

Module 2

Case 2.2: Disclosure and Patient Information—Mr. Douglas's Angiogram Gets a Second Look

Case Presentation

For the first presentation of his cardiology elective, Scott was to select an angiogram and discuss his observations with the other students, residents, and faculty. He selected Mr. Douglas's angiogram taken during his visit with Dr. Kim.

Scott decided the angiogram showed 3, possibly 4, significantly to severely blocked arteries. The next time he saw the attending cardiologist, Dr. Carlson, Scott asked him to look at the film to see if he concurred. Dr. Carlson pinpointed 4 areas of interest on the angiogram, and asked Scott, "What are those?" "They look like 1 significant and 3 severe atherosclerotic stenoses," Scott answered, and Dr. Carlson agreed.

Scott noticed that the short narrative accompanying the angiogram mentioned only the 3 severe blockages. Assuming Dr. Kim would want to know about this information, Scott tracked him down and asked whether he wanted to inform Mr. Douglas of the new diagnosis.

Dr. Kim responded, "I told Mr. Douglas about the severity of his condition, but he was adamant that he was not interested in surgery because he has a misguided belief that lifestyle changes will resolve his condition. I don't think news of one more significant blockage is going to change his mind."

Scott wasn't satisfied. Believing that Mr. Douglas was in danger of an acute myocardial infarction, he thought Mr. Douglas should know about the greater severity of his condition. But Scott couldn't take it upon himself to track down Mr. Douglas and call him. The guy would think he was nuts, not to mention that he'd be undermining the relationship between Dr. Kim and Mr. Douglas.

Scott mentioned the case to his wife that night, mostly to let her know about his diagnostic "catch." But Becky's response was all about Mr. Douglas. "It's okay for you to practice on those patients," Becky said, "for the good of medical education and the benefit of society. Now here comes a case where somebody might benefit from the fact that a student carefully looked at his angiogram. That could only happen in a teaching hospital. You have to do something, Scott."

The next day Scott approached Dr. Carlson to tell him about his exchange with Dr. Kim. Upon informing Dr. Carlson of the exchange, Scott didn't know what to expect. Dr. Carlson shook his head. "Don't worry about it Scott, I'll take care of it."

What should Dr. Carlson do? (select an option)

- A. [Follow Dr. Kim's instructions that no further action is needed.](#)
- B. [Contact Mr. Douglas directly.](#)
- C. [Tell Dr. Kim that if he does not inform Mr. Douglas, then Dr. Carlson will feel obligated to do so.](#)

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Option Assessment

- A. Following Dr. Kim's advice that no further action is needed should be **avoided** because it would violate Opinion 8.12, "Patient Information," which states: "[A physician's] ethical responsibility includes informing patients of changes in their diagnoses resulting from retrospective review of test results...This obligation holds even though the patient's medical treatment or therapeutic options may not be altered."
- B. Contacting Mr. Douglas directly is **acceptable** and is supported by the *Code* in Opinion 8.12, "Patient Information," which states: "[A physician's] ethical responsibility includes informing patients of changes in their diagnoses resulting from retrospective review of test results...This obligation holds even though the patient's medical treatment or therapeutic options may not be altered." This obligation, however, must be balanced with Dr. Carlson's intrusion into Dr. Kim's and Mr. Douglas's relationship.
- C. Informing Dr. Kim that if he does not inform Mr. Douglas, then Dr. Carlson will feel obligated to do so is **preferable**. This will respect Dr. Kim's relationship with Mr. Douglas but also make it clear that, one way or another, Dr. Carlson will fulfill his "ethical responsibility [that] includes informing patients of changes in their diagnoses resulting from retrospective review of test results...even though the patient's medical treatment or therapeutic options may not be altered" (from Opinion 8.12, "Patient Information").

[Compare these options](#)

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Option Comparison

Given the clear obligation to provide patients with accurate information about their medical condition, option A (choosing not to inform Mr. Douglas) should be avoided because it violates the demands of the *Code* in Opinion 8.12, "Patient Information." Even though Dr. Carlson does not have an existing relationship with Mr. Douglas, he has an obligation (as does Scott) to make sure Mr. Douglas is apprised of his medical condition.

Option B (contacting Mr. Douglas) is an acceptable alternative because it fulfills Dr. Carlson's obligation to Mr. Douglas, but it may undermine the trust between Dr. Kim and Mr. Douglas. To help preserve the trust in their relationship, option C is the preferable alternative. It allows Dr. Kim the opportunity to inform Mr. Douglas of the new diagnosis himself, but makes clear that the ethical obligation to inform Mr. Douglas of the diagnostic error will be fulfilled regardless.

Preferable: Option C

Acceptable: Option B

Avoid: Option A

[Additional discussion and information](#)

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Additional Information

Opinion 8.12, "Patient Information" notes that, "Patients have a right to know their past and present medical status and to be free of any mistaken beliefs concerning their conditions." It is often difficult for physicians to satisfy the ethical duty to inform patients when a medical intervention has produced unexpected outcomes as a result of poor judgment, human error, or unknown causes. Disclosure can also be difficult when physicians or other medical practitioners have misinterpreted or misreported diagnostic test results. As Opinion 8.12, "Patient Information," makes clear, failure to disclose any such problems undermines the ethical responsibility to respect patient autonomy.

