

Review Article

New age issues in medical ethics - time to address

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ABSTRACT

Medical technology advancements and understanding along with constricted resources in provision of care to the needed, has arisen ethical dilemmas. These are associated with the necessity of making decisions dependent on conflicting priorities, in the absence of established policies about the choice of the decision maker and the guiding principles checklist. Varying values and ethical models conflict current code of medical ethics making it inadequate. This article summarises key issues in contemporary medical ethics and a special note of medical negligence.

Keywords: Contemporary, Consent, Hippocratic oath, Medical ethics, Medical negligence

INTRODUCTION

Advancements in medical sciences has raised concerns regarding existing bioethical issues. Traditional form of medical ethics has evolved rapidly in the last decade catering to the increasing demand for world wide responses. Contemporary setting of medical ethics not just focuses on the character of clinicians or uphold rules in medical field, but have progressed to include a structured framework to identify, analyse and resolve ethical concerns in medical practice.¹

Medical ethics is an applied branch of ethics or moral philosophy which attempts to unravel the rights and wrongs of different areas of health care practices in the light of philosophical analyses.² Issues in medical ethics arise with evolution of medicine and mankind. This review discusses on two aspects of ethics. The first aspect is on contemporary issues arising in medical ethics while the second on medical negligence and its determinants.

HISTORICAL ASPECTS OF MEDICAL ETHICS

History of medical ethics has its roots dated back to 5th century BCE, with Hippocrates, the Greek physician

working to relieve suffering and promoting fidelity relationship with patient. This was closely matched by the significant work of English physician philosopher Thomas Percival, in 1803 who set a standard of conduct in medical ethics relative to hospitals and health care institutions.

HIPPOCRATIC OATH: NEWER DIRECTION

Hippocratic Oath, the sacred vow is pledged by clinicians historically to uphold ethics in medical practice. This was initially purported for prohibiting clinicians from conducting abortions or any other surgical practice which was unfamiliar with surgical concepts.³ In the contemporary form, a refined version of this pledge is undertaken considered as a necessity and legal part in medical school graduation. The most significant part in this oath today is avoiding any harm to patients. And strictly adhere to practice in lines of professional ethical standards. Stern et al amended certain ethical and professional responsibilities in reformed oath including 1) professional competence, 2) honesty with patients, 3) patient confidentiality, 4) maintaining appropriate relations with patients, 5) improving quality of care and access to care, 6) just distribution of finite resources, 7)

scientific knowledge, 8) maintaining trust by managing conflicts of interest, and 9) professional responsibilities.⁴ Thus the newer version of oath carries an ethical obligation to represent the core values of professional medical practice. In toto, this oath is undertaking of 2 promises by the physician. First, that promise remains reverential to the physician's mentor and secondly, a promise to not harm his or her patients.

THOMAS PERCIVAL'S CODE OF MEDICAL ETHICS (1803)

An English physician Thomas Percival published Medical Ethics in 1803, which proved to be a milestone in emergence of modern codes of medical ethics. The debate on the content of this book if Medical ethics actually belongs to literary genre of codes of medical ethics or under the category of medical etiquettes. This work is crucial for its ethical weight of current codes of medical ethics and deontology, apart from its regard to its author's credit. The book upholds the continuous challenges faced by biomedical research, requiring rethinking of the traditional concepts of existing medical ethical codes to evolve in providing innovative solutions. With this background, when the codes of medical ethics are worked out by clinicians, they are thought to be as wrongly titled medical etiquettes. This consideration could regard current codes of medical ethics, that remain faithful to tradition and that would more probably be codes of medical etiquette with a wrong title.⁵

NUREMBERG CODE (1947)

This ethical code was formulated around 50 years back, in Nuremberg, Germany in August 1947. American panel of judges adjudged the decision on Nazi physicians who conducted human experiments of murderous and tortuous human experiments in concentration camps. Their 10 principle code earmarked revolutionary decisions such as.⁶

No experiments can be conducted in humans without obtaining consent which is both informed and voluntary.

Nature of the experiments must yield fruitful findings for societal good, which could not be procured through other methods, only after testing on animals.

Benefits in the experiment must outweigh the risks of the study adding to the humanitarian importance.

Experiments must be conducted by highly qualified scientists in adequate facilitated environment.

Very importantly, subjects must have the liberty to opt out of the experiment, in case if their physical or mental state does not allow them to continue. The same must be the case with the researcher terminating experiments if continuation can result in injury, disability or death to the subjects.

