

Dilemma of Choosing Medical Paternalism or Patient Autonomy for Better Patient Compliance

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Introduction:

Medical science is both an art as well as a science. It is an art because it deals with the most delicate of all feelings, reassurance, and subjugation for the mitigation of any suffering. It is the most potent, innovative and powerful science because it deals with human beings, their health and suffering. This extreme knowledge makes the person practising this science as the person with an overwhelming power as one can have over any other individual. However this influence over any other individual is the most benevolent of any actions taken for the life and mitigation of misery in the form of suffering¹³⁰. Hence the physician assumes the role of a paternalistic individual in guiding the patient to choose the correct path to good health. This is most important when the patient is sick and his facultative integrity has been compromised and his immediate relatives and attendants in overwhelming emotions are not in a fit state of mind to take correct decision. This is when the physician takes the role of a guide to give him correct decision. However, in this age of liberalism especially when the integrity of the patient needs to be violated in the form of any interventional procedure, the knowledge parted to him and his relatives regarding disease and the course to be taken with all the possible alternatives through an

¹³⁰ *Maynard v. West Midlands Regional Health Authority*, 1 All ER 635 (1985).

informed consent sets to preserve the sovereign right of the patient over his body.

The current study sets to look at both these aspects and strike a middle path in the form of harmonising both the extremes.

Professional Sovereignty as the basis of Paternalism:

Arts and science streams were thought to liberate humanity from deficiencies and whims of natural forces, ignorance and irrational beliefs, absolutions and diseases of the body and the spirit. With settling of reasoning in human behaviour the excessive weight of hunger and defeat has been somewhat dampened and decreased but this has also given rise to a new world order of power by virtue of their knowledge over other people and this authority through the channel of its overall superior knowledge over vast institutions has been able to manage and rationalize the cognisant form of human labour.¹³¹ Modern medicine is one of those extraordinary works of reason; an elaborate system of specialized knowledge, ever evolving technical procedures and principles and standards, a code of regulation of behaviour. If we set aside these obliquities we can see that science in its modern avatar has succeeded in releasing the humanity from the constraints of the burden of disease to a large extent. From cultural relativism and pragmatist view, a liberal suffering from bad fever or a fractured limb would never consult a traditional healer to a modern physician just to prove his obsequious views. Medicine is a world of unmistakable power where the learned few through their reasoning capabilities have a partially more significance than the others.

¹³¹ *Paul Starr, The Social Transformation Of American Medicine, Basic Books, Library of Congress cataloguing in Publication Data, 28,(1982).*

The history of medicine has been written as an epic of progress, but it is also a tale of social and economic conflict over the emergence of new hierarchies of power and authority, new markets and new conditions of belief and experience. Power, at the most rudimentary personal level, originates in dependence, and the power of the professions primarily originates in dependence upon their knowledge and competence. To most of us this power seems legitimate. When professionals claim to be authoritative about the nature of reality, whether it is molecular structure, the conscious thinking or the world we generally defer to their judgement. The medical profession has had an especially persuasive claim to authority, the reason being that the physicians offer a kind of individualized objectivity, a personal relationship as well as authoritative counsel. The very circumstance of a diseased body lowers the intellectual integrity and promotes acceptance of their judgement. The power is altruistically enlisted solely in the interests of health - a value of usually unobtrusive importance to its clients and society. On this basis physicians exercise authority over the patients, their co-workers in other health care delivery systems and to a large extent on public at large in matters even outside their jurisdiction. In a strict clinical professional relationship this authority is often in quintessential aspect a basic requirement in the curative process, when a person is sick his judgemental capacity is obtunded, and he is not the best judge of his own needs, nor are those who are emotionally close to him.¹³² Apart from the specialised information which a physician possesses, they have a distinct edge in the judgemental superiority.¹³³ Furthermore, effective therapeutic measures frequently require not only difficult tasks but certain repelling

¹³² Richard Ashby Wilson, *Tyrannosaurus Lex: The Anthropology of Human Rights and Transnational Law, The Practice of Human Rights: Tracking Law between the Global and the Local*, Cambridge University Press, 343 (Gooddale, Mark and Merry, Sally Engle ed., 2007).

¹³³ Iris Murdoch, *The Sovereignty of Good*, London: Routledge and K. Paul, 66 (1970).

tasks, like violating the integrity of the body and also rechanneling the unconscious urges of some patients to be sick and to be cared for. Professionals are ideally suited for this role because they can refuse to indulge such tendencies in patients without threatening their relationship with them.¹³⁴ Also professional authority facilitates cooperation in recovering besides compensating for the often impaired and inadequate judgement of the sick.

