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by

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Con (or *com)* is a prefix which means *with* (or *thoroughly). Fidere* means *to trust. Confidere,* or *confidence,* implies a relationship of trust, and a reliance on another's discretion. It implies a thorough trust in another. It implies that another will protect the entrusted information. The application of this meaning of confidere is well understood by most professionals and is certainly thoroughly considered by physicians. The Hippocratic Oath speaks of this relationship when it says, "whatever I shall see or hear in the course of my profession, as well as outside my profession in my intercourse with men, if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets . . ." Perhaps not so well understood is the notion of confidence as simple trust in one's fellow men, a trust that both frees and builds relationships.

In this article I would like to look at both aspects of confidere. The first aspect will consider the concept of *confidence* and the second will consider *confidentiality.*

Confidence

A significant aspect of showing love and respect for someone is esteeming them, that is, regarding them as being of great value. Without such esteem there is something missing in the relationship. One can act as if another is worthy of their love and respect while inwardly not really valuing the person as truly worthy.

In Christian relationships (specifically here, the Christian physician/patient), mutual esteem is a basis for relationships based on genuine love and respect. It is based on the essential value given each human being by Christ and by the realization that we all share a common humanity. Knowledge of another's faults cannot exhaust this source of esteem. Above the disappointments encountered in our daily contact with each other should live a supernatural knowledge of Christ's favor on each. Romans 12:10 says, "Love one another with the affection of brothers. Anticipate each other in showing respect." According to the Greek text of this reference from Romans, Paul exhorts the Christians not only to

deference but to an attitude of esteem. They must fight against the tendency to place themselves above others because they judge them inferior to themselves.

In those in positions of authority, like the physician, the temptation to think more highly of oneself is greater. Therefore, those in positions of authority must practice humility, especially in their hearts and habitually think of their brethren (their patients) with esteem. This esteem implies an attitude of faith in the grace given to each person. To develop this esteem and make it more concrete, those in authority should make good effort to see the personality and good qualities of each person. In looking at those under their care through kindly eyes, physicians should note clearly reasons for esteem, appreciating more and more those who are their fellow creatures under God.

In the difficulties and conflicts that arise in the practice of our profession, an attempt to understand rather than judge is necessary. Those in authority must work to grasp the true intentions of those in their care, which may not always be clear in particular situations. It is such an attitude of good will which will enable the physicians to receive the confidence of their patients. It is necessary that those we care for can say to us all they wish to say with the certitude of being welcomed and understood. If their confidence in us brings reproach or condemnation, their openheartedness will soon be impossible.

Esteem implies that the physician not speak of those in their care in depreciative ways. If slander is forbidden to every Christian, it should be more radically excluded from those to whom confidences are entrusted. Physicians should consider as sacred the reputation of those who confide in them. When it is detrimental to their patients, physicians cannot divulge that information which their position has permitted them to observe or be informed of. More will be said of this, including possible exceptions, in our consideration of *confidentiality.*

Physicians should not listen to and favor one person's account or complaints about another. Of course, they must listen to the one who confides in them, but also have an equal duty to protect the reputation of each one entrusted to their care and confidence and to promote mutual esteem among all. Thus, physicians will habitually speak of others kindly, which should reflect their thinking; appreciating the good will and the efforts of each one.

Love is proven by confidence. If physicians should see those in their care as "sons and daughters of God", they should show the kind of confidence in them merited by this divine affiliation. In the Gospel, Jesus shows an amazing confidence in His disciples. He gives them the mission of spreading His testimony throughout the world. And He does not withdraw His confidence in Peter even after Peter denies Him three times. Generally speaking, Jesus did not lose hope in people.

Confidence, then, is an inherent disposition of Jesus. In standing in Christ's place, as agents of God's healing, physicians are invited to follow this same kind of confidence, a confidence which does not grow weary. Physicians should remember that they also benefit from Christ's confidence in them, and their leadership and expertise, even with our deficiencies and failings. We should try to transmit this confidence to our patients and colleagues, expressing by how we act, the confidence that the Lord has in each one.