TUSKEGEE STUDY

This study illustrates the epitome of unethical practice and moral standards in U S health research targeting racial disparity. Negro males affected with syphilis were only monitored passively without any intervention even though effective treatment did exist. Their aim was to identify behavioural effects and health in black males which subsequently led to decreased life expectancy in the study population. The disclosure of this study affected hospital utilization rates of young and old black men, particularly those in close proximity to the study subjects. Even more disheartening was the study targeted at less educated and lesser income population thus questioning the ethical principle of justice and autonomy.⁷

According to Corbie Smith et al Tuskegee study earmarks "a symbol of their mistreatment by the medical establishment, a metaphor for deceit, conspiracy, malpractice, and neglect, if not outright genocide".⁸

DECLARATION OF GENEVA

This declaration was adopted as a policy in 1947 by second General Assembly in Geneva. Built on the Hippocratic oath principle and now viewed as its modern version. Till date it remains as a consistent document in World Medical Association and was amended last in 2017.

DECLARATION OF HELSINKI

This document was first put into effect in 1964 following the proposal of World Medical Association. Over 40 year period, it has been amended 5 times and currently it stands out remarkably as guiding light of ethics for physicians involved in health research. The latest version has evoked considerable debate, in areas concerning placebo including trials and an element of "responsibility" to research subjects after the completion of the study.

PRINCIPLES OF ETHICS

These are the lines of conduct to be followed by every health care professionals in their practice. The major principles include;

To do no harm (non-maleficence) – The first principle of ethics dictates that no patient should be harmed in the course of providing care. In research, it means no harm to subject population. A check should be maintained on Iatrogenic diseases or doctor induced illness as this principle means no harm to patients by the doctor. Examples include periodontal problems due to overhanging restorations, apical pathology due to elongated working length, accidental pulpal exposure, infections due to unsterile instruments.

To do good (beneficence) – This principle embodies that only beneficial action will be done by the health care provider. Whenever any treatment is planned, the risks should be weighed against the benefits. Examples include avoiding unnecessary anaesthesia, avoiding loss of sound tooth structure and any treatment not necessary.

Autonomy – This principle governs that the dental health professionals should respect the patient's right to decisions about their treatment plan. It includes two components, autonomy and informed consent. This principle judges that the laws are in the 'best interest' of the public. Medical practitioners are trained in paternal settings, wherein they can if want to withhold information, restrict choices or make their own choices for the patients.

Justice – It is the right for equal treatment, giving the individual his due. It upholds the principle of equitable distribution, barring socioeconomic class, race and religion. To ensure this, dentists can do some free service or discounted service to the needy patients. Opening of clinics and time allotment in the low income area for those who need care helps in equitable service provision. This will ensure the services are evenly distributed. This is especially needed in Indian scenario to treat the rural poor and the urban slums.

New age issues in Medical ethics

Though code of ethics dates back to several decades, modernisation is required in order to combat with changing technology, intervention and better understanding of disease, which further gets accentuated with increased exposure to media. Contemporary ethics must improve relevance, clarity and consistency so as to ensure ethical principles to be in lines with evidence based clinical practice.

Confidentiality

Confidentiality is traced to Hippocratic Oath. It is the patient's right to expect that all information and records about them would not be disclosed. Confidentiality should not be breached until the court of law demands. Confidentiality should be maintained even in epidemiological studies, where the subject's name is coded or renamed.

Eg- Tarasoff vs Poddar case

This case is popularly known "Tarasoff duty" among mental health professionals. This case highlighted as the warning given to mental health personnel regarding their duty. Tatiana Tarasoff was killed by Prosenjit Poddar while his advances towards her were rebuffed. Unfortunately, court stated that the mental professional who was treating Poddar was to be blamed for not taking adequate measures to warn the former, irrespective of being aware about it. This meant that courts laid statutes

to warn the potential victims when such a threat is disclosed by his or her patient. The debate arising out of this was that how seriously should the threat be considered and to tread cautiously, within the privilege of the therapist client.

Prosenjit Poddar case highlights complex issues addressed in balancing "confidentiality" and "potential harm to others". Though the Tarasoff rulings made it mandatory for a therapist to act accordingly, it still carries the risk of clients being turned away by mental health professionals to ward off troubles.⁹

Mental well being

Mental capacity refers to the ability to make one's own decision. This must be in lines with presumption of capacity, support system to make a decision, ability to make unwise decisions, be in best interest and least restrictive.

Informed consent

Informed consent: This principle has a legal element along with an ethical one. The consent should include the following four elements

Disclosure of appropriate information, mentioning both the risks and benefits of the treatments and the consequences involved,
Comprehension of the information by the patient,
Voluntary consent,
Competence to consent,

Eg- Samira Kohli vs Dr Prabha

This case reports a 44 year old woman with an history of menstrual bleeding, upon ultrasound examination and laparoscopy under general anesthesia was tested to make a definitive diagnosis. Upon examination, abdominal hysterectomy and bilateral salpingo oophorectomy was done with the consent of her mother outside the operation theatre. When patient was told about organ removal she claimed compensation amount of 25 lakh rupees from Dr. Prabha sued her for negligence before the National Consumer Disputes Redressal Commission. She appealed that her reproductive health was compromised along with mental trauma because of the doctor's negligence.

