



## **Posits on Disclosure of Medical Information**

- 1. It is unethical for a physician to disclose a patient's medical history for contractual or commercial reasons.**
- 2. A physician is ethically obligated to withhold medical information except when required by law or the patient.**
- 3. I never lie in the best interest of a patient.**

THERE WERE MORE THAN 360 RESPONSES to these related posits, with 31 comments that appear below. A majority of respondents agreed with all three posits.

That said, the posit statements might have been improved if it were clearer that they referred to demands from insurers like Blue Cross - insurers to which contract physicians provide medical information that could indicate a patient erred or lied on an insurance application.

One commentator notes that the relationship between an insured and the insurer is a business contract, which requires honest disclosure of medical history or risk; this business contract is quite different and separate from the physician-patient relationship.

Yet a panel physician, or preferred provider, also has a business relationship with the insurer and, therefore, enters two conflicting contracts, one ethical and professional, and the other legal and commercial. To judge from this survey, many of our colleagues feel determined to ignore the contract with the insurer, and to honor the implied ethical contract with the patient.

Nonetheless, another comment points out, in Workers' Compensation cases, physicians apparently find no difficulty providing otherwise privileged medical information to the insurer; in this instance, we honor the business contract. On lying in the best interest of a patient, the predominant sense of the commentary is "I never lie even when I don't tell the truth!" Nicely and truly said! - J.L.

*Posits do not necessarily reflect the views of SSV Medicine, the Medical Society, or Board of Directors.*

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"I don't lie but I may make a decision on what to disclose." - Donna DeFreitas, MD

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"OK with patient's full knowledge and consent. Re lying: Sometimes I try very hard to obscure the truth." - Donald Brown, MD

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"Sins of omission count as lies, in my opinion." - Sage Wexner, MD

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"Lie is too strong of a word. I may not totally disclose everything if I feel complete disclosure can work against a patient." - Robert Ruxin, MD

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"We have no legal or ethical relationship with anybody but the patient.... {So I agree} unless requested to do otherwise by the patient. Re lying: When asked for information we are signing off that we are being truthful. We don't owe our patients a lie." - J.J. Rabinovitz, MD

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"Workers' Comp is an exception to the first posit. Re lying: There are different ways of

presenting information!" - Dorrit Ahbel, MD

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"On lying: I do not know how to interpret this statement. But, I agree that one should not lie." - Don Macko, MD

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"I could imagine a scenario when a physician is ethically obligated to withhold medical information even when required by law." - Michelle James, MD

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"I cannot say I have never told an untruth to get appropriate therapy for a patient." - Sydney Scudder, MD

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"I have an opinion but it does not fit into a yes/no format. An insurance policy is a business contract. If one party enters into the contract under false pretenses, the business (not the clinical) relationship is void. This question mixes business and clinical issues. These issues exist in separate universes. Re lying: If the information is relevant to honesty in a business or professional setting, disclosure is not unethical." - David Gibson, MD

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"The Blue [Cross] letter was an insult to medicine and some kind of sanction should be undertaken because of it, even though they withdrew it. Re lying: Sometimes a 'white' lie is appropriate; e.g., if I saw a teenager for acute situational depression that resolved, I might recommend that he might respond to a pre induction questionnaire requesting if he has been treated for a 'mental illness' with a denial." - James Margolis, MD

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"I agree in general. However, under certain, rare medical circumstances, if withholding medical information is life threatening and prevention is possible for the patient ... as a physician, I should be ethically obligated to take proper action and practice prevention. Re lying: [A] 'lie' is never best interest." - Kamer Tezcan, MD

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"The law has no right to demand a patient's medical information. Re lying: Only if the patient has an incurable disease, I withhold that information from him/her and call the closest relative to decide how to handle the situation." - Leslie Bernstein, MD

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"Re lying: This question is too broad for a simple response." - Deane Hillsman, MD

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"Re lying: I have not, but can see how some would." - John Belko, MD

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"Not sure what is meant by contractual/com-mercial reasons." - Claudia DeYoung, MD

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"Re lying: Poorly worded: does that mean I never lie, because doing so is in the best interest of the patient, or I never lie even to protect the best interests of the patient. The best answer is not to lie at all, as the patient then knows of your veracity when you speak." - Richard Gray, MD

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"Re lying: It is best not to lie in most situations and honesty is the basis for a good relationship with patients." - Forrest Junod, MD

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"Re lying: Question is unclear." - John Thompson, MD

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"General comment on the posits: My patient is my only client. I am her/his representative, the only ombudsman she or he is ever going to have in this managed care 'health chain' dominant world. The insurer is interested in...making as much money as they can.... The 'patient' and physician-employee are only vehicles - means towards that end. 'Third party' goals are antithetical to the healing and health-enhancement goals that are supposed to guide physicians... insurers will do all they can to not pay a bill, pay as little as they can, make it difficult to get care/tests/medications, etc. - to place as many roadblocks as their busy little VPs can come up with. SOooo...since so many others are doing all they can to deny care, I will do all I can... if that means bending the insurer's obstructive rules: so be it!" - Michael Goodman, MD

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"[I agree] unless the life of the patient is at risk. Re lying: This is really a loaded question. I think there are lots of situations where it isn't in the best interests of [a] patient's medical condition to provide full disclosure to certain requestors that are overcome by patient direction to do so. There are also different contexts; are we talking about their health best

interests or financial best interests, or other interests?" - Thom Atkins, MD

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"I don't understand the question. Withhold medical information from the patient, the public, the law? It is not clear." - Ralph Herrera, MD

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"Re lying: I have omitted details." - Sherellen Gerhart, MD

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"Re lying: Does withholding information constitute 'lying'?" - Adrienne Hall, MD

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"On lying: I may soften a diagnosis if I feel it will impact the patient to his accelerated detriment." - Paris Royo, MD

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"The actions by Blue Cross are invasive, insulting and, in all other ways, personally and professionally offensive. This doesn't even address their egregious lack of HIPAA compliance!" - Dennis Ostrem, MD

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"Re lying: [Agreeing] I assume this means lying in general, meaning lying to the patient and lying for the patient to their family, friends and partners." - Stephanie Yan, MS I

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"I assume this is in reference to releasing info to an outside source as opposed to another treating colleague/staff person. Re Lying: I'm not sure I understand the statement but I took it to mean I would not lie just because it benefits the patient. This does not imply that I would breach confidentiality, as that is my primary commitment. If put in a compromising situation, I would simply not answer if that is what would protect my patient's confidentiality." - Virginia Joyce, MD

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"Privacy of a person's life is primally important for numerous reasons and should never be divulged to entities that shirk their fiduciary responsibilities and, if we do, we become accomplices in this 'business' madness and scandal. I agree [to] demands by the pt as it is the pt's situational biography. I disagree (on the legal requirement to provide information) ... On lying: I try my level best not to lie under any circumstance for anything, anybody or any reason." - Elisabeth Mathew, MD

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"I assume we are not talking about insurance companies who routinely get this information." - Thomas Curran, MD

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"Physicians also have an obligation to public health, which may take precedent over an individual patient. This is my issue with our HIV consent laws." - William Lewis, MD

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"The statement can be interpreted to mean I never lie BECAUSE it is in the best interest of the patient. Or I never lie WHEN it is in the best interest of the patient (i.e., I will lie when I feel it is in the interest of the patient to lie)." - Ku-Liang Yu, MD

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"I would never lie to the patient about their medical status and would let them decide whether and to whom they give their information. If they asked, I would sit in on the talk they have with their family etc. to make sure correct information is passed on." - Shereen Zakauddin, MD