– les membres de la famille du patient dans la mesure oú cette révélation peut facililiter les soins.

Il importe que les professionnels susceptibles de partager la secret soint eux-mêmes liés à la règle du secret, soit par la loi, soit par leurs règles ou leur éthique professionnelles.

4. Le secret peut-il être partagé avec le médecin-conseil de la Sécurité sociale?
   Dans les Pays-membres oú le secret ne repose pas sur la loi pénale, il n'y a pas d'interdiction, ni d'obligation légale de communication. L'usage est de donner les indications spécifiques correspondant à la demande de prestations du patient. Si une infraction à la règle du secret est invoquée à l'encontre du médecin, il peut se justifier s'il démontre avoir agi dans l'intérêt du patient.
   Dans les autres Pays-membres, la demande de prestations est en général considérée comme faisant présumer l'accord du patient.
   Dans certains pays, la loi fait en principe obligation au médecin de "partager" dans la mesure du nécessaire. Dans les autres pays, le médecin doit apprécier ce qu'il doit ou peut dire. Mais s'il parle, il doit avoir l'accord du patient.
5. Le médecin peut-il révéler le secret médical sans loi spéciale l'autorisant ou l'obligeant à le faire et sans l'accord du patient, s'il en résulte un plus grand bien pour la société?
   Oui dans les Pays-membres oú la règle du secret repose, non sur la loi pénale, mais sur la seule éthique professionnelle. Dans les autres Pays-membres, en principe, il faut une loi spéciale autorisant le médecin à parler: il s'agit en général de protéger des victimes (par exemple des enfants maltraités). Toutefois, faute de loi spéciale et dans des cas exceptionnels (par exemple lorsqu'il s'agit de prévenir des accidents de circulation), le médecin peut apprécier s'il s'agit, selon les termes excellents de la loi italienne, d'une "juste cause" de révélation.
6. Enfin le médecin peut-il être obligé par la loi de révéler le secret sans l'accord du patient?
   Oui dans tous les Pays-membres s'il s'agit de déclarer aux autorités compétentes les maladies contagieuses ou les accidents du travail.
   Le problème est plus complexe en droit communautaire s'il s'agit de témoigner en justice ou de dénoncer à la police des faits permettant la prévention ou la rèpression des crimes ou des délits.
   Dans les pays oú le secret médical ne repose pas sur la loi pénale, celle-ci s'impose avec plus de regueur au médecin: le refus de témoigner en justice à ce sujet est en principe un outrage à la Cour. Le médecin n'est pas délié, d'autre part, de l'obligation qui s'impose à tout citoyen d'aider à la prévention ou à la rèpression des crimes et délits.
   Dans les pays oú le secret médical est inscrit dans la loi pénale, il y a conflit entre plusieurs obligations d'ordre public. Il est en général admis avec des nuances variables d'un pays à l'autre, que le médecin peut alors apprécier celui des devoirs qui lui incombent auquel il donne la priorité.

2.16 Ethical guidelines in telemedicine

Adopted, April 1997 (CP 97/033)

Definition

The term telemedicine refers to the practice of medicine over a distance. In telemedicine, interventions, diagnostic and treatment decisions and recommendations are based on data, documents and other information transmitted through telecommunication systems.

Authorisation – competence

Telemedicine is one way of practising medicine which may provide opportunities and increase possibilities to effectively use available human and materiel resources. The possibilities offered by telemedicine must be open to all doctors over geographical borders.

Physicians practising telemedicine must be authorised to practise medicine in the country or state in which they are located and must be competent in the field of medicine in which they are practising it. When practising telemedicine directly with the patient, the doctor must be authorised to practice medicine in the stase where the patient is normally resident or the service must be internationally approved.

Patient-doctor relationship

The use of telemedicine must not adversely affect the individuel patient-doctor relationship which, as in all fields of medicine, must be based on mutual respect, the independence of judgement of the doctor, autonomy of the patient and professional confidentiality. It is essentiel that the doctor and the patient can reliably identify each other in a telemedicine consultation.

