



Online Ethics Course

Topic 1: Duties and obligations of the clinician, including an introduction to patient rights



Intended learning outcomes

After completing the topic, learners should be able to:

1. Give an account of primary ethical obligations associated with good clinical practice
2. Explain the concept of patient rights and its relevance to the duties of a doctor



Terminology 1

What is meant by the phrase: duties of a doctor?

It refers to the primary obligations that doctors have to their patients

In some jurisdictions, they are applied under common law; significant failure to demonstrate these duties would be unprofessional and/or clinically negligent



Examples

In India, detailed duties are set out in the Medical Council of India *Code of Medical Ethics*

<https://ijme.in/articles/the-indian-medical-council-professional-conduct-etiquette-and-ethics-regulations-2002/?galley=html>

In the UK, the duties are listed in all guidance issued by the General Medical Council, including *Good Medical Practice*, 2013

http://www.gmc-uk.org/guidance/good_medical_practice.asp



Ethics and virtue

In some classifications, the duties of a doctor fall under the heading '*virtue ethics*'. I.e., a virtuous person is the one who does '*good*', which is stronger than the negative assertion to '*do no harm*'

Corruption and taking bribes is the polar opposite of the principle of virtue, whereas putting patient interests ahead of your own is a positive example of 'doing right'

<http://jme.bmj.com/content/41/1/48.full.pdf+html>



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Acting in the public interest and protecting patients from doctors who are unsafe, is another positive example; in the UK, the regulator issued guidance in 2015 to help encourage this to promote safe practice and protect the doctor who speaks out (*The Duty of Candour*) <http://www.gmc-uk.org/guidance/27275.asp>



Terminology 2

How would you define the primary concept of patient rights?

Patient rights refer to standards of care that can be expected by all patients (*not to be confused with the right to receive health care*) [see topic 11]

In order to obtain the benefit of a right, someone must be obligated to enable the rights-holder to try and find



Examples

While usually defined by jurisdiction, rights are often seen as being universal; however, they are only meaningful if the means and mechanisms are in place to uphold them (which may not always be the case)



Human rights

In the UK, the *Human Rights Act* (1998) provides the legal framework for human rights

Although they are non-specific to health, Articles 2, 3, 5, 8, 9, 12 and 14 have been used in the courts to try and defend basic rights, such as the right to life, and the right to a private and family life http://www.opsi.gov.uk/acts/acts1998/ukpga_19980042_en_3#sch1



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In India, the *Protection of Human Rights Act, 1993*, provides the legal framework [http://](http://nhrc.nic.in/documents/Publications/TheProtectionofHumanRightsAct1993_Eng.pdf)

nhrc.nic.in/documents/Publications/TheProtectionofHumanRightsAct1993_Eng.pdf

Mechanisms exist at National and State levels to provide remedies for enforcement; additional protections are covered by the Indian Constitution.

<https://www.india.gov.in/my-government/constitution-india/constitution-india-full-text>



Cont.

Physicians have a legal and moral obligation not to aid or abet torture, including the infliction of mental or physical trauma and the concealment of torture inflicted by someone else

This will be codified differently according to country and jurisdiction, but in all cases, complicity in torture is fundamentally opposed to the duties of a doctor



Declarations and guidelines

In international settings, although non-specific to health, the UN Universal Declaration of Human Rights (1948) is important <http://www.un.org/en/universal-declaration-human-rights/>

The WMA Declaration of Helsinki - *Ethical Principles for Medical Research Involving Human Subjects*, 2013, as the name suggests, is specific to the rights of human volunteers taking part in medical research [see topic 8]



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The *Indian Council on Medical Research* (Delhi) issued ethical guidelines for biomedical research on human participants in 2006

There have been issues with compliance, especially in terms of international law, but doctors undertaking research are legally and morally bound by these guidelines



Terminology 3

The doctor-patient relationship

Historically, this relationship was characterised by medical paternalism; in some places, the attitude that 'doctor knows best' still prevails; however, this is no longer consistent with international standards and expectations [see topic 2]

Now, the relationship is characterised by the primacy of patient autonomy; this relationship continues to evolve and mature, especially in the developing world

<http://www.nejm.org/doi/pdf/10.1056/NEJMp1110848>



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Ideally, the doctor-patient relationship should be one between equals, but the reality may be different in that there is a strong knowledge bias in favour of the physician, and the patient is further diminished by reason of being sick; it is always hard to defend your rights from a position of weakness



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The doctor-patient relationship is generally classified as ‘fiduciary’ – i.e., one based on trust

When trust breaks down, it can have a negative impact on the care of patients and on society as a whole



Other rights

Veracity

This is the right to be told the truth; being in possession of the facts (if known), should empower the patient to be able to make decisions [see topic 5]

E.g., which facts matter most, what facts are available, and what cultural norms (if any) come into play, such as where families withhold the truth out of 'kindness' to their loved one



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Honesty

This is a manifestation of respect for the ‘other’, which is a primary moral concern; honesty should be central to the doctor-patient relationship, although doctors are not always truthful with their patients, and patients sometimes lie to their doctor (or withhold key information); this concept is also important within the context of professionalism



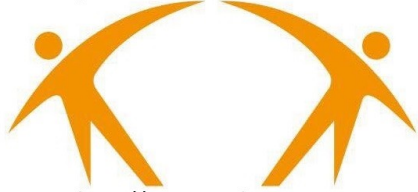
Oaths

The ***Hippocratic Oath*** is a pledge that doctors make to act in a 'morally correct way' (e.g., in the context of caring for patients). However, swearing this Oath upon graduation is not universal, and it harks back to the time of ancient Greece; many schools now have their own, modern version, or use another form of words to mark the occasion of medical graduation <http://jama.jamanetwork.com/article.aspx?articleid=193356>
<http://archinte.jamanetwork.com/article.aspx?articleid=486982>



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In India, a modified version of the *Hippocratic Oath* is signed by every physician at the point of registration. Having this in writing may give it permanence, but in reality, it makes little difference unless doctors chose to abide by it, and there are strong, efficient regulatory mechanisms in place to uphold ethical standards.



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Swearing an oath is largely symbolic, and it cannot be proven that it directly influences future behaviour

However, expectations of doctors to behave in a certain way (professionally), begin early during the long period of training; the swearing of an oath reinforces



Reading suggestions

- WHO, *Patients' Rights*. World Health Organisation, 2002. <http://www.who.int/genomics/public/patientrights/en/>
- General Medical Council (UK), 2013 The duties of a doctor registered with the General Medical Council. London: GMC, 2013. http://www.gmc-uk.org/guidance/good_medical_practice/duties_of_a_doctor.asp
- Rose A, George K et al. *Survey of ethical issues reported by Indian medical students: basis for design of a new curriculum*. Indian J. of Med Ethics, 2014. <http://www.issuesinmedicaethics.org/index.php/ijme/article/view/946/2206>
- Kitson A , Marshall A et al. *What are the core elements of patient-centred care? A narrative review and synthesis of the literature from health policy, medicine and nursing*. J. of Advanced Nursing, 2012. <http://onlinelibrary.wiley.com/doi/10.1111/j.1365-2648.2012.06064.x/pdf>



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