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A Substantive Law and Medical Ethics Analysis of the Principle of Confidentiality in the Health Sector

Abstract

Background: The position of the principle of confidentiality in the health sector in the current era, which is known as the information age, requires the existence of legal mechanisms as guarantees to respect it and to uphold the ethical principles and determine its boundaries in the health sector. The fact that the access to patients' information can lead to intentional and unintentional disclosure of their data reveals the necessity of the current research.

Methods: This study was conducted using a doctrinal approach. Library-based research, books and articles have been used to collect information. To organize this research, honesty and fidelity have been observed alongside authenticity.

Results: Investigations show that there are deficiencies in Iran's subject laws; because the law must respect the rights of citizens and have the ability to guide its subordinates, while in Article 19 of the Law on Preventing Sexually Transmitted Diseases and Infectious Diseases approved in 1941, despite the counting of diseases in an exclusive manner and remaining silent the consequences of breach of confidentiality in emerging diseases such as AIDS, hepatitis and covid-19 are not seen in such guidelines. Also, considering the principle of openness and taking it into consideration when enacting the law, it should be said that such a thing has not been done in Article 648 of the Islamic Penal Code (Penalties) regarding the distinction between intentional and unintentional disclosure of a secret in the relevant matter, and in both cases, the behavior of the perpetrator is the same as the answer.

Conclusion: By making amendments to the above laws and taking into account the principles of medical professional ethics as well as comparative law, including the set of laws related to the responsibility of health insurance in the United States of America in this case, an important step can be taken in the direction of protecting the rights of patients.

Keywords: The principle of confidentiality, Health, Medical ethics, Disclosure, Subject rights