

Violating Patient Confidentiality Is Sometimes Necessary



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Halfway through a hectic clinic afternoon, a patient well-known to you reports as an aside that she has been occasionally using cocaine when she goes out on the weekends to relieve stress from busy work and family life. After the visit, the medical student shadowing you wonders if you were obligated to notify the police about her illicit drug use or alert child protective services because she parents 3 school-aged children.

Conflicts over protecting confidentiality and complying with legal obligations are common in clinical care. Protecting patients' right to confidential care by keeping their medical information private is a central obligation of health care professionals. Keeping patient information private ensures that patients feel safe in divulging sensitive, important, and

relevant details about their life and medical care to their physicians. Physicians can take better care of patients when patients feel comfortable divulging information knowing that it won't be shared or released without their consent. If patients are not comfortable sharing relevant medical information, the quality of health information that is shared with physicians will decline along with the quality of care patients' receive.

Although [patient confidentiality is central to high-quality medical practice](#), it is not without some ethically acceptable, well-defined limits. For example, when there is a clear public health interest that conflicts with keeping patient information confidential, physicians may have competing obligations to their patient and the public. In general, the practice of medicine defaults to patient primacy, that is, keeping the patient's interest at the center of medical decision-making. Patients expect that physicians will be making decisions that represent their best interest, and not necessarily that of society or a third party. When significant public health considerations exist, patient primacy may be subsumed by physicians' obligation to address the legitimate needs of the public.

If failing to divulge a patient's otherwise confidential information could result in a significant risk for serious imminent harm to a third party, and that harm can be mitigated by releasing that information, then violating confidentiality may be an ethically justifiable course. For example, when a patient with infectious tuberculosis (TB) refuses both antibiotic medication and isolation while infectious, a physician is often able to violate the patient's confidentiality by notifying the local health department (often in concert with their institutions' legal counsel and privacy experts). In this case, the health department is empowered by the state to use that patient information to mitigate the risk to the public from an actively infectious individual with the potential to spread a serious illness. The key ethical features of this scenario are that the patient posed a serious, imminent risk to the public and that violating confidentiality by notifying a specific entity (in this case the health department) was expected to mitigate the risk. In other words, violating confidentiality is justifiable when failing to do so will result in harm and doing so provides a clear proportional benefit. This is in stark contrast to a patient with latent TB (ie, exposed but not currently contagious) who would benefit from treatment but is not a public health risk currently. Violating this patient's confidentiality would not be justified as there is not serious imminent risk to the public.

A related principle is that the even while violating patient confidentiality may be justifiable under certain conditions, only the minimum amount of information necessary to mitigate the threat should be divulged. So the patient with infectious TB does not necessarily need her HIV status or other unrelated medical or psychiatric information revealed to mitigate the threat to the public.

Regarding the case described at the outset, how should the physician respond to the medical student's question? First, the student should be reminded that health care professionals are privileged to be entrusted with protecting patient's health information. Only

specific circumstances would justify an ethically justifiable exception to that default position. The patient has trusted the physician with information about her drug use because she expects that it will be kept private, but also because she understands and expects that the role of the physician is to help her, not police her behavior. Were the physician to report the patient's drug use to the police or whomever (her employer, her spouse, etc.) without her consent, the patient may lose trust not just in that physician, but in future health care providers and even the health care system in general. When patients do not trust the health profession, it is much harder for them to be accepting of or engage in care.

The physician would then ask the medical student if the patient's reported drug use is posing a serious imminent risk to the health or safety of the public for which the police or other authority should be alerted. Is there evidence that her drug use is posing a significant risk to her children that might constitute neglect or endangerment? Answering these questions may require the physician to ask the patient more about her drug use and whether it indeed poses risks to her children. But barring such a risk, the physician would not be obligated (and indeed is likely prohibited) from sharing that information outside of the treatment relationship without the patient's consent. Rather, the physician should ask the patient about her willingness for drug treatment and how her health care team can be of service. Protecting patient's confidentiality comes first, which often allows the other elements of her care to fall into place.

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