

# Virtual Mentor

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## THE CODE SAYS

### **The AMA *Code of Medical Ethics*' Opinions on Confidentiality of Patient Information**

#### **Opinion 5.05 - Confidentiality**

The information disclosed to a physician by a patient should be held in confidence. The patient should feel free to make a full disclosure of information to the physician in order that the physician may most effectively provide needed services. The patient should be able to make this disclosure with the knowledge that the physician will respect the confidential nature of the communication. The physician should not reveal confidential information without the express consent of the patient, subject to certain exceptions which are ethically justified because of overriding considerations.

When a patient threatens to inflict serious physical harm to another person or to him or herself and there is a reasonable probability that the patient may carry out the threat, the physician should take reasonable precautions for the protection of the intended victim, which may include notification of law enforcement authorities.

When the disclosure of confidential information is required by law or court order, physicians generally should notify the patient. Physicians should disclose the minimal information required by law, advocate for the protection of confidential information and, if appropriate, seek a change in the law.

Based on the report "[Opinion E-5.05, 'Confidentiality,' Amendment](#)," adopted November 2006.

#### **Opinion 5.055 - Confidential Care for Minors**

Physicians who treat minors have an ethical duty to promote the autonomy of minor patients by involving them in the medical decision-making process to a degree commensurate with their abilities.

When minors request confidential services, physicians should encourage them to involve their parents. This includes making efforts to obtain the minor's reasons for not involving their parents and correcting misconceptions that may be motivating their objections.

Where the law does not require otherwise, physicians should permit a competent minor to consent to medical care and should not notify parents without the patient's consent. Depending on the seriousness of the decision, competence may be evaluated by physicians for most minors. When necessary, experts in adolescent medicine or

child psychological development should be consulted. Use of the courts for competence determinations should be made only as a last resort.

When an immature minor requests contraceptive services, pregnancy-related care (including pregnancy testing, prenatal and postnatal care, and delivery services), or treatment for sexually transmitted disease, drug and alcohol abuse, or mental illness, physicians must recognize that requiring parental involvement may be counterproductive to the health of the patient. Physicians should encourage parental involvement in these situations. However, if the minor continues to object, his or her wishes ordinarily should be respected. If the physician is uncomfortable with providing services without parental involvement, and alternative confidential services are available, the minor may be referred to those services. In cases when the physician believes that without parental involvement and guidance, the minor will face a serious health threat, and there is reason to believe that the parents will be helpful and understanding, disclosing the problem to the parents is ethically justified. When the physician does breach confidentiality to the parents, he or she must discuss the reasons for the breach with the minor prior to the disclosure.

For minors who are mature enough to be unaccompanied by their parents for their examination, confidentiality of information disclosed during an exam, interview, or in counseling should be maintained. Such information may be disclosed to parents when the patient consents to disclosure. Confidentiality may be justifiably breached in situations for which confidentiality for adults may be breached, according to Opinion 5.05, “Confidentiality.” In addition, confidentiality for immature minors may be ethically breached when necessary to enable the parent to make an informed decision about treatment for the minor or when such a breach is necessary to avert serious harm to the minor.

Issued June 1994 based on the report “[Confidential Care for Minors](#)”; updated June 1996.

#### **Opinion 5.051 - Confidentiality of Medical Information Postmortem**

All medically related confidences disclosed by a patient to a physician and information contained within a deceased patient’s medical record, including information entered postmortem, should be kept confidential to the greatest possible degree. However, the obligation to safeguard patient confidences is subject to certain exceptions that are ethically and legally justifiable because of overriding societal considerations (Opinion 5.05, “Confidentiality”). At their strongest, confidentiality protections after death would be equal to those in force during a patient’s life. Thus, if information about a patient may be ethically disclosed during life, it likewise may be disclosed after the patient has died.

Disclosure of medical information postmortem for research and educational purposes is appropriate as long as confidentiality is maintained to the greatest possible degree by removing any individual identifiers. Otherwise, in determining whether to

disclose identified information after the death of a patient, physicians should consider the following factors:

- (1) The imminence of harm to identifiable individuals or the public health
- (2) The potential benefit to at-risk individuals or the public health (e.g., if a communicable or inherited disease is preventable or treatable)
- (3) Any statement or directive made by the patient regarding postmortem disclosure
- (4) The impact disclosure may have on the reputation of the deceased patient
- (5) Personal gain for the physician that may unduly influence professional obligations of confidentiality

When a family member or other decision maker has given consent to an autopsy, physicians may disclose the results of the autopsy to the individual(s) that granted consent to the procedure.

Issued December 2000 based on the report “[Confidentiality of Medical Information Postmortem](#)”; updated December 2001.

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