

Can You Consult A Third Party's Medical Record?

Clinical Case

Laura is the primary care physician for Ana, who is a regular patient of hers. Laura and Ana have had a good clinical relationship for years. Ana is divorced and has joint custody of her two children with Andrés, her ex-husband. Andres, is in a new relationship and he and his girlfriend live together. Ana's children have told her that their father's girlfriend takes a medication called Lexatin for "nerves". Ana asks the children to tell her all of the medication that Andres' girlfriend takes. Her children tell her that in addition to Lexatin, she takes another pill called Seroxat. Ana consults Laura to ask what these medications are used for. Laura explains that one is an antidepressant and the other is an anxiolytic medication. Ana becomes worried. Later on, she requests another consultation, where she asks Laura to look into why Andres' partner is taking this medication. She wants to know if she should worry about leaving her children "with a mentally ill or unbalanced person". Laura expresses her reluctance to look at the medical records of Andres' girlfriend. Ana pressures Laura by telling her that if anything happens to her children, she will be responsible for not having done anything. Laura knows that Ana is wrong but, at the same time, she understands Ana's concern and does not want to lose her trust or cause a breakdown in their clinical relationship. What should Laura do? Should she look into the medical records of Andres' girlfriend?

Ethical Analysis of The Case

The primary function of a medical record is to provide continuity between different healthcare professionals and ensure proper patient healthcare. Ultimately, it also serves as evidence in the event of a claim or complaint. The medical record includes confidential content about the patient's health, which must be treated responsibly and with discretion. There isn't open access to patients' medical records, access is restricted to the scope of the professionals caring for the patient: a medical record can only be accessed by the healthcare professionals directly involved in the patient's care.

Furthermore, it is important not to confuse a good clinical relationship with excessive "cronyism", which can lead to the breakdown of a proper clinical relationship. In a proper clinical relationship, there must be set boundaries, defined by the rules of the profession, and there must be mutual respect. Maintaining trust between a doctor and their patient should not involve breaking professional rules, so it is important for the doctor to know how to set ethical and legal limits that establish their professional competencies, including respect for the confidentiality of other patients. If the clinical relationship is framed within the limits of professionalism (and not "amity"), and respect is guaranteed for the rights of other patients, the clinical relationship of mutual trust will last over time.

In this case, if Laura agrees to Ana's request (thinking of Ana and her children), it is possible that she will keep Ana's trust in the short term but, she will violate the privacy of Andres' partner. Laura's professionalism would be put into question and even the legality of her actions.

Courses of Action

- Kick Ana out of the office and ask her not to make any more appointments, thus breaking the doctor-patient relationship.
- Reprimand Ana for making an inappropriate request.
- Explain to Ana that her ex-husband's partner is not her patient and therefore, she cannot give her any information about her.
- Deny Ana's request. Explain why medical records of those other than a doctor's direct patients cannot be accessed, and that, even if you could access them, you would not be able to give her that information.
- Ask Ana how the children are doing and if there are any signs of inappropriate treatment by Andre's new partner.
- Ask Ana how she is doing and inquire about the need for any medication, a mental health consultation or referral to social services.
- Consult Andres' partner's medical record and, depending on the content, tell Ana about it.
- Call Andres and inform him of Ana's request.
- Agree to Ana's request and look at Andres' partner's medical records together.
- Document what happened in the medical record.

Recommended Courses of Action

- Laura's first action should be to explain to Ana that what she is asking for is not ethical, in addition, it is against legal and professional regulations, so there is no way she can fulfill her request. Laura could also point out how Ana, wouldn't like her own medical records to be shown to another party either. It must be made clear to Ana that Laura is adamant on this point.
- Moreover, Ana should know that, even if Laura had this information (if Andres' partner were her patient), she would not be able to tell her anything, because respect, confidentiality and privacy are fundamental to all citizens.
- Regardless, Ana should not feel her feelings are being neglected. Laura should be empathetic to the situation. It would be advisable for Laura to express to Ana that she understands her concern and that she cares about the well being of her children.
- Ana's request, the response and any care she receives should be recorded in her medical record.

Discussion

- Physicians should limit access to medical records to their own patients. Access to other people's records is neither ethically nor legally acceptable.
- Requests from other people, for information, clinical or otherwise, should not be granted even if justified for the welfare of third parties; unless we have explicit consent from the individual. Cases in which patient confidentiality can be broken are clearly defined by legislation and by the code of ethics.

- Patients may, on occasion, ask their physician to do something against professional standards. In these cases, the physician must know how to inform the patient of the limitations on medical activities and explain the possible ethical and/or legal consequences that may arise if he/she crosses those lines.
- Refusal of patients' requests should not lead to their departure or a breakdown in the clinical relationship. However, physicians should only attend to their patients within their professional duties.
- When a medical act (in this case, a consultation) involves an ethical or legal risk, any action taken must be recorded in the medical record.

Sgd.: ASISA-Lavinia Bioethics and Health Law Committee
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