**Privacy and Health Care –**

**Is it Wrong not to be Candid with my Doctor?**

We all sense an implicit injunction not to be dishonest to one another; it is a cornerstone of human socialness without which we could not cultivate the trust relationships requisite to our own survival and prosperity as a species. Nonetheless, and in spite of some denial of the fact, we routinely engage in less than candid communication, while there are only certain times when we are expected or even called upon to be candid, that is, “to tell the truth, the whole truth, and nothing but the truth”. Although there may be disagreement about where to draw the line between being dishonest and not being candid, we mostly accept that there is such a line to be drawn. Drawing that line correctly and abiding by it is no mere remote concern, but rather is relevant to success in our everyday dealings.

The difference between honesty and candidness (and their opposites) has to do with what kinds of information we are obliged to share with others, what kinds we may legitimately keep private, and how we choose to keep to ourselves, hide, or mask the information we have chosen not to share. The general consideration of privacy as a sacred right would be meaningless unless it sanctions the propriety of our keeping certain things to ourselves.

We can begin to chip away at this distinction by noting that certain people at certain times have the right to know certain things about us, and it is therefore wrong for us to keep that information private. In such cases, keeping the information private in spite of being mindful of the right of others to know would not just be uncandid, but dishonest. But even in cases where a right to know may be lacking, keeping information private by dissimulating or fabricating might still be considered dishonest, unless warranted by some overriding concern of safety or well-being. So, to steer clear of dishonesty requires not only declining to keep private things others have a right to know, but also, except for in extreme cases as noted above, declining to go to deceptive lengths to hide the information.

This current reflection aims at the question of the nature of the trust relationship between patient and health care provider. Does it require candidness or not with regard to all matters concerning one’s health and all that is relevant to it? I will make a limited case for legitimate non-candidness within well prescribed boundaries.

The success of health care requires the cultivation and maintenance of trust relationships between patient and provider. When trust breaks down between them, either the one will become alienated from the other, or *vice versa*, or both. Needless to say, since alienation, the opposite of human socialness, is the bane of organizational life, the breakdown of trust will become a great impediment to effective care, and is likely to have a negative spillover effect on other patients and providers as well, spreading like an infection through the system.

Furthermore, to cultivate genuine trust requires honesty. To be sure, I may feign honesty to cultivate trust, but the result is not genuine trust. Rather, it is a manipulation of the unsuspecting person being duped by an untrusting deceiver to obtain trust-like results in the behavior of the one deceived. It is questionable how long such a trick can work, but it seems doomed to fail sooner or later, certainly lacks the intrinsic stability of genuine trust, and even at best, is one-way, and so does not provide the good of the produce of genuine dialog which trust relationships yield.

It is the flourishing of genuine trust relationships between patient and provider that makes health care successful. The goods of technology, training, and experience cannot deliver care on their own in a communicative vacuum, especially in that produced by lack of trust. Thus, it is imperative that we be as sure as we can about how to cultivate and maintain that trust. Granted, this is largely a matter of good-willed honesty in both directions.

This is what prompts the question of the present reflection: how honest should we be with our health care providers? Should we be fully candid with our providers in all matters related to our health, or does our right to privacy apply legitimately to communications with them as well? (At issue here is privacy as a moral right; privacy as a legal right is not in question.)

Of course, we have no right to be dishonest with our health care providers, which according to the above discussion entails that we ought to let them know all that they have a right to know as our providers and that in no case should we dissimulate or fabricate in our communications with them. This boils the question of candidness down to the following: what do my health care providers have the right to know about me *qua* my health care providers? Do they all have the right to see my complete health care history, including all past physiological and psychological/psychiatric treatments? Do they, further, have the right to know all about my ancestry and my personal relationships, sex life, eating habits, use of recreational drugs, professional activities, places I’ve traveled to, and so on? The interesting thing about this list is that it is not out of the question that a provider might in some situation have the right to know any of these things. The question is, do they have the right to know all of them on demand?

Or are there at least imaginable scenarios in which they have the right to my complete candidness on all such matters at once?

The question of an obligation to be candid may seem moot when patients have no qualms about telling all. But even in such cases, may it yet be advisable for patients not to tell all? Consider the case of law enforcement: if I am arrested, I am at some point supposed to be read my Miranda rights, which include the daunting admonition: “whatever you say may be used against you”. Might something analogous apply to health care situations?

