



ISSN 2456-3110

Vol 6 · Issue 1

Jan-Feb 2021

Journal of
**Ayurveda and Integrated
Medical Sciences**

www.jaims.in

JAIMS

An International Journal for Researches in Ayurveda and Allied Sciences



Charaka
Publications

Indexed

The obligations of a medical practitioner in respect of Professional Secrecy - A Review

Dr. Meera Shankarrao Kadam

Post Graduate Scholar, Dept. of Agad Tantra Evum Vidhi Vaidyaka, Govt. Ayurved College & Hospital, Nagpur, Maharashtra, INDIA.

ABSTRACT

Confidentiality and respect for privacy are traditional moral precepts of health professions. Doctor-patient relationship must be guided by the trust based on the duty of professional secrecy. Regardless of being such an old concept in healthcare, the duty of physician to maintain the secrecy is still to this day is one of the ethical commitments, most disrespected in the day-to-day of hospitals and health facilities. This is the worrying condition of today's healthcare system. So, it is the need of time for ISM Practitioner to look forward in this regard.

Key words: Professional secrecy, ISM Practitioner, Confidentiality, Doctor-Patient relationship.

INTRODUCTION

The physician's duty of secrecy in respect of the confidence of his patient has been acknowledged from ancient times as one involving every element of trust and confidence. It is cornerstone of the Hippocratic Oath. The duty is respected in the law and is a cardinal ethical principle within the medical profession itself.^[1] A professional secret is one which a medical practitioner comes to learn in confidence from his patients.^[2]

Regardless of being such an old concept in healthcare, the duty of secrecy is most disrespected in the day-to-day of hospitals and health facilities. For example, conversations in corridors & elevators about illnesses of patients, medical record with names of patients

Address for correspondence:

Dr. Meera Shankarrao Kadam

Post Graduate Scholar, Dept. of Agad Tantra Evum Vidhi Vaidyaka, Govt. Ayurved College & Hospital, Nagpur, Maharashtra, INDIA.

E-mail: meerakadam113@gmail.com

Submission Date: 12/01/2021 Accepted Date: 16/02/2021

Access this article online

Quick Response Code



Website: www.jaims.in

Published by Maharshi Charaka
Ayurveda Organization, Vijayapur,
Karnataka (Regd) under the license CC-
by-NC-SA

and their diagnostics are placed in public areas.^[3] A medical practitioner is under a moral and legal obligation not to divulge any such secret and also not to discuss the patient's illness without the consent of the patient and disclosure of the context told by patient would be failure of trust. As per principles of Ayurvedic medicine, no doctor should boast of the knowledge about the health of the patient and should not gossip about them. Professional secrets should be retained as inviolable secrets.^[2]

Doctors in Govt. practice are also bound by code of professional secrecy even when the patient is treated free. Professional secrecy must be maintained in respect for all matters except in those situations clearly stipulated by the law or when patient gives written consent for the release of information. Moreover, a patient can sue the doctor for damages or face the disciplinary action by the state medical council, if the disclosure is voluntary.^[3] This is worrying condition of today's healthcare system. So, it is need of time for ISM practitioner to look forward in this regard.

AIMS AND OBJECTIVE

1. Define and discuss principles of professional secrecy.
2. Outline practicalities and challenging issues arising in practice.

3. Privileged communication.

MATERIALS AND METHODS

Definition: Professional secrecy refers to secrets about the health of the patient which a doctor comes to know of during the practice of medical profession.^[4]

Principles of professional secrecy^[5,6]

- A physician should not discuss the illness of his patient with others without the consent of the patient.
- Professional secrets cannot be revealed- Even to parents if the patient is major (>18yr).
- Physician should not disclose any facts about the illness without his consent to parents or relatives even though they may be paying the consultation fees.
- In case of minor/insane person, guardians/parents should be informed of the nature of illness.
- Even when requested by a public or statutory body, except in case of notifiable diseases. Again, if the patient is minor or insane consent of guardian should be taken.
- Even in case of husband and wife, the facts relating to the nature of illness of one must not be disclosed to the other, without the consent of the concerned partner.
- Particular caution is required over the disclosure of sexual matters, as disclosure might cause conflict between them.
- In divorce and nullify cases, no information should be given without the consent of the concerned person.
- When a physician examines a Government servant on behalf of the government, he cannot disclose the nature of illness to the government without patients' consent.
- When a domestic servant is examined at the request of master, the physician should not

disclose the facts of illness to the master without the consent of the servant even though the master is paying the fees.

- Medical officers in government service are also bound by code of professional secrecy, even when the patient is treated free.
- Even in relation to a Dead person, professional secrets can be revealed only after permission of next of kin.

For a person in police custody

- If an undertrial - details of his health cannot be leaked to jailor/police officer.
- If a convict - details of his health should be revealed to jailor or jail superintendent.
- While publishing medical article, identity of the patient should not be revealed.

