The Fallacy of Disclosure

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Where is Mississippi?

Professions
• Esoteric knowledge
  – Prolonged training
• Freedom from lay control
  – Code of ethics
• Esteemed place in society

IoM- CoI

“A set of circumstances that creates a risk that professional judgment or actions regarding a primary interest will be unduly influenced by a secondary interest”

Conflict of Interest
• Direct
• Indirect
• Waiveable
Waiver of Conflicts

- Objectively reasonable, subjective belief
  - Competent/diligent care
  - In spite of conflict
- No other prohibition
- Not directly adverse

Scope

The fee-for-service treatment setting poses substantial conflicts of interest in which the physician’s treatment decision may be affected by his financial interests in treating a particular patient. The possibility of economic pressures clouding physician judgement are systemic in medical practice.

Management of Conflict

1st Problem
- Discretionary
- Range of opinion
- Accuracy and extent
  - Under emphasis

2nd Problem
- Sanitize CoI
- Belief that patient assumes the risk

Yerkes-Dodson
3rd Problem
• Violation of fiduciary duty
• Balance doctor-patient relationship with value of advice

4th Problem
Bolstering

5th Problem
Therapeutic Misconception

Suggestions
• Compensation structures
  – Ownership interests
  – Procedures
• Clinical research

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That’s all Folks!