Think of the fact that, as much as we might idealize them, our health care providers cannot really be our health care advocates; not even nurses, whose professional codes and training typically include mention of the obligation to advocate. One of the main reasons this is so is the outsized role insurance plays in health care. Health care professionals cannot fail to notice the dangers of things like malpractice lawsuits and negative peer reviews looming over their careers, which at times may move them to recommend treatments they might not recommend if they were acting purely as a patient advocate. Just as in any expert profession, there are differences of expert opinion in the medical profession, and at times the insurance industry, having cherry-picked their medical advisory staff in favor of expert opinions that maximize profit for them, take positions different from medical professionals not in the hire of insurance companies. This puts them at loggerheads with their peer reviewers as well, whose reviews tend to favor those who follow the advice of insurance-driven medical opinion.

Understanding this to be the case, a patient may rightly be reticent in sharing information that is likely to trigger providers’ tendencies to follow insurance-advised care protocol which patients may reasonably suspect not to be in their best interest.

Apart from problems associated with insurance, consideration must also be given to the degree of relevance information has to each particular provider. In the modern world, each of us is liable to have many health care providers, all of whom know different things about us according to differences in the services each of them provides. The outcome of my last colonoscopy is probably not something my optometrist needs to know. But on the other hand, what do I know? I’m not an optometrist; perhaps colon health is somehow related to eyesight.

In fact, it was surprising to me that my one-time use of a CPAP (Continuous Positive Airway Pressure) machine for sleep apnea did in fact draw attention not just from my optometrist but from my dentist as well. Depending on the type of mask used, CPAP machines can effect the eyes and eyesight by displacement of and pressure on the eyeballs at night. They can also negatively affect dental health by drying out the mouth while sleeping. I only found these things out because I am not such a private person and offered information that my providers may not have thought to ask. In fact, for these and other reasons, I stopped using the CPAP machine years ago and have found other ways to control my nighttime breathing. CPAP machines can breed germs and cause illness, and usually require sleeping on one’s back, which is the last thing a person with sleep apnea needs to be getting in the habit of doing.

A limited case against the obligation of candidness, then, can be framed thus: on any one visit, it is not necessary for health care providers to know everything about you relevant to your health as a whole, but only information relevant to the service they will be providing. Since the patient may well not know all that may be relevant to such service, it is up to the provider to ask. But even then, the patient has the right to an explanation of the relevance of that information to the service to be provided for each question asked.

When we speak of the providers right to know, we are only speaking of an extrinsic right, not an intrinsic one - as if it were of the same status as my right to privacy. As extrinsic, it derives its moral leverage from my choice of that provider to provide services for me. For me then to refuse to provide information important to the provision of those services would be not only counterproductive and contradictory, but also disrespectful, and therefore wrong on all three counts. In the first case, the counterproductivity of my behavior is wasteful of time, effort, and medical resources. In the second case, my contradictory intentions are a display of my lack of virtue, for which I am blameworthy. Thirdly, it is disrespectful for me to manipulate others according to my own mere whim or impulse, which this is clearly a case of doing. It is boorish to choose something while refusing to pay the price for it, then still expect the services anyway, thus putting the provider in a bind. Part of the price of receiving medical services is to provide the information – even if embarrassing or inconvenient – germane to its expeditious delivery.

This leaves open the question of whether any one provider or even consortium of providers has the right to know at once all information potentially related to patients’ overall mental and physical health. I would say no, on the grounds that it is virtually impossible to imagine that all of this information could be important to the expeditious delivery of any particular service at any particular time. Even if portfolios of such were kept, they should only be maintained and managed by patients themselves, or those able and reliably willing to act as unfettered patient advocates. This excludes service providers themselves, who do, however, have the right to keep portfolios of all information specifically germane to the services they provide.

The harm that can be done by extending the notion of the patient’s obligation not to be dishonest to full candidness is not only that the excess information provided may at some point be used to pressure the patient into insurance-advised care arguably not in the best interests of the patients; nor that that information might somehow be accessed by insurance companies for financial purposes; but also that it violates our right of privacy, that is, e.g., my right to be in reasonable control of what others know about me that can only be known, or at least mainly so, by consulting me. Once I put this all down and store it in physical form somewhere where it can be accessed by others freely and generally without my consent, my privacy is lost, giving others, at least potentially, control of my life – possibly even malicious - that they have no business having.