Our own experience allows us to appreciate it when our patients and colleagues show confidence in us; we feel supported in the accomplishment of our duty and have the courage to perform our tasks. We should then provide them with like support. In showing our confidence in our patients and colleagues we encourage them to put all their resources into the task ahead of them and give to the full of their abilities.

Where this esteem and confidence is lacking one usually finds mistrust. We then have work to do to build confidence. By our belief in the good will of our patients and colleagues their growth and development are fostered. It is not the physician's primary task to control or repress but to promote, and our love of our people will be fruitful to the extent that it expresses our confidence in them. (cf J. Galot, S.J., *Inspiriter of the Community,* Alba House, 1971)

Confidentiality

I believe that an understanding of confidence is important to an understanding of confidentiality. Confidentiality comes out of our respect for the dignity and privacy of each person. It is also rooted in the understanding that each person's life is lived in relationships and such relationships help define him as a person. Therefore, each one needs the right to define those who are closest to him and those who are not. This is usually done through how much about oneself is confided to others. Those who are closest are entrusted with more knowledge about me. Those who are not close are entrusted with less. It is the individual alone who determines where the lines are drawn. Therefore, those who might be privy to certain "close confidences" do not have the right to disclose them to others without the approval of the person whom that knowledge is about. This most surely includes physicians, who by their privileged role in the patient's life have knowledge of these confidences. (in R. Veatch, *Medical Ethics,* chap. 4, Jones and Bartlett, 1989)

Dr. Thomas Percival wrote in England, at the close of the 18th century, "Secrecy and delicacy, when required by peculiar circumstances, should be so strictly observed. And the familiar and confidential intercourse, to which the faculty are admitted in their professional visits, should be used with discretion and with the utmost scrupulous regard to fidelity and honor." (T. Percival, "Of Professional Conduct", in *Ethics in Medicine,* S. J. Reiser, ed., MIT Press, 1977) Early on in this article a portion of the Hippocratic oath was quoted. Such historical understandings of the need to keep confidences, to guard certain secrets, remain consistent throughout history, underscoring the importance of this principle to the good of mankind.

What are some of the obligations of keeping secrets? It can be said that each person has a natural right to secrecy by the very fact that our intellect and will are inviolable. Under normal circumstances and apart from unjust means, no other human being is physically able to penetrate these faculties. So, the knowledge and the thoughts which a person has, and which pertain only to himself, are his own.

A second reason for keeping secrets is the natural understanding that human beings live their lives in a society of other human beings. Thus, secrecy is

necessary for the public peace and prosperity. John DeLugo wrote, "Thus we cannot properly inquire about the crimes and secret defects of our neighbor, or broadcast them. For this is very destructive of the public peace and tranquility. Moreover, that these crimes remain occult and be buried in ignorance and oblivion helps toward avoiding crime and gently correcting faults. Because the conserving of one's good name is a great control and motive for good living, and when that control has been removed and a man's reputation is once lost, human frailty rushes easily and precipitously into desperation, since the hope of preserving a good reputation among men is gone." (J. DeLugo, in *Medical Ethics,* T. O'Donnell, S.J., 2d ed., Alba House, 1992)

Again, on the necessity of proper secrecy for the common good, Robert Regan writes, "To cut men off from the support of their fellow men would tend to disorganize and disrupt society; whereas a properly functioning social life . . . is demanded by man's very nature. In certain difficulties men are focused to turn for assistance to others better qualified than themselves. Assurance that they will not be betrayed, and thus find their sorry condition made worse, is a necessary condition for this recourse. For if the needy and unfortunate are persuaded that in their misfortunes they cannot look to others for assistance without the danger of betrayal which will bring down upon them even greater evils, such as loss of fortune, loss of reputation and honor, great embarassment, loss of liberty, and even loss of life itself, they will prefer to keep their troubles to themselves. Thus frustration would most certainly engender hopelessness, despondency, and despair, with the fruits of such states of mind and soul, such as recklessness and dereliction of duty. The evils that would befall society if such conditions existed could be enormous." (R. Regan, in *Medical Ethics,* T. O'Donnell, S.J., 2d ed., Alba House, 1992)