Opinion 8.12, "Patient Information"

...Patients have a right to know their past and present medical status and to be free of any mistaken beliefs concerning their condition. Situations occasionally occur in which a patient suffers significant medical complications that may have resulted from the physician's mistake or judgment. In these situations, the physician is ethically required to inform the patient of all the facts necessary to ensure understanding of what has occurred. Only through full disclosure is a patient able to make informed decisions regarding future medical care.

[The physician's] ethical responsibility includes informing patients of changes in their diagnoses resulting from retrospective review of test results or any other information. This obligation holds even though the patient's medical treatment or therapeutic options may not be altered by the new information.

Concern regarding legal liability which might result following truthful disclosure should not affect the physician's honesty with a patient.

The obligation to uncover and disclose information regarding an unexpected harm or an inaccurate diagnosis arises from physicians' responsibility to act as patient advocates and to promote the patient's best interests, regardless of competing personal interests.

Some contend that the doctrine of "therapeutic privilege" permits a physician to withhold information that, if disclosed, could cause psychological distress or could undermine trust and lead the patient to rash decisions that would result in even greater negative effects. In the rare instances where this may be a concern, the physician should involve appropriate members of the patient's family, or other advocates, and consult a disinterested party, such as a trusted colleague or member of the ethics committee. Therapeutic privilege should not be invoked (or more accurately, hidden behind) merely as a means to avoid disclosing a diagnostic or medical error or an unexpected harm.

Communication about diagnostic or medical errors or unexpected harms should be made with tact, including an expression of concern and regret. Opinion 8.121, "Ethical Responsibility to Study and Prevent Error and Harm," explains how physicians might express their concern over unexpected harms to patients; "An expression of concern need not be an admission of responsibility. When patient harm has been caused by an error, physicians should offer a general explanation regarding the nature of the error and the measures being taken to prevent similar occurrences in the future." Many times, this explanation will preserve trust and will allow continuity of care with the same health care team. Such communication is most important when decisions need to be made promptly in response to the harm that has occurred. However, if the disclosure injures the patient's trust in the physician so severely that the patient prefers to obtain subsequent care elsewhere, the physician has a responsibility to assist the patient in obtaining continuing care.

If a physician who is responsible for an error or harm is unwilling or unable to acknowledge his or her responsibility to the patient, a neutral party should communicate the information to the patient. Alternately, a health care professional may discover an error or harm that a patient experienced under someone else's care. It is clear that even if a physician is not responsible for the harm, that physician still has the ethical obligation to be honest and forthcoming with information pertaining to the patient.

[Related topic: Preventing errors](#)

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Related topic: Preventing errors

Because of their central role in the provision of medical care and the unique ethical obligations that flow from caring for vulnerable patients, physicians also have a responsibility to enhance patient safety through identification and correction of the causes of diagnostic or medical errors and patient harm. Uncovering the exact causes of an error—including systemic causes such as mislabeling of medications and failure to transmit information—and correcting them when possible should be high priorities. The error in the case at hand seems to be simply a mistake of human judgment, but, as Opinion 8.121 explains, an investigation should be undertaken nonetheless.

Opinion 8.121, "Ethical Responsibility to Study and Prevent Error and Harm"

In the context of health care, an error is an unintended act or omission, or a flawed system or plan, that harms or has the potential to harm a patient. Patient safety can be enhanced by studying the circumstances surrounding health care errors.

- 1) Because they are uniquely positioned to have a comprehensive view of the care patients receive, physicians must strive to ensure patient safety and should play a central role in identifying, reducing, and preventing health care errors. This responsibility exists even in the absence of a patient-physician relationship.
- 2) Physicians should participate in the development of reporting mechanisms that emphasize education and systems change, thereby providing a substantive opportunity for all members of the health care team to learn.

Physicians concerned with the rise in professional liability claims and awards may think that the reporting and disclosing of errors and harms will only add to their problems. But some data suggest that the major determinant of the initiation of professional liability claims may be faulty communication and patient dissatisfaction [1, 2], rather than the quality of care [3]. On the basis that transparency—as opposed to secrecy—promotes trust, commentators have argued that open disclosure of errors may mitigate patient discontent and maintain patient confidence and, therefore, may be an important tool to reduce the risk of professional liability [4]. Such advice appears consistent with a recent study, which found that 98 percent of individuals who were presented with various scenarios expected or wished for the physician's active acknowledgement of an error [5]. Some patients may file lawsuits specifically to uncover information they otherwise have not been able to obtain. Also, for many patients, an offer of money is less likely to make them terminate a legal action against a physician than an explanation, an apology, and an assurance that corrective measures would be undertaken to prevent future similar errors [6].

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