

EDITORIAL COMMENTARY

ETHICS AND ELECTRONIC HEALTH INFORMATION TECHNOLOGY

The paper on Ethics and Electronic Health Information Technology¹ brings to the fore the ethical challenges inherent in the use of Electronic Health Information Technology (EHIT) and its impact on the physician-patient relationship. The cardinal issue is the invasion of patient privacy as information becomes readily accessible to non essential players (be they clinicians or not) in the patient's care. Within the limitations of this study, the findings show that despite the inevitable encroachment on patient privacy as a result of EHIT, there are no commensurate measures in place to ensure the protection of the physician-patient relationship. The authors conclude that medical practice in Ghana is still largely paternalistic with very little input, if any from most patients. In the light of the already existing challenges in the largely paternalistic physician-patient relationship in Ghana, it is important to address the ethical challenges that EHIT brings to the relationship.

The effect of the inevitable encroachment on private health information by EHIT can be minimized by protective measures put in place to protect patient privacy. The authors indicate that whereas in other jurisdictions specific measures have been put in place, albeit with serious challenges in its implementation, in Ghana, there is no such measure. Although the Health Service and Teaching Hospitals Act 525 (1996) is silent on patients' right to privacy, autonomy and informed consent, contrary to the authors' view, The Ghana Health Service (GHS) is not silent on the issue. Patient privacy is protected in the GHS Patients Charter points 7 and 8,² as stated below:

The patient has the right to privacy during consultation, examination and treatment. In cases where it is necessary to use the patient or his/her case notes for teaching and conferences, the consent of the patient must be sought.

The patient is entitled to confidentiality of information obtained about him or her and such information shall not be disclosed to a third party without his/her consent or the person entitled to act on his/her behalf except where such information is required by law or is in the public interest.

As a Charter with rights backed by the Constitution of the Republic of Ghana and other International Human Rights Instruments that Ghana has ratified, the Charter obligates the Ghana Health Service to ensure that practitioners respect the rights enumerated in the Charter. Failure to respect the Charter can be interpreted as a

failure in our duty of care. It is important therefore for practitioners to note that even in the absence of a Privacy Act, there are legal instruments in place that protect patient privacy. This is buttressed by the fact that article 18(2) of the Constitution provides that 'No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with the law.' The authors' view on this issue is thus at variance with the provisions made in the Constitution of Ghana.

Another important issue raised by EHIT is the right to information and access to patient's records. Again, article 21(f) of the Constitution of the Republic of Ghana guarantees the right to information within the confines of the law. The GHS Patients' Charter also guarantees the right to full disclosure stating that "The patient is entitled to full information on his/her condition and management and the possible risks involved except in emergency situations when the patient is unable to make a decision and the need for treatment is urgent."² Despite these provisions, physicians frequently undermine the physician-patient relationship by withholding information sometimes leading to lawsuits as the authors make abundantly clear. This was illustrated by the Vaah ruling, a major landmark for patient rights in Ghana. In this case, the Lister Hospital refused to release the medical records of Mrs Vaah to enable her seek help elsewhere. Subsequently, Mrs Vaah went to the Human Rights Court. In his ruling, Judge Dery noted that: "The right to medical records constitutes a right to information which is a fundamental human right. So, once the respondent refuses to give the applicant her medical records that prima facie is an infringement on the applicant's fundamental human right."³ Intuitively, EHIT should enhance patients' access to their own medical records.

Finally, despite the fact that modern medical practice involves several key players, the practice of medicine still rests on the physician-patient relationship. As a fiduciary relationship, trust, confidence and candour are essential to its intergrity.⁴ Unlike a lawyer, the physician is not a hired gun; when physicians begin to act like hired guns or hands, they enter a strange world of medicine where humanness is lost and physicians become strangers to the tenets of their profession, "prepared to do the bidding of the one who pays, a hired hand, a hired gun."⁵

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