

What's a Dentist to Do? To Say or Not to Say

Jack L. Churchill, D.D.S.*

Presentation**

Mary Smith, a 15-year-old girl, came into a dental clinic for a recall appointment. She had been a patient of Dr. Jones in that clinic for many years. While waiting in the radiology area, she saw a sign instructing female patients to inform their dentists if they were pregnant. Mary became upset and asked Dr. Jones why the sign was there. Eventually she confessed that she was pregnant and asked that Dr. Jones not tell her mother.

Dr. Jones knew Mary's mother quite well and felt she had an obligation to her as well as to Mary. Mary was not legally independent, and her parents had to give consent for any treatment that Dr. Jones would propose. Knowing Mary's parents, Dr. Jones was convinced that it would be beneficial to Mary if her parents knew about her pregnancy and could provide care and support during this difficult period for her. Dr. Jones wanted to respect Mary's confidentiality, but she was not sure that she should.

The Ethical Landscape

Confidentiality — the promise that we as dentists owe our patients the duty of keeping secret the information we find out about them during the course of the professional relationship — can be controversial. The Hippocratic Oath states that the health professional should not disclose “those things that ought not to be spread abroad”. This statement implies that

there may be some things that are acceptable to disclose.

Traditional health care ethics contends that what can be disclosed should always “act so as to benefit the patient according to the provider's ability and judgment”. But should we disclose information that benefits our patient even when the patient wants it to be kept confidential?

Finding a Place to Stand

There are different approaches to this case.

The traditional, paternalistic approach would be to resolve the issue by having Dr. Jones ask what would be best for the patient. This decision would be solely up to the dentist — a judgment by the dentist regarding the patient's best interest.

A second approach treats confidentiality as stemming from the contract with the patient — that is, that confidentiality is

promised or implied to the patient when the relationship is started. This approach reduces confidentiality to promise-keeping: Whatever is promised is kept. This course of action takes the judgment as to what is best for the patient out of the hands of the dentist and simply states that “a promise is a promise”.

Our medical colleagues promise confidentiality even if disclosure would benefit the patient. However, the *ADA Principles of Ethics* states that “dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient”. That seems to put dentistry

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in the traditional, paternalistic camp, allowing Dr. Jones to break Mary's confidence to promote her welfare.

The principle cited goes on to state that, “upon the request of a patient or another dental practitioner, dentists shall provide any information that will be beneficial for the future treatment of the patient.” Does this mean that dentists can break confidences only when the patient or another dentist asks? What if it is the dentist who thinks that confidence should be broken? Or another dentist asking?

Next Case Scenario

Ethical challenges rarely if ever involve only the two principals. Here is another situation for consideration.

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**Dr. Churchill is Chair of the Minnesota Dental Association's Committee on Ethics, Bylaws, and Constitution. He is a general dentist in private practice in Minneapolis, Minnesota.*

***Ideas and material quoted and paraphrased in this article are from Ethical Questions in Dentistry by James T. Rule, D.D.S., M.S., and Robert M. Veatch, Ph.D., Quintessence Publishing Co., Inc., Carol Stream, Illinois.*

Ethics Committee

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What if the dentist feels compelled to disclose information not to benefit the patient but to protect a third party? Let's say you saw and treated a new patient who disclosed that he was infected with the AIDS virus, and let's say he was engaged and you found out his fiancée did not know he was infected. Are you obliged to break confidence for the sake of the fiancée, or are you bound to a professional code of confidentiality?

The Hippocratic Oath focuses solely on the welfare of the patient. That narrow focus becomes problematic, however, when either the patient disagrees or a third party is put at risk when the patient's interest is served.

The ADA seems to permit no third party interests to justify breaking confidence. Regarding HIV status (disclosure to another dentist, not to a fiancée), the ADA says the dentist should obtain permission from the patient before disclosing and should consider severing the relationship if the patient refuses. This, of course, doesn't help the patient's fiancée. Does it relieve the dentist of his moral responsibility?

To say or not to say — that is the question. ■