

# Review Article

## The Medical Ethics

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### Abstract

The medical ethics means the moral principles, which should guide the members of medical profession in course of their practice of medicine and their dealings with patient and other members of the same profession. Medical etiquette deals with the conventional laws of courtesy observed between members of the medical profession.

- A registered medical practitioner is required to observe certain prescribed rules of conduct in code of medical ethics by BMDC.

### Duties of medical practitioner:

#### A) Duties towards the self patient

- Duty to exercise a reasonable degree of skill and knowledge.
- Duty to furnish proper and suitable medicine.
- Duty to inform patient of risks.
- Duty to notify certain diseases and professional secrecy.
- Duties under Geneva conventions.

#### B) Duties of a doctor towards the community

- Notification of infectious or any new dangerous diseases
- Information of birth & death.

#### C) Duties towards the state

- Responding to emergency military medical service and attending to the accident & mass disaster cases.
- Reporting to law enforcing agencies in case of Homicidal or suspicious cases.

#### D) Duties towards the doctor community

- Free medical service
- A doctor should not depreciate own professional brethren.

### Professional death sentence

It is the erasure of name from the professional register due to infamous conduct in any professional respect which deprives the practitioner of all the privileges.

#### Causes of erasure:

- 1) After the death of the registered practitioner.
- 2) Entry which is made in error or as a result of fraud.

- 3) Penal erasure due to professional infamous conduct.

### Professional infamous conduct/ misconduct

Any conduct of doctor who might reasonably be regarded disgraceful and dishonorable to the profession judged by his professional brethren of good repute and

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competence.

Misconduct are-

- 1) Adultery.
- 2) Performing criminal abortion.
- 3) Association with bad people.
- 4) Advertising: means no photo on sign board, No add on paper (except on starting practice, changing, on closing temporary).
- 5) Addiction to any drug or alcohol.
- 6) Issuing false certificate.
- 7) Covering: means assisted by non medical persons.
- 8) Dichotomy or fee splitting.
- 9) Disclosing the secrets of patient.

### **Unethical acts of a doctor**

- 1) Advertising
- 2) Printing of self photograph on signboard
- 3) Patent of surgical instrument or medicine for benefits
- 4) Running an open shop for sale of medicine & instrument
- 5) Dichotomy means fee splitting or giving or receiving commission
- 6) Adultery means voluntary sexual intercourse between a married person & a person married or not other than his or her spouse.

### **Professional secrecy**

It is a contract between the doctor & his patient. A doctor should not discuss the illness of his patient with others without the consent of the patient, even in the case of husband & wife, except in case of notifiable diseases or if the patient is minor or insane

### **Privileged communication**

It is a statement made beneficial upon any subject matter by a doctor to the concerned authority, due to his duty to protect the interests of community or the state. The doctor should first persuade the patient to obtain his consent before notifying the proper authority and the doctor not liable for the damages. Such as in case of Infectious diseases, Venereal diseases, Notifiable diseases etc. In a court of law, a doctor cannot claim privilege concerning the facts about the illness of his patients, if it is relevant to the inquiry before the court.

### **Physician responsibility in criminal matters**

The doctor knowing or having reason to believe that an offence has been committed by a patient whom the patient shall be punished with imprisonment up to 6 months. But he treat a person who has attempted to commit suicide, he is not legally bound to report, but if

the person dies he has to inform the police.

### **Special duty of a doctor**

In emergency doctor has moral, ethical and humanitarian duty to do his best to help the patient in saving life.

### **Rights & privilege of medical practitioner**

- 1) Right to practice medicine & dispense medicine
- 2) Right to choose patient & recovery of fees
- 3) Right to add title, descriptions, etc to the name.
- 4) Right for appointment to public & local hospitals.

### **Right of a doctor to refuse to give treatment**

1. If another doctor is present to treat the patient
2. If the pt use medicine out of his physicians prescription & not follow his advice
3. If the pt or his guardian conceal the history of diseases or deceive his physician
4. If the patient does not pay the fees
5. If the physician himself or any other family member become ill.

### **Right of a doctor to refer his patient**

If doctor cannot diagnose the disease, If the pt's attendance produce unwanted circumstances, if the life of the pt is in threatened condition for operation.

### **Duties of a patient**

Patient should furnish the doctor with complete information of his illness, He should follow the advice of the doctor as regards diet, medicine, mode of life etc. He should pay fees to the doctor & respect the doctor.

