

Must physicians disclose personal health information to patients?

Do patients have a right to know whether their physicians are vaccinated for COVID-19? Patients may certainly have an interest in knowing their physician's vaccination status, and especially in the midst of the COVID-19 pandemic, many may feel they need this information to help them decide whether or where to seek health care. But does a patient's interest in knowing entail an ethical duty on the part of their physician to disclose?

As straightforward as the proposal seems, there are nonetheless reasons to think physicians don't have such a duty.

The AMA *Code of Medical Ethics* is clear that patients should be able to trust that physicians will put patient interests first (Principle VIII, AMA *Principles of Medical Ethics*), will treat patients with compassion and respect (Principle I, Opinion 1.1.3), will protect the confidentiality of patients' personal health information (Opinion 3.2.1), and will provide care that is "safe, effective, patient-centered, timely, efficient, and equitable" (Opinion 1.1.3). Further, the *Code* recognizes that patients should receive—and enjoins physicians to provide—the information individuals need to make well-considered decisions about their care (Opinions 2.1.1, 5.1). So too the *Code* acknowledges that in general patients have the freedom to choose from whom they will receive care (Opinions 2.1.6, 9.2.1, 9.2.2).

However, physicians themselves have the right to have the confidentiality of their personal health information respected, including information about what conditions they have or have not been vaccinated for. If, in the context of a highly transmissible disease that carries risk of severe disease, the only way to protect patient interests were for physicians to disclose their vaccination status, it would be easier to argue for a duty to disclose than it actually is.

Whether physicians have a duty to disclose personal health information when it may be relevant to patient care is not new. In the early days of the AIDS epidemic, the question took the form whether seropositive physicians had a duty to disclose their HIV status to patients. At the time (1988), the Council on Ethical and Judicial Affairs (CEJA) acknowledged first, that "the rights to privacy and to confidentiality of the AIDS victim . . . are absolute until they infringe in a material way on the safety of another person or persons."

CEJA argued that the challenge wasn't whether to disclose but whether the physician could safely practice at all:

If there is a risk of transmission of an infectious disease from a physician to a patient exists, disclosure of that risk to patients is not enough; patients are entitled to expect that their physicians will not increase their exposure to the risk of contracting an infectious disease, even minimally. If no risk exists, disclosure of the physician's medical condition to his or her patients will serve no rational purpose. If a risk does exist, however, the physician should not engage in the activity.

In the case of COVID-19, the rising incidence of breakthrough infections among fully vaccinated individuals underscores that having been vaccinated is not in itself assurance that the individual will not subsequently become infected and go on to infect others. A vaccinated but infected physician who has asymptomatic disease—or has not yet developed symptoms—still poses a risk. Thus, patients can't take the comfort they may be seeking just from knowing that the physician has been vaccinated.

How great a risk a physician with breakthrough infection poses for their patients depends importantly on the nature of the physician's practice—for example, whether their patients are immunocompromised or unable to be vaccinated. The magnitude of risk also depends on what other protective measures are in place, such as universal use of personal protective equipment by physicians and staff, frequent testing for COVID-19 and requiring that patients wear masks while in the office or clinic. In some circumstances, the most appropriate course ethically maybe for the physician to avoid contact with patients (Opinion 8.7).

Physicians can, of course, voluntarily choose to disclose their vaccination status. Indeed, it may be ethically admirable for them to do so and could be a way to encourage patients to be vaccinated. Patients have the right to ask, and if they do, physicians should answer truthfully. Physicians would be well advised to proactively notify patients of the measures their practice is taking to keep everyone safe.

Additional ethics guidance in a pandemic

The AMA offers an overview of foundational guidance regarding medical ethics for health care professionals and institutions responding to the COVID-19 pandemic.