Choosing Paternalism:

Paternalism is the impediment with individuals' freedoms or independence "for their own particular great" or to "keep their damage" independent of the inclinations of the individual whose freedom is being shortened.¹³⁵ An intense approach to comprehend the issues and discussions about paternalism in solution is to consider the instance of Dax Cowart, who was extremely harmed following a gas blast which severely charred areas more than 67 percent of his body.¹³⁶ A 1974 film, shot 10 months after the mischance, demonstrates Cowart experiencing agonizing yet life-sparing medications. The unit specialists told White, a plastic and reconstructive specialist that Cowart was unreasonable and discouraged any form of treatment and should be pronounced non-judgemental so that his mother could be named his legitimate watchman and thus could approve surgery to save his face.

Ultimately Cowart consented to the surgery since, he said, he trusted that it was the speediest course out of the doctor's facility, where he could restore control

¹³⁴ Larry Palmer I, *Law Medicine and Social Justice*, Louisville, KY: Westminster/John Knox Press, 112 (1989).

¹³⁵ G. Dworkin, *Paternalism*, Cambridge Dictionary of Philosophy, Cambridge University Press, 564 (Audi R, ed., 1995).

¹³⁶ Galveston, *Please Let Me Die*, University of Texas, Department of Psychiatry, (1974).

over his life¹³⁷. The trouble with paternalism for legitimately skilled people is that, to begin with, somebody's genuine conviction about what is useful for someone else might not be right. With the best goals individuals might be mixed up about what damages or advantages others¹³⁸. Second, constraining the freedom of equipped people offers lacking admiration for their self-governing activities or their capacity to settle on choices for themselves.¹³⁹ Individuals discover it naturally profitable to arrange their own lives and live as they wish¹⁴⁰. Third, there is utility or instrumental esteem in giving individuals a chance to live as they wish on the grounds that able individuals by and large are the best judges of what is best for them and in light of the fact that we gain from each other's victories and disappointments¹⁴¹. In choosing for ourselves, in addition, we build up our potential as self-sufficient people, pick up regard from others, and don't feel impeded. Paternalism is for the most part considered an outlandish impedance with the freedoms of individuals who can act self-rulingly in light of the fact that it undermines what they need for themselves and their freedom to experience their lives as they wish the length of they don't meddle with others.¹⁴² Current laws and arrangements by and large don't allow restorative paternalism for lawfully capable people.

Powerless Paternalism or Feeble Paternalism:

Powerless paternalism licenses impedance with the freedom of others to figure out if they are skilled or

equipped for settling on a judicious decision¹⁴³. The vast majority would contend that it is reasonable to meddle with people going to damage themselves to figure out whether they have the ability to take care of their interests, comprehend the outcomes of what they are doing, or act deliberately. Feeble paternalism respects the self-governing choices of equipped people while additionally securing individuals who might act non autonomously or on lacking data.

During restorative humanities course¹⁴⁴ we get to acquaint them with issues of competency, educated assent, and paternalism. Empathy appears to lead to one bearing and regard for freedom in another. There is no contention between the need to secure wiped out individuals and to respect their self-assurance when they approve suggested medicines or hospitalizations.¹⁴⁵ The issues emerge when we can't at the same time do what we believe is best for individuals furthermore regard their refusal of treatment or hospitalization, and arrangements regularly rely on upon competency judgments.

Reasonable Paternalism :

Paternalism is reasonable in the event that somebody does not have the ability to care for his or her interests. Some type of insurance is supported or even compulsory when individuals can't settle on choices for themselves, endure crippling diseases, demonstrate automatic self-ruinous conduct, or settle on decisions so improper to their own particular built up life objectives that we question their self-sufficiency.¹⁴⁶

¹³⁷ Dax's Case, New York: Concerns for Dying, (1985).

¹³⁸ L. Kopelman, *Moral Problems in Psychiatry: The Role of Value Judgments in Psychiatric Practice*, Jones and Bartlett Publishing Company, 275-320 (Veatch R, ed. *Medical Ethics*, 2nd ed. Boston, MA 1997).

¹³⁹ Derek Humphry, Mary Clement, *Freedom to die, People, Politics and the right-to-Die Movement*, New York St Martin's Press, 28-30 (1998).

¹⁴⁰ G. Dworkin, *Autonomy and Behaviour Control*, *Hastings Cent Rep.*, 23-28 (1976).

