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MEDICAL CONFIDENTIALITY IN THE MEDICAL LAW & ETHICS

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ABSTRACT

Medical confidentiality most crucial in the healthcare practice the main obligation here is to safeguard the patients personal as well as health information's from disclosure this obligation is upon the medical professionals, Medical Confidentiality denotes the duty of the medical professionals inorder to maintain privacy and confidentiality, to disclose the patients information's, the breach of confidentiality may lead to legal actions against the medical professionals may face professional disciplinary actions and can also cause harm to patients. This concept was articulated in the Hippocrates oath and later dwelled into legislations, the duty to confide patient's information arises at various circumstances like during contractual obligations between doctor and the patient, in Courts which is refrained through professional conduct codes, statutes on data protection and Courts have also recognized about the breach of confidentiality as a breach of confidence. Yet medical confidentiality isn't absolute when it comes to the interest of public it overrides medical confidentiality. legally it is not an option but the right of the patient which has to be protected by the medical professionals from unauthorized disclosure. As we are in the era of advanced technology digitalizing all the health records may lead to easy data sharing and so it is very much significant to be aware about these principles, since it's the bridge which connects the trust among patient and healthcare professionals by offering confidentiality.

Keywords: Medical Confidentiality, Medical Professionals, Disclosure, Breach of Data, Privacy, Information.

I. Introduction on Medical Confidentiality:

In the field of medicine, the patient's confidentiality in medical treatment is extremely important and must always be protected. Every individual has the right to privacy when it comes to their personal and medical information. Sensitive health details should only be shared between the patient and authorized professionals such as doctors, physicians, healthcare providers, or health insurance representatives when necessary.

When patients disclose medical information to a healthcare professional, they trust that this information will be kept private. It should not be shared with others unless the patient has given clear permission. Protecting patient confidentiality is essential because revealing personal health information without consent can lead to serious personal or professional consequences¹. For this reason, patients depend on healthcare professionals to handle their medical records and discussions with care, respect, and discretion².

Without trust on doctors the patient may feel reluctant to speak openly which would affect the quality of care they would receive. However it is hard to protect all the medical records or information hidden and private the major violation of these arises when the medical information's is used by the doctors during their course of research or as case studies it may lead to breach of confidentiality, another concern is that the use of healthcare insurances for covering the medical cost in this the patients details are shared with the insurance providers for billing and approval likewise it is also shared with specialists, laboratories and researchers to requires certain medical data³, though these disclosures are restricted to necessary details, the access to the sensitive information are more, therefore which makes it incredibly hard to confide confidentiality of the patients maintaining strict confidentiality in the health care industry is more complex and requires strict legal protection and ethical responsibility to ensure privacy⁴.

¹ Pallavi Gupta & Sunil Nandraj, "Challenges and gaps in regulating medical laboratories in India", 2023 Med. L. Int'l, <https://doi.org/10.1177/09685332231194199>.

² Kashish Kundlani, "Confidentiality and Privacy in Healthcare" - iPleaders, (Feb. 23, 2020), <https://blog.ipleaders.in/confidentiality-privacy-healthcare/>.

³ Janarthanan, V., Kumaran M, S., Nagrale, N. V., Singh, O. G., & Raj, K. V "Legal and Ethical Issues Associated With Challenges in the Implementation of the Electronic Medical Record System and Its Current Laws in India". *Cureus*, 16(3) . (2024) . <https://doi.org/10.7759/cureus.56518>

⁴ Humayun, A, Fatima, N, Naqqash, S, Hussain, S, Rasheed, A., Imtiaz, H., & Imam, S. Z. "Patients' perception and actual practice of informed consent, privacy and confidentiality in general medical outpatient departments of two tertiary care hospitals of Lahore". *BMC Medical Ethics*, 9(1). (2008). <https://doi.org/10.1186/1472-6939-9-14>

Confidentiality with regard to the patient is the obligation entrusted upon the healthcare organisations and professionals to maintain the ethical duty to conceal it, the ones who has the access to the information from doctors till the administrative members are supposed to handle it responsibly, they aren't allowed to use share or disclose the details or records cannot be shared without the patients permission or consent except under certain lawful exceptions⁵, as per the Hippocrates oath which the most venerated document for the doctor emphasises about medical confidentiality that the physicians should confide the patients information's even after their death.

