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A FALSE MORAL DILEMMA:  
An Analysis of Case #2

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Some of the thorniest ethics problems result from a clash between two basic moral principles. For instance, the principle of autonomy (self-determination) can clash with the principle of benevolence, such as when one man is prevented by force by another man from doing something that would harm himself only. The medical field is no exception, and all sorts of moral dilemmas arise from the clash of basic moral principles. One such clash can occur between the principle of confidentiality (a doctor shouldn't tell others the personal, private information he got from his patients) and the principle of veracity (telling the truth). In case two, this exists when a dilemma, a man asks his doctor to lie to his family by saying he can't give a kidney to his daughter, who has kidney failure due to glomerulonephritis, when in fact this man could give his kidney. In this case, despite the potential damage to family harmony, the doctor should tell the truth and say the father could give his kidney to his daughter because of his wife's right to know.

In this case, the doctor has a clear moral dilemma, or so it seems on the surface, because two major moral principles are clashing. But, as this dilemma is examined more deeply, one realizes one of this principles is absolute (or, from a secular view even, more absolute) than the other. The duty to tell the truth is a duty that

*There is no such thing as degrees of absoluteness - it is all or nothing.*

should override the duty to be confidential with personal private medical information because the right to confidentiality doesn't entitle a patient to deceive someone else. To lie to the daughter's mother would involve violating her autonomy and involve disrespect to her person. The right to confidentiality has always been recognized to have its limits, for many medical codes of ethics recognize there can be a duty to breach confidentiality if the law requires medical information to be divulged, like when it involves reporting dangerous contagious diseases to the health department. The duty to tell the truth, on the other hand, has been recognized to be an absolute, or more absolute, principle since it involves respecting other people's persons and their right to know. In this case, the conflict between these two principles becomes bogus because the father is using his right to confidentiality to force the doctor to violate the mother's right to know. <sup>THE TRUTH</sup> This conflict is bogus because one's rights to do something end where the other's begins. No one has the right to violate someone else's rights.

The doctor should tell the truth that the father's and daughter's tissues are compatible enough for a potentially successful kidney transplant because of the necessity to have respect for the mother's autonomy through telling the truth. The confidence in

9 which a doctor should operate ~~with~~ because of his respect for a patient's privacy shouldn't be so absolute as to require telling lies to others. To respect the father's wish to deceive his family is to ask of the doctor to disrespect the mother's autonomy in order to give illegitimate respect for the father's autonomy (through the right to privacy through confidentiality) so that he can deceive his wife. The doctor should not assist one person (the father) to use his autonomy to infringe on another person's autonomy (the mother's). Yet, this infringement on another's rights is what the father is asking of the doctor. The doctor shouldn't oblige.

9 Of course, the main problems with telling the truth here are the potential negative consequences which would result from family disharmony that would come from the knowledge that the father refused to give his kidney to his daughter despite the chances of a successful transplant were high since they had compatible tissues. All sorts of arguments between the father and mother could result, and even the threat of divorce lurks in the background. The father's other children could come to dislike their father <sup>SOME</sup> since he chose not to give his kidney to his daughter because of his fear of surgery. Of course also the father's confidentiality also gets violated by telling the truth, and a doctor should preserve confiden-

tiality out of respect for the father's privacy. If the doctor told the truth, the father ~~would~~<sup>might</sup> stop trusting doctors in the future, which could cause him to avoid medical treatment when he needs it or to give only some partial information to a doctor in the future when the doctor needs to know more in order to treat the father properly. So, admittedly, the costs of telling the truth could be very high.

*too strong*

But even though the potential costs are high, the doctor should tell the truth. Although confidentiality is an important principle of long standing (it's found in the Hippocratic oath) for the medical profession, it is not an absolute one if others' rights would be violated by following it. Thus one shouldn't expect a doctor to violate the rights of one person (the mother) through deception anymore than we should violate the right to free speech of one person so that another person can express his right to freedom of speech. The right of the father to confidentiality doesn't entitle him to deceive his wife and thus violate her rights. Nor does the right to confidentiality entitle the father to force the doctor to lie on his behalf, especially if the doctor was a religious man who takes the duty to tell the truth as a moral absolute of God's law. The doctor should respect the mother's rights as well as the father's rights, and not just the father's rights alone. The shield of con-

fidentiality shouldn't become a sword to violate the rights of others.

