

Module 3

## Case 3.1: Respecting Privacy—No Students Please

### Case Presentation

"Mr. Jonsen is in Exam 2" Ms Wilson, the ER nurse, tells Dr. Macklin as he and Ahmed Daar, a medical student, come out of Exam 3.

Dr. Macklin grabs the chart and looks it over before stepping into the room. He notices that Mr. Jonsen is complaining of a rash, sore throat, headache, and fever.

As they enter the room, Dr. Macklin says, "Hi Mr. Jonsen, I'm Dr. Macklin and this is Mr. Daar, a medical student. What seems to be the problem today?"

Mr. Jonsen glances at Ahmed and asks, "Does he have to be in here? Because if he doesn't, I'd like him to not be."

Without looking at Ahmed, Dr. Macklin says, "This is a teaching hospital, Mr. Jonsen, and medical students are expected to observe. If they aren't allowed to observe, they can't be trained to be the doctors of tomorrow. Mr. Daar, here, has the same obligations of confidentiality that I do. Anything you say to us will remain confidential."

"I still don't think I want him in here," Mr. Jonsen explains, "and so unless he has to be, I'd appreciate it if he'd leave."

### What should Dr. Macklin do? (select an option)

- A. [Inform Mr. Jonsen that Ahmed will be present during his care at this hospital.](#)
- B. [Refer Mr. Jonsen to another ER.](#)
- C. [Instruct Ahmed to leave the room.](#)
- D. [Try to convince Mr. Jonsen to allow Ahmed to stay.](#)

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Module 3

- [e-mail](#) |

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### Option Assessment

- A. Informing Mr. Jonsen that Ahmed will be present despite his objection should be **avoided** and is not supported by the *Code*. Opinion 5.059, "Privacy in the Context of Health Care" states "physicians must be mindful of patient privacy, which encompasses information that is concealed from others outside of the patient-physician relationship." Ahmed is not Mr. Jonsen's physician, and Mr. Jonsen's care is not dependent on Ahmed's presence.
- B. Referring Mr. Jonsen to another (non-teaching hospital) ER should be **avoided**; it is not supported by the *Code* and is not a reasonable option. At this point, Mr. Jonsen's medical state has not been established, and his demand for privacy is supported by Opinion 5.059, "Privacy in the Context of Health Care," which states that "physicians must seek to protect patient privacy in all of its forms, including (1) physical...(2) informational...(3) decisional...and (4) associational."
- C. Instructing Ahmed to leave the room is **preferable**; it is supported by the *Code* and may be the best course of action in this situation. Opinion 5.059, "Privacy in the Context of Health Care" states that "physicians should be aware of and respect the special concerns of their patients regarding privacy." Also, Mr. Jonsen's vehement refusals indicate a steadfast commitment to maintaining his privacy.
- D. Continuing to try convince Mr. Jonsen to allow Ahmed in the room is **acceptable**—up to a point—and is supported by the *Code*. Opinion 5.059, "Privacy in the Context of Health Care" states that "privacy is not absolute, and must be balanced with the need for the efficient provision of medical care and the availability of resources." Because every medical student's education depends on observing clinical practice, some patient privacy will be compromised. Attempts at persuasion should not be carried to the point that they harm Dr. Macklin's relationship with Mr. Jonsen.

#### [Compare these options](#)

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Module 3

- [e-mail](#) |

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### Option Comparison

Mr. Jonsen has been steadfast in his demands that Ahmed leave the room during his interaction with Dr. Macklin and his quick observation that Ahmed probably did not need to be in the room for his care indicates that his decision is resolute. Accordingly, option C (instructing Ahmed to leave the room) is the preferable option at this point. If Mr. Jonsen had been less persistent in his pursuit of maintaining privacy, option D (convincing Mr. Jonsen to allow Ahmed to remain) would have been preferable. Given Mr. Jonsen's opposition, option D is only an acceptable alternative in this case.

