



IRISH MEDICAL
ORGANISATION
Ceardchumann Dochtúirí na hÉireann

IMO Role of the Doctor Series

Doctor-Patient Confidentiality

April 2011

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Mission Statement

The role of the IMO is to **represent** doctors
in Ireland and to **provide** them with all relevant services.

It is committed to the **development** of a caring,
efficient and effective Health Service.



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Confidentiality and the Doctor-Patient Relationship

Confidentiality is central to trust in the doctor-patient relationship. Doctors diagnose and treat illness based on information given to them by the patient in confidence. Confidentiality is a necessary pre-requisite which allows patients to communicate their symptoms, experience, beliefs, concerns and expectations about their illness and their treatment. Confidentiality is essential to safeguard a patient's dignity, privacy and autonomy and extends after death. The safeguarding of patient confidentiality is a fundamental principle of medical ethics which dates back to the Hippocratic Oath. Confidentiality is both a patient's right and a doctor's duty.

Communicating with families, carers or colleagues

Doctors must be careful when communicating with the families or carers of patients and with other healthcare professionals. When in conversation with a patient, relative, or colleague either directly or by telephone be careful who might overhear.

Communicating with families or carers

Families and carers may be concerned about a patient or may be able to provide important information, yet that patient may not want their relatives to know about their illness. Consent must always be sought before information is shared with family or carers. Any information obtained from third parties must also be treated as confidential.

Teenagers must also know that they can approach their doctor in confidence, however parents may demand to access their children's records by law. Your duty to protect children is paramount and may justify breach of confidentiality. You should familiarise yourself with the *National Guidelines for the Protection and Welfare of Children*.¹

Communicating with colleagues

Increasingly care is provided by teams of healthcare professionals or doctors may feel it necessary to discuss a patient with a colleague. Most healthcare professionals are also bound to protect patient information either by professional duty or contractually, however you should ensure your colleague understands the information is confidential. When discussing cases with other colleagues, you should avoid revealing the identity of the patient and only relate the information necessary.

Patient confidentiality v. other professional, legal and ethical obligations.

On occasion confidentiality can come into conflict with other professional, legal and ethical obligations.

Confidentiality v. Protection of the Patient

Doctors have a responsibility to protect their patient. It may be necessary to disclose information about a patient where they are at serious risk of death or injury. For example: where a child or elderly person is at risk of violence or abuse.

Confidentiality v. Protection of the Public Interest

It may also be necessary to disclose information about a patient to protect other individuals or the wider public from harm.

1. DOHC, Children First : National Guidelines for the Protection and Welfare of Children downloaded from http://www.dohc.ie/publications/children_first.html

Confidentiality v. Legal Obligations

In some cases there may be a legal obligation to disclose information. For example: in the case of certain infectious diseases or by court order.

Confidentiality v. The Advance of Medical Knowledge

Audit, teaching and research may also require the disclosure of confidential patient information. While many researchers argue that anonymised data may be inaccurate and contain duplicates, and that a requirement to seek informed consent may be costly or create bias in the data;² doctors may not make use of such confidential patient information unless it is anonymised or the patient has provided informed consent.

When disclosing information to a Third Party, consider whether the disclosure is really necessary. Obtain consent and inform patients as to why it is necessary to disclose the information. De-identify the patient, where possible, and only disclose the necessary information to the relevant person or authority.

Refer to the Medical Council's *Guide to Professional Conduct and Ethics for Registered Medical Practitioners* which gives guidance on confidentiality and disclosure.

Clinicians carrying out audit or research should familiarise themselves with *Data Protection Guidelines on Research in the Health Sector*.³ Generally consent is not required for research where anonymised data is used, although ideally you should inform the patient that their data may be used for this purpose. Otherwise data must be pseudonymised or explicit consent must be given. Be sure to ask the patient's permission and de-identify the patient when publishing research.

