

This is a sample case analysis from my last bioethics class. While not perfect, it will give you an idea of what these analyses should look like. (Prof. M)

Phil 307 | Professor Marengo

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I. Title

“Confidentiality and the Prevention of Harm: A Physician’s Dilemma.”

II. Abstract

This bioethics issue surrounds the idea of doctor-patient confidentiality and whether that should be broken if there is a potential risk to a third party. Specifically with this case, the issue relates to the health and safety of the wife, who could potentially develop chlamydia from her husband. Chlamydia is a sexually transmitted disease (STD) that affects both men and women. It can easily be spread because it often causes no symptoms. For women, chlamydia can cause serious, permanent damage to their reproductive systems, making it difficult or even impossible to get pregnant later on. If a woman is pregnant with the disease, she could pass the infection on to her baby during delivery as well as be at risk for delivering the baby prematurely. In addition, chlamydia can also cause a potentially fatal ectopic pregnancy¹. If the disease goes untreated in women, it can cause pelvic inflammatory disease which can lead to damage of the fallopian tubes or even cause infertility. In men, untreated chlamydia can cause nongonococcal urethritis (NGU), epididymitis, or proctitis¹.

1. "Chlamydia." *WebMD*. 30 July 2012. Web. 26 Apr. 2014. <http://www.webmd.com/sexual-conditions/guide/chlamydia>.

III. Case Narrative

Derek Smith, a thirty two year old male, received a phone call from his local doctor's office on an early Friday morning in 1972. The call was simply a reminder to inform Derek that he was due for his annual, routine checkup with Dr. Keller. Both Derek and his wife, Katie, didn't mind going to see their doctor because they were long term patients of Dr. Keller and had developed a good relationship with him. During Derek's appointment, everything seemed to be going smoothly until Dr. Keller noticed something strange. He noticed that Derek appeared to have signs of a sexually transmitted disease (STD). Dr. Keller informed Derek that further tests would be required to properly identify the apparent STD. Derek agreed and after the test was conducted, the results came back and showed that Derek was positive for chlamydia. Since it appeared Derek had had the STD for over three months, Dr. Keller urged Derek to tell Katie because if infected, it could have serious, harmful health effects on her. Derek reveals to the doctor in confidence that he does not want Katie to know because it would reveal that he has been having an affair.

IV. Character List/Role Description

- a. Dr. Keller: the physician who takes care of Derek and Katie Smith and who administered the STD test for Derek. He has developed a good relationship with the couple over the years. He is put in an ethical dilemma when Derek tells him in confidence not to inform Katie that he has chlamydia. Dr. Keller knows that if Katie were to contract it, it could have serious health consequences for her. He has to

balance the best interests of Derek and Katie as well as abiding by doctor-patient confidentiality.

- b. Derek Smith: The husband to Katie Smith who went in for a routine checkup with Dr. Keller and discovered he had a serious case of chlamydia. He wants to keep his diagnosis secret from Katie because it reveals that he has been having an affair. By wanting to keep his STD a secret, he puts Dr. Keller in an ethical dilemma about whether or not to tell Katie for the sake of her health.
- c. Katie Smith: Wife to Derek Smith who is unaware of the fact that her husband has been cheating on her and has contracted chlamydia because of it. She is in a loving relationship with Derek and if she gets chlamydia from him, her health could be at risk.
- d. The State: The state enforces the doctor-patient confidentiality which demonstrates the unique relationship created when a patient seeks the advice, care, and/or treatment of a physician. It is based on the “general principle that individuals seeking medical help or advice should not be hindered or inhibited by fear that their medical concerns or conditions will be disclosed to others².” It also includes that once physicians are under a duty of confidentiality, they are prohibited from divulging medical information about their patients without the patients consent. There are special exceptions. Dr. Keller is held under this responsibility and is thus conflicted in this situation.
- e. Medical Profession: Historically, the medical profession has required newly licensed physicians to take The Oath of Hippocrates. It includes the promise that, “Whatever, in connection with my professional service, or not in connection with it, I see or hear,

in the life of men, which ought not to be spoken of abroad, I will not divulge, as reckoning that all such should be kept secret.” The laws further provide, “Those things which are sacred, are to be imparted only to sacred persons; and it is not lawful to impart them to the profane until they have been initiated into the mysteries of the science.”² Dr. Keller took this oath and because of it, finds himself in an ethical dilemma.