The potential costs of telling the truth could be quite high. Even a divorce could be in the offing. But an act shouldn't be judged just by its consequences, or else no one will have the absolute right to anything. To a person who believes acts should only be judged by their consequences it would be perfectly moral to murder one man in cold blood if this murder would save the lives of two other men. We should take rights like the right to live or the right to freedom of speech as absolutes in order to prevent (among other things) a "slippery slope" to disaster that could result if we chose to violate someone's rights everytime we thought we could maximize the greatest good for the greatest number, <sup>by doing so</sup> as well as to have respect for another person as a person, even if respect for another person's rights occasionally has negative consequences. Of course, the right to live or the right to freedom of speech for each person are limited in that these rights should never be used to violate <sup>THEY ARE OR SHOULD BE ABSOLUTE RIGHTS WITHIN THEIR PROPER SPHERE OF RESPECT</sup> the rights of others. <sup>FOR OTHERS' RIGHTS.</sup> No one has the right to murder someone else so that he can live, or the right to censor or shout down someone else so that he can speak. Thus, the mother's right to know the truth and the doctor's right not to lie

(especially if he regarded the duty not to lie as a moral absolute) override the father's right to confidentiality because the father is using his right to confidentiality to violate the rights of the doctor and mother. No one has the right to violate someone else's rights.

Also, it must be noted that the potential negative consequences that could result from telling the truth aren't really the doctor's fault, but are really the father's fault. It was the father's decision to refuse surgery which would be the initial cause of disharmony in his family, and not just the doctor's refusal to lie.

The blame for family disharmony should lie on the father's head for his refusal to give his kidney to his daughter, and not on the doctor

who refused to lie for him. Any other negative consequences (like <sup>the father not trusting doctors in the future</sup> ~~the doctor's~~ <sup>are really the father's fault and not</sup> ~~the doctor's~~ <sup>the doctor's</sup>.)

I recommend that the doctor, before telling the mother that the father's tissues are compatible enough for a potentially successful transplant, tell the father something like this statement: "I can understand your fear of surgery since I have to concede no surgical procedure is 100% safe. But nothing else in life is either, including driving your car. I also can understand that you don't want me to tell your family that your tissue is compatible with your daughter's since you don't want to argue with your wife or have her blame

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you for your daughter's health problems. But I will tell your wife the truth because to deceive her wouldn't be respecting her as a person who has the <sup>W</sup>inherit right not to be lied to. I have a duty to her as well as to you, and I can't violate her right to know the truth so that you can conceal that truth from her. I won't try to get involved in a long speech to persuade you to undergo surgery except to say that if you do undergo it you can avoid the family problems you fear that could result if you refuse to undergo it and I tell your wife that you could undergo it. If you want to, and I think it would be a good idea since she would probably prefer to hear it from you than from me, you can tell your wife that your tissues are histocompatible with your daughter's and explain to her why you don't want to undergo surgery. It would be better for you to bring this issue up than for me to." If the father still refuses to undergo surgery and also refuses <sup>the offer</sup> to bring up this issue first with his wife, or if the wife calls the doctor and asks if the tissues of her husband and daughter are compatible, the doctor should tell the truth.

In this case, the moral dilemma involved disappears once it is realized one person (the father) is asking another person (the doctor) to violate the rights of still another person (the mother). Since no one has the right to violate the rights of another person, the doctor shouldn't assist the husband in deceiving his wife. The right to confidentiality doesn't entitle one to violate the rights of others. Your rights end where your neighbor's rights begin.



SPECIAL NOTE: The idea of a conflict between two moral rules was involved in Case #2 I got from page 136 of the course packet, in the section taken out of the book by Tom Beauchamp and J. F. Childress. This section mentions this same case.

This is a good essay that shows good thought + reflection in preparation of writing it out. Some of your sentences tend to be a bit wordy + too many points mentioned at a time, but that is a skill in writing that only more writing will improve.

Your basic position is that no one may use a rights claim to violate another's rights claim, in this case the mother's right to know the truth vs. the father's right to confidentiality in the dr-pt. relationship. You side with the mother's claim because it is absolute, & while the father's is not. What would you do if 2 absolute rights were in conflict? 2 non-absolute rights? What if the law changed - wouldn't that then also change the moral obligations of the parties involved? What would you say if the nazi's asked if you were hiding jews in the attic (and you were hiding some there) - would you turn them in to preserve the absolute right the nazi's had to know the truth? Remember, in Germany they were the officially recognized political party + held all of the real power for several years. If you aren't even using another principle?