¹⁴¹ J.S. Mill *On Liberty*, Harmondsworth Penguin, (Himmelfarb G, ed. 1974).

¹⁴² Donald Schon, *The Reflective Practitioner :How Professionals think in action*, New York: Basic Books, 66-69 (1983).

¹⁴³ J. Feinberg, *Legal Paternalism*, *Canadian Journal of Philosophy*, 105-124 (1971), J. Feinberg, *Freedom and Behaviour Control*, *Encyclopaedia of Bioethics*, vol.1, The Free Press, New York, 93-101 (1978) and D. Van De Veer, *Paternalistic Intervention: The Moral Bounds of Benevolence*, Princeton University Press, (1986).

¹⁴⁴ Galveston, *Please Let Me Die*, University of Texas, Department of Psychiatry, (1974).

¹⁴⁵ Vinn-Kim Nguyen, *The Republic of Therapy, Triage and Sovereignty in West Africa's Time of Aids*, Duke University Press Durham and London, 137-38 (2010).

¹⁴⁶ David J Rothman, *Strangers at the bedside: A history of How Law and Bioethics Transformed Medical Decision making*, New York, Basic Books, 22 (1991).

Impedance appears to be advocated within the sight of individuals' non autonomous, self-dangerous conduct or when they depend on actions that are nonsensical, absurd, and strange. Consequently, paternalism (some lean toward the less sexist word "parentalism") is now and again an obligation in solution, and clinicians need to choose what they ought to act like great guardians and individuals who can't pay special mind to themselves.¹⁴⁷

For instance, brief automatic duty of a patient may eventually broaden that individual's freedom¹⁴⁸. Common responsibility laws for people considered hazardous to themselves are paternalistic as in they meddle with the freedom or self-governance of such people for their own particular great or to avoid hurt. The avocation for these laws is that individuals in some cases do not have the ability to act to their greatest advantage. At the point when individuals are sick, they are "not themselves" and are not picking self-governing.

Constraining the freedom of others can be supported on the off chance that they need ability to settle on the applicable choice (paternalism), in the event that they posture damage to others (the mischief standard), or if their conduct is bizarre to the point that we ought to intercede to permit time to figure out whether their activities are self-ruling and educated (feeble paternalism). It requires demonstrating that the likelihood and extent of the conceivable damage justifies the impedance and that the methods utilized are powerful and the slightest prohibitive means accessible¹⁴⁹

¹⁴⁷ Rae Dong, *Paternalism In Medical Decision Making*, Duke university, Durham North Carolina, 7, 14-19,33(2011).

¹⁴⁸ J. Feinberg, *Freedom and Behaviour Control*, Encyclopaedia of Bioethics, vol.1, The Free Press, New York, 93-101 (1978).

¹⁴⁹ L. Kopelman, *Evaluative Nature of Competency and Capacity Judgments*, *International Journal of Law Psychiatry*, 309-329 (1990) and T.L. Beauchamp *On Paternalism*, *Encyclopaedia of Bioethics*, 3rd ed., MacMillan Library Reference, 1983-89 (Post SG, ed., 2003).

Regarding a patient's skilled refusal of a difficult treatment does not constitute cooperation in a suicide, as a few specialists dreaded. One would trust that Cowart's specialists would have prescribed or even entreated him to consider life-sparing medications or meet people with handicaps who were living full and glad lives. Still, they crossed a lawful and good line in treating this exceptionally skilled man without wanting to without even a court hearing.

Guided Paternalism, The basis of Informed consent:¹⁵⁰

It appears glaringly evident that in a post-present day, constructivist world where significance and esteem frameworks are regularly subjective and relative, any absolutist view is probably going to be faulty. This is all the more so in the event that it identifies with morals, the establishments, elucidation and utilization of which have been and kept on being abundantly faced off regardless.¹⁵¹ In this way, intending to the suggestion, my endeavours were coordinated at distinguishing a position that would intercede extremity. I inspected the dispute that the specialist, since he is better educated, may assert more prominent keenness and forces of judgment, and its safeguards against the accuse of meddling of individual freedom and self-rule through different contentions¹⁵², for example, the damage rule, the welfare, the guideline of legitimate moralism and the interest to instability. While there is some legitimacy to the contentions proposed, supreme paternalism would appear to be incongruent with deference for individual rights.¹⁵³ How attractive, then, is the outlook change from

¹⁵⁰ Brian C. Drolet and Candace L. White, *Selective Paternalism*, *AMA Journal of Ethics, Virtual Mentor*, 582-588(2012).

