

**Module 1 Current Event**

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MAST 1010: Legal & Ethical Concerns in the Medical Office

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### Module 1 Current Event

The article “Letter: Privacy and patient confidentiality in times of Covid-19” published in *Medico-Legal Journal* is relevant to current events in health care regarding confidentiality laws. The related event occurred in India during the COVID-19 pandemic in 2020. The authors state that patients in India have the right to privacy or confidentiality and that providers generally must protect PHI and not release patient information without consent. However, exceptions to the rule exist, such as disclosing patient information for a court order or when the public interest outweighs the individual’s right to privacy, such as reporting a notifiable disease during an outbreak. During the COVID-19 pandemic, the government in India utilized these exceptions to benefit public health and prevent the virus’s spread. The article discusses various measures used by multiple governments to contain diseases, such as social distancing and quarantine. Still, they also raise concerns about privacy due to some of these practices, like tracking apps. The authors acknowledge the public benefit but assert that safeguards must be in place to protect privacy as much as possible to prevent discrimination or stigmatization. They also maintain that providers should only release health information to the relevant authorities on a need-to-know basis and not to the press or share via social media (Shekhawat, 2020, p. 1).

At first look, the article may not appear to be relevant because the event and laws exist in India. However, COVID-19 was and continues to be a global concern. The United States was also greatly affected by the virus, and local laws are similar to the laws in India mentioned in the article. HIPAA also protects PHI, and exceptions also exist for the public benefit in the U.S. (Hammaker, 2020, p. 186-87). Technology continues to advance exponentially. Such technology provides tools to track, disclose, or share relevant or needed information to the appropriate authorities or the public to prevent or contain an outbreak. Our current culture includes a

population resistant to using vaccines, and diseases like Polio, once contained, are recently being seen again in the U.S. Risk exists for future outbreaks of other diseases. Patients in the U.S. may see privacy concerns increase regarding COVID-19 and other outbreaks now and in the future.

Technology outpaces our laws, and many working in the health care field call for revising or rewriting our privacy and security laws. Actions that may be taken in the future that would affect this issue are revising or rewriting these outdated laws to keep pace with technology, culture, and events and setting national standards for security, which currently vary per provider (Hammaker, 2020, p. 390-94).

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# Privacy and patient confidentiality in times of Covid-19

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Patients have a right to medical confidentiality. This restricts access to personal and identifiable medical information held by his health care provider which should be kept private and confidential and not normally divulged to the other agencies without consent. We address the issue of privacy and patient confidentiality during the Covid-19 pandemic.

Under s. 7.14 of the Professional Conduct, Etiquette and Ethics Regulations, 2002 of the Indian Medical Council, a Registered Medical Practitioner should not disclose the patient's medical information, except in specific circumstances such as on the order of a court of law, where there is a serious and identified risk to a specific person and/or community and in cases of notifiable diseases, etc.<sup>1</sup> In consequence, a doctor may disclose patient information to appropriate authorities, and such communication is considered privileged. The legislation implies that disclosure of patient information is deemed justified only when made specifically to authorities concerned in the greater interest of society, and not to the general public or lay press. In view of the Covid-19 pandemic, the Ministry of Health and Family Welfare, Government of India issued guidelines for the mandatory notification of information regarding Covid-19 patients by their health care workers to concerned district surveillance units.<sup>2,3</sup>

In India, the laws relating to the effective management of epidemics are detailed in the Epidemic Diseases Act, 1897 and National Disaster Management Act, 2005 which allow the government to pass any regulations it might deem necessary to prevent the outbreak or spread of such epidemics.<sup>4,5</sup>

Quarantine and social isolation are time-tested instruments for controlling the spread of contagious diseases. To promote the prevalent trend of social distancing, various state governments have tried different quarantine enforcement measures, e.g. stamping the back of the palm of the individuals, pasting posters outside the homes of suspected cases mentioning their names, quarantine period and the number of people in the family asked to remain in isolation, asking quarantined persons to report every hour through 'selfies', publicising the names and addresses of people suspected of having Covid-19 through newspapers and

social media.<sup>6,7</sup> There is apprehension too about privacy issues with the recommended use of tracking apps.<sup>8</sup> These measures taken by the respective states have been criticised as a direct violation of medical ethics and a patient's right to privacy and confidentiality.<sup>6</sup> The very fact that government agencies are employing these strategies for public welfare and in the national interest out-weigh individual concerns of privacy and confidentiality. There is, however, a need to ensure that the interests of affected persons, families and communities are safeguarded, and that they do not face social stigmatisation or discrimination as a result of these revelations.

The government of India mandates medical practitioners to provide the information about Covid-19 cases and suspected cases to specific public authorities but not to the lay press, the media or social platforms. The authorities may take necessary measures to contain the disease which are assisted by information provided by doctors. Although these measures may require revelation of confidential patient information, medical practitioners who provide it cannot be considered a party to such decisions and disclosures directly or indirectly.

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