The severity of the violation depends on the intensity of the violation caused if the medical professionals fails to protect privacy of the patients at time the consequences can be serious as well resulting in disciplinary measure, financial penalties and furthermore.⁶⁷. To carry out their obligations in a manner that adheres to the requirements of law, it is not only about maintaining professionalism and accountability it's about due care every medical professional must have full knowledge of all aspects of patient confidentiality and privacy.

These obligations to safeguard the confidentiality of the patients are on:

- The Pharmaceutical professions
- Administrative members
- Foodservice and health clinics
- Nurses
- The Hospital
- External laboratories and
- Third-party contractors.

II. Consequences of Breach of Confidentiality of The Patients

The confidentiality of the patient is mandated to be upheld and shouldn't be disclosed without authorisation and has to be maintained even after the patient's death, when a medical

⁵ Janarthanan, V., Kumaran M, S., Nagrale, N. V., Singh, O. G., & Raj, K. V "Legal and Ethical Issues Associated With Challenges in the Implementation of the Electronic Medical Record System and Its Current Laws in India". *Cureus*, 16(3) . (2024). <https://doi.org/10.7759/cureus.56518>

⁶ Pallavi Gupta & Sunil Nandraj, "Challenges and gaps in regulating medical laboratories in India", 2023 *Med. L. Int'l*, <https://doi.org/10.1177/09685332231194199>.

⁷ Kudlani, K. "Confidentiality and privacy in healthcare" -iPleaders. (2020, February 23). <https://blog.ipleaders.in/confidentiality-privacy-healthcare/>

professional or a physician fails to safeguard the privacy of the patient it might lead to adverse consequences based on the seriousness of the breach, like civil suits can be filed, criminal charges can be provided, fines, suspension or disciplinary action from the regulatory bodies are taken in cases which are extreme which might lead to lose their medical licence⁸.

Therefore the awareness of privacy and laws on confidentiality is very much essential for the patients and the doctors these regulations when understood precisely it formulates a safer healthcare environment built on trust and confidentiality, when confidentiality is strongly ensured it eradicates the medical professionals from misusing their authority for illegal and unethical purposes⁹, consequently medical confidentiality aids in minimising the social stigma which is prevalent in certain treatments like psychiatric treatment, rehabilitation by assuring that such delicate matters are concealed¹⁰.

So ultimately protecting the privacy of the patient is crucial in delivering quality in the health care it permits the people to acquire the treatment blindly with confidence acknowledging that their information's are secure and not misused or exposed.

III. Different Dimensions of Patient Confidentiality:

Healthcare professionals must understand the key aspects of patient privacy and confidentiality in order to protect sensitive medical information properly. Some of the important aspects include:

- **The Health Insurance Portability and Accountability Act (HIPAA)** – This is a followed in the United States it establishes guidelines for protecting patients' medical information. It requires healthcare providers, health insurance companies, and their associated partners to ensure that medical records are kept safe and confidential. The law sets clear standards for Taking appropriate measures to preserve the confidentiality and security of patient health records. It also requires these organizations to implement appropriate precautions implemented to ensure that patient data is not accessed or

⁸ Olaolorunpo Olorunfemi et al., "Achieving A Balance between Ethical and Legal Obligations with Regard to Confidentiality and Patient Privacy", 20 Amrita J. Med. 90, (2024), <https://doi.org/10.4103/amjm.amjm.7.24>.

⁹ Adil Hussain Seh et al., "Healthcare Data Breaches: Insights and Implications", 8 Healthcare 133, (2020), <https://doi.org/10.3390/healthcare8020133>.

¹⁰ AKHIL SHENOY & JACOB M. APPEL, "Safeguarding Confidentiality in Electronic Health Records", 26 Cambridge Q. Healthcare Ethics 337, (2017), <https://doi.org/10.1017/s0963180116000931>.

disclosed by unauthorized individuals. Based on this it was formulated in other countries.