¹⁵¹ KH Satyanarayana Rao, *Informed Consent, An Ethical Obligation or Legal Compulsion*, *J Cutan Anaesthet Surg*, 33-35(2008).

¹⁵² Lim L S *Medical Paternalism Serves the Patient best*, *Singapore Med J*, 143-7(2002).

¹⁵³ *Wilsher v. Essex Area Health Authority*, AC 1074,(1988).

paternalism to the autonomous decision demonstrate where the specialist presents nonpartisan measurements as meagre one-sided as could reasonably be expected by his own particular perspectives and judgments and leaves the basic leadership completely to the patient or his/her relatives. This unmistakably had its impediments as well. Similarly as with quite a bit of human experience, the answer would appear to rest in intervening the cheerful mean. Perceiving a qualification between self-rule (self-assurance) and autonomy (add up to opportunity of decision with no obstruction) takes into consideration a model of qualified freedom or "upgraded independence"¹⁵⁴. This is predicated on specialist tolerant discourse, trade of thoughts/perspectives, transaction of contrasts, and sharing force and impact for the basic motivation behind serving the patient's best advantage. This model would appear to be a mindful and successful way to deal with administration of clinical predicaments, and one that in its pluralistic approach is predictable with essential good and insightful recommendations. It is in no way, shape or form faultless, yet in a flawed world, there can be no impeccable arrangement; steady transaction with the substances - however uncomfortable- - is an inevitable unavoidable truth. Activities are ideal in extent as they have a tendency to advance bliss: wrong as they tend to deliver the turnaround of satisfaction. (J S Mil, Utilitarianism)¹⁵⁵ On that supposition, I present that guided paternalism is ostensibly what serves the patient best.

Autonomy:

Definition: Autonomy is the "individual decide of the self that is free from both controlling impedances by others and from individual impediments that forestall

¹⁵⁴ Joni Eareckson Tada, *A Place of Healing, Wrestling with mysteries of suffering, Pain and God's Sovereignty*, David C. Cook, 25-30(2010).

¹⁵⁵ John Stuart Mill, *Utilitarianism, What utilitarianism is*, 5, 17(1863).

important decision."¹⁵⁶ Autonomous people act deliberately, with comprehension, and without controlling impacts.

Clinical Applications: Respect for independence is one of the central rules of clinical morals. Self-rule in solution is not just permitting patients to settle on their own choices. Doctors have a commitment to make the conditions important for independent decision in others. For a doctor, regard for self-governance incorporates regarding an individual's entitlement to self-assurance and in addition making the conditions vital for self-governing decision.

People come to specialists for direction in settling on decisions since they don't have the essential foundation or data for settling on educated decisions. Doctors teach patients with the goal that they comprehend the circumstance sufficiently. They quiet feelings and address fears that meddle with a patient's capacity to decide. They direct patients when their decisions appear to be troublesome to wellbeing and prosperity.¹⁵⁷ Regard for independence additionally incorporates classification, looking for assent for therapeutic treatment and techniques, revealing data about their medicinal condition to patients, and looking after protection. Cases of advancing independent conduct is presenting all treatment alternatives to a patient, clarifying dangers in wording that a patient comprehends, guaranteeing that a patient comprehends the dangers and consents to all methodology before going into surgery.

Beneficence:

¹⁵⁶ John Coggon and Jose Miola, *Autonomy, Liberty and Medical Decision making*, *Camb Law J*, 523-547(2011).

¹⁵⁷ Heather D. Curtis, *Faith in the Great Physician, Suffering and Divine Healing in American Culture 1860-1890*, *The John's Hopkins University Press Baltimore* 81, 192(2007).

Benevolence¹⁵⁸ is activity that is accomplished for the advantage of others. Advantageous moves can be made to counteract or expel hurts or to just enhance the circumstance of others.

Clinical Applications: Physicians are relied upon to shun bringing on mischief, yet they additionally have a commitment to help their patients. Ethicists frequently recognize compulsory and perfect helpfulness. Perfect advantage includes extraordinary demonstrations of liberality or endeavours to profit others on every conceivable event.¹⁵⁹ Doctors are not really anticipated that would experience this wide meaning of helpfulness. In any case, the objective of medication is to advance the welfare of patients, and doctors have aptitudes and information that empower them to help others. Because of the way of the relationship amongst doctors and patients, specialists do have a commitment to:

- 1) counteract and evacuate damages, and
- 2) weigh and adjust conceivable advantages against conceivable dangers of an activity. Helpfulness can likewise incorporate securing and shielding the privileges of others, protecting people who are in threat, and helping people with disabilities.

