The Patient with Diabetes – Part 2

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By the year 2026, Ms. A.'s doctor recommends that she monitor her health with the help of a free health AI app called "Tobi" by the company CAIRGIVER. Tobi makes recommendations on exercise and meals that are based on Ms. A.'s "genetic profile."

The data Tobi collects, including Ms. A's genetic data, are shared in a de-identified form with other third parties by CAIRGIVER for its own commercial gain.

Although the health AI app has a Privacy Policy, Ms. A. – like most app users – checked the "I agree" box without reading the Policy. It is not clear to her that her data is shared with third parties for commercial purposes.

Questions:

1. Should physicians recommend devices, such as Tobi, to patients?

2. How can the data privacy of individuals be adequately protected? Do the following factors make a difference:

   a) Whether Tobi collects individually identifiable data instead of de-identified data?

   b) Whether Tobi collects only non-genetic data, such as Ms. A's medical history, Ms. A's family history, or commercially collected data (e.g., Ms. A's shopping practices)?

   c) Depending on the use for which Tobi collects the data (e.g., for detecting skin cancer instead of making recommendations on exercise and meals)?

3. For what purposes should data sharing be permissible?

4. Should every health AI app have a Privacy Policy? If so, how could health AI apps' Privacy Policies be made more transparent to users?