

Confidentiality in Medical practice

Dr Nirmala Perera
2019



Objectives



- ▶ Should be able to define “confidentiality in medical practice”
- ▶ Should know how to act in different conflict scenarios

Medical confidentiality



It is referred to as “Professional secrecy”.

All information that is exchanged between a patient or his next of kin with the doctor during a professional relationship must be kept secret.

Medical confidentiality



A patient's information related to

His/her illness

how he/she came about it

family matters

His/her past medical/surgical/ gynecological history

Confidentiality should be maintained by the doctor at all costs.

Medical confidentiality



The doctor is under a duty not to voluntarily disclose information which he gains in his professional capacity without the consent of the patient.

Medical confidentiality– Law



It is related to the law of contract.

A patient can sue a doctor for breach of such 'professional contract'.

Medical confidentiality– Conflict with Law



1914 – British judgment

“Confidentiality must be subordinate to the duty which is cast upon every good citizen to assist in the investigation of serious crime.”

Medical confidentiality– Conflict with Law



BMA sought legal advice

“A medical practitioner should under no circumstances disclose voluntarily without patient's consent, information obtained from the patient in the course of his professional duties”.

Medical confidentiality

Hippocratic Oath

“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 abroad, I will not divulge as reckoning that all such should be kept secret.”

Medical confidentiality– WHO guidelines



All information must be kept confidential.

Information can only be disclosed if the patient gives explicit consent or if the law specifically provides.

Medical confidentiality– WHO guidelines



Consent may be presumed where disclosure is to other health care providers involved in that patient's treatment.

All identifiable patient data must be protected.

Medical confidentiality– WHO guidelines



A patient has a right

to be fully informed about his health condition

of access to his medical records

Medical confidentiality– WHO guidelines



Information may only be withheld from patients

where there is a good reason to believe that this information would cause obvious positive harm to the patient

Medical confidentiality– WHO guidelines



In medical treatment and procedures a respect must be shown to the **privacy** of the patient.

No outsiders during treatment process.

Medical confidentiality– WHO guidelines



Without consent of the patient who are not involved in the management cannot be present.

If any one is present then it is the responsibility of the doctor to see that medical confidentiality is maintained.

Medical confidentiality– WHO guidelines



Documentation of the patient's medical records

Those are handled by typists, stenographers, computer operators, medical records officers, lab workers etc.

The medical Institution must ensure privacy to the patient and will be held responsible for breach of such privacy.

Medical confidentiality– WHO guidelines



Even the patient in the next bed or patient's by standers should not be allowed to listen to the discussions between the patient and the doctor.

Medical confidentiality– Incompetent patient

In the case of a “minor” or an incompetent patient, parents/guardian or next of kin is entitled to receive information about the patient.

Professional secrecy– Is it absolute?

It is not absolute.

Eg: An “epileptic” driver requesting not to inform his employer about his epileptic seizures

HIV positive person tells not to inform the marital partner or the sex partner about HIV

Mentally disturbed patient, is going to kill a person.

Privileged communications

Doctor can divulge the information to a third party without getting consent from the patient for the best interest of the patient, relations, community in general and the state. This is referred to as privileged communications.

It gives a protection from civil action against a doctor.

Privileged communications

2 types

Absolute Privilege

Qualified Privilege

Privileged communications

Absolute Privilege

Disclosures made in a court
of law

Privileged communications

Qualified Privilege

Disclosure to a person who has a moral, social and legal duty to receive it.

Information can be divulged

With consent of patient/next of kin

Information should be given only to the relevant party.

Otherwise doctor should not discuss the illness even with his relatives without the consent of his patient.

Confidentiality in mature minor

Mature competent female child asking on contraceptives, pregnancy or an abortion.

No information can be divulged even to the parents without the competent child's consent.

Confidentiality in close family members

In the case of a husband and a wife, facts relating to the illness of one must not be disclosed to the other without consent.
Eg: sexually transmitted diseases

In divorce and nullity cases no information should be divulged without a court order.

Confidentiality – Examination on request

When a patient is examined by a doctor at the request of the employer or a government, the doctor should not disclose information about the medical examination without consent.

Confidentiality – Examination on request

Examination of a person in custody – cannot divulge information unless there is a court order or the consent of the person.

Confidentiality – Post mortem examination

In the examination of a **dead body** external, internal or laboratory findings should not be divulged without the consent of the next of kin.

The privacy of the dead must be respected in the interest of the spouse and the children.