Professional secrecy in criminal matters^[7]

- Under sec. 202 IPC, doctor is required to bring to the notice of the police any information about any criminal act that might come to his knowledge in the course of his professional service.
- But in certain circumstances doctor is justified in disclosing information about his patient and the communication is regarded as "privileged".

Privileged Communication^[4,5,8]

Definition: Communication made by a doctor to a proper authority that has corresponding legal, social and moral duties to protect the public. i.e., in these situations, it is considered the privilege of the doctor to communicate professional secrets.

Examples:

- **Suspected crime** - If a physician learns of a crime, assault, terrorist activity, traffic offence or homicidal poisoning during the treatment of victim, he is bound to report it to the nearest Magistrate/police officer.
- **Notifiable clauses** - Physician has statutory duty to notify births, deaths, still births, infectious disease, therapeutic abortions, drug addictions,

epidemic and food poisoning to public health authorities.

- **Civic benefit** - If health of a patient can cause danger to society, the doctor should communicate the secret of the patient's health to the concerned officers. e.g.
 - Railway engine driver being color blind.
 - Bus driver being epileptic, hypertensive or drug addict.
 - Hotel waiter suffering from T.B. or being typhoid carrier.
 - Swimming pool user suffering from S.T.D. or infectious skin disease.
 - Cases of food poisoning
 - Water pollution
 - Person suffering from S.T.D. or HIV, likely to marry.
- **Patients own interest** - physician may disclose patients' conditions to his relatives so that he may be properly treated, e.g. suicidal tendencies of patients.
- **Self-interest** - In case of civil and criminal suits by the patients against the physician, evidence about patients' condition may be given.
- **Court of law** - Physician cannot claim professional secrecy concerning the facts about illness of his patient in court of law.
- **Negligence suit** - When a physician is employed by opposite party to examine a patient who has filed a suit for negligence, the information thus acquired is not a professional secret and doctor may testify to such information.

Action for divulging professional secrets^[9]

Divulgence of professional secrets is;

- Unethical practice.
- Professional misconduct.
- Professional negligence.
- Breach of trust and confidence.

Complaint can be lodged with civil or criminal courts or with state medical council for action or compensation in view of injury caused to mental health or social status.

DISCUSSION

With respect to the patient, the guarantee of secrecy works not only as a factor to stimulate participation in medical treatment, due to the patients trust in the professional, but also as a space for the most reliable manifestation of autonomy, representing a protective mechanism for the very exercise of freedom. This is because patients, confident that their medical data will not be disclosed except by their permission, feel freer to express their peculiarities and their particular ways of thinking, making their decisions on health matters without fear of judgement about the most private aspects of their personality.

CONCLUSION

From above discussion it is concluded that, Secrecy is a patient right and a duty of the professionals, especially when it comes to interpersonal relation in healthcare, so professional secrecy must maintain and respected by medical professionals.

REFERENCES

1. Singhal S. K. Forensic medicine and jurisprudence, reprint edition, Raju shah, national book depot, chapter 2, medical jurisprudence, topic-code of medical ethics, pg. no.31.
2. Singhal S. K. Forensic medicine and jurisprudence, reprint edition, Raju shah, national book depot, chapter 2, medical jurisprudence, topic-professional secrecy and privileged communication, pg. no. 46
3. Maria Elisa Villas-Boas; the right and duty of secrecy, as a patient protection; Bioet. Vol.23 no.3 Brasilia Sept./Dec.2015.
4. Subrahmanyam BV, Parikh's textbook of medical jurisprudence, forensic medicine and toxicology, CBC publishers & distributors, New Delhi, 8th edition, chapter 2, law and medicine, Pg. no. 30.
5. Professional secrecy and privileged communication, <https://drive.google.com>, published on 08- Nov-2017.

6. Fonseka T, Professional Secrecy on Scribd. <https://www.scribd.com./documents/425575104/11-professional-secrecy>.
7. Subrahmanyam BV, Parikh's textbook of medical jurisprudence, forensic medicine and toxicology, CBC publishers & distributors, New Delhi, 8th edition, chapter 2, law and medicine, Pg. no.31.
8. Chayet NL, Confidentiality and privileged communication, The New England Journal of medicine 1966; 275:1008-1010.
9. Singhal S. k. Forensic medicine and jurisprudence, reprint edition, Raju shah, national book depot, chapter 2, medical jurisprudence, topic-professional secrecy and privileged communication, pg. no. 47.

How to cite this article: Dr. Meera Shankarrao Kadam. The obligations of a medical practitioner in respect of Professional Secrecy - A Review. J Ayurveda Integr Med Sci 2021;1:211-214.

Source of Support: Nil, **Conflict of Interest:** None declared.

Copyright © 2021 The Author(s); Published by Maharshi Charaka Ayurveda Organization, Vijayapur (Regd). This is an open-access article distributed under the terms of the Creative Commons Attribution License (<http://creativecommons.org/licenses/by/4.0>), which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.