Preferably, all patients seeking medical advice should see a doctor in a face to face consultation, and telemedicine should be restricted to situations in which a doctor can not be physically present within acceptable time. The major application of telemedicine is the situation in which the treating doctor seeks another doctor's opinion or advice, at the request of or with the permission of the patient.

Where a direct telemedicine consultation is sought by the patient, it should normally only take place when the doctor has an existing professional relationship with the patient, or has adequate knowledge of the presenting problem, such that the doctor will be able to exercise proper and justifiable clinical judgement.

In an emergency, such judgements may have to be based on less than complete information, but in these instances the danger to the health of the patient will be the determinant factor in providing advise or treatment.

The responsible physician

The doctor asking for another doctor's advice remains responsible for treatment and other decisions and recommendations given to the patient.

When practising telemedicine directly with the patient, the doctor assumes responsibility for the case in question.

The doctor performing medical interventions via telemedical techniques is responsible for those interventions.

Quality, security and safety in telemedicine
A doctor practising telemedicine is responsible for the appropriate quality of his/her services. He/she must not practise telemedicine without ensuring that the equipment necessary for the telemedical services rendered is of sufficiently high standard and adequately operationel.

The doctor must carefully evaluate the data and other information he/she has received. Medical opinions and recommendations can only be given and medical decisions made if the quality and quantity of data or other information received is sufficient and relevant for the case in question.

When performing medical interventions over distance, the doctor must secure the presence of sufficient and adequately trained personnel assisting the patient and his/her continuing care.

Patient documents
All doctors practising telemedicine must keep adequate patient records and all cases have to be properly documented. The manner of patient identification shall be recorded, as well as the quantity and quality of data and other information received. Findings, recommendations and telemedical services delivered shall be adequately documented.

Medical ethics, patient consent and confidentiality
The principles of medical ethics which are binding upon the profession shall also be followed in the practice of telemedicine.

Normal rules of confidentiality and security also apply to telemedicine documentation. Storing or transmission methods may be used only where confidentiality and security can be guaranteed.

Patient data and other information may only be transmitted to a doctor or other health professional on the request or with the informed consent (permission) of the patient and to the extent approved by him/her. The data transmitted must be relevant to the problem in question.

2.17 Complementary Medicine: CP Motion on Lannoye's Report

Adopted in Athens, April 1997 (CP 97/041)

The Standing Committee of European Doctors acknowledges the release of Mr. Lannoye's report on "complementary medicines", presented to the European Parliament.

The Standing Committee of European Doctors underlines that the medical act consists of a prior diagnosis before any therapy. Only the medical training, harmonised throughout Europe, gives the garantee of the best possible adequacy between the patient's request and the doctor's response.

Now that the medical profession adheres to a quality control processes, it seems unthinkable to promote practices which are not scientifically demonstrated and escaping from any evaluation.

The CP, in its meeting on April 12, 1997 cannot accept the proposals of this report.

2.18 Motion on Human Cloning

Adopted at Athens, November 1997 (CP 97/062 Final)

The Standing Committee
TAKES NOTE of the world-wide reverberations caused by the first case of cloning of a mammal and of the considerable emotive implications among public opinion in view of the theoretical possibility of transposing cloning techniques to human being;

TAKES NOTE of statements on the subject delivered authoritatively by the World Health Organisation and of the positions assumed by the European Parliament;

Rejects
on the grounds of deontological ethics, and in the present state of knowledge, the application of any form of reproductive cloning to whole human beings (as distinct from what are termed therapeutic forms of cloning);

Calls upon
every Member State of the European Union to adopt legislation which prohibits reproductive cloning of whole human beings;

Urges
that at European Level every appropriate step be taken to prohibit reproductive cloning of whole human beings.

2.19 Medical Confidentiality

between doctor and patient and information demanded by insurance Companies (CP 98/090) – adopted at Brussels. Document available on website or from CP Secretariat.