Important Notice

This is one of a series of ethical dilemmas published in the *Texas Dental Journal* between 1993 and 2005. The lead author of these dilemmas, Dr. Thomas K. Hasegawa, died tragically in 2005. The dilemmas remain an important legacy for dentistry.

Format

Each ethical dilemma was originally introduced in one issue of the *Texas Dental Journal* with the question, "What would you do?" The more expansive analysis of the dilemma was presented in a subsequent issue. The second page of this file depicts the cover of the issue containing the analysis of the dilemma, not the issue containing the briefer introduction to the dilemma. The ethical dilemmas were compiled for digital use by the American College of Dentists in 2008.

Purpose

This ethical dilemma and the other dilemmas in the series are only meant to further your knowledge and understanding of dental ethics by presenting, discussing, and analyzing hypothetical ethical dilemmas that may occur in dental settings. The dilemmas are not intended to: a) provide legal advice; b) provide advice or assistance in the diagnosis or treatment of dental diseases or conditions; or c) provide advice or assistance in the management of dental patients, practices, or personnel.

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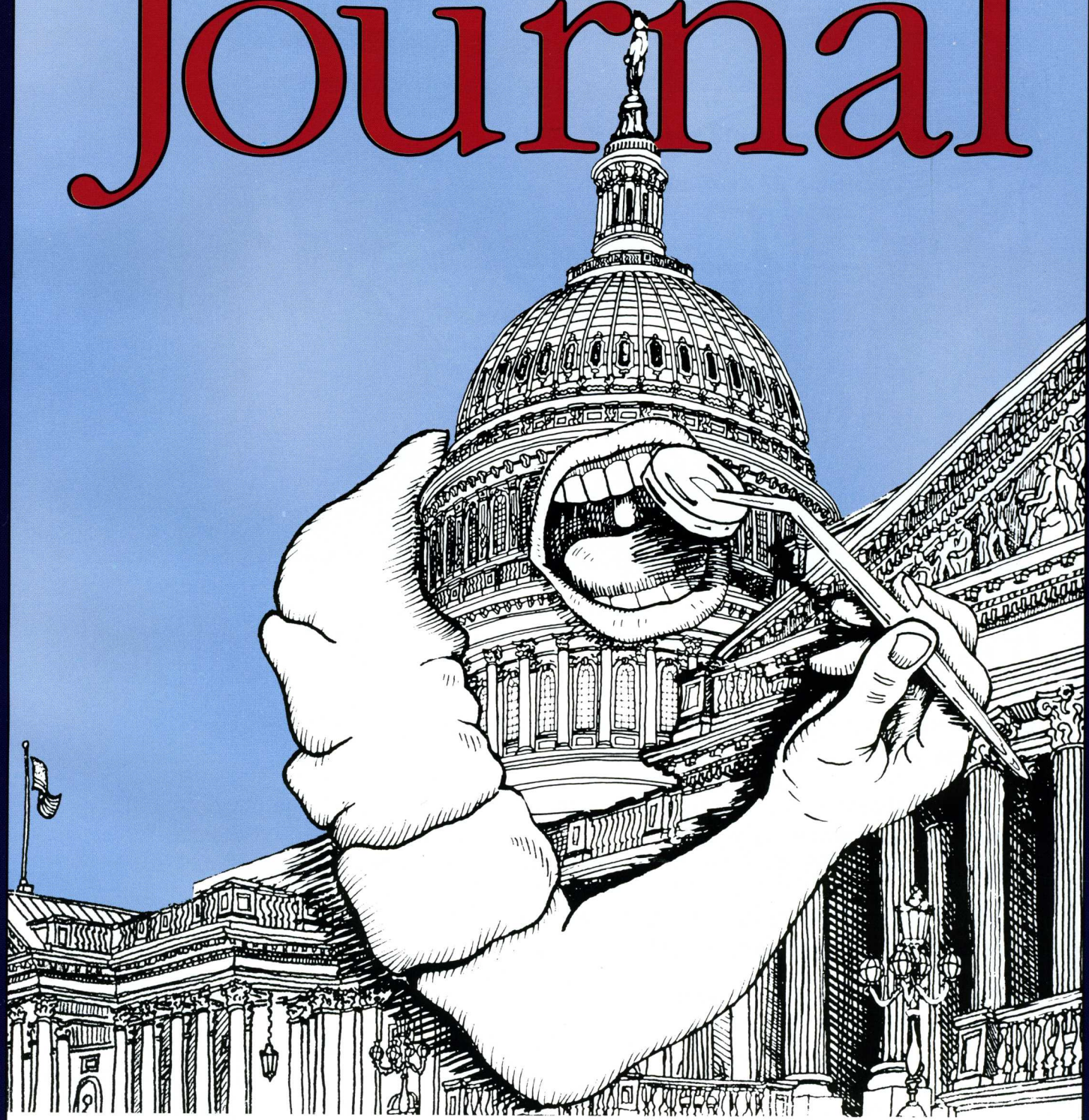

EXAMINING HEALTH CARE REFORM FROM THE DENTAL PERSPECTIVE

or guardians, the state's capacity of *parens patriae* and the responsibility of dentists as mandated reporters. One issue central to understanding the case is the question of harm accompanying decisions to treat Chad.