Two kinds of secrets seem to apply to the physician most directly: the natural secret and the professional secret. The natural secret would be one that someone happened to find out and which the person was unwilling to have disclosed. The natural secret's obligation would be due to either charity or justice. If the disclosure of the information would cause displeasure to the person, its disclosure would be a violation of charity. If, in addition to the displeasure, the disclosure would bring damage to the reputation of the person, or material loss to him, it would be a violation of justice.

The professional secret is a committed secret, binding in justice, wherein the contract is not explicit but implicit by reason of the professional position of the one who receives the secret knowledge. When physicians enter the practice of medicine they make an implicit contract with all who come to them in their professional capacity. Whatever secrets are imparted to him in the doctor-patient relationship will be kept inviolate and will be used only in so far as necessary to achieve the purpose for which the patient entered into this relationship. It seems, therefore, that the obligation to secrecy derives from two principles, namely, the individual's natural right to what resides within his own personal faculties and, the protection of the good of others, i.e., the common good.

Abuses of confidentiality destroy confidence. They can destroy trust in people and in authority in general. They can destroy the trust of a patient in his physician,

with detrimental effects on the care the patient may need. Given the importance of confidentiality and the great duty we have to protect the dignity of each person through protecting the confidences they share with us, it is important to examine instances in which we might be obliged to set aside this important principle.

Deciding when confidentially might be set aside, or overridden, is one of the most difficult problems in medical ethics. An important principle to recall is that private property, including a secret, becomes common property in common necessity. The obligation of professional secrecy comes about because observance of professional secrecy is a necessary means to preserve the common good and the right order of society. If a set of conditions or circumstances should be found in which the observance of professional secrecy would be more harmful than helpful for the common good, then the obligation of secrecy is diminished and the obligation to reveal the secret is increased. (It is obviously important how one goes about working with his patient on disclosing the secret.) Here are three types of situations which summarize these important considerations. They are:

1. Revealing the information would produce some considerable public good.
2. Revealing the information would prevent some possible risk of harm to someone, but we cannot identify with certainty who that would be.
3. Revealing the information would prevent some very likely harm to specific and identifiable individuals.

Obviously, as we go from #1 to #3, the justification for setting aside confidentiality becomes progressively stronger. (R. Veatch, *Medical Ethics,* chap. 4, Jones and Bartlett, 1989)

One other possible significant situation would be that of "divided-loyalty". This could be seen in the case of the physician who was employed by the company the patient worked for; or by the family physician who could foresee adverse effects on a family because of a situation with one family member.

With the first type of situation, where potential harm/probable harm to others is concerned, the physician does have a civil duty to protect others in society, even if it could mean breaking the confidence of a patient. With the second type of situation, that of "divided-loyalty", the best solution may be derived from the contract model of patient-care. In this case, the physician would advise patients "up front" of his responsibilities to the company or to the family, leaving it up to them then to share what confidences they desired in light of the physician's disclosure (i.e., his "divided loyalty").

Another type of situation would be that involving a lack of competency by the patient. This case would involve somewhat different principles and will not be dealt with in this article. Discussion of such specific situations may be found in *Medicine and Christian Morality,* by Fr. Thomas O'Donnell. S.J., Alba Press.

Conclusion

Confidentiality is a critical relationship principle. It is of significant importance to the physician/patient relationship. In this article I have tried to base the principle of confidentiality on an understanding of its root *confidere* or

confidence. Underlying the duty to protect privileged information is an understanding of the duty we share to not only protect the dignity of each person by keeping entrusted confidences, but also by inspiring confidence — confidence in God, confidence in the physician, and confidence in one's self. When working well, mutual trust and respect grow, furthering the growth of a community of love and truth — fertile ground for good health, spiritually, emotionally, and physically, the goal of our profession.

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