- f. The woman who Derek is cheating with: She plays a role in being the one who gave Derek chlamydia. She creates a conflict in the relationship between Derek and Katie in addition to being the cause of Dr. Keller’s ethical dilemma.

V. Questions

- a. Does Dr. Keller have a “duty to inform” Katie of Derek’s newly discovered condition even though Derek did not give his consent?
 - i. In this situation, is Derek’s consent relevant since Katie’s health may be at harm?
- b. Is it Dr. Keller’s moral responsibility to inform Katie?
- c. Should anyone try and compel Derek to disclose his information?
- d. What are the exceptions to breaking doctor-patient confidentiality?
 - i. Should there be any exceptions?
- e. Does Derek have a moral responsibility to tell Katie himself of his STD and the effects it could have on her?

2. "Doctor Patient Confidentiality." *USLegal*. 2010. Web. <http://healthcare.uslegal.com/doctor-patient-confidentiality/>.

- f. Is the severity of the harm that can be inflicted on Katie relevant?
 - i. How serious does the harm need to be to push Derek for disclosure?

VI. Case Hypotheticals with Questions

Hypothetical 1

Before receiving the call that Derek was due for his annual checkup, Katie and Derek had been discussing the possibility of them having kids. Katie has always wanted a big family and was hoping they would have three or four children. Derek completely agreed; he wanted a big family as well. During friendly conversation with Derek during his checkup, Dr. Keller learned of the couples intentions to have children. However, Dr. Keller was concerned about these intentions after discovering that Derek's test results were positive for chlamydia. Dr. Keller informed Derek of all the harmful side effects that could result if Katie got the STD and what could happen to her if she became pregnant with the disease. Even so, Derek revealed in confidence that he did not want to tell Katie because it would reveal that he was having an affair. Knowing that Katie wants to have multiple children, is Dr. Keller morally responsible for informing Katie of the potential harm it could have on her and her future children even though Derek denied consent?

- g. The potential fetuses now become relevant characters. The actions of Dr. Keller have potential lifetime impacts on any future children that Katie hopes to bare. This brings to light the issue as to whether Dr. Keller has a duty and responsibility not only to protecting Katie's health, but also to any future fetuses. It also raises the question as to if the developing fetus is a person.

Hypothetical 2

Same circumstances as above except this time, Derek doesn't want to have children. He and Katie have argued about the subject since the beginning of their relationship and even though Katie wants a large family, Derek never wanted to have kids. They continued on with their relationship hoping that the other person would eventually change his/her mind. After discovering the diagnosis, Derek still denied consent for Dr. Keller to inform Katie. However, Dr. Keller heard Derek say under his breath that he knew the consequences of what would happen to Katie's pregnancy chances if she contracted chlamydia. Dr. Keller noticed that after Derek said that, he appeared happy because it would cause an end to their long dispute about having kids and Derek would finally get his way. Is the fact that Derek is against having children relevant? How does knowing Derek's motives change the situation for Dr. Keller?

Hypothetical 3

Dr. Keller and Derek were old college roommates and best friends. Derek refused to see any other physician in the area because he only trusted his best friend for the best medical treatment. However, when Dr. Keller discovered Derek's STD and the potential risk it posed for Katie, Dr. Keller did not want to betray his best friend's wishes. Should doctors be allowed to treat patients that they have a close, personal relationship to?

Hypothetical 4

Everything stays the same in the case except this case happens in 2014. Does the year in which this case occurs affect it at all? Does it make the decision for the doctor easier, harder, or the same?

VII. Analysis

This case is a good example of the conflict between protecting the safety of a third party and maintaining the important doctor-patient confidentiality. There are several ways to argue this case. My view is that Dr. Keller has a moral responsibility to inform Katie Smith about her husband's condition because it directly affects her health. The doctor, however, may not tell her that Derek contracted chlamydia from cheating on her. That piece of information does not directly affect Katie's health or put her at harm and therefore, should be maintained in confidence between the doctor and Derek. If Derek had some other condition in which he acquired from cheating that he could not inflict on Katie, then the doctor would be obligated to maintain the doctor-patient confidentiality. This side of the argument has many similarities to our brief discussion in class regarding the Tarasoff v Regents of University of California case in 1976. I intentionally made it so this particular case study occurred before the Tarasoff case to complicate the situation further. The conclusion of the Tarasoff case ended with a ruling that the therapist/patient relationship supports the duty on the part of the therapist to exercise reasonable care against the dangers posed by the patient's illness.

