicable Diseases

- Communicable diseases are those diseases that can be transferred directly from one human to human, or that the healthcare practitioner him/herself has become infected with.
- When the ethical dilemma with these diseases **is a conflict of interest** between the individual patient or healthcare practitioner on one side and the interests of the community on the another.
- **What should you do ethically?**
 1. Should I treat patient with infectious disease?
 2. What should if I get infected? Report authority? Stop working? What should if there is no one can take my role?
 3. What should if I know that my colleague is infected and still working?
 4. What should I do if I see my colleague is not follow protective measures?

Ethics of Dealing with Communicable Diseases

1. **Cooperate** with authorities in preservation of the community's health, including **reporting communicable diseases according to the regulations.**
2. **Report to the concerned authorities any patient infected** with a communicable disease who refuses to have treatment, if their refusal may expose their contact persons or the community in general to the danger of spreading the disease.
3. Follow all the **protective measures** to protect him/herself from communicable diseases, and this includes **vaccination** with authorized vaccines, and to seek **treatment** for him/herself if he/she is infected in a way that would affect the safety of any patient or the community.

Ethics of Dealing with Communicable Diseases

- Subject to any needed investigations for diagnosis of a communicable diseases if exposed to infection especially if his/her infection could expose his/her patients to any danger.
- The healthcare practitioner should refrain from health practice, in case he/she becomes infected with an infectious disease that could be transferred to his/her patients, until the risk of transmitting the diseases is removed.
- If physician has to continue practice (while infected), he/she has to observe all possible protective measures to protect his/her patients from infection, along with reporting this case of infection to his/her reference.

Ethics of Dealing with Communicable Diseases

- The healthcare practitioner should **report to the health authorities if knows that one another member in the healthcare team is infected** with an infectious disease that could be transferred to patients through health practice.
- If physician knows his/her colleague does not follow the protective measures to prevent the spread of infection, **he should report authority.** The consent of that infected healthcare practitioner is not required.
- **Not to refrain from treating a patient due to risk of being infected with an infectious disease**, instead the healthcare practitioner should take all reasonable measures to protect him/herself from becoming infected.

- Case study:

A physician sees his assistant on a social occasion. The assistant wanted to discuss the case of a particular patient. He was being very specific using the patient's name and personal data.

What should the physician do?



- Cut this conversation off as soon as possible! and tell your co-worker that the whole conversation is inappropriate as he should postpone the conversation until they meet at the hospital, as discussion of the problem of an identified patient in public places is *unethical*, as it violates confidentiality.
- Doctors are not free to disclose information about patient's health in front of persons who are not involved in patient's care *without consent of the patient*.
- Discussion of the illness of a patient with others, is forbidden except for medical consultation after patient's permission

- **Imagine that you are taking care of a patient and a lady claiming to be his daughter calls on the phone to see how the patient is and what is going on with him.” The patient is asleep”**

What do you say?

Would it be against confidentiality if you answer her questions ?

- **Yes , It is breach of confidentiality, unless that patient listed that family member can receive medical information about them.**

- *You see your Aunt at the hospital where you are working at. Can you tell your mom about it?*
- A: **No.** your Aunt may be visiting; but then again, she may be having investigations done. She may not want the family to know about the tests until she knows the outcome. She has the right not to tell the family. It is up to her to tell the family – not you.
- A simple statement like “**I saw my Aunt at the hospital today**” can lead to a major breach of her right to privacy.