- **Confidentiality Agreements** – These are formal agreements made between two parties that outline how sensitive or private information can be shared and handled. They clearly define the responsibilities of each party in protecting the information and ensure that any confidential Healthcare professionals must also understand several other important principles related to protecting patient privacy and confidentiality:
- **Data Protection Act (DPA)** – This law sets out guidelines for safeguarding personal information. It explains the standards that organizations must follow to ensure that people’s private data, including patients’ personal and medical details, are properly protected. The Act also provides direction on how personal information should be handled at every stage while ensuring privacy is maintained.
- **Safety Statements** – Healthcare institutions should clearly inform patients about how their personal information will be handled. This includes explaining how the data will be collected, stored, used, and protected. Providing this information helps patients understand how their medical details are managed and reassures them that their privacy is being taken seriously.
- **Informed Consent** – Before performing any medical treatment or procedure, doctors have a responsibility to explain the possible risks, benefits, and nature of the procedure to the patient. This allows the patient to make a voluntary and well-informed decision about whether to accept or refuse the treatment.
- **Privacy as a Fundamental Human Right** – Every individual has authority to determine how and by whom their personal information is accessed, who can view or use their private data, and they should be protected from unnecessary monitoring or interference. Respecting this right is essential for maintaining dignity, autonomy, and trust in healthcare settings.

IV. Regulations Ensuring the Confidentiality of Patients in India.

The provisions of the Indian Medical Council (Professional Conduct, Etiquette, and Ethics) Regulations, 2002 provides:

In **7th chapter - (7.14)**¹¹ Doctor who is officially registered with the relevant medical authority

¹¹ “*Indian Medical Council. Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002*”. In *Gazette of India* [Regulations]. Medical Council of India. (2002).

must keep all personal information about a patient confidential. Any details obtained while providing medical care or using professional expertise should not be revealed to others without proper authorization.

8th Chapter - (8.2) this section describes the consequences of violating professional standards. If a complaint is made about the misconduct of a registered medical practitioner and the issue is brought before the Medical Council, the council will first review the complaint. Once it is accepted, the council will carry out an investigation and allow the doctor to explain or defend their actions, either personally or with the help of a legal representative.

During the investigation or proceedings, a registered medical practitioner is found responsible for professional misconduct, the Medical Council may impose an appropriate penalty based on the nature of the case. In certain situations, the Council may also suspend the practitioner's right to practice medicine either temporarily or permanently.

8th Chapter - (8.5), emphasises when a complaint is under consideration and the outcome has not yet been determined, the relevant Medical Council may prevent the physician from continuing the particular procedure or practice that is under review.

Beyond this existing codes of ethics, India lacks dedicated legislation which fully addresses the protection of patient's data privacy and confidentiality. Later, on 2020, the MoHFW introduced the Telemedicine Practice Guidelines in response to the sudden surge in online consultations. These guidelines set strict rules for telemedicine platforms, holding them accountable for violations, including the possibility of being blacklisted.

The Ministry then introduced the Digital Information Security in Healthcare Bill, 2022 (DISHA), which aims to Protect individuals' personal and health-related data., ensures that digital information on health is stored, collected, managed and utilised responsibly under proper regulations so that he individuals data pertaining to health is protected and handled ethically.

Despite its intentions, the bill has raised concerns because it lacks clear definitions on certain

aspects, leaving room for potential misuse or overreach that could affect citizens' privacy rights. Its primary goal is to ensure that digital health data is handled with confidentiality, security, and standardization, and that identifiable patient information is properly controlled throughout its lifecycle but it wasn't formulated.

At present, the **Information Technology Act, 2000**, along with its **2008 amendment** and **Information Technology Rules, 2011**, provides existing legal provisions for data security in India. While these laws emphasize securing information, they do not adequately address comprehensive data privacy concerns or establishes clear guidelines to protect sensitive health information and ensure it is shared securely with authorised people while maintaining confidentiality.¹²

The **Digital Personal Data Protection (DPDP) Act, 2023** was formulated to provide clear and comprehensive regulatory provisions in India for protecting and regulating personal data. Its main goal is to protect individual privacy, ensure the security of personal information, and regulate how personal data is collected, stored, and used, while also balancing the need to support innovation in the digital economy.¹³

The DPDP the act oversees the management of personal data in digitalised form, regardless of whether it was collected offline or online sources. It also extends to situations outside India if the data is used to provide goods or services to individuals in India.