A QUESTION OF HARM

Readers expressed opposing views regarding the possible harm for Chad resulting from the extraction. One dentist wrote: "When more than one good treatment choice is available, I think the patient's wishes must be honored. However, I believe we should never become so compliant that we become accomplices in a harmful treatment choice." Another dentist wrote: "It's an imperfect world and Chad and his parents have been informed adequately of all the options. They just chose a bad option." The dentists agreed that the root canal was the preferred treatment, although they were split between those that viewed extraction as an acceptable, or unacceptable, alternative.

Part of the difficulty in Chad's case is assessing the amount of harm caused by extracting, rather than restoring, his tooth. The prognosis for maintaining the tooth with root canal and restorative treatment is good. Chad's Class II malocclusion adds more weight to the decision to maintain the molar because his anterior open bite and molar occlusion support the need to maintain #19 for orthodontic treatment to establish appropriate function. The consultation with the orthodontist confirmed this assessment. Appropriate function is a key element in this case, as dentists are not required, and may ethically refuse, to provide care that would leave a patient with a significantly impaired or painful oral function.[8]

If an adult makes a decision that the dentist views is not in the best interest of the child, how can the dentist ethically justify refusing to provide the treatment?

JUSTIFIABLE PATERNALISM

If a dentist imposes his or her views on a competent adult patient, the dentist is acting paternalistically — treating the patient in a fatherly manner as would a parent. However, proxy consent for children is a special circumstance because of the absence of the child's legally recognized autonomy. Paternalism for children has been justified **precisely** for the purpose of "treating children in a 'fatherly' (and 'motherly') manner," especially in situations involving the proper treatment of infants and very young children.[9] In Chad's case, the dentists who refused to extract the molar could argue that the refusal is an act of justifiable paternalism, and as one reader stated, "Refusal to remove the tooth in this case makes a strong ethical statement which might possibly cause the patient and his mother to change their minds."

CONCLUSION

It is evident, from this brief overview, that treating the child dental patient, as opposed to an adult patient, places an increased weight of decision-making on the dentist. The child becomes by law, and perhaps by practice, silent. The dentist must decide how to

WHAT WOULD YOU DO?

Ethical Dilemma #5

Confidentiality for a Pregnant Adolescent?

Mary Smith, a 15-year-old girl, came into a dental clinic for a recall appointment. She had been a patient of Dr. Virginia Jones for many years. While waiting in the clinic's radiology area, she saw a sign instructing females to inform their dentist if they were pregnant. Mary became upset and asked Dr. Jones why the sign was there. Eventually she confessed that she was pregnant and asked Dr. Jones not to tell her mother.

Dr. Jones felt she had an obligation to inform the mother of Mary's condition. Mary was not legally independent, and parents had to give consent for any treatment that Dr. Jones would propose. Because Dr. Jones knew Mary's parents, Dr. Jones was convinced that it would be beneficial to Mary if her parents knew and could provide care and support during this difficult period for her life. (Courtesy of Rule, J. and Veatch, R. *Ethical Questions in Dentistry,* Quintessence Publishing Co., Inc., 1993, p 143. All names in the case are fictitious; case printed with minor revisions).

Dr. Jones is now faced with an ethical dilemma. Check the course of action you would follow and mail or fax this page, or a note indicating your choice, as instructed below.

1. _____ Dr. Jones should try to convince mary to discuss her pregnancy with her mother. Dr. Jones also should tell Mary that if she doesn't inform her mother, she will.
2. _____ Dr. Jones should contact Mary's mother and inform her that Mary is pregnant.
3. _____ Dr. Jones should try to convince Mary to discuss her pregnancy with her mother. Dr. Jones will not inform Mary's mother and will try to delay dental treatment.
4. _____ Other alternative (please explain).

SEND YOUR RESPONSE ATTENTION
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Ethical Dilemma

TDA Council on Ethics and Judicial Affairs

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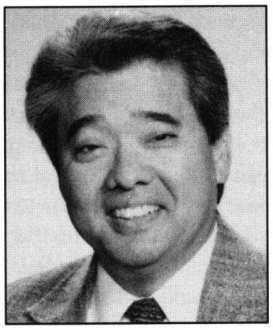
Confidentiality for a Pregnant Adolescent?

