"Whatever in connection with my professional practice or not in connection with it I may see or hear in the lives of my patients which ought not to be spoken abroad, I will not divulge, reckoning that all such should be kept secret."

With these words the Hippocratic Oath places confidentiality squarely in the context of the medical ethos. Confidentiality in the physician-patient relationship is a good, but not an absolute good or the so-called *summum bonum*. The words of the Oath also imply that certain shared admissions--like threatened mortal danger to another--may supercede the relative good of confidentiality. Protection of life is something that allows sharing of what otherwise ought not to be spoken abroad.¹
The question arises, "Is the inclusion of confidentiality an important part of the Oath?" So prescient was the Hippocratic Oath in this regard that attorney-client privilege and the Roman Catholic confessional added their stamp of approval to the centrality of confidentiality in therapeutic relationships. Since salutary aspects of the Oath are worth discussing, more should be said. It was the Oath?s structure that also defined medicine?s sacred triangle?three positions in the healing covenant: God at the apex, patient and physician comprising the base. So regarding the keeping of confidences, what it is that should not be spread abroad is shared within the intimate boundaries of these three beings and only within that triangle. Unfortunately, a contemporary and novel challenge to confidentiality in medical relationships has surfaced.

Recently, confidentiality has engaged the business side of medicine in a unique, but disturbing manner. Appropriate concern has been expressed for years that business interests--in the form of the so-called corporate transformation of medicine?might begin to intrude themselves into the sacred space of the Hippocratic triangle. The old caveat emptor (let the buyer beware), in an age of post-Hippocratism, may become caveat aeger (or alternatively, let the patient beware) as a result of utilizing a business model for medical practice. Disturbing events in the context of a large for-profit health insurer in California suggest erosion of the Oath could explode into more than indiscriminate abortion and eventual generalized euthanasia.

A medical insurance carrier of California recently notified member-physicians that it reserves the right to drop existing insured lives if such individuals fail to disclose certain aspects of their prior medical history. One such omission is "preceding pregnancies."² Who becomes responsible for apprising the insurer of select individuals who were not completely forthright in their effort to qualify for insurance? The physicians, of course, who are the only ones able to obtain the incriminating data after confidential discussions with the persons for whom they care.

Here, a momentary pause for ethical reflection is essential. Yes, misrepresenting information in the insurance application is wrong from an ethical perspective. While their deception is still wrong, there may be a degree of mitigation since many respondents want to avoid joining the ranks of the 45 million Americans who are uninsured. Here it would be wise to remember the old adage, "Two wrongs don?t make a right." Encouraging physicians to breach the tenets of the Hippocratic Oath to inform outside their sacred "triangle" is completely unacceptable as a response. As a result of these actions, physicians are being asked to take the side of an insurance carrier who pays their bills, thereby elevating business interests above their covenantal relationship with patients.

There is a silver lining to this storm cloud, however. Due to the vigorous protests of many physicians who stated that they will not provide any protected information, the insurance carrier in question retracted the request³. Furthermore, one physician expressed concern that requests like this one will become more prevalent if they are tolerated.³ While this response is encouraging, it is unfortunate that not one of their protests appear to have appealed explicitly to the Hippocratic Oath for argumentative support.

When William Butler Yeats observed in his prophetic poem that the falcon could no longer hear the falconer, and as a result, the important center could no longer hold, he may have been predicting the centrifugal fallout when medicine?s ethical center, Christian-Hippocratism, began breaking asunder. First, it?s disappearance inappropriately mixed killing with curing. Now, it has begun to elevate the market place above those special members of creation who bear God?s image.

References


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