Private Medical Attendance Reports

You may be requested by an insurance company to provide a private medical attendance report in relation to a patient. You must get the patient's written consent to provide the report. This consent must be provided by the insurance company at the time of request. This report should be complete and accurate and it is advisable to maintain a copy in the patient's file.

Confidentiality and the Information Technology Age (E-health)

Information and Communications Technology (ICT) is playing an ever increasing role in medicine. Patient records can be stored, retrieved and updated much more efficiently, important information can be processed from patient files in relation to particular diseases allowing for important audit, research and planning. Telemedicine allows for more efficient transfer of patient information between healthcare settings enhancing patient safety and quality of care, by reducing repetition and errors in diagnostics and treatments. Telemedicine also offers alternative means of communication between doctors and patients, by phone including SMS, by email or on-line consultation, and is particularly useful for patients that may be living in remote areas.

While the benefits of ICT in healthcare are increasingly apparent, at the same time the use of ICT poses important issues of privacy and confidentiality and who should be allowed access to what information and under what conditions.

The Data Protection Acts 1998 and 2003 set out the law in relation the storage of medical records. If you store patient personal health records on computer you must register with the Data Protection Commissioner. All doctors are

2. Chalmers J & Muir R, Patient Privacy and Confidentiality BMJ 2003; 326: 725-6

3. Data Protection Commissioner, Data Protection Guidelines on Research in the Health Sector, 2007 downloaded from http://www.dataprotection.ie/documents/guidance/Health_research.pdf

responsible for keeping patient information safe and secure and should familiarise themselves with the requirements under this legislation.⁴

The IMO is calling for the urgent publication of the Health Information Bill to clarify issues of confidentiality, access and security in relation to a national system of electronic health care records and secondary use of data.

The EU is also debating the issue of confidentiality in the transfer of data between member states under the Draft Directive on the Rights of Patients in Cross-Border Healthcare.

The IMO position reiterates the traditional confidentiality of the doctor/patient relationship and demands that any legislative changes would respect that relationship (Motion 1993/27). IMO submissions on the Health Information Bill and the Draft Directive on the Rights of Patients in Cross-Border Healthcare are available on the IMO website at www.imo.ie/imosubmissions

There are no specific legal provisions in place with regard to telemedicine in Ireland, however the principles of confidentiality and data protection apply. When communicating with patients by telephone use their personal number and make sure you are talking to the patient. Be careful who might overhear.

Frequently patients request information to be communicated by SMS or email, however neither are secure and can be accessed by anyone. Ensure your patient is aware of the risk and agrees to this form of communication. Make sure you have adequate security measures in place to protect patient information.

There are a number of secure telemedicine projects operating between healthcare settings such as the National Healthlink Project⁵ which allows GPs to order laboratory tests and receive results electronically. It also allows GPs to consult hospital waiting lists and to make referrals to neurological and cancer services online.

IMO General Guidance on Patient Confidentiality

- **Take care with patient data: do not allow correspondence, notes or records to be accessed by others unnecessarily**
- **When using ICT, familiarise yourself with requirements under Data Protection Legislation**
- **Ask yourself whether disclosure is really necessary**
- **Refer to the Medical Council's *Guide to Professional Conduct and Ethics for Registered Medical Practitioners***
- **Always try to obtain consent to share patient data**
- **If legally or ethically obliged to breach confidence, it should be done only to the extent necessary and only to the relevant party or authority**
- **When disclosing information to national registers, for audit or research anonymise or de-identify the patient where possible otherwise seek permission from the patient**
- **If in doubt seek legal advice.**

4. Data Protection Commissioner, The Medical and Health Sector, The data Protection Rules in Practice downloaded from http://www.dataprotection.ie/docs/The%20Medical_and_Health_Sector/245.htm

5. www.healthlink.ie

Position Papers published by the Irish Medical Organisation are available on www.imo.ie

Mental Health Services	Nov 2010
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