

## Ethical Issues in Family Practice

This is the first in a series of columns, which will appear in future editions. The authors will use the format of a "case study" which will be presented and then be discussed by two doctors (A and B) over a well earned coffee break in their tea-lounge. The authors hope that their exploration of the ethical issues involved in each situation may provoke you, the reader, into thinking more about the ethical issues inherent in everyday Family Practice. If you would like to pursue any of the issues in more depth, please drop a line to the editor.

### HIV / AIDS - to inform or not to inform?

*A patient dies of AIDS-related complications in hospital. He had life insurance cover taken out ten years ago. Relatives want to claim from the insurance company. The doctor is sent the insurance form to complete the cause of death. What are the ethical issues involved in this case?*

*The AIDS epidemic presents a wide range of serious, complicated and controversial ethical issues: autonomy and paternalism, conflicts of individual interests versus that of society, and allocation of scarce resources, to name only a few. Although none of the issues are new, the urgency with which they are presented is unprecedented. Using this case study, we look at one of the rising questions:*

**If the cause of death is AIDS-related, then does a doctor have the moral obligation to report this on the deceased patient's insurance claim form?**

**Dr. A:** No. I'd just write 'cardiopulmonary failure' or whatever. It saves the claimants a lot of trouble. In addition, the patient didn't want his HIV status disclosed. Anyway, insurance companies have grown rich from collecting years of payments, and they can afford a payout. I would argue that on the grounds of patient-physician confidentiality that I am under no moral obligation to write the cause of death as AIDS-related.

**Dr. B:** You've given me three reasons why you wouldn't write the cause of death as AIDS-related. Let's try to unpack them. First, "It saves the family a lot of trouble" Second: "The patient didn't want his HIV positive status disclosed." Third: "Insurance companies have grown rich from collecting years of payments, they can afford a pay-out."

**Dr. A:** It does save the family a lot of trouble. You can't deny that there's a stigma attached to HIV/AIDS. If they find out that their relative was HIV positive, who knows what consequences this information might have on them!

**Dr. B:** Certainly, we would all agree that the information would impact on the relatives. We remember well that an AIDS activist was murdered after she disclosed her HIV positive status. However, if everyone in South Africa continues to deny the reality of the HIV/AIDS epidemic, doesn't this contribute to the perpetuation of

stigmatization? The more the level and extent of HIV/AIDS is denied, the more stigmatization is enhanced. I would argue that you do a moral disservice to society as a whole by not writing the actual causative reason of death. Wouldn't a better option have been to counsel the relatives of the patient's HIV status before his death?

**Dr. A:** I suppose denial of the level and extent of the HIV/AIDS epidemic does contribute to the mystification, but I gave my word to the deceased that I wouldn't disclose his HIV status. Confidentiality to me is a sacred trust. Confidentiality, is the cornerstone of all patient-physician relationships, without it, privacy, the patient's personal integrity and even their rights would fall away. I have a moral obligation not to breach confidentiality

**Dr. B:** No one denies the prima facie obligation physicians hold to maintain confidentiality. In Medicine, it is considered a cornerstone in patient-physician relationships. But perhaps this notion is not well understood. "Confidentiality" is not an immovable, fixed notion. It is fluid, and dependent on the circumstances, confidentiality may be overridden by other obligations. In fact, it may happen that a physician is morally obliged to breach confidentiality.

**Dr. A:** I don't see how confidentiality can ever be broken.

**Dr. B:** Well, consider this. You have an HIV positive patient who has disclosed to you, in confidence, that he is purposely spreading the virus. The question you ought to consider is whether that patient, all things considered, is entitled to confidentiality. The same reasoning would apply to disclosures of child abuse and serious intent to murder.

**Dr. A:** As physicians, we have the moral obligation to reduce the risk of death, I agree with that. So, you are saying that on the basis of the probability of overall harm we are morally obliged, or permitted to breach confidentiality. We have to weigh confidentiality against the public interest, against substantial threats to others or to our patients.

**Dr. B:** Yes. But remember, in enacting the above, a physician is morally obliged to inform his/ her patient that he/she is breaking confidentiality. In addition, in many moral dilemmas such as this one, you cannot forego the law. It is also your

duty as a physician under the Medical Council's regulations to inform the sexual partner(s) of an HIV positive patient of his/her sero-positivity

**Dr. A:** *But what about the insurance issue? Does it really make a moral difference whether I write the death as AIDS-related, after all, we know that insurance companies are wealthy?*

**Dr. B:** It does make a moral difference. This difference is grounded in the common morality and can be argued (at least) first, on the grounds of veracity - truthfulness. In other words, a physician is ethically and legally obligated to disclose the patient's cause of death in a just and truthful manner. An insurance agent also has the moral obligation of veracity: to truthfully inform his/her client of the contents of a life insurance policy before it is signed. There are life insurance policies that have AIDS exclusion clauses in which case, if the death is AIDS-related, the policy would not be paid out. If the insurance policy has no AIDS exclusion clause, even if the cause of death is AIDS-related, the insurance company is obliged to pay out to the deceased nominated beneficiaries.

Secondly, we could ask, "What if every doctor in South Africa would simply write, i.e. 'cardiopulmonary failure' on all insurance claim forms?" If this were done, in view of the level and extent of the HIV/AIDS epidemic, the pay-outs to the nominated beneficiaries could conceivably impact to such an extent on insurance companies that they could

fail or be forced, in order to survive, to increase the premiums on existing insurance. Because we are all part of a complex network, the result could conceivably be that because of misrepresentation, insurance companies, even 'wealthy' ones could fail. Broadly, we would argue that if business in South Africa fails, South Africa also fails. As far as I see it, the entire complex network relies on honest disclosure. It must also be said that "a doctor could be sued for fraud and all the member's beneficiaries could be sued for unjust enrichment by the insurer should the cause of death be misrepresented."

**Dr. A:** *Food for thought.*

**Dr. B:** That's the idea.

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Acknowledgement: We thank Metropolitan Life Insurance SA for their input.

## Patrick's Pearls

Time to share a solution to a prickly problem!

A mother brought her 8 year old son to my surgery one afternoon with the history that he and his friends went to collect prickly pears on a farm. Whilst collecting the fruit, he lost his balance and fell into the prickly pear bush. Back home he started complaining to his mother that the thorns were irritating him tremendously and that he could not get rid of them. She then tried various ways to remove them, but without success. So, next stop, doctor!

Aish, I was never taught during my training how to solve a problem like this! (Or was I?). I had a look at the affected areas with a pair of magnifying lenses, but could not really see which was hair and which was thorns. I started searching through the data that was stored supra-mentally and suddenly a tiny light came on. During my first year at varsity we had to test certain substances for starch.

Do you still remember how?

When Iodine reacts with starch, a colour change takes

place and the substance containing the starch becomes dark purple or black.

With this in mind I took a solution of Iodine and painted it onto the affected areas. I then instructed the mother to go and do some shopping and return after about 30 minutes. When I re-examined the areas, the thorns had turned black! That was because the thorns contained starch! I then showed the mother what the thorns now looked like, lent her my magnifying lenses and instructed her to take her time at home and pull out the thorns with a pair of tweezers. The next morning I phoned the mother to find out how things had gone and was delighted to hear that the problem was solved - although the youngster was not impressed with his brown arm and leg!

Maybe some day you might be faced with a similar problem! You will then also realise that your first year at varsity was not such a waste of time after all!

Best Wishes,  
Patrick