Cases of useful activities: reviving a suffocating casualty, giving immunizations to the overall public, urging a patient to stop smoking and begin a practice program, conversing with the group about STD counteractive action.

Adjusting Autonomy and Benevolence, Harmony between two extremes:

Probably the most widely recognized and troublesome moral issues to explore emerge when the patient's self-

¹⁵⁸ Edmund D. Pellegrino, David C. Thomasma, *The Conflict between Autonomy and Benevolence in Medical Ethics, Proposal for a Resolution, Journal of Contemporary Health Law and Policy*, 25-29(1987).

¹⁵⁹ Muiris Houston, *Medical matters: Medical Paternalism and a Patient's right to know all the risks of treatment, The Irish times*(March 30,2015).

governing choice clashes with the doctor's helpful obligation to pay special mind to the patient's best advantages¹⁶⁰. For instance, a patient who has had cardiac surgery might need to keep on smoking or a patient with pneumonia may reject anti-toxins. In these circumstances the independent decision of the patient clashes with the doctor's obligation of helpfulness and taking after each moral standard would prompt to various activities. For whatever length of time that the patient meets the criteria for settling on an independent decision (the patient comprehends the current choice and is not constructing the choice with respect to fanciful thoughts), then the doctor ought to regard the patient's choices even while attempting to persuade the patient generally.

Choice of Autonomy v Paternalism in contradictions:

In 1977, the Supreme Judicial Court of Massachusetts held in the Saikewicz case¹⁶¹ that the probate court is the best possible tribunal for settling on choices whether to give or withhold "life-delaying treatment" for in critical condition awkward patients. This decision incited discuss in the restorative and lawful groups. Dr. Arnold Relman, Editor of *The New England Journal of Medicine*,¹⁶² contends that Saikewicz infringes on existing sound therapeutic practice and requires basic leadership hardware that is unfeasible and heartless. Relman battles that treatment choice for in critical condition incompetents in Saikewicz-sort cases ought to be made by the doctor in conference with the patient's family. Law teacher Charles Baron, interestingly, guards Saikewicz's judicialization approach, contending that such choice must be made in a foe structure that approximates the

¹⁶⁰ M S Komrad, *A Defence of Medical paternalism, Maximising Patient's Autonomy, J Med Ethics*, 38-44(1983 vol. 9, ed. 1).

¹⁶¹ *Superintendent Of Belchertown State School v. Saikewicz, Supreme Judicial Court of Massachusetts*,370 N.E.2d,417(1977).

¹⁶² A Buchanan, *Medical Paternalism or Legal Imperialism, Not the only alternatives for handling Saikewicz-type cases, Am J Law Med*, 97-117(1979).

perfection of the lead of law. Buchanan contends that Relman's feedback of Saikewicz lays on a deficient, medicinal paternalist perspective of the doctor understanding relationship, and that Baron's support of Saikewicz depends on an unmerited, lawful imperialist perspective of basic leadership for incompetents. In Buchanan's view, Relman's approach neglects to recognize fittingly between the making of medical judgments and the making of good judgments and wrongly accept that the patient's family ordinarily can't comprehend the components of the choice, while Baron's approach outlandishly expands the circle of the lawful procedure by disregarding the exceptional good relationship that as a rule exists between the family and its uncouth part. Buchanan proposes an option based leadership approach that he accepts joins the benefits, while helping the imperfections, of both Baron's and Relman's methodologies. The option depends on three recommendations¹⁶³. The best possible assumption in Saikewicz-sort cases is that the group of an uncouth is to settle on choices concerning treatment¹⁶⁴. This assumption of the family's overwhelming part in basic leadership is defensible: assurance of the patient's rights requires that choices be made inside a structure that permits incredible exchange and accountability through fair survey and that accommodates lawful mediation when vital¹⁶⁵. The institutional system for executing the elements recorded in the former recommendation will depend intensely upon a morals board of trustees that is neither an all-restorative forecast advisory group nor a managerial office of the healing centre. Other than assessing and reacting to the Relman and Baron approaches,¹⁶⁶ Buchanan looks at the commitment to

the Saikewicz face off regarding made by law-and-drug teacher George Annas¹⁶⁷. Basically, Buchanan rejects Annas' contention that, taken together, the Saikewicz supposition and the Quinlan sentiment of the Supreme Court of New Jersey portray an appropriate division of restorative and legitimate basic leadership duty concerning in critical condition incompetents. Buchanan reasons that, in spite of Annas' view, those two cases are not reconcilable.