A key concept under this Act is the Data Principal (DP) the person or entity whose personal data is being processed. The DP has several rights, including the ability to give or withdraw consent, and to limit how their data is used.

The DPDP Act, 2023, represents an important step toward protecting personal information in the digital era. Its effectiveness will depend on strong enforcement, proper grievance mechanisms, and fair regulation. As India moves toward a more data-driven economy, the Act

¹²“Digital Information Security in Healthcare Act”. eStartIndia. (Last visited Mar. 1, 2026). <https://www.estartindia.com/>. <https://www.estartindia.com/knowledge-hub/blog/digital-information-security-in-healthcare-act>

¹³ Mahajan, A. G., & Mahajan, A. G. “*Breach or betrayal: Analyzing the legal framework on India's biggest healthcare data leak*”. Libertatem Magazine. (2023). <https://libertatem.in/blog/breach-or-betrayal-analyzing-the-legal-framework-on-indias-biggest-healthcare-data-leak/>

aims to support technological progress without compromising individuals' privacy making a landmark development in digital governance¹⁴.

V. Exceptions to Confidentiality

Absolute privacy and confidentiality in healthcare is not always possible. While doctors are expected to keep patients' medical information confidential, there are situations where sharing certain information becomes necessary to protect public health. For example, if withholding information could lead to the transmission of serious diseases such as HIV/AIDS or tuberculosis, a doctor may need to disclose relevant information to prevent harm to others.

In general, a doctor must not reveal any confidential information learned during the course of treatment. However, there are specific circumstances where disclosure is allowed, including:¹⁵

- When Court orders disclosure under the direction of the Judge.
- If it's significant threat to a specific individual or to the wider community.
- If it's a notifiable diseases, such as COVID 19, where reporting legally is required.
- When there is a peril of the patient transmitting a contagious disease to others

VI. Judicial Precedents on Medical Confidentiality:

1. Mr. X v. Hospital Z¹⁶

Here the appellant's engagement to Ms Y was called off after a blood test at Hospital Z revealed that he was HIV positive. The appellant lodged a complaint with the National Consumer Disputes Redressal Commission, claiming that hospital had violated medical confidentiality and caused him harm, seeking damages. He argued that doctors/physicians have a duty of care, which includes maintaining patient confidentiality, and that this duty had been breached.

The Indian Medical Council's Code of Medical Ethics states that patient information is confidential but may be disclosed in court or when public interest requires it, particularly if there is a risk to others' health.

While the appellant's right to privacy was infringed, the court noted that under Section 27 of the Special Marriage Act, disclosure regarding communicable diseases is relevant to the right of a person to marry. Furthermore, knowingly transmitting a disease like HIV could constitute

¹⁴ Chaturvedi, S., Srinivas, K. R., & Muthuswamy, V. "Biobanking and Privacy in India". *Journal of Law, Medicine & Ethics*, 44(1), 45–57. (2016). doi:10.1177/1073110516644198

¹⁵ "Section 7.14, Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002"; Charter of Patients' Rights, Ministry of Health and Family Welfare

¹⁶ "AIR 1999 SC 495, (1998) 8 SCC 296"

offences under Sections 271 and 272 of BNS.

Appellate Court ultimately ruled that Ms Y's right to be made aware and informed about a serious risk outweighed the right to privacy of Mr X¹⁷. The hospital was declared not guilty, reinforcing that medical confidentiality isn't unconditional and can be restricted when required for public good to protect others' health.¹⁸

2. Radiological & Imaging Association v. Union of India on 26 August 2011¹⁹

Here, the petitioner questioned the validity a circular requiring radiologists and sonologists to provide online Form for the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) guidelines mandating installation of a silent observer system on all ultrasound machines as part of the "Save the Baby" The petitioner contended that the campaign to improve the district's sex ratio infringed patient privacy.

