

Case 20 – Mrs P.

Mrs P. wants information about her husband Matthew’s condition. Matthew suffered a cerebral aneurysm while jogging 4 days about. He has been declared “brain dead”.

Best Practice Response

Material facts

- The relevant facts are:
 - Mrs P wants information about her husband, Matthew’s condition.
 - Matthew has been declared “brain dead”.

Ethical considerations and medico-legal issues

- 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. Australian Privacy Principle 6 (6.53), allows doctors to disclose health information about an individual for a secondary purpose if:
 - the recipient of the information is a ‘responsible person’ for the individual
 - the individual is either physically or legally incapable of giving consent to the disclosure, or physically cannot communicate consent to the disclosure
 - the individual providing the health service (the ‘carer’) is satisfied that either the disclosure is necessary to provide appropriate care or treatment of the individual, or the disclosure is made for compassionate reasons
 - the disclosure is not contrary to any wish expressed by the individual before the individual became unable to give or communicate consent of which the carer is aware or of which the carer could reasonably be expected to be aware
 - the disclosure is limited to the extent reasonable and necessary for providing appropriate care or fulfilling compassionate reasons
- The code of conduct also states that good medical practice involves being considerate to relatives, carers, partners and others close to the patient, and respectful of their role in the care of the patient. This also includes, with appropriate consent, being responsive in providing information.

MDA's recommendations

- You will need to first determine the reasons why Mrs P wants information about her husband's condition.
- In this particular case study, there might be two reasons why Mrs P wants information about her husband's condition:
 - Because she wants to make treatment decisions; or
 - Because she is unaware of what's happened to her husband and wants to know about his condition more generally.
- If Mrs P is a "responsible person", it would be reasonable for limited disclosure to be made to Mrs P either for making treatment decisions or on compassionate grounds.

Links to resources:

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

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

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

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

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