

Moral Implications Of Patients Recording Conversations With Physicians



Researchers at the University of Texas Health Science Center at San Antonio have conducted a study of the ethical implications of patients and their families secretly recording conversations they have with physicians. Now that smartphones are ubiquitous and equipped with the technology to capture such conversations, the frequency of recordings is expected to increase. However, it is not known how the surreptitious recording of patient-physician conversations undermines relationships and affects care delivery.

Recording a private conversation is prohibited by federal law, unless one of the parties consents to the recording. There are additional protections provided by some US states, such as California and Florida, stipulating that all parties to the conversation must consent. However, in states without the additional protections, a conversation can be recorded by a patient or family member without fear of legal consequences, as long as they do not violate other laws.

Pros and Cons of Recording Conversations

The covert recording of patient-physician conversations has garnered mixed reactions from physicians who have not explicitly agreed to the recording of family meetings. Some physicians note the benefits to patients and their families, such as helping them to better understand information discussed during physician visits. Having a recording of the conversation might also improve compliance with physician directives and encourage personal engagement. For patients in the ICU who may be unconscious or unable to make decisions, the recording of information could be very valuable to caregivers and family members who are charged with making end-of-life decisions.

Other physicians feel vulnerable to the actions of patients or family members who could manipulate the recordings with negative intentions. When a family member is upset about a diagnosis or disagrees about a prescribed course of treatment, comments might be interpreted out of context. Harmful messages can spread like wildfire via social media outlets. It is even possible that conversations may be recorded by patients with the intent to establish the foundation for litigation. While patients may be reassured by HIPAA and other privacy laws which forbid disclosure of private details they share with their doctors, physicians do not have the same legal protections when it comes to the disclosure of their conversations with patients.

Strategies For Medical Professionals

The authors note that all parties can benefit when physicians are forthright during conversations with patients and their family members. It is essential that physicians become aware of the possibility that every conversation may be recorded. Rather than fearing the possibility and second-guessing their words based on how they might be perceived by lawyers and judges, physicians can view the possibility of recorded conversations as an opportunity to ensure that sensitive information is conveyed clearly and compassionately to patients and their families.

“Unless federal or state laws change, physicians should be aware of the possibility that their conversations with patients may be recorded. If physicians embrace this possibility, establish good relationships with their patients, provide compassionate and competent care, and communicate effectively and professionally, the motives of patients and families in recording visits will be irrelevant.”

The study was conducted by Michelle Rodriguez, JD; Jason Morrow, MD, PhD; and Ali Seifi, MD, all of whom are affiliated with the University of Texas Health Science Center at San Antonio. It first appeared online in JAMA.

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