Bioethics and Texting Using Apps WhatsApp Always Online and in Hand

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When Hippocrates (460ac-370ac) separated Medicine from the Gods, he soon realized that the migration of religious belief to the physicians entailed respecting the patient's intimacy. Patient reports of symptoms, habits, feelings, as well as medical examinations was supposed to take place in confidential appointments.

Professional commitment to the emotional meaning of communication, essential for the flow of patient complaints, was thus born. The human beings' psychosocial need to engage in a delicate inner confession pursuing external welcoming without giving away his individual feelings to the world was then ensured.

The Hippocratic medical confidentiality is an institution. It has a life of his own that does not allow massive changes, only some careful specific adjustments here and there, at the most. It is not a reluctant adoration of the past, which can be evidenced by observing that today's multiple interdisciplinary and multiprofessional sharing of information has not shaken the historical foundations. Instead, it places focus on a greater number of actors in the process.

In Brazil today, the strict concept of medical confidentiality remains a moral commitment of the physician, despite the fascination generated by so many stimuli to expose both one's own and third-party's intimacy and privacy in society. Note that 26 centuries of professional confidentiality combined with Hippocrates' moral strength sound as immortal as the Father of Medicine. Proof of this is the sworn obedience to professional confidentiality stated in the graduation ceremonies in medical schools: *What I see or hear concerning the life of the sick, whether in the exercise of my profession or not, that should not be disclosed, I will keep confidential as a religious secret*. A vaccine against a highly contagious social virus.

Since Hippocrates, it has been established that the owner of the information is solely and exclusively the patient (their own information). Thus, in addition to the obvious possession of symptoms, everything that the physician – an actor – finds in the body that he/she examines, either directly or indirectly, as well as their advice, belongs to the patient – signs, reports, prescriptions.

Keywords

Bioethics/trends; Ethics, Medical; Physician-Patient Relations; Technological Development/history; Internet/ethics.

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DOI: 10.5935/2318-8219.20180021

This cannot be any different. It is the patient who has the power to authorize any unreasonable disclosure of the contents of his/her medical records, except for some exceptions represented by legal duty and with cause. It is also true that each patient can deal with the protection in their information at their own discretion and, thus, establish levels of confidence.

This professional duty passed on from generation to generation by the physicians must be immune to certain modern age siren songs that may awaken impulses of unethical revelations – regular doses of reinforcements to the Hippocratic Oath due to the constant threatening diversification of the media's virulence. Caution, however, does not imply an a priori rejection of interpersonal and intergroup communication innovations.

Electronic innovations, for example, are popular tools that have largely benefited health education, research and care. In their connection with Medicine, these innovations are iatrogenic, whether in the original sense of any effect of Medicine – benefits, for example – or in the semantic derivation that happened to prevail in the patient's safety – damages the application.

Based on the vision of professional responsibility in the context of iatrogeny, the evolution from printed to electronic medical records has brought greater security to the commitment to secrecy, both in the health institution's preparation and formulation, and in the custody of these records until they belong to the patient, who, at any time, has the right to view and get a full copy of the records.

The question is: Why not claim the same benefit with electronic methods of interpersonal and intergroup communication with the endorsement of professional responsibility?

Contemporary Medicine is a carousel of successive complexities and reactive simplifications, thus requiring the physicians to acquire new skills. The same happens with doctor-patient communications. Decoding of complexity is required by clarifying the traditional professional secrecy. There are times when the physicians are supposed to express their concerns, and others where they have to remain silent. Bioethics contributes to training on for whom, where, how, when, and why to adopt one or another professional behavior regarding patient information. It reinforces thinking and rethinking the protection of each one's intimacy, a very personal right which, amidst technological advances, should also consider cost-effectiveness.

For centuries, the doctor-patient communication was face-to-face, and the four walls that enclosed the place where communication took place were the borders of professional secrecy, inside partnership, outside discretion. The meaning of religious confessional prevailed.

The 20th century marks the beginning of a more pluralistic Medicine, with impacts on the citizens' personal life, whether by diagnosis, treatment or prevention. The expansion of complementary tests set the four traditional walls of professional secrecy further apart.

