MEDICAL-MORAL DILEMMA:
The Psychiatrist’s Duty to Warn
(Continued from page one)

in which the physician has a responsibility to notify officials of information obtained within the clinical setting: e.g., contagious diseases, epilepsy, gunshot wounds, battered children. Requirements such as these are not seen as violations of the doctor/patient relationship because that relationship is itself defined at least partially in terms of patient expectations and because the requirements of the law have a significant effect in the structuring of those expectations.

RESOLUTION: These arguments and counter-arguments force us to confront two vital choices. The first of these concerns the question of who is to bear the burdens associated with social living. A policy of nondisclosure places the burden on the innocent and unsuspecting potential victim, whereas a policy of disclosure places the burden on the possibly harmless patient. The choice in favor either of the innocent, or of the weak and ill, over the other cannot be a happy solution.

A second choice concerns the conflicting roles of the physician, protector and advocate of his patient versus servant of the public good. The rise of the importance of medicine has seen a corresponding increase in the significance of the latter role, but there are good reasons for thinking that in the long-run society is best served by the physician who best serves his own patient’s well-being. The restrictions on professional confidentiality indicate that there are precedents favoring the duty to warn and that the affirmative position may have the weight of argument on its side. But the strength of the negative position shows that the costs associated with such a policy must not be overlooked or underestimated.

Clear, too, is the traditional teaching of the Church in this area well expressed by the following quotation from Pope Pius XII:

"Another of the duties which derive from the Eighth Commandment is the observance of the professional secret, which must serve and serve the good of the individual and even more of society. In this sector, too, there can arise conflicts between the public and private interests, or between different elements and aspects pertaining to the common good. In these conflicts it will often be very difficult indeed to measure and weigh justly the pros and cons for speaking out or keeping silent. In such a dilemma, the conscientious doctor seeks his norm in the basic tenets of Christian ethics, which will help him to pick the right course. These norms, in fact, while they clearly affirm the obligation on the physician to preserve the professional secret, above all in the interest of the common good, do not concede to this an absolute value. For that very common good would suffer were the professional secret placed at the service of crime or injustice." (Allocution to the Italian Medical-biological union of St. Luke, Nov. 12, 1944, quoted in The Human Body, Boston: Daughters of St. Paul, 1960, p. 63.)

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The "basic tenets of Christian ethics" to which Pope Pius refers includes the appreciation that the revelation of a professional secret would be the last alternative when, in effect, the patient in the actual circumstance no longer retains the right to his or her secret. (See, for example, Chas. J. McFadden. Medical Ethics, 6th Edition, pp. 406-410.)

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During the medical discussions of brain death held during the recent Conference on Brain Death, sponsored by the New York Academy of Sciences, it was clear that there was some confusion regarding the definition of death. One of the speakers emphasized that one should distinguish carefully between the definition of death and the definition of criteria for death. As far as the concept was concerned, an adequate definition of life (which he felt was not yet available) was a necessary prerequisite. Yet there seems to be an agreement that death involves an irretrievable loss of life. With regard to the medical criteria for death, an agreed upon set of guidelines which recognizes the range of circumstances in which such a decision must be made is of prime necessity.

The term "brain death" also was subject to criticism. In the strict sense, "brain death" should be taken as death, or irreversible non-functioning of the total brain: cerebrum, cerebellum, pons and medulla oblongata. However, sometimes it seems to be used as equivalent to "cerebral" death, interpreted to mean death of most of the brain but excluding cerebellum, pons and medulla.

One of the speakers, Dr. John Hughes, stated that brain death is an irreversible cessation of function of all brain functions including the cerebellum and brain stem down to the C-1 segment of the cord. Considerable time was spent discussing the use of the EEG as a means of ascertaining or confirming brain death. It is clear that the use of scalp electrodes measures primarily electrical activity in the cerebral cortex, even though the subcortical functions may have some influence on cortical readings.

More On DNA

The heat which was generated by the controversy around the research involving recombinant DNA has been reduced with the passage of time to a lower intensity. Senator Edward M. Kennedy (D.-Mass.) announced on the 27th of September that he would withdraw his controversial Bill S1217. Evidence indicating that the risks which had been claimed to be associated with recombinant DNA research have been somewhat overstated. Consequently, Mr. Kennedy recommended a one year extension of current NIH Guidelines for those engaged in recombinant DNA and that this should be a continued involvement of the society at large in the process of evaluating, developing and implementing a suitable policy for scientific and medical research.

Now that the temperatures have decreased somewhat, it may be possible for scientists, concerned laymen and legislators to come up with a proposal which would meet the needs of all parties involved with due recognition of the dangers as well as of the positive contributions that such research can make. This illustrates well the fact that now much of science is no longer developed in its own private ivory tower but must face the scrutiny of the public-at-large. On the other hand, the public has the important role of listening carefully to the scientists and engineers, doing its best to understand and then to indicate its concerns clearly and vigorously so that whatever legislation is ultimately passed will be consonant with the facts as then understood and will best serve the common good.