




## Ch 4/ part 3



### Deciding who has access to medical information

- Access means the right to look at and copy medical records.
- **Dilemma**: balance beneficence, patient autonomy, and justice when granting access to medical records.
- **Granting and denying access to medical records? See next slides!!**

## Granting and denying access to medical records

- According to the law, these persons and groups can have limited or full access to a patient's medical records:
- Family, depending on state law and patient competency
- Guardians for minors and dependents
- Insurance companies
- Government agencies such as Health insurance Compensation, and Disability Insurance
- Employers when they self-insure
- Health researchers and the Center for Disease Control (CDC)
- Officers of the court when medical records are relevant to a legal case

- In some cases, requests for medical records can be denied. A request for medical records can be denied
- If information on the record can endanger the patient's health. For instance, if the medical record reveals a serious diagnosis in a mentally ill patient, the record can be withheld for fear that the patient might harm himself if he sees the record.
- If information on the record can endanger someone else's health.
- If the request is frivolous or vexatious, such as asking to see the same records over and over again for no meaningful reason.

## Considering personal versus joint information

- The genetic component of personal information is rapidly increasing. As more genetic testing becomes available, doctors and patients must decide who has access to results. Some of the most damaging diseases are purely genetic;
- Many doctors and researchers are dividing private information into two categories: personal and joint.
- Members of a family do have a right to some personal information that directly affects their health,
- If information that could affect other family members is uncovered during tests or an exam, you should discuss this situation with your patient.

## Choosing not to disclose information to a patient

- *Therapeutic privilege* (الامتنياز العلاجي): withholding medical information from a patient because it might harm them. An exception to the principle of informed consent.
- Ethicists feel this practice fails to respect patient autonomy and undermines trust in the relationship.
- This is an outdated paternalistic version of the doctor-patient relationship.
- Not telling a patient that he has a serious disease because he would be upset isn't a good reason for nondisclosure.
- You must have a valid and compelling concern that information could cause your patient to harm himself or even end his life.

## Understanding Appropriate Referrals

- An implied contract exists between a doctor and patient starting at the first visit. A referral brings a third person into this contract.
- Respecting patient autonomy and ensuring beneficence are the primary ethics guidelines in these situations. The patient always has a right to choose his doctor. And all doctors who are consulted must consider the best outcomes for the patient.

## Considering second opinions

- All patients have the right to ask for a second opinion. This can be difficult for some patients because they may be afraid of alienating or insulting you.
- **When a patient asks for a second opinion:**
  - Agree to this decision.
  - Offer names of other physicians to contact.
  - Do not pressure the patient to make an immediate decision.
  - Make all of the patient's records available for the other doctors.
  - Don't make it difficult for the patient to get another opinion.

### ■ The **Provider / physician** should ask for a second opinion when

- You have had poor results with patients with this diagnosis. It's responsible and ethical to admit you have had problems with some treatments. Recommending the patient see another doctor in certain situations ensures the best outcomes.
- If you think that patient won't follow through with recommended treatment. In this case, the doctor-patient relationship has broken down and another doctor might be able to gain the patient's trust.
- If the patient has a problem you can't adequately treat. Some patients need several courses of treatment or levels of care before the treatment you recommend can occur.

## Discovering the need for specialist referrals

- A specialist is brought in for two reasons: to consult or to administer care. In a consultation, the primary care doctor is fully responsible for the patient.
- When referring a patient, keep these guidelines in mind:
  - The doctor must be sure that the referral is relevant to the diagnosis and based on objective, not subjective, reasons.
  - The doctor must keep in mind that the welfare of the patient comes first, before any monetary or business interests.
  - Referral fees are unethical.
  - Be ready to make alternative arrangements if a referral fails because your patient doesn't establish a good relationship with the new doctor.

## Choosing whom to serve

- In the USA, Doctors have choices in whom they want to serve and treat. But doctors must treat patients they may personally dislike
- *Conscience laws*, or refusing to perform certain procedures or prescribe treatment against a doctor's moral or religious beliefs, exist so a healthcare provider can't be forced to prescribe a treatment to which he is morally opposed.
- These laws are amended in certain ways. For instance, the patient must be able to obtain a specific treatment or surgery elsewhere, as long as it is legal.

## Refusing to treat a patient

- Doctors do have the right to refuse a patient, based on certain guidelines. There are exceptions to this rule.
  - In an emergency a doctor must respond to the best of his ability.
  - A doctor cannot refuse to treat a patient with an infectious disease,
  - A doctor cannot stop caring for a patient in the middle of treatment or when that patient needs medical care.
  - A doctor cannot decline a patient based on "race, color, religion, national origin, sexual orientation, or any other basis that would constitute invidious discrimination." — *AMA Code of Medical Ethics*



## Ending a doctor-patient relationship

- When a doctor decides to no longer treat a patient, certain conditions must be met to legally end the relationship. Notice to the patient must be in writing. These are the rules (cont'd in next slide):
  - Doctors must support continuity of care. Before ending a relationship with a patient, you must give advance notice so the patient can find another doctor.
  - When a relationship exists, a patient's treatment cannot be discontinued unless the doctor has assisted the patient in finding a new doctor and making arrangements for treatment.
  - A doctor can end a patient relationship if the patient has committed fraud (for example, falsifying prescriptions), the patient exhibits inappropriate behavior or repeatedly refuses the recommended treatment.

## Ending a doctor-patient relationship (cont'd)

- These are the rules:
  - A doctor can end a relationship if the patient wants a treatment that is not scientifically valid or interferes with a doctor's personal or moral beliefs.
  - A clinic can end a relationship with a patient if they have repeatedly refused to pay their bills and have refused to set up even a minimum payment plan. If the patient's doctor confirms that they do not have a life-threatening medical illness, the clinic will notify the patient in writing that he is "terminated." The clinic should give the patient a reasonable amount of time, usually about 30 days, to find a new doctor.
  - Patient dumping, or abandonment, is unethical and constitutes malpractice.



## Giving medical advice to non-patients

- Imagine that you are a small-town family physician at your daughter's soccer game. An acquaintance comes up to you and asks your opinion about a lump on her arm. What do you do? Do you diagnose and ask her to make an office visit with you, or refer her?
- An actual doctor-patient relationship doesn't exist in this situation, but one can be implied. You can offer a disclaimer that you are only imparting information and not medical advice, but that may not be a legal defense in the event you're sued.
- It's not wise to diagnose any condition based on casual conversation. Without a medical history and thorough workup, offering advice can be unethical and even harmful to the patient.



## Giving medical advice to non-patients (cont'd)

- All you can do is encourage your acquaintance to seek medical attention from her primary care doctor.
- Tell her that it could be harmful and unethical for you to offer a specific opinion or advice.





## Encouraging honesty

- One of the important ethical principles is truth telling. Patients should be as honest as possible, both in their description of symptoms and as they help decide their treatment. When patients are dishonest or withhold information, their treatment and even their life can be compromised or put in danger.
- Everyone lies at one time or another. Some patients lie because
  - They are afraid of being judged.
  - The examination room and clinic setting scares them.
  - They are afraid of the diagnosis.
  - They want to please the doctor.



## Balancing treatment and cost

- Healthcare costs are spiraling out of control. Fewer people have access to healthcare in the United States, yet costs continue to increase beyond the rate of inflation.
- Countries with universal healthcare have set many standards balancing treatment, outcomes, and cost.
- Doctors are often being asked to play a role of *restricted advocacy*. This means they must consider the cost of treatment when recommending the best care to their patients.
- One of the best ways to manage healthcare costs is to make sure that the patient is following the course of treatment