Confidentiality – Investigations

DNA studies on genetic diseases affect patient and others.

Confidentiality should be maintain in all the investigations.

Privileged communications

In the interest of the patient

Patient does not give consent for disclosure of information but the doctor conveys information about the patient's illness to others in the best interest of patient's welfare.

Privileged communications

Sharing information for health care

patient with **suicidal tendencies**

patient with **violent antisocial tendencies**

Privileged communications

Minors/insane who have been
sexually abused / pregnant

Minors/insane who are suffering
from **sexually transmitted**
diseases

Privileged communications

In the interest of the patient's family

The patient does not give consent for disclosure of information but the doctor conveys information about the patient's illness to the parents/guardians or next of kin for others protection.

Privileged communications

EG:

Communicable diseases which can spread within the 'family'

HIV/AIDS– If the patient refuses to inform spouse or sexual partner, then the doctor can inform the spouse.

Privileged communications

As requested by law

A doctor should not divulge information even when requested by a police official or any statutory body unless they have a moral, social and legal duty to receive it in good faith without malice in the best interest of the general public.

Privileged communications

Methods of divulging Information as requested by law

Reports sent to Courts of Law

Statements and reports sent to crime Investigators, human rights commission

Giving oral evidence

Privileged communications

Notification to the police

Admission of a patient following assaults, road traffic accidents, poisoning, burns, sexual offences, child abuse or “suspicious injuries”

Privileged communications

In cases of abortions

- If the abortion is self induced– best not to inform police
- If there is only a “suspicion” – ethically wrong for the doctor to inform police acting on mere suspicion

Privileged communications



Instances to report an abortion to the police



induced against or without the consent of the woman



woman is dying following an abortion



Several cases from same area with complications

Privileged communications

Notification of diseases

Communicable diseases to MOH

Industrial diseases such as pneumoconiosis

Industrial poisoning in terms of Factory's Ordinance

Privileged communications

Reporting of suspicious injuries under the “Prevention of Terrorism Act (PTA)”

Registration of births, deaths, still births

Privileged communications

As a duty to the society

If the illness is detrimental to the general public, then the doctor must first persuade the patient to inform the authorities.

If fails then the patient is told that the relevant authorities or the employer will be informed.

Privileged communications

Food handlers with tuberculosis, typhoid, amoebiasis

Vehicle and train drivers with epilepsy, unstable angina, uncontrollable hypertension, severe impairment of vision, colour blindness

Privileged communications

Insurance companies

The medical examination is a voluntary act by the examinee and there is implied consent to disclose information.

However a doctor should not divulge information to an insurance company about a patient's past medical history without consent.

Privileged communications

Doctors employed as advisors on staff health

In examination for “fitness to work” consent should take before hand, to divulge the information.

Privileged communications

Disclosure in doctors own interest

In civil and criminal actions of negligence against a doctor by his patient.

Privileged communications

Medical teaching, research and audit

A doctor can report a case without revealing the patient's/deceased's identity.

Approval of ethics committee is needed to conduct research.

Confidentiality

Medical records

They belong to the hospital authorities and not to Medico-legal and Post Mortem examination reports “belong” to the Medico-Legal Officer and not to hospital authorities.

Confidentiality

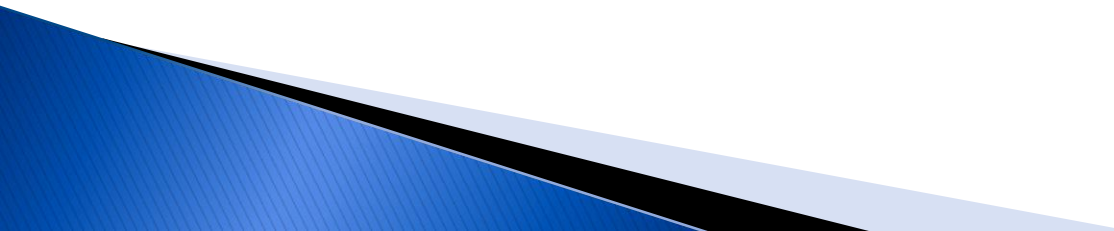
Doctors and media

Sensitive information about the patient or the deceased be kept confidential and should not disclosed to the media or public.

Media should be handled by the institutional head.

Public has the access to information when the court cases are finished.

Summary

- ▶ All the information obtained from patients during doctor patient relationship are confidential.
 - ▶ There are instances where the privilege communication is applied for the best interest of the patient or society.
- 

Thank you