New technological availabilities often increase the number of people who have information about the patient. On one hand, the multiplication of tests other than those done through a stealthy stethoscope greatly contributes to breaking the secrecy of illnesses. On the other hand, it increases the possibilities of breaking professional secrecy. Therefore, keeping the notion of professional secrecy alive needs to be ensured.

In Brazil, the first official instruction on professional secrecy dates to 1929, in the pioneering Code of Medical Conduct, actually imported from Latin America. It contained a chapter on medical secrecy with the following words: *medical secrecy is an obligation that depends on the very essence of the practice; there is that secret that is explicit, formal and textually entrusted by the client and the implicit secret that results from the nature of things; it is not necessary to publish the fact for revelation; it is enough to confide to an isolated person; the professional secret belongs to the client*. Impeccable!

It was also in the first decades of the 20th century that the landlines became an instrument of work in the health care centers, enabling doctor-patient communication at a distance. Interpersonal connections went from the intimate space of a physical examination or the personal space of anamnesis or revelation of diagnosis and conduct to a social space that grew bigger with the expansion of national and international telecommunication.

This telecommunication brought more chances for the contents of conversations to be known by unauthorized third parties. Its notorious benefit was given priority and, from what it can be interpreted from history, no one more vigilant of ethics seems to have expressed restrictive concerns about the responsibility for medical secrecy, more specifically for the effects of the indispensable loud voice for communication at a distance.

However, this common situation is a case in point: the secretary puts the call through to the doctor on the landline and the patient being looked after hears everything the doctor is saying. Done! At the very least, there was a risk of a breach of confidentiality, as there was no express authorization of disclosure to a third party, let alone a legal obligation or cause – Art. 73 of the applicable Code of Medical Ethics: *The physicians are forbidden to disclose any facts they become aware of in the exercise of their practice, except for a reason, legal duty or patient's written consent*. Carelessness became rooted in conversations in the elevators, in social or professional environments disconnected from the interest in benefiting the patient.

In this context of revelation in the course of conversation, one can go to extremes and even add that the conversation may be subject to a telephone clamp, which in practice seems never to have been considered in considerations about breach of professional secrecy. In the history of telephone communications, we should remember that there was a time when a telephone operator was needed to complete the call, a telephone extension was not unusual, eavesdropping was easy by just picking up the phone, the device was installed at a spot of easier access allowing most people to use it. Chances of breaking professional secrecy were abundant. Each one behaved their own way to avoid witnesses.

For all this, can we say that the use of the good old landline for a conversation between a doctor and a patient, or between doctors about a patient, ensured strict professional secrecy of Hippocratic inspiration and formally required of us for about 90 years? The answer is no! But it has never been the subject of opinions and resolutions of the Federal Medical Council.

We are in a new era of concept of citizenship and technological means for the doctor-patient connection. From the landline scenario where there were no recommendations to ensure professional secrecy, we quickly moved into the boom of the cross-platform instant messaging apps and voice calls for smartphones, such as WhatsApp. A concern in the medical environment: is it ethical to use it as an alternative to landlines or mobile phones?

All of a sudden, fingertips have turned into hardcore keyboardists. Patients have started to demand direct responses from doctors by bypassing appointment bookings. The bedside is now brimming with the feeling that using the app clashes with the scarcity of time availability and the multiple doubts about the perspective of the confidential. The following popular saying came to light: speech is silver, silence is golden ... to avoid lawsuits for breach of professional secrecy. It represented the tip of the iceberg. It was necessary to delve into reasons to learn more deeply without much chance for research.

Vigilantes of medical ethics have pointed out to a number of concerns involving technology, with which the doctors could not cope, otherwise they would be infringing ethical issues: unacceptable patient abuses, improper revelations, and substitutions of face-to-face conversations. A first impression of a tsunami in the comfort zone! The corporatist defensing came out.

A critical factor in the confrontation of tradition with innovation was the replacement of spoken language by written language in WhatsApp communication. The short-lived timing of verbal revelation switched to that of documentation with no expiration time. The so-called cloud storage! A threatening one, actually!