Because Mr. Jonsen has a right to privacy and rebuking his attempts to exercise it is unnecessarily confrontational, option A (insisting on Ahmed's presence) should be avoided. Simply sending Mr. Jonsen to another ER (option B) and thereby refusing care because of his attempt to protect his privacy implicitly denies his right to privacy. Furthermore, sending him away without verifying that his condition is not emergent could also constitute neglect (see Opinion 8.11, "Neglect of Patients") and violate EMTALA. Accordingly, option B should also be avoided.

Preferable: Option C

Acceptable: Option D

Avoid: Options A and B

#### [Additional discussion and information](#)

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Module 3

- [e-mail](#) |

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### Additional Information

Privacy and confidentiality are companion concepts in the patient-physician interaction. They differ in the following respect: privacy means that you don't have to share personal information or access to your person with others. Confidentiality—in the context of the patient-physician relationship—serves the purpose of persuading patients to relinquish their privacy on the condition that what they say and what the physician discovers in examining them will be kept confidential.

Patient privacy, however, must be balanced with the informational needs of others involved in the patient's care and also with the need for medical students to participate in patient care, as noted in Opinion 8.087, "Medical Student Involvement in Patient Care."

#### Opinion 5.059, "Privacy in the Context of Health Care"

...Physicians must seek to protect patient privacy in all of its forms, including (1) physical, which focuses on individuals and their personal spaces, (2) informational, which involves specific personal data, (3) decisional, which focuses on personal choices, and (4) associational, which refers to family or other intimate relations. Such respect for patient privacy is a fundamental expression of patient autonomy and is a prerequisite to building the trust that is at the core of the patient-physician relationship.

Privacy is not absolute, and must be balanced with the need for the efficient provision of medical care and the availability of resources. Physicians should be aware of and respect the special concerns of their patients regarding privacy. Patients should be informed of any significant infringement on their privacy of which they may otherwise be unaware.

Neither privacy nor confidentiality is absolute. The provision of affordable and efficient care often requires patients to come to health care facilities, rather than receive care in their homes. In such settings, patients must share many common areas, and many professionals participate in the care of each patient. Privacy cannot always be protected in such circumstances. In certain other circumstances, "overriding social considerations" as set out in Opinion 5.05, "Confidentiality," (see Case 2 Confidentiality) may warrant not only breaches of confidentiality but also an invasion of patient privacy. For instance, on the rare occasion when a person is suspected of physically abusing someone under his or her care (often a child, but possibly the elderly or physically or mentally impaired), superseding the obligations of privacy must be considered. It may be appropriate to implement covert video surveillance to monitor for the occurrence of such abuse. In all other filming scenarios, it is always desirable to obtain the patient's consent prior to filming or, at a minimum, to disclose to the patient that filming will occur (See also Opinion 5.045, "Filming Patients in Health Care Settings," and Opinion 5.046, "Filming Patients for the Education of Health Professionals").

In the case of Mr. Jonsen's refusal to divulge information in Ahmed's presence, Opinion 7.025, "Records of Physicians: Access by Non-Treating Medical Staff" and Opinion 9.123, "Disrespect and Derogatory Conduct in the Patient-Physician Relationship" should also be considered.

Opinion 7.025 states: "Only physician or other health professionals who are involved in managing the patient, including providing consultative, therapeutic, or diagnostic services, may access the patient's confidential medical information. All others must obtain explicit consent to access the information." This indicates that it would be a violation of Mr. Jonsen's confidentiality for Dr. Macklin to divulge what he learns from Mr. Jonsen.

If, however, it becomes clear to Dr. Macklin that Mr. Jonsen's refusal to allow Ahmed's observation is a bigoted refusal, he may decide to transfer Mr. Jonsen so long as emergent care is not needed. Opinion 9.123 states: "[When p]atients...act in a prejudicial manner toward physicians, other health care professionals, or others in the health care setting...[it] may constitute sufficient justification for the physician to arrange for the transfer of care."

[Next Case](#)

[Module 3 Table of Contents](#)

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