Response to Ethical Dilemma #5

Mary Smith (December issue) is a 15-year-old patient of Dr. Virginia Jones. Having come to the dental clinic for a recall appointment, she reads a sign in the radiology area that female patients are instructed to inform their dentist if they are pregnant. Mary becomes upset, asks Dr. Jones why the sign was there, and confesses that she is pregnant. She asks Dr. Jones not to tell her mother. Dr. Jones feels an obligation to inform Mary's mother of her condition, as Mary is not legally independent and Dr. Jones is convinced that Mary's parents would provide care and support.

What's at stake in this case? Is Dr. Jones obligated to tell Mary's parents that she is pregnant? When Mary confides this information to her dentist, should this confidence be respected? What moral obligations are required of dentists to respect the confidentiality of the doctor-patient relationship? Are there special considerations in this case because Mary is not legally independent?

The dentists that responded to the case selected two options, both beginning with "Dr. Jones should try to convince Mary to discuss her pregnancy with her mother" and then, either "1. Dr. Jones also should tell Mary that if she doesn't inform her mother she will," or "3. Dr. Jones will not inform Mary's mother and will try to delay dental treatment." No one selected option "2. Dr. Jones should contact Mary's mother and inform her that Mary is pregnant."



Hasegawa

Mary's case illustrates the fact that dentists as health professionals are responsible for managing the personal information revealed by their patients. This moral responsibility is referred to as **confidentiality**, a core value in the doctor-patient relationship, and is cited in codes of ethics, based on trust, and may be broken in certain circumstances.

Codes and Confidentiality

Codes of ethics provide an insight into the central values of a profession. These codes may change and evolve, just as a dentist's practice, patients and third-party interests change and evolve. Keeping the confidences of patients has been a core value in the AMA and ADA codes.

In medicine, the Hippocratic Oath has been a valuable source for describing professional obligations. The Oath advises physicians, regarding confidentiality, that, "whatsoever I shall hear in the course of my profession…if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets." (1) References to confidentiality have been a part of the AMA Code from medicine's first Code in 1847 to the current Code that specifies, "A physician shall respect the rights of patients, of colleagues and of other health professionals, and shall safeguard patient confidences within the constraints of the law." (2)

In dentistry, although the first ADA Code of Ethics in 1866 did not mention confidentiality, the 1922 Code specified, "When a dentist is called in consultation by a fellow practitioner, he should hold the discussions in the consultation as confidential…" (3) The current ADA Code specifies: "Dentists are obliged to safeguard the confidentiality of patient records. Dentists shall maintain patient records in a manner consistent with the protection of the welfare of the patient." (4) While the ADA limits confidentiality to consulting dentists and physicians, the Texas Dental Association's Code of Ethics broadens third-party interests when it specifies: "Communications from and to patients are a matter of high moral significance. A dentist may not reveal the confidences entrusted in the course of professional treatment without patient approval unless required to do so by law or unless it becomes necessary in order to protect the welfare of the individual or of the community." (5)

While confidentiality is a core value in the health professions as revealed in codes of ethics, the value of confidentiality underscores the necessity of trust in the relationship of patients and their doctors.

Trust

To understand the role that trust plays in a successful doctor-patient relationship, it must be viewed from the perspective of the dentist and the patient. From the dentist's view, sound therapeutics begins with the patient's trust because dentists ask patients to share personal and sensitive information necessary to properly assess their health and to determine proper therapeutics. Dentists are privy to information about serious health conditions, such as cancer and heart disease, conditions that may have profound social implications, such as HIV status and substance abuse, and sensitive personal experiences, such as child abuse and eating disorders. Without accurate and complete information openly communicated by the patient, the dentist's care could harm rather than benefit the patient. Dentists also trust that the patient will keep appointments, fulfill financial obligations, and take responsibility for the maintenance of his or her own oral health.

