

## Case 19 – Rosemary

Rosemary does not want her husband (Peter) to know about his diagnosis of pancreatic cancer. The cancer is inoperable and Peter is terminally ill.

### Best Practice Response

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

- The relevant facts are:
  - Peter's cancer is inoperable and he is terminally ill.
  - Rosemary, his wife, does not want him to know about his diagnosis.
  - It is assumed that Peter is competent to make health care and financial decisions.

#### **Relevant ethical considerations and medico-legal issues**

- The relevant ethical considerations are:
  - It is a fundamental tenant of ethical medical practice, that adult patients have the right to make their own health care decisions.
  - There is a duty of confidentiality to Peter.
  - Has there been a breach of the duty of confidentiality to Peter, given Rosemary is aware of his diagnosis of pancreatic cancer under circumstances where Peter has not been informed?
  - On what basis does Rosemary seek to keep this information from Peter?
- Protection of patient privacy underscores the therapeutic relationship. It facilitates open discussion between patient and doctor and builds trust. Disclosure of a patient's personal health information is only permitted where:
  - the patient consents to the release of the information;
  - disclosure to another healthcare provider is necessary to ensure appropriate medical care of the patient;
  - disclosure of information is mandated by law- eg. by subpoena or order of the Court;
  - there is an over-riding duty in the 'public interest' to disclose information- eg. where a person is at serious risk of harm.
- The Medical Board of Australia Good Medical Practice: A Code of Conduct for Doctors in Australia notes that a good doctor-patient partnership involves medical practitioners being honest and encouraging patients to be well informed about their health and to use this information wisely when making decisions. Good medical practice also involves being considerate to relatives, carers, partners and others close to the patient and being respectful of their role in the care of the patient.

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### **MDA's recommendations**

- The reasons why Rosemary seeks to withhold this information from Peter should be elicited. It is important to treat the patient's family members and carers with respect and recognise that they too may need support, particularly where the patient's condition is serious or life-limiting.
- The overriding principle of this case study is that Peter is entitled to be informed of his diagnosis of pancreatic cancer and prognosis in order to allow him to make relevant decisions regarding his ongoing care in terms of palliation, as well as to provide him with the opportunity to put his financial affairs in order whilst he has capacity.
- Open disclosure requires that Peter should also be advised that Rosemary was informed of his diagnosis before he was, and the reasons why this occurred.
- Seek advice from your MDO as the specific circumstances of each case should be considered on their merits.

### **Links to resources:**

<http://www.medicalboard.gov.au/Codes-Guidelines-Policies/Code-of-conduct.aspx>

medico-legal referrals; however, certain facts have been omitted or changed by MDA National to ensure the anonymity of the parties involved.