The Bombay High Court observed that the footage taken by the silent observer remain stored only on the ultrasound machine and are not transmitted online. They can be accessed only on request by the Collector or Civil Surgeon, and only in the oversight of the radiologist or doctor in charge. The Court concluded that this arrangement does not breach the doctor's duty of confidentiality or the patient's right to privacy and emphasized that privacy rights can be limited in the interest of public welfare, and in this case, the urgent need to address the declining sex ratio in India constituted a compelling public interest. The silent observer system was deemed to have adequate safeguards, ensuring that privacy is respected while achieving a critical public health objective.²⁰ Installing a silent observer system on ultrasound machines includes necessary safeguards and does not infringe on privacy rights, as addressing the country's declining sex ratio was deemed a compelling public interest that can take precedence over the right to privacy.

3. Smt.Gayatri @ Gadigevva W/o Vijay Hadimani S/O Siddappa Hadimani²¹

In this case, the petitioner challenged a Family Court order that allowed her in seeking a divorce

¹⁷ Ishita Banerji, "Confidentiality and Right to Privacy versus Right to Information", jaypeejournal (Aug. 14, 2024), Journal of Indian Medico Legal and Ethics Association, Volume 12 Issue 1 <https://doi.org/10.5005/jimlea-11019-0004>.

¹⁸ "Mr X v. Hospital Z, Supreme Court Of India", Judgment, Law, casemine.com. . (last visited Mar 2, 2026). <https://www.casemine.com. https://www.casemine.com/judgement/in/5609ad3de4b0149711410e8f>

¹⁹ Kashish Kundlani, "Confidentiality and Privacy in Healthcare" - iPleaders, iPleaders (Feb. 23, 2020), <https://blog.ipleaders.in/confidentiality-privacy-healthcare/>.

²⁰ "Radiological & Imaging Association v. Union of India (2011)" "5 AIR Bom R 731 "

²¹ "SMT. GAYATRI ALIAS GADIGEVVA W/O VIJAY HADIMANI v. VIJAY S/O SIDDAPPA HADIMANI", Karnataka High Court, Judgment, Law, casemine.com. (Last visited 23 Feb 2026). <https://www.casemine.com. https://www.casemine.com/judgement/in/61c2b9899fca1942b75d83b1>

on grounds of cruelty and desertion, the husband tried to summon a doctor to produce his wife's private medical records allegedly related to an abortion, but voluntary sexual relations with another person were not formally raised as a ground. The wife had also filed for maintenance under Section 125 of CrPC.

The Trial Court initially allowed the husband's request, but the higher court carefully examined the issue. It referred to Regulation 7.14 of Indian Medical Council Regulations, which prohibits doctors from disclosing confidential patient information obtained during professional duties. The court stressed that doctor-patient confidentiality is fundamental and should only be breached for compelling public reasons, not for personal or private disputes.

The court concluded that using private medical records to prove adultery in a divorce case violates confidentiality and places doctors in an unfair position in marital conflicts. Consequently, the order to summon the wife's medical records was set aside, reinforcing that private medical information cannot be used in divorce proceedings unless there is a genuine public interest or exceptional circumstance.²².

VII. Conclusion:

Medical confidentiality is crucial in the relationship among the patients and healthcare professionals, when the patients seek medical care they end up sharing their personal and sensitive information about their life and health, safeguarding this information is quite essential since it helps the patients to be secure, respected and confident that their privacy wouldn't be misused. This trust encourages the patients to be frank and converse honestly with their physicians, which ultimately leads to better diagnosis and treatment, in terms of legal perspective the medical professional has the duty to safeguard and conceal the patients information private and only disclose it when the law permits consequently in medical ethics emphasises the importance of respecting the patients dignity, autonomy and privacy by ensuring confidentiality which mandates the healthcare industry to maintain professionalism and responsibility towards the patients.

However confidentiality is not unlimited in certain circumstances when it is a threat to a patient or others in such case it can be disclosed and carefully handled, therefore medical confidentiality is essential in preserving blind trust in the healthcare system, it supports the patients' rights and ethical medical practice and ensures that medical professionals act in the good interest of both the patients and the society.