



79. A physician shall not act against anyone in his care

Published in December 2004

Background

The issue of the limits of a physician's loyalty to his patient was brought before the Ethics Board. The complainant wrote that a specific physician had treated his son for about 20 years, since his birth. The medical supervision over these years included periodic medical procedures and regular examinations. The relationship was one of maximum openness and frankness, with full trust in the physician.

The family, for its own reasons, recently decided to submit a complaint of medical negligence against the hospital in which the child was born and against the health care organization in which the family was a member. The treating physician was never employed in these two institutions. The hospital against whom the action was filed contacted the physician with a request to supply a medical legal opinion against the child, the plaintiff, whom he treated over the years.

The family, which sensed that "their" physician was betraying their trust, contacted him personally with a request that he not act against them, but he replied, according to them, that "I strive to disclose the truth and shall continue to act in the service of the hospital being sued". The family does not intend to sue the physician in a legal action, but contacted the Ethics Board with a request that his conduct be ethically examined.

The members of the Ethics Board who addressed the question thought that there was an ethical defect in the physician's conduct, and that his actions cast a shadow over the delicate connection between the physician and the patient and infringed the full trust between both parties that forms the basis of this connection.

Position paper

- A proper connection between the physician and the patient is based on full trust between them.
- The preservation of medical confidentiality is a result of this trust.
- Consequently, as a rule, a physician should not act against a person being treated by him nor misuse medical information held by him.
- Sometimes in judicial proceedings, a physician is required to prepare an opinion liable to harm his patient.
- The physician shall fulfill this obligation only if imposed on him by a court ruling.
- The opinion shall be prepared to the best of the physician's professional judgment and with fairness and integrity.
- The physician shall be exempt from the obligation of confidentiality towards the patient if the latter has consulted him previously only for a medico-legal purpose.
- The physician shall notify the patient of the opinion at the beginning of the meeting between them, and shall document this notice in the medical record.