The doctor's original words were then able to remain in a technological memory that is much more efficient than the patient's, which usually cools down with time. The same goes for voice message which, studies report, more extroverted people, that is, those who appreciate connecting with people, prefer to speak over typing.

The comparison is clear: a telephone needs two people actively connected while the app can be used knowing the receiver will get the message or multiple messages. With the app, in just a few seconds, we can type a message, record a voice message, upload a photo, which is sent to the recipient with an audible sound, while a symbol indicates it has been received and seen (a recent feature). With internet reception, the patient can have the doctor, literally, in their hands. No busy lines, lame excuses for not picking up the phone, concerns about time schedules, all very direct and demanding. It frightened but swung in more than one direction! Many speculations! Personal understanding clashed with professional understanding.

Editorial

The greater presence of smartphones in the healthcare setting compared to the number of landline extensions determined a wider diversity of opinions. Every physician, every specialist, every agent in an area of practice, began to see from an angle of interest, some more into advocating an ideology, others being more conservative, assessing their own conveniences and interpretations of the current Code of Medical Ethics. Doctors-patients felt that there were advantages in accessing the colleague assisting them.

In about 10 years – WhatsApp was launched in 2009 – questions were quickly dispelled and, as it might be expected from the technological avalanche that brings usefulness and effectiveness, the stricter circumstances of using the app amidst professional secrecy did not withstand the popularization of the new habit of communication in society. Younger doctors took important steps in this direction.

Concepts of invasion of privacy – such as the wiretap – were minimized by the statement that end-to-end encryption prevents the message from falling onto the wrong hands. Let's trust! As in Medicine, it is assumed that there will be no risk of any adversity when it comes to professional secrecy. Doctors are, for the sake of their occupation, sensitive to this argument.

In addition, smartphones are a personal device, usually locked by a password, so the protection of messages from third parties, whether on the device itself or by sharing it, is the responsibility of the user. That brings greater peace of mind for the doctors.

Today, Brazilian doctors connect with patients and colleagues using WhatsApp, as they think it is a low-cost technology that makes it easy to communicate in a way that it is not believed to be detrimental to the protection of professional secrecy. The Federal Council of Medicine has recently stated its support, through Resolution CFM 14/2017 – "It is allowed to use WhatsApp and similar platforms for communication between physicians and their patients, as well as physicians and physicians, on a private basis, to send information or answer questions, as well as in closed groups of specialists or the clinical body of an institution or position, as long as all information exchanged can be kept absolutely confidential without going beyond the limits of the group itself, or being exchanged in recreational environments, even if it is only attended by doctors." It is an educational text on the ethical and cautionary use, and on the misuse of the app.

Considering the above, I invite the reader to reflect on the ten aspects of medical professionalism that is mindful of secrecy in the medical-patient relationship using WhatsApp:

