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Current Medical-Moral Comment

THOMAS J. O'DONNELL, S.J.

As psychiatric evaluation and testing, as well as therapy, becomes more commonly accepted in general, the psychiatrist is likely to be dealing more frequently with members of Religious Institutes in these areas of practice. Since a member of a Religious Institute has a special and unique relationship to his or her Religious Superiors, which is not always understood by physicians, the concept of professional secrecy can become somewhat obscure.

The Hippocratic collection reflects how sacred and serious the obligation of secrecy has been from the dawn of medical history. This is expressed strongly and succinctly in the words of the traditional oath: ". . . whatever I shall see or hear in the course of my profession, as well as outside my profession in my intercourse with men, if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets . . ."

The Code of Medical Ethics that Dr. Thomas Percival brought out of the administrative turmoil of the Manchester Infirmary, in England, at the close of the 18th century, and which has become the basis of most modern codes of medical ethics, directs that: "Secrecy and delicacy, when required by peculiar circumstances, should be strictly observed. And the familiar and confidential intercourse, to which the faculty are admitted in their professional visits, should be used with

discretion and with the most scrupulous regard to fidelity and honor."¹

Half a century later the American Medical Association held its first formal meeting in Philadelphia, Pennsylvania during May, 1947 and adopted its original Code of Ethics. The delegates simply took the above quotation from Percival and added the following: "The obligation of secrecy extends beyond the performance of professional services; none of the privacies of personal or domestic life, no infirmity of disposition or flaw of character observed during professional attendance, should be divulged by him (the physician) except when he is imperatively required to do so. The force and necessity of this obligation are indeed so great, that professional men have, under certain circumstances, been protected in the observance of secrecy by courts of justice."²

As the A.M.A. Code of Ethics was revised and rearranged in 1903, 1912, 1947 and 1955 the section on professional secrecy remained essentially intact. In 1957 the House of

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¹ Percival's *Medical Ethics*, edited by Chauncey Leake, Williams and Wilkins, Baltimore, Maryland, Ch. II, No. 1, 1927.

² *The Code of Ethics of the American Medical Association*, Philadelphia, Pennsylvania, 1848.

Delegates adopted a radically new form of expression of the "Principles of Ethics." It was designed to eliminate various dicta of mere etiquette which were scattered among the ethical directives. Section nine became a summary of all that had previously been held regarding professional secrecy and reads as follows: "A physician may not reveal the confidences entrusted to him in the course of medical attendance, or the deficiencies he may observe in the character of patients, unless he is required to do so by law or unless it becomes necessary to protect the welfare of the individual or of the community."³

Against the background of these very sound directives, the special status of a member of a Religious Institute suggests the following considerations.

A man or a woman who has entered a Religious Institute has voluntarily limited the exercise of certain human and legal rights in the interest of a greater good, and has entered into a relationship with his Religious Superiors which is both paternal and administrative. The former (paternal) is confined to what is called "internal forum" and is concerned with a fatherly solicitude and care for the individual. The latter (administrative) looks to the external government of the Institute in its corporate work. Of course, in the day to day life of the Religious Institute, these two spheres of activity often overlap and are sometimes indistinguishable.

In this context the Religious has devoted his abilities and potential to the corporate work of the Institute. In turn the Institute supplies all of his needs (including medical care) and it is understood that the Superior is party to the professional contract in regard to medical care. He has a right to be informed of the subject's state of health and prognosis in view of the administrative and paternal roles which the subject has accepted by asking to be admitted to the Religious Institute.

This right, however, while it extends to all ordinary health reports and therapeutic measures, is not an unlimited right. It does not extend to any invasion of privacy concerning the subject's moral conscience, his inner feelings and desires, or his hidden moral transgressions. While the subject is free to impart such information to the Superior, and is even encouraged to be open with him, the Superior is forbidden, by the Code of Canon Law, to exact such information in any way.⁴ Moreover if the subject chooses to communicate such information to him in the "internal forum," the Superior can use it only in his paternal, and not his administrative, role.

Therefore, the physician should remember that if a member of a Religious Institute reveals matter protected by this area of privacy, whether in an interview or in psychometric tests which he or she has been told to undergo, such

matter may be discussed with no one other than the patient, without the patient's consent. And even, with the patient's consent, if the physician makes a report to the Superior in matters of such personal privacy, it would be appropriate to indicate in the report that it is meant for the "internal forum" only.

In the event that administrative action by the Superior would be demanded urgently to avert an imminent and grave threat to the

common good, the ordinary norms for the revelation of a secret under these circumstances would apply.⁵ If by chance a physician should come into possession of material protected by the seal of confession (e.g. in a theophylline sodium interview with a priest), it could not be revealed under any circumstances whatsoever; since nothing could be more dangerous to the common good than the possibility of such a revelation.

Plan Now . . . for
THE WHITE MASS
Scheduled for October 18
TO HONOR ST. LUKE,
PATRON OF PHYSICIANS

Plan to assist at Mass with your Guild for this special observance.

⁴ *The Code of Canon Law*, canon 530.

⁵ O'Donnell, T. J.: *Morals in Medicine*. Newman Press, Westminster, second edition, 319-334, 1960.

³ J.A.M.A., Special Edition, June 7, 1958.