

MEDICAL ETHICS AND PROFESSIONAL MISCONDUCT

Dr. Maj Gen Ajit Singh (Retd)

MBBS, DCP, MD (Path)

MD (For Med), FIAFM.

INTRODUCTION

Medicine and law have always been related to each other. Bonds that united them in ancient days were religion and superstitions. Written records of law medicine date back to 3-4 thousand years B.C. in Egypt, Babylon, Indian and China. The code of king of Babylon (about 2200 B.C.) is the oldest known media-legal code.

Father of Modern medicine, Hippo crates (460-377 B.C.) was born and practiced in Greece. His contribution to medical ethics is by far the greatest. Around the banging of the Christian are various eugenic and public health provisions laid down in the Justinian code regulated the practice of medicine and surgery.

“Ethics” stands for system of moral values or code of conduct relating to morals in human beings. Morals are mainly derived from religious practices and are not open to arguments or logic. Ethics on the other hand are intellectually derived by a particular profession (Medicine, law etc) for its specific needs and may / can be changed or modified as per needs of the society or community.

CODE OF ETHICS

“Code of Ethics” must be in conformity with the “Laws of the land”, retaining the moral guidelines and is not contrary to the accepted morals of the society. Non-adherence to ethical standard is not an offence legally. Disobedience and violation of code ethics is considered unethical from the moral point of view.

The Central and State governments have enacted laws in relation to medical practice but these do not cover the moral values that are left to the conscience of the medical practitioners to enjoy good reputation amongst them selves.

CODES OF MEDICAL ETHICS

Charkas oath was the guiding principle of medical ethics in olden days. According to this, the teacher would instruct his disciples in the presence of sacred fire, Brahmans and Physician.

The present code of medical ethics is the Hippocratic oath, which has been adopted by the World Medical Association in the name of “Declaration of Geneva”. The Medical Council of India as “code of Ethics” has accepted this and is the guiding principle for all medical practitioners registered in India. Under the provisions of Act (No. MCI-211 (2) 2001-Regn) read with section 33 (m) of the Indian Medical Council Act 1956 (102 of 1956). Further, the medical Council of India, with the previous approval of the Central Govt. has made detailed regulations relating to the professional conduct, Etiquette and Ethics for registered medical practitioners and these have been published in the Gazette of India dated 06 April 2002 (part III – Section 4) and are in force from the said date. Declaration to be made by each applicant at the time of registration is as follows: -

1. I solemnly pledge myself to consecrate my life to service humanity.
2. Even under threat, I will not use my medical knowledge contrary to the laws of humanity.
3. I will maintain the utmost respect for human life from the time of conception.
4. I will not permit consideration of religion, nationality, race party politics of social standing to intervene my duty and my patient.
5. I will practice my profession with conscience and dignity.
6. The health of my patients will by my first consideration.
7. I will respect the secrets, which are confirmed in me.
8. I will give to my teacher the respects and gratitude which is their due.
9. I will maintain by all means in my power, the honor and noble traditions of medical profession.
10. I will treat my colleagues with all respect and dignity.
11. I shall abide by the code of medical ethics as enunciated in the Indian Medical Council (professional Conduct, Etiquette and Ethics) Regulations 2002.
12. I make these promises solemnly, freely and upon my honor.

Place: -

Date: -

Signature

(Name)

The medical man has to affix his signature at the time of registration and also to affirm, "I make these promises solemnly, freely and upon my honor".

PROFESSIONAL MISCONDUCT (INFAMOUS CONDUCT)

As per Medical Council of Indian Amendment Act No.24 of 1964, the council has specified a WARNING NOTICE that violation of this code shall constitute "INFAMOUS CONDUCT IN A PROFESSIONAL SENSE" i.e. it will be professional misconduct.

It is defined as that conduct which is considered as reasonably disgraceful or dishonorable by the professional brethren of good repute and competency.

There are more than 25 headings under which professional misconduct are listed. Most indictable misconduct in the professional sense comprises of the following: -

1. DICHOTOMY OR FEE SPLITTING

It is wrong and unethical for a medical practitioner to demand or accept a commission for referring a patient to a consultant or specialist. Dichotomy or fee splitting is not only unethical but also illegal. Same thing applies to when doctor sends a patient for various investigations like radiological, pathological etc.

2. ADULTERY OF IMPROPER CONDUCT WITH A PATIENT

A Medical practitioner must maintain honorable code of conduct and highest standard of morality with his/her association with patients of opposite sex or other members of the patient's family. If the medical practitioner abuses his professional practice by committing adultery or setting up improper association with the patient at the material moment, he is liable to disciplinary action by the medical council.

3. ASSOCIATION WITH UNQUALIFIED OR UNREGISTERED ASSISTANTS

a) in his day to day practice by employing them

b) assists unqualified practitioner or quack in his private practice in any way-giving anesthesia, attending delivery cases etc).

c) Cover up the unqualified practitioner by issuing medical certification of "Ill Health" to patients not treated by him self.

MEDICAL STUDENTS, TECHNICIAN, DISPENSERS etc, their training is not an act of professional misconduct.

4. ADVERTISING

Canvassing and advertising directly or indirectly to promote private practice is unethical.

a) Displaying unusually large signboards depicting anything other than his name, qualification and nature of his specialization (e.g. giving photographs, diagrams of the equipment).

b) Displaying signboards at other than at his residence and clinic e.g. at chemists shops, religious places.

c) Guaranteeing a cure for certain ailments by notifying in the lay press.

d) By publicly exhibiting his scale of fees or refund if not cured.

e) Advertising his name while notifying his association with social welfare activities. However, writing an article in the lay press or giving a talk on the Radio/TV on subject matters of public health, Community welfare etc. are not acts of professional misconduct.

CONCLUSION

It must be clearly understood that instances of professional misconduct as given in the said Gazette Notification are not intended to constitute a complete list of the infamous acts. MCI or State Medical Councils will consider and deal with any other form of professional misconduct. It is emphasized; the code should not be violated in letter or spirit. The concerned council will consider and decide upon the facts brought before them in each case of infamous conduct.