

Physician- Patient Confidentiality

The Principle of Confidentiality

Confidentiality is generally understood as one aspect of the duty of **Fidelity**. It is expected of those who, by virtue of their profession, are allowed access into the private sphere of others. Healthcare providers have long recognized this. The **Hippocratic Oath** includes this clause:

Whatever I see or hear in the lives of my patients, whether in connection with my professional practice or not, which ought not to be spoken of outside, I will keep secret, as considering all such things to be private.

And in the more modern **Declaration of Geneva** we find:

I will respect the secrets that are confided in me, even after the patient has died.

Legal Protections

Federal: HIPAA Privacy Rule (Health Insurance Portability and Accountability Act, passed by Congress in 1996) “establishes national standards to protect individuals’ medical records and other personal health information and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. The Rule also gives patients rights over their health information, including rights to examine and obtain a copy of their health records, and to request corrections.” (HHS.gov)

State: varies between states.

Why is this Principle Important?

- Necessary for a relationship of trust between the physical and patient, without which the patient might fail to disclose information important for her proper medical care.
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What is Covered by this Principle?

- What a patient reveals in the course of the encounter.
- What the physician has concluded regarding the patient's case.
- All communications between physician and patient.
- All lab work and records.

This applies to all third parties, including family members, so long as explicit permission has not been given.

Minors and other incompetents generally have no right to confidentiality with respect to their legal guardians.

The specific rules vary from state to state.

Other Principles?

The **principle of confidentiality** is supported by:

- Principle of Fidelity
- Principle of Beneficence
- Principle of Nonmaleficence
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The **principle of confidentiality** may come into conflict with:

- Principle of Beneficence (“protect from harm”)
 - ... to that patient (“paternalistic exception”)
 - ... to specifiable others
 - ... to the general public
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Conflicting Roles of Healthcare Providers

Clinical: physicians have obligations only to the patient.

Public Health: physicians have obligations to the wider community, such as with preventive medicine (anti-smoking publicity, and so on).

Exceptions to the Principle

Public Health: reporting of STIs

Public Safety: reporting of gunshot wounds, injuries from criminal behavior, burns, drug/alcohol abuse (in the case of certain classes of individuals, like bus drivers). Similarly, concern for the safety of other specified individuals (“a duty to warn” the potential victim: Tarasoff!).

Protection of vulnerable persons: abuse of children, elders, the disabled.

Research: limited access to medical records if there is an overwhelming benefit.