However, this particular case differs from the Tarasoff case in that this study did not involve any potential murder or consequence of death. One of the questions I posed was regarding the severity of the harm that could be done to the third party and if that was relevant. I believe that any harm that could potentially be inflicted on a third party should be relevant. However, it is essential that each case be examined individually and that a decision is made based on the particular facts regarding that specific case. This idea goes along with Ross's ethics. Ross believes that each situation should be shown

sensitivity to the unique features it entails and that we must look at the world from a particular moral perspective. He says that in order to determine what is right in a situation, the facts regarding the case must be known and possible consequences need to be explored. Ultimately, decisions must be made based upon what is right and not on what is useful or will produce the most happiness. Ross and I both agree that there shouldn't be one universal law that states that the doctor-patient confidentiality should or should not be broken in every case; each situation needs to be taken uniquely. In this particular case, what is right is to inform the third party of the potential harm they face; this decision will produce unhappiness and may not be the most "useful" decision, but it is the morally right one.

In disagreeing with my argument, one could argue this case in saying that the doctor only has a moral responsibility to his patient. Derek clearly stated that he did not want that information shared with his wife therefore; the doctor must respect his patient's wishes. It could be argued that this could lead to a slippery slope. If Dr. Keller tells Katie about this, maybe in the future he will inform her of other medical information pertaining to Derek and it wouldn't matter if he gave consent or not. However, this is a highly unlikely situation. Another argument regarding Dr. Keller respecting his patients wishes is that if Katie contracts the STD from Derek, she will find out from Derek himself. There are effective treatment options for Katie if she does in fact get chlamydia. In that case, there would be no breach of confidentiality and she would be finding out from Derek himself. I argue that by not telling Katie, you are directly putting her in harm's way of contracting a harmful disease that could have been avoided all together. With health safety being an issue, the doctor needs to take that as a priority.

Lastly, it is important to look at a few of the hypotheticals and examine their complexity. For instance, in hypothetical one, the potential fetuses of Katie now become relevant characters. As mentioned earlier, this complication reveals the issue as to whether Dr. Keller has a duty and responsibility not only to protecting Katie's health, but also to any future fetuses she that may bare. Additionally, it raises the question as to if a developing fetus is a person. Some may argue that it is a person and that Dr. Keller has a moral responsibility to protect all persons whose potential health is at risk. It could also be argued that a fetus is not a person therefore; its health should not be considered. In the second hypothetical, motive becomes a factor. Kant argues that a will (what directs our actions) is only good when it acts purely for the sake of duty. The motive behind an individual's actions is what determines his/her moral character. After discovering Derek's motives, Kant would argue that Dr. Keller should inform Katie because Derek's motives for keeping his STD secret are flawed and impure. Lastly, hypothetical three deals with argumentum ad affectus. If Derek and Dr. Keller had a personal relationship, it would influence the doctor's decision because he would not want to betray his best friend thus, forcing him to make a decision based on emotion.

VIII. Summary

Chlamydia is the most commonly reported sexually transmitted disease in the United States. It affects both men and women but it especially has an impact on women and their chances of pregnancy. If it goes untreated, the health effects on both sexes are significant. This case proves to be controversial because it raises the ethical issues around what kinds of information physicians can reveal about their patients. It strikes conflict

between informing a third party of potential harm they face and maintaining the doctor-patient confidentiality. The motivation behind the doctor-patient confidentiality is that it is for the "greater good" of society; it allows patients to feel comfortable in telling their physician about their health questions, problems, concerns, etc. and knowing that it is said in confidence. This case is relevant to every individual because having the ability to entrust a physician with confidential, personal medical information is crucial.

Some argue that if withholding medical information will cause any harm to a third party, it needs to be reported. However, others say that the confidentiality between a doctor and a patient is not like any other and needs to be held to stricter standards. The main concern revolves around a patient's needs and their ability to trust that what they share with their doctor is only going to be for their ears and eyes only; the doctor cannot share their information without consent. Other issues revolve around the fact that if patients don't feel comfortable entrusting information with their doctor, then patients will feel the need to hide critical medical information which could have extremely harmful consequences. All in all, the core question arises regarding which proves more important: upholding doctor-patient confidentiality for the greater good of society or protecting an individual from potential harm?