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Medicine and Society

Invoking Therapeutic Privilege

Physicians can ethically withhold information in situations where full disclosure of a diagnosis or treatment would cause great psychological harm to the patient.

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The Patient

On a busy Tuesday morning, she arrives looking for help from a specialist in infectious diseases. She has already been to several other experts. First, she tried exterminators. Later she had turned to internists, dermatologists, and even a psychiatrist. None has been of help.

"Doctor," she says, "I have parasites." Insects cover her body, she reports, crawling in and out of her skin, infesting her intestines and appearing in her stool. Sometimes, she says, they are visible in her sputum. They itch. And she scratches, hard. Her hair has been torn out in clumps. "See what I have to do," she says. It is a statement, not a question. She vigorously demonstrates how she scrapes and digs to remove the bugs from her scalp.

They come in a variety of shapes and sizes. She has brought samples in plastic containers, Ziploc bags and Tupperware. She says some are small and red, some white and tube-like, others have round black heads on a stringy body. Many she finds on the ground or the floor of her shower, "after they've fallen off." For months she has showered several times each day in vain attempts to cleanse herself of her tenacious hitchhikers. The containers hold dirt, twigs, pieces of leaves, skin, blood, and water.

"And," she says, finishing her opening monologue, "if one more doctor tells me I'm crazy, I'm going to go postal!"

The H and P

"How long has this been going on?"

At least a year, probably more, she says. Examining her, it looks like it. Her skin is red and patchy, with scabs, scars, and open lesions virtually everywhere she can reach. Areas of skin that are readily accessible for scratching, such as her forearms, neck, scalp, and lower legs, have bloody and crusting sores, some of which appear to have developed mild superficial skin infections. She is anxious to show me her scalp, which has born the worst of her exuberant scratching. Large patches of hair have been torn out, replaced by weeping scabs. Her skin is dry from over-washing, scratching, scraping, and using alcohol swabs in

attempts at disinfection. But there are no parasites. No creeping creatures, no mites, no fleas, no bites, no pustules with worms poking their nasty heads out. Her laboratory tests are normal. There are no parasites in her stool.

The Diagnosis

I know what she has.

She has delusional parasitosis. It is a psychiatric condition, unrelated to infectious diseases—except that patients who have it believe they are infested. Antibiotics and antiparasitic drugs have no role, unless the open sores she has created become infected.

Sometimes it is treatable with anti-psychotic medications. But many patients with delusions of parasitic infestations will refuse psychiatric care, believing that this won't help cure their infestation. She, for instance, cannot conceive of the possibility that she is not infested. And she has told me, as directly as possible, that if I consider her to have a psychiatric condition she does not want to hear it.

The Treatment Plan

So I tell her that I don't know for sure the exact cause of all of her symptoms, but that scratching her sores will not help. I say that I do not know of any antibiotic that will help either, but there are some medicines that might reduce her itching. Perhaps I can provide some skin cream to apply when she feels like scratching.

Finally, however, I must broach the tender subject. "Often situations like yours will improve over time," I say, "but in order to improve you will have to address the psychological stress that having this condition must be putting on you."

"Oh yes," she agrees. Tears form. The stress is tremendous. She is depressed and angry that she can't get better and that no one can tell her what is wrong. Would she be willing to see a psychiatrist that I would recommend? Yes.

The Doctor's Dilemma

I know the diagnosis—but I haven't told her. I will tell her psychiatrist instead. I invoke "therapeutic privilege."

Therapeutic privilege is an exemption from informed consent guidelines and is, most would say, a frank exercise of paternalism. The AMA *Code of Medical Ethics* says that physicians may withhold information about a patient's diagnosis or treatment when disclosing it would pose a serious psychological threat, so serious a threat as to be medically contraindicated. But, the *Code* opinion continues, this privilege is not to be used merely because a physician thinks the information, if disclosed, might cause the patient to forgo needed treatment. Competent patients retain the right to refuse treatment and must be given as much information as necessary to help them make informed decisions about consent or refusal.

Each individual use of therapeutic privilege, then, must be justified–based on danger and/or patient incompetence, not merely beneficence. The *Code* says I am not to use this paternalistic tool merely as a way to secure the patient's assent to treatment. Nor may I invoke it merely to avoid giving the patient bad news— telling her something she says she doesn't want to hear "from one more doctor."

How does using "therapeutic privilege" in this case differ from, say, withholding a patient's diagnosis of cancer until after she returns from her daughter's wedding in 2 weeks? I think it differs in several ways. First, I have accurately described my patient's symptoms to her and told her that antibiotics and antiparisitics will not help. I have also told her that a skin cream may reduce the itching and, most importantly, that I recommend she see a psychiatrist to help manage her condition and the stress it can cause. I have withheld from her only the medical name for her illness, a name that carries with it the stigma of psychiatric illness and hence a name she has said she does not want to hear. Insisting that my patient hear the name of her condition, at the likely cost of failing to ensure that she understands what she needs to do to help improve her situation, would be harmful. Indeed, some might refer to the unnecessary pain that forcibly inflicting such brute medical terms on her would cause as "iatrogenic suffering." That is, suffering not directly related to her disease but to the ham-handed way some patients are treated within the health care system.

But, you might say, the same argument could be made for using "malignant neoplasm" instead of "cancer." Isn't tricking patients with slippery "medicalese" something to shy away from? Here is another point to be considered. Because of my patient's delusion, her decision-making capability is not in tact. While she is not legally incompetent, neither is she fully capable of making health care decisions. I cannot convince her that her symptoms and illness have the best chance of resolving under psychiatric care. Her illness itself prevents her from understanding that message. By contrast, my hypothetical cancer patient presumably does not have a mental illness. Soon enough she will find out that she has cancer (if, in fact, she does not already know) and realize that I have deceived her, if only for 2 weeks. She may be angry, or accepting, of this in retrospect, but she almost certainly will not accept my future comments as entirely trustworthy. Our relationship and, consequently, her care, will suffer to some degree unless and until I can regain her trust.

Returning to the concern expressed in the *Code of Medical Ethics*: am I withholding information merely to ensure that my patient does not refuse treatment? In my reading, the *Code's* main concern here is that physicians might withhold information about risks associated with a diagnostic test or treatment for fear that full disclosure of those risks would frighten the patient and cause him or her to refuse the intervention. But my goal here is not to convince the patient to undergo a risky diagnostic or therapeutic intervention to which she would not consent if she had adequate information.

In the end, even with the *Code of Ethics* for guidance, my decision to invoke therapeutic privilege was an exercise of clinical and ethical judgment. What do you think? In this case, did I judge wisely?

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