

## Case 5 – Margaret

**Margaret is a 35 year old woman who lives on a dairy farm, which she manages with her husband of 10 years. They have three children aged between eight and three years. Over the time that she has been consulting you she has presented repeatedly with soft tissue injuries that she acknowledges have been inflicted by her husband. She believes her husband only becomes violent when he drinks. She is isolated on the farm and says she is unable to leave her husband or to seek support in the local community because she feels ashamed and because her husband is good friends with the local policeman.**

### Best Practice Response

#### ***Material facts***

- The relevant facts are:
  - Over the time that Margaret has been consulting you, she has presented repeatedly with soft tissue injuries that she acknowledges have been inflicted by her husband.
  - Margaret has three children aged between 8 and 3 years.
  - Margaret is isolated on the farm and says she is unable to leave her husband or to seek support in the local community because she feels ashamed and because her husband is good friends with the local policeman.

#### ***Ethical considerations and medico-legal issues***

- In dealing with victims of domestic violence, we would recommend that you consult the RACGP white book which can be accessed on the RACGP's website. The RACGP White Book recommends the following immediate response to disclosure:
  - Take time to listen
  - Respond in a non-judgmental way, with compassion, support and belief of experiences
  - Validate experiences, challenge assumptions and provide encouragement (Table 5)
  - Acknowledge the complexity of the issue, respect the patient's unique concerns and decisions
  - Put patient-identified needs first, making sure social and psychological needs are addressed
  - Address safety concerns
  - Provide information and where appropriate offer referral for more specialised help
  - Assist patients to make their own decisions
- It is important to note the recommendation to assist patients with making their own decisions. Doctors have an ethical duty to maintain the confidentiality of patient's personal information including their medical records, disclosing their information to others only with the patient's express up-to-date consent or as required or authorized by law.
- There are certain situations where doctors can breach patient confidentiality. There is an overriding duty to in the "public interest" to disclose information, such as when there is a "serious" threat of harm to an individual and it is unreasonable and/or impractical to obtain consent.

- A “serious” threat must reflect significant danger, and could include a potentially life threatening situation or one that might reasonably result in other serious injury or illness to any individual, whether it be the patient concerned or a third party.

### ***MDA’s recommendations***

- In this particular case study, there are four individuals potentially exposed to a threat of harm:
  - The patient, Margaret; and
  - Her three children who are all minors.
- In assessing the safety of patients experiencing abuse, the RACGP White Book recommends the following matters be explored:
  - What does the patient need in order to feel safe?
  - Has frequency and severity increased?
  - Is the perpetrator obsessive about the patient?
  - How safe does she feel?
  - How safe does she feel her children are?
  - Has the patient been threatened with a weapon?
  - Does the perpetrator have a weapon in the house?
  - Has the violence been escalating?
- Determining whether a serious threat exists involves a balancing exercise, weighing up the advantages of breaching patient confidentiality against preserving patient confidentiality. In undertaking this exercise, you may want to consider:
  - The potential harm or distress to the patient arising from the disclosure – for example, in terms of their future engagement with treatment and their overall health
  - The potential harm to trust in doctors generally – for example, if it is widely perceived that doctors will readily disclose information about patients without consent
  - The potential harm to others if the information is not disclosed
  - The potential benefits to an individual or to society arising from the release of the information
  - The nature of the information to be disclosed, and any views expressed by the patient
  - Whether the harm can be avoided or benefits gained without breaching the patient’s privacy or, if not, what is the minimum intrusion.
- While Margaret has not disclosed cases of abuse towards her children, the RACGP White Book recognises that domestic violence has an effect on children. It will be important to determine whether the children are being affected by the domestic violence and/or being abused.
- With respect to children, there are mandatory reporting requirements exist in all States and Territories. The main focus of the legislation in all States and Territories is to enable doctors to report cases of child abuse.

### **Links to resources:**

<https://ama.com.au/media/new-code-ethics-doctors>

<http://www.mdanational.com.au/Resources/Publications/Medico-legal-Booklets> (Confidentiality and Consent booklet)

<https://www.oaic.gov.au/agencies-and-organisations/app-guidelines/chapter-6-app-6-use-or-disclosure-of-personal-information>

<https://www.oaic.gov.au/engage-with-us/consultations/health-privacy-guidance/business-resource-using-and-disclosing-patients-health-information>

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