### **Privileges & rights of the patients**

1. To choose his own doctor
2. Access to health facilities & emergency service available or not
3. Assurance of confidentiality
4. Right to complain & compensation for medical injuries /negligence
5. Right to know the diagnosis & prognosis.

### **Professional negligence/ malpraxis**

Absence of reasonable care or skill or willful negligence of a doctor in the treatment of patient which causes damage or bodily injury or death of a patient. (Doing something that one is not supposed to do, or failing to do something that one is supposed to do.)

Malpraxis 2 types

1. Civil negligence
2. Criminal negligence.

#### Question of civil negligence arise

- When a patient or in case of death any relatives brings suit in civil court for getting compensation from his doctor, if he has suffered injury due to negligence.
- When a doctor brings a civil suit for getting his fees from the patient or his relatives, who refuse to pay the same alleging professional negligence.

Civil negligence are - Breaking needle during giving of injection, Drug overdose, wrong diagnosis, Failure to warn side effect & giving proper instruction

#### Question of criminal negligence arise

- When a doctor shows gross absence of skill or care during treatment causes serious injury or death of the pt (act of omission or commission).
- When doctor performs an illegal act.
- When an assaulted person dies, the defense may attribute the death to the negligence or undue interference in the treatment of the deceased by the doctor.

Criminal negligence are- Mismatched blood transfusion, Administration of wrong drug causing loss of vision or hearing, Cannot conduct normal vaginal delivery, leaving instrument in abdomen, performed criminal abortion.

### Res ipsa loquitur

Latin for "the thing speaks for itself", a doctrine of law that one is presumed to be negligent if he/she/ it had exclusive control of whatever caused the injury even though there is no specific evidence of an act of negligence, and without negligence the accident would not have happened. Such as

- 1) Failure to remove the swabs during operation.
- 2) Overdose of drug
- 3) Mismatched blood transfusion or burn from X-ray /radiotherapy.

### Calculated risk

A chance of exposure to loss or injury that might be undertaken after its advantage & disadvantages have been carefully weighted & considered. Many business operators need to take a calculate risk to expand their business activities into a new competitive arena.

### Medical mal occurrence

Medical mal occurrence is defined as a bad outcome that is unrelated to the quality of care delivered by the health care team. That is -

- Medical & surgical complications that can be anticipated and represent unavoidable risks of appropriate medical care.
- Complications that are unpredictable and are unavoidable.

### Novus actus interveniens

It is a Latin term means a new intervening act. It is an act or event that breaks the casual connection between a wrong or crime committed by the defendant & subsequent happenings. The new event relieves the defendant from responsibility for happenings. The term is different from nova causa interveniens, which means a new intervening cause. The intervention has to be so powerful that it obliterates the other's tor.

### Contributory negligence

When a person suffers injury partly due to the negligence on the part of another person or persons and partly as a result of his own negligence, then the negligence on the part of the injured which contributed to the accident is referred to as his contributory negligence.

### Corporate negligence

Corporate negligence is the legal doctrine that holds health care facilities, such as hospitals, nursing homes & medical clinics, responsible for the well being of patients. If a health care facility fails to maintain a clean & safe environment hire competent and properly trained employees, oversee care & implement safety policies, it can be held liable for any harm to patients. Any small health care business could theoretically be sued under the doctrine of corporate negligence for the actions of its employees.

### Vicarious liability

This means liability of a person due to the act of another. In medical practice, this means responsibility of a superior medical or paramedical employee for the negligent act of his subordinate employees or persons under training who are expected to work under the guidance of the superior. It is also called "respondent superior" because a superior has to answer for the fault of his subordinate. Such as, an intern doctor, though qualified is under practical training of the guidance of the head of the department.

## Product liability

It is the area of law in which manufacturers, distributors, suppliers, retailers and others who make products available to the public are held. Product liability distinguishes between three major types of product claims these are

- 1) manufacturing defect
- 2) design defect
- 3) A failure to warn (also known as marketing defects).

## Charge against physician

- 1) Duty: Existence of a duty of care by the doctor.
- 2) Dereliction: The failure of applicable standard of care.
- 3) Direct causation: The failure must lead to damage. Pt must prove this is due to acts of omission or negligent act & not due to any intervening cause.
- 4) Damage: The damage should be of a type that would have been foreseen by a reasonable physician. The patient should prove all the 4 elements.

## Defense of a doctor

- 1) Contributory Negligence
- 2) Corporate Negligence

- 3) Calculated Risk
- 4) Medical Mal-occurrence
- 5) Product liability
- 6) Medical Misadventure
- 7) Novus actus interveniens

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