

## *Virtual Mentor*

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### **CASE AND COMMENTARY**

#### **Please Don't Say Anything: Partner Notification and the Patient-Physician Relationship, Commentary 2**

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#### **Case**

On Dr. Singh's recommendation, one of her patients, Mr. Henry Roland, consented to be tested for HIV and had a positive test result, which he feared but suspected. Mr. Roland has a longtime girlfriend, Lisa, whom he sometimes mentions to Dr. Singh. When talking to Mr. Roland about his positive test result, Dr. Singh brought up the topic of notifying Mr. Roland's past and present partners so they could be tested themselves. Mr. Roland refused to agree to tell Lisa, or even allow Dr. Singh to notify the health department so they could call her to suggest that she be tested.

"If she's positive, she'll know it was me. Please don't say anything or she'll know I gave it to her."

Mr. Roland told Dr. Singh that he intended to continue having sexual relations with Lisa, otherwise she would suspect that something was wrong with him. He insisted he would use protection consistently. Dr. Singh explained to Mr. Roland that Lisa may already be HIV-positive and if she is, she should seek treatment.

"She'll leave me if she knows. I can't deal with this without her, Dr. Singh, I just can't."

#### **Commentary 2**

There are at least 3 ethical threads running through this case: partner notification, disease reporting for surveillance purposes, and Mr. Roland's dishonesty and self-interest in his relationship with Lisa. Each of these highlights some aspect of public health ethics.

Whereas medical ethics is defined in large part by the interactions between a clinician and a patient, public health ethics is defined by the interactions between an agency, such as the health department, and a population of people. The agency is concerned about the well-being of the whole population, including the risk that one member can bring to the other members of the community. For this reason, public health ethics views the world through the lens of interdependence rather than the lens of autonomy.<sup>1</sup> We are interdependent in that one person's risk depends on another person's infection.

Mr. Roland illustrates for us how an infected person will not always act in the best interest of the uninfected person. He is willing to put his girlfriend's life at stake so he won't have to confront the reality of their relationship. (Deception is evidently part of their reality since he assumes he did not get his infection from Lisa, but from a person that Lisa doesn't know about.) Unfortunately, such self-interest and denial are common.

Out of an awareness that individuals with sexually transmitted diseases (STDs) are often hesitant to name their sexual partners and that clinicians may yield to the self-interest of the patient and also not report an infection to those who will notify sexual partners of their risk, state governments legally require that certain STDs be reported to the health department. Thus, when a clinician diagnoses syphilis, for example, reporting the infection to the health department is neither at the patient's nor the clinician's discretion. Once reported, a disease intervention specialist contacts the infected person and elicits the names and contact information of people with whom the infected person has had sex within the infectious period. Once found, the sexual partner is tested for infection and, if found to be infected, is treated. By shortening the duration of infection, the harm to the infected partner is minimized, as is the chance for transmission to still others.

The benefit of reporting HIV infection is not as clear cut as it is for syphilis. When syphilis is found, the infection can be cured. But that is not the case with HIV infection. In part because this benefit is not available for HIV, not all states require that HIV infections be reported. Current treatments reduce the viral load and thus decrease infectiousness, reduce perinatal transmission in pregnant women, and generally postpone AIDS and death. These benefits are enough that the Centers for Disease Control and Prevention (CDC) now recommend that all states require HIV reporting. CDC also argues that HIV reporting is necessary to monitor the epidemic and thus to better respond to it.<sup>2</sup>

We don't know where Dr. Singh practices, so we don't know if she is required to report Mr. Roland's infection under state law. If there is significant risk of transmission, it is unlikely that Dr. Singh would be legally liable if she were to report the infection when she is not legally required to do so. The ethical duty to protect others from an HIV-infected man who intends to have sex without telling his partner(s) of his infection would compel Dr. Singh to report the infection to the health department. Some argue that a reporting requirement causes fewer HIV-infected individuals to get tested because they fear what will happen if their infection becomes known. If many people do this, testing and reporting will have the unintended consequence of leading to *more* undiagnosed infections and thus more transmission. For this reason some states offer anonymous testing, in which the name or contact information of the person being tested is not known to the clinician. The situation we are dealing with in this case, however, is a known infection in a known person.

It is clear that Mr. Roland would be legally liable if he were to have sex while knowingly infected with HIV and not informing his sexual partner, as he intends to do with Lisa. This is often treated as a felony offense which can result in a prison sentence. Moreover, a strict reading of the law does not allow use of a condom as an excuse for not informing.<sup>3</sup>

Viewed from a public health perspective, Mr. Roland has an ethical duty to inform Lisa and his other sexual partners of his infection. He can do this himself or he can let the health department do it for him. If he has sex again he also has a legal requirement to inform his partners. Dr. Singh has the ethical duty, and likely the legal mandate, to report Mr. Roland's infection to the health department. The importance given by public health to the protection of the community leads to this course of action.

### References

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