Conclusion:

In *Montgomery v. Lanarkshire Health Board*¹⁶⁸ [2015], The Supreme Court, after an exhaustive review of post *Sidaway*¹⁶⁹ cases, disagreed regarding the decision about information to be provided to a patient by his/her doctor to be left ultimately to the doctor's clinical judgement. In particular, the court noted that the English Courts (in cases such as *Pearce and Chester v. Afshar*¹⁷⁰) had eroded the supposed certainties of *Sidaway* and have tacitly ceased to follow *Sidaway* adoption of the *Bolam*¹⁷¹ test. The main judgement pits it as"Patients are now widely regarded as persons holding right rather than as the passive recipients of the care of medical profession." In *Union Pacific Railway Co v. Botsford*,¹⁷² it was concurred "No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law."¹⁷³ This can be a valid Constitutional Provision wherein the fundamental value of self determination has a higher pedestal than the right to health and long life.

¹⁶⁷ *GJ Annas, Reconciling Quinlan and Saikewicz, Decision making for the terminally ill incompetent, Am J Law Med, 367-96(1979).*

¹⁶⁸ [2015] UKSC 11, 11 March 2015.

¹⁶⁹ *Sidaway v. Board of Governors of the Bethlehem Royal Hospital, AC 871(1985).*

¹⁷⁰ *Chester v. Afshar, EWCA Civ, 724(2002), QB 356(2003) UKHL 41(2004).*

¹⁷¹ *Bolam v. Friern Hospital Management Committee, 1 WLR 582(1957).*

¹⁷² 141 U.S.250,251(1891).

¹⁷³ *Hotson v. East Berkshire Area Health Authority, 2 All ER 909,(1987).*

¹⁶³ G. Dworkin, *Paternalism, Cambridge Dictionary of Philosophy, Cambridge University Press, 564 (Audi R, ed., 1995).*

¹⁶⁴ *Galveston, Please Let Me Die, University of Texas, Department of Psychiatry, (1974).*

¹⁶⁵ *Dax's Case, New York: Concerns for Dying,(1985).*

¹⁶⁶ *C H Baron, Medical Paternalism and the rule of Law, An reply to Dr Relman, Am J Law Med,337-65,(1979).*

However the radical thought about the patient's exclusive right to take decision about his /her own treatment and /outcome or right to refuse treatment is only plausible when the patient's faculties are intact.¹⁷⁴ In case of acute illness does this argument that respecting patient autonomy with physician's non-interference holds good when the illness puts constraints on the patient's ability to make choices. In Constitutional provisions , however, in claiming autonomy certain obstacles have to be overcome and those are involvement of human of "adult years" and "sound mind". Terrence Ackerman¹⁷⁵ in his report dated 1982 called " Why Doctors should intervene" gives light to various kinds of constraints which included physical constraints e.g., prison or bodily prevention, cognitive constraints, psychological constraints, social constraints etc.

From past to the present, the physician patient relationship has been continuously evolving. This unique relationship for a long time has been immune to the criticism and the scrutiny of the outsiders. If we compare the Hippocratic Oath¹⁷⁶ which emphasises , "Knowledge as is mine " and "benefit of the sick" to that of Charak's¹⁷⁷ discourse as "A Physician who fails to enter the body of the patient with the lamp of knowledge and understanding can never treat diseases" , we can concur that from the standpoint of ethics enshrined in Indian Medical texts, the patient autonomy is as respectful as the Medical paternalism. Manu, in his treatise Manav Dharma has clearly mentioned that a person treating an ailing person should ensure that his treatment causes no harm to a person reposing faith in him; that he is bound by divine intervention never to mention a third person

¹⁷⁴ *Whitehouse v. Jordan*, 1 All ER 267, (1981).

¹⁷⁵ Terrence F. Ackerman, *Why Doctors Should Intervene*, *Hastings Centre Report*, *Philosophical Research online*, 14-17 (1987).

¹⁷⁶ Ludwig Edelstein, *The Hippocratic Oath, Text ,translation and Interpretation*, ISBN 978-0-8018-0184-6, 56 (1943).

¹⁷⁷ Gabriel Van Loon, *Charak Samhita, Handbook on Ayurveda vol. 1*, 12-20 (2003).

about the disease---- the essence of patient confidentiality and an exquisite blend of patient autonomy with clinician's decision to intervene without any conflict zone.

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