1. There are classics of painting that highlight human attitudes of doctors towards patients, such as, "The Doctor," from 1891, by Sir Samuel Luke Fildes (1843-1927). Affection is an environmental condition for secrecy, although, unfortunately, the doctor was doing little to change the natural course of the disease. The app allows the portability of this feeling of being closer to the doctor, combined, due to the up-to-datedness of Medicine, with the chance to contribute to an actual benefit and with the patient aware that he/she is actually revealing something. As stated above, it is essential that the patient can have the doctor in his hands hand, wherever both may be, via their smartphone, which, again, is a personal device.
2. The physician is not ethically obligated to provide a response to all WhatsApp messages sent by their patients, either because of a matter of time or because his conscience is telling them not to. They must, however, express that he received the message and justify his stance, letting the patients know that from a medical point of view the patient needs to be seen in person or needs to be seen at the emergency department. Simply ignoring the message will label the doctor as thoughtless and different from most doctors who already well understand the value and timing of response. New generations of doctors are perfectly familiar with the emotional significance of the app – and teach senior colleagues that it is worth using it – that is, they know how meaningful it is for their practice to send and receive prompt messages via WhatsApp, as something like a behavior rule. If the use of landlines has established itself as an advantageous professional add-on, failing to use the app quickly becomes synonymous with professional disadvantage.
3. The patient's loyalty to the doctor – the level of loyalty that still exists – is now related to the promptness of effective communication desired by the patient. As it is known, loyalty as a virtue of memory is a value of the doctor-patient relationship, it means reinforced trust in the doctor, including their respect for the confidentiality of the information revealed in their practice. A few years ago, for example, a distressed mother would wait for the pediatrician to return the call she could only make after 2:00 pm, when the secretary arrived at the office – and often retrieved the messages from an answering machine. The wait did not compromise the loyalty to the doctor. In this day and age, it is not necessary to wait too much for a response after sending a message – directly to the doctor – for a mother to make a moralizing judgment of the doctor's lack of thoughtfulness, and for a consequent compromise of loyalty. A new requirement, just like that of the Boy Scouts' motto: Be prepared!
4. Physicians who do not wish to be onto the app 24/7 should establish rules of use and inform the patient of his availability rules, including the possibility of getting a response from other team members. Actually, being available 24 hours via app, always remotely, is conducive to a much greater number of repetitive messages compared to the use of landlines, which on the one hand helps avoiding misunderstandings and waste and, on the other hand, may compromise the balance between professional and personal life. Besides that, compared to the landline, using the app allows greater accuracy about who is actually the one you are talking to, which is something that adds security to the protection of professional secrecy. In addition to that, it is easier to justify a refusal of giving information for the sake of professional secrecy.

5. Each physician should set their limits to type on the app, while being prudent, not only towards the patient, but also towards himself. Bioethics can be of great help to this sense of caution to avoid any shortage of advice from the physician due to excessive concerns with a retrospective analysis of the message in case of an unfavorable clinical outcome.
6. What is typed on the app should be understood as an extension of the patient's medical records and, therefore, the content is subject to ethical analyses by the provisions of chapter 9 of the current Code of Medical Ethics – Professional Secrecy. It is an advantage, then, when speaking on the telephone, for example, as it is more likely for one to say the wrong words in the patient's context, or the patient misunderstanding what has been said; when one types, there is a chance that the eyes will work as an ethical filter and warn of inconveniences – a positive aspect of electronic pencil and rubber, in addition to the patient's later review. Because it is believed that the app messages are an integral part of the patient's medical records, it is advisable for the physician to store the exchanged messages on a cloud storage system to keep them secure and to compare them to the patient's statements, not only because of the possibility of having the contents tampered with or deleted, but unfortunately among us, because the smartphone might get stolen.
7. Unlike the phone call which, without a forewarn, can take the doctor by surprise as for any pieces of information requested, reading the message sent by the patient allows some sort of consultation or self-organization before responding it in order to provide better advice. In fact, in situations where quick expression of knowledge is expected, concentration of thought, development of reasoning, recalling – the patient's records are not always in hands – and critical judgment can be better expressed in written language over the spoken language. In other words, one can think about what has been read, become better aware of any reactions coming, focus on the main need being expressed and better structure what to say.
8. Time saving is clear. The established habit of using the app suppresses, without any detriment to etiquettes, the usual formalities of making and finishing conversations, as well as the usual repetitive explanations. Concision prevails.
9. Interdisciplinarity can also be favored. It is the case of being easy to get advice from colleagues – of the same or another specialty – or from professionals from other areas of knowledge, to clear up questions about the best answer to be given.
10. As for imaging specialists, the app makes it easy to include it into the main physician-patient relationship. It provides speedy contact before, during or after the imaging scan with the requesting doctor, essentially aiming at seeking information and/or making decisions for the sake of patient's safety. Also, in the setting of imaging scans, it is worth noting that it is not advisable for the doctor to agree to receive WhatsApp images, as these may not be clear, so making mistakes will be likely.

Bedside Bioethics believes that exchanging messages through the messaging app in good faith on both sides strengthens the relationship and is benefit for both the practice of Medicine and for the patient's safety. The positive effects of communication favor a medical-patient alliance in the context of protection of professional secrecy, not only the practice of Medicine, but also in the adjustments to the diversity of understanding of each patient.