

MEDICAL ETHICS

Medical ethics – will it continue to exist?

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Professional ethics and the profession of medicine have been closely linked through the centuries and many examples exist of guidelines having been developed early in the history of the profession by the profession, the best known of which is the Hippocratic Oath. There are many others, a few examples of which are The Prayer of Moses Ben Maimon, The Oath of Asaph and Yohanan and The Seventeen Rules of Enjuin. The common themes in all of these are the recognition of a God, keeping own needs subservient to that of the patient, confidentiality and a prohibition on performing and causing abortions.

As time went on society had the need to incorporate these professional codes of conduct into legislation and to expand the scope thereof. We are generally well informed and aware of the guidelines and rules issued by the various regulatory authorities, and they are referred to as ethical rules. The ethical basis for these has become somewhat obscured by the myriad laws, regulations, rules and guidelines we are supposed to be observant to. So, when discussing medical ethics in the modern context, one should guard against equating the rules of conduct of the various regulatory authorities with basic ethical considerations. It may therefore be useful to re-visit what is considered to be the foundation on which medical ethics rests and thereby assess where we are now in relation to the traditional approach to ethical norms.

The early Greek philosophers were, at least in the western cultures, the first to debate and pronounce on the morality of conduct of individuals. Initially ethical conduct was considered by them to be based on knowledge – if one possessed the necessary knowledge, the conduct of that individual would be prescribed by this knowledge and therefore always ethical. They discovered then, and we know now, that this assumption is not valid. Another way of looking at ethics is that it involves standing back and consciously reflecting on moral beliefs and practices, or, as put by Prof Barney Pityana at the Biko Memorial Lecture in 2007, that “Ethics represents a society’s understanding of itself, its values, and acceptable levels of human behaviour and how much it is prepared to accept without raising revulsion.”

In terms of medical ethics it means that we should, from time to time, critically assess our views on morality in the profession.

It is generally accepted that the professional carries more moral responsibilities than the population in general. This is because professionals are capable of making and acting on an informed decision in situations that the general public cannot because they have not received the relevant training, and it has long been believed that, inherent in the character of the doctor, is a sense of ethics, since morality is not something that can be taught or brought about by regulation.

The statement by Pityana that “medical ethics, however, never happens in a vacuum” implies that ethical guidelines must meet the needs of society. For it to have meaning for and a sense of ownership by the profession, it is essential that the profession be intimately involved in the development thereof. Examples of how active the profession has been in determining the needs of society in relation to medical matters abounds, and one needs only to refer to the Declaration of Helsinki, the Declaration of Oslo and the Declaration of Geneva, to name a few. All of these have been reviewed and revised whenever the need has arisen and some are currently under review.

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needs of society**

The current composition of the regulatory authority in South Africa, the Health Professions Council, includes elected members from the professions and appointees from universities and government, a mix of interests that should equip it to deal effectively with its main tasks, namely that of determining levels of education and training required in order to be admitted to and to remain in the profession, and the maintenance of professional conduct. The efforts of Council regarding standards of admission to the profession and continued competence are well recognised, but its efforts at protecting the public from the actions of unscrupulous practitioners have been severely criticised, by both the profession and the public. It is becoming evident that the profession is being alienated from the activities of the Health Professions Council of South Africa, and the amendments to the Health Professions Act, according to which the Minister of Health will appoint all members of the HPCSA, will only serve to remove any sense of ownership the profession may have in the development of these ethical guidelines, and thereby further jeopardise practitioner co-operation and pride in the profession. Worse, it may stifle the voice of the profession when it needs to speak out in terms of two of the Principles of Medical Ethics as enunciated by the American Medical Association, namely:

- A physician shall respect the law and also recognise a responsibility to seek changes in those requirements which are contrary to the best interests of the patient
- A physician shall recognise a responsibility to participate in activities contributing to the improvement of the community and the betterment of public health.

One cannot but speculate on the preparedness of politically appointed Council members to expose and criticise the many ways in which the historic ethical principles of the profession are being eroded, as well as the dereliction of patient rights due to action and non-action by state departments. Let us examine some of these:

- Confidentiality, for so long a cornerstone of the patient-doctor relationship, is under threat by the requirements for ICD 10 coding and requirements for disclosure of a diagnosis before a medical aid claim will be considered. In dentistry it is now required that the ICD 10 codes be made available to dental technicians, and to the best of my knowledge they have no requirement regarding confidentiality. While this may generally be regarded as not sensitive information, the principle is wrong.
- While mentioning in its version of the Hippocratic Oath that "I will not give to a woman any kind of strange material to produce abortion" the HPCSA also advises the public that "Only qualified medical people are allowed to carry out abortions." It is common knowledge that doctors in public service are required to perform these procedures.
- Vulnerable groups are particularly exposed to abuse in their medical treatment and require fearless observation and intervention on their behalf. A report by Justice Fagan on behalf of the Judicial Inspectorate of Prisons indicated that there has been a rapid escalation in the number of natural deaths in prison. According to this report the natural death

rate among prisoners in 1995 was 1.65 deaths per 1 000 prisoners; in 2004 it was 7.75 deaths per 1 000 prisoners – an escalation in natural deaths at a rate of 34% per annum. While one acknowledges that disease profiles are changing, the recent revelations by SABC journalists about the suffering of terminally ill prisoners paint a grim picture of abuse of human rights, the rights which are a cornerstone of our constitution and which are supposed to be nurtured by the state, above all. And that while other privileged prisoners spend most of their time of incarceration in a hospital!

- The conditions in public hospitals require serious attention. A quote from a letter posted on the internet demonstrates the point: "*I realise state hospitals are meant for people who cannot afford private care, but when last did you visit one? We saw only two, and I would rather die than receive treatment there, let alone leave someone else there.*"
- The manner in which doctors who have exposed intolerable conditions and practices in public hospitals have been dealt with has virtually silenced the voice of the profession in the public service.

As much as one may criticise these developments linked to the authorities, the private sector must also shoulder its share in the decline of the ethical standards in medicine. Most of it is related to greed. Fraudulent claims against medical aid schemes cost the public millions if not billions of rands. Practitioners venture into procedures for which they are not adequately experienced or trained, with sometimes catastrophic consequences, and the so-called "kickbacks" between doctors still rears its ugly head. The selection of prostheses and devices are frequently based on the amount of money generated for the doctor by the sale of the item, rather than on the qualities of the required prosthesis or device. If there is one aspect of professional conduct that will destroy patient trust, it is the fear that a referral to another practitioner or hospital is based on the prospect of financial gain by the referring doctor and not on the medical need.

We know that the practitioners who are acting in this manner are in the minority, but they are generating extensive harm to the majority. Their actions have led to government interventions in many ways and further interventions are being considered. The only way these actions can be prevented is for the profession to once again become actively involved in maintaining its standards of ethical conduct. The ethical practitioner should not be reluctant to be involved in exposing unethical conduct when they become aware of it, unpleasant as it may be, for only then will we be able to reclaim what is rightfully ours, namely the control of the standards of the profession.

So, will medical ethics continue to exist? Only time, and the manner in which we in the profession accept our responsibilities, will determine the answer.