From the patient's view, the dentist is trusted to abide by the dental code of ethics. The ADA Code cites the benefit of the patient as the primary goal of the profession and calls upon the members to be caring and fair and to provide quality care in a competent and timely manner. (4) The patient shares personal and sensitive information with the confidence that the information will be used to promote the patient's best interest and will not be divulged. The TDA Code asserts the respect for patients both in the commitment of the Code to the patient's right to informed self-determination and by advising that dentists seek the patient's approval before disclosure. The TDA Code also acknowledges that there are conditions that may require breaking confidences and specifies those instances. Mary Smith has asked Dr. Jones to keep information that has serious social and economic implications confidential. Confidentiality is a central means of assuring patients that their doctors will not misuse facts about their lives pertinent to understanding their illnesses. (6) Unlike the trust that must be earned, as in a friendship, the patient assumes a trusting relationship because of the dentist's training and special role in society. (7)

To summarize, keeping confidences promotes trust and openness between doctors and patients and allows the patient autonomous control over personal or private information about themselves. Confidentiality affirms and protects the fundamental value of privacy and the social status of the patient, may be economically advantageous to the patient, and encourages patients to seek professional help when it is needed. (8) Breaking confidences, the central question in this case, must be justified considering these, as well as other, factors.

What Would You Do?

Ethical Dilemma #7

"I want the whitest teeth!"

Mr. Harold Davies is a patient who has come to your office eager to improve his appearance with a new set of complete dentures. He is a healthy, sixty-year-old male, who believes that these dentures will help him feel "younger and more vigorous." You have completed the maxillomandibular relationship records appointment. As you begin tooth and shade selection, Mr. Davies states "just give me the whitest shade you have!" With his ruddy complexion you emphatically inform him that this would not look natural. Mr. Davies insists, "I want the whitest teeth!"

You are now faced with an ethical dilemma. Check the option(s) you would choose in this case:

1. _____ show Mr. Davies the "whitest" shade;
2. _____ show Mr. Davies only those shades that you think are appropriate for him complexion and have him select one of these;
3. _____ insist that if Mr. Davies doesn't trust your judgment that he should find another dentist;
4. _____ other: (describe)

SEND YOUR RESPONSE ATTENTION

Dr. Thomas Hasegawa, Department of General Dentistry, Baylor College of Dentistry, P.O. Box 660677, Dallas, Texas 75266-0677 or fax to (214) 828-8952.

Breaking Confidences

Are there circumstances when breaking confidences is ethically justified?

The philosopher Campbell (9) identified five factors or conditions that may justify breaking confidences and they include: 1) does maintaining confidentiality place others at unknowing risk of harm, 2) will divulging information effectively protect others from harm, 3) is disclosure necessary to protect others from harm — is it the last resort, 4) if divulged, is it done in a manner with the least infringement, i.e., informing as few persons as possible, and 5) is the reason to breach confidentiality explained and justified to the patient?

In medicine, the philosopher Veatch (7) observes, "Twentieth-century ethics of organized physicians has supported breaking confidence in cases when there is a serious threat to third parties." (7) In dentistry, these third parties include consulting physicians and dentists in the ADA Code and the individual as well as the community in the TDA Code. What are the risks of harm in this case?

There are potential harms associated with providing dental care during pregnancy. Primarily for the protection of the developing fetus, dentists are advised to defer elective dental care during pregnancy, to provide necessary dental care during the second trimester if possible, and to avoid certain medications and drugs. (10, 11) Exposing radiographs is not a serious potential harm in this case as long as standard criteria for these exposures are met and explained to the patient. (10)

What is missing in this case is substantive information about the patient and the reasons for her request. Although she is a minor, does Mary have the capacity for decision-making? This lack of information caused one respondent to write that he had to "make Mary a composite of all possible conditions of her situation that I have seen in the past." Dr. Jones might believe that it would be "beneficial to Mary if her parents knew and could provide support," but there is no indication of Mary's plans for the pregnancy or the reason that she does not want her mother to know. There may be serious family circumstances and consequences that the dentist may not understand — consequences that could cause Mary great harm. Also, Mary's dental needs, if any, in this care are unclear.

There are no simple formulas for determining the weight of the factors in each case or when it is justifiable to break a patient's confidence. Although Mary's case is hampered by the lack of key information, the dentist is still forced to make a decision, especially if Mary needs immediate treatment.

Conclusion

Mary Smith's case is a compelling ethical dilemma surrounding confidentiality and the conflicting moral issues of respecting the autonomy of a minor while protecting others from harm. Assuming in this case that Mary requires **no further dental treatment**, Dr. Jones would be ethically justified in encouraging her to discuss her pregnancy with her mother, but should keep the pregnancy in confidence. However, if Mary required **immediate dental treatment,** the obligation to protect her confidence would have to be weighed against the risks of harm to others — risks that may justify breaking Mary's confidence.

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EDITOR'S COMMENT: Responses to the ethical dilemmas are views of the contributors and consultants and not Baylor College of Dentistry, the National Center for Policy Analysis or the Texas Dental Association. Address your comments to Dr. Thomas Hasegawa, Baylor College of Dentistry, P.O. Box 660677, Dallas 75266-0677.