The conflicting debate of "real consent" followed in UK and "informed consent" followed in US was highlighted in this case. The Supreme court upheld the statement that consent obtained for a particular operation cannot be extended as a consent for an additional procedural surgery which involves organ removal, even if considered beneficial to the patient.¹⁰

Consent has to be "real and valid", "ensure complete information" which is to be presented to patient to enable a balanced judgment. This case hearing strengthened the

law of right for self determination and essential duty so as to protect patients from any unwarranted intrusions, like surgery without consent. Thus we conceptualise the change of medical consent from battery to negligence. As per the later, careless or unintentional action in itself forms a source of medical negligence.¹¹

Advance decision

As an ethical principle, informed consent forms is a process of communication wherein a patient has full right to make an informed and conscious decision to accept or decline medical treatment.

Malpractice

Medical malpractice is an act in which a hospital health setup, a physician or other health care professional causes injury to a patient through a negligent act or omission. Malpractice can occur as a result after there is an error in the process of diagnosis, intervention, after care or health care management.

Eg-Virender Tyagi vs AIIMS Delhi surgeon

Yet another case of case of medical negligence is the case which occurred at Sushruta Trauma Centre – a health care centre run by Government of India. A head injury patient, Virender Tyagi was wrongly operated in the leg. A senior resident was blamed for this incident. Negligence not just occurs during intervention phase, but also during referrals, diagnosis and investigations.

Surgery conducted on wrong side or on wrong patient and forgetting medical instruments in the human body are commonly been reported. This is not mere negligence, but medical malpractice.

“It is unfortunate to state that this kind of practice rocks the foundation of medical ethics” and questions the morality of the noble profession, a profession looked upon by common man as godliness and miracle.

Professionalism

Professionalism traditionally refers to a set of values, attitudes and behaviour which characterizes members of a particular profession. It encompasses the following characteristics of medical professionalism, such as;¹²

He should possess empathy and kindness towards his patients. He should be clinically expert in his field. Honesty and integrity are a must have qualities. He should know how to effectively communicate with his patients. Should try to gather knowledge all the time to achieve competence in his profession. Medical doctor should believe in team work and try to enhance teamwork. Doctor should take all the responsibility in what ever he does with his patients.

Common areas where ethical issues can occur

The following are those regions where medical ethics are questioned time and again.

Paediatrics - Surrogate decision making generally falters the desired line of treatment in this group. The pediatrician has to choose best between parental authority and standard line of therapy.

Psychiatry – Concerns regarding negligence in mental health arena includes improper record keeping, improper treatment, improper engagement with third parties, negligence with suicidal patients and unethical conduct.

Geriatrics – This vulnerable population are generally dependent for their treatment. Ethical issues of informed consent, decision making capability and surrogate decision making remains strong in their health care need.

STD – Ethical principles of confidentiality and disclosure is compromised in treatment of such patients.

End of life care - Ending life support questions ethical principle of “autonomy”, in which patient’s families must not be forced to make decisions regarding life support.

Research – Stem cell research has gained popularity in recent years. But it faces the greatest ethical issue of use of human embryo for research questioning “sanctity” and “respect” for human life.¹³

Obstetrics and gynecology -Abortion ,sterilization and fertility treatment all amount to different ethical issues .

Donation of organs – 2 important ethical issues to be borne in mind is “autonomy” of the donor and recipient and the “utility” of the procedure. The donor must be informed all risks.¹⁴

Euthanasia – Ethics in euthanasia faces several dilemma like does any one have an authority to end human life, even if they are terminally ill or under severe pain. Also, the moral discrimination of killing some body and letting somebody die is not an issue to overlooked.

An ethical doctor

There are various attributes for a doctor to remain ethical, which are enlisted below:

The physician’s primary goal must be the welfare of his patients. The clinician must deal with honesty and integrity with patients. Dignity of the patient should be the priority. Informed consent before treatment must be mandatorily obtained. The clinician should not exploit any patient. Should participate in ethical research. Should not comment on religious, spiritual, cultural, political views of patient. The clinician must always provide good to patient.

The clinician should keep all information to himself obtained from the patients. Should maintain boundary with respect to doctor patient relationship. The clinician must know when to seek opinion.

CONCLUSION

Medicine, ethics and philosophy are all interrelated. So there is demand for more understanding, clearer analysis and a defined resolution of several dilemmas arising in medical ethics because of advancements in research and technology. Ethical codes are not rules set in stone, but a guiding light to differentiate good and bad in order to promote health and humanity.

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