



Medical Ethics and Oath: The Urgent Need to Revisit the Critical Relevance to Contemporary Medical Practice.

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ABSTRACT

Medical ethics, like in other areas of life, is an attempt to distinguish between good and bad deeds. Health care is important to guide doctors and other health care workers to do no harm in the performance of their duties. There are many facets to medical ethics, including negligence, harmlessness, and charity. As a result of their failure to practice medical ethics, some physicians have faced lawsuits and even medical disciplinary boards from their patients and clients. Some have even been suspended from medical practice for months or years, or even deregistered with their national medical licensing boards. This research work employed the doctrinal method of research in reaching its conclusion. The research also employed an analytical approach in the research. Analytical research, as the name implies, analyzes a particular law and enables one to know what the law is about on a particular subject. An overview of the general principles of medical ethics, nature and implications was presented in this paper. At the end of the work, it was recommended that the various medical or health laws in Nigeria should be amended to incorporate contemporary trends in medical practice; massive education of the citizenry should be done to educate people about their health rights and strong institutions should be put in place for the enhancement of medical law in Nigeria.

INTRODUCTION

Due to the importance of ethics, the World Health Organization in 2002 established an ethics team known as the global health ethics unit, a unit dedicated to ethics. Through this ethics team, the World Health Organization works in close collaboration with the United Nations interagency committee, non-governmental organizations and other international organizations [1]. Medical ethics describes the moral principles by which a Doctor must conduct themselves [2]. Medical professionals frequently find themselves facing moral questions and ethical dilemmas in their line of work. Medical ethics provide a framework to help them make judgment calls which are morally sound and right for the patient in question. Therefore, it became obligatory for practicing doctors to pay special attention to the laws and ethics that govern their profession. This is primarily due to the fact that the relationship between doctors and other healthcare providers and their patients are no longer vertical. Patients now have and can access the internet and other publications and actually want to research and contribute to their treatment and medical care. It can easily generate conflicts leading to complaints of neglect and abandonment and ethical violation [3].

MEDICAL ETHICS

The foundation of medical ethics is the Hippocratic Oath, an oath that all dental and medical graduates make upon entering the medical and dental professions. They are a set of rules, regulations, and guidelines that guide and regulate the practice of physicians. The code states as follows:

I swear by Apollo Physician and Asclepius Hygiea and Panuceia and all the gods and goddesses, making them my witness that I will fulfill according to my ability and judgment this oath and this covenant. To hold him who has taught me this art as equal to my parents and to live in partnership with him and if he is in need of money to give him a share of mine and to regard his offspring as equal to by brothers in male lineage and to teach them this art if they desire to learn it without fee and covenant to give a share of precepts and oral instruction and all other learning to my sons and to the sons of him who have instructed me and to pupils who have signed covenant and have taken an oath according to the medical law but to no one else. I will neither give deadly drugs to anybody if asked for it, nor will I make a suggestion to this effect. Similarly, I will not give any woman an abortion remedy. In purity and holiness, I will guard my life and my art. I will not use the knife, not even if I suffer from stone, but withdraw in favor of such men as are engaged in this work. Whatever house I may visit, I will come for the benefit of the sick, remaining free of all international injustice of all mischief and in particular of sexual relation with both female

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and male persons, be they free or slaves, what I may see or hear in the course of the treatment or even outside of the treatment in regard to the life of men, which on no account one must spread abroad, I will keep to myself holding such things shameful to be spoken about. If I fulfill this oath and do not violate it, may it be granted to me to enjoy life and art being honored with fame among all men for time to come; if I transgress it and swear falsely, may the opposite of all this be my lot.

Each national medical council has a code of conduct that guides medical practice in that country. For example, in Nigeria, medical ethics is governed by the Medical and Dental Council of Nigeria (MDCN) [4], which has published a booklet entitled 'Code of Conduct' which is given to every new graduate from the medical and dental schools.

IMPORTANCE OF MEDICAL ETHICS

Medical ethics is important both in medical practice, in relation to the patient-physician relationship, and in medical research.

1. Medical ethics helps prevent unethical behavior such as negligence and medical malpractice.
2. It provides standards in the professional relationship between a physician and his or her client or patient and thus provides guidance in the prevention of disputes [5].
3. Medical ethics promotes diligence and proper training skills in medical professionals.
4. Medical ethics helps advance quality health care by identifying, analyzing, and solving ethical issues that arise in medical settings.
5. Provides privacy, confidentiality and authenticity in the doctor-patient relationship.

PRINCIPLES OF MEDICAL ETHICS

The medical community has long upheld a set of moral guidelines created largely with the welfare of the patient in mind. A doctor must understand their obligation to patients first and foremost as well as to society, other medical professionals, and themselves as members of this profession. The enumerated principles below outline the fundamentals of professional honorable conduct for physicians; they are not laws [6].

1. A doctor must be committed to offering skilled medical care while also having compassion for patients and respecting their rights and dignity.
2. A doctor must follow professional norms, be truthful in all professional dealings, and make an effort to alert the proper authorities about any physicians who lack moral character or competence or who are involved in fraud or deception.
3. A doctor has a duty to uphold the law while simultaneously advocating for reforms to any regulations that go against the interests of their patients.
4. A doctor must uphold patient confidentiality and privacy within the bounds of the law, as well as the rights of patients, coworkers, and other healthcare professionals.
5. A doctor must continue to learn, apply, and develop science, be dedicated to medical education, provide patients, coworkers, and the public with pertinent information, seek advice, and use the skills of other health professionals as needed.
6. A physician must be free to select who to serve, with whom to associate, and the setting in which to offer

medical treatment when providing proper patient care, with the exception of emergencies.

7. A doctor must be aware of their obligation to take part in initiatives that enhance the community and the general public's health.
8. When providing medical care for a patient, a doctor must prioritize that patient's needs.
9. A doctor must advocate universal access to healthcare.

PILLARS OF MEDICAL ETHICS

Doctors try to do the best for their patients by providing the best medical care available. These ethical principles guide physicians in making decisions throughout their work and help resolve ethical conflicts, especially when dealing with ethical dilemmas. As such, physicians generally act in the best interests of their clients and patients, but when they act in their patients' best interests when weighing the risks and benefits of all available options there may be contradictions. These pillars of medical ethics includes:

1. Autonomy
2. Confidentiality
3. Beneficence
4. Nonmaleficence
5. Paternalism
6. Justice

AUTONOMY

It requires patients to think, intend, and act autonomously when making decisions related to health care procedures. This principle underlies the practice of "informed consent" in doctor-patient interactions related to health care. Therefore, the decision-making process must be free from coercion and persuasion. So the patient must understand all the risks and benefits of the procedure and its possibilities should be understood in order to make an informed decision [7].

In the case of Medical and Dental Practitioners Tribunal V Nicholas Okonkwo [8], The respondent was arraigned before the Medical and Dental Practitioners Disciplinary Committee, and was charged for murder of Mrs. Okorie. Mrs. Okorie was a patient of the respondent; while at the respondent's hospital, she refused the transfusion of blood or any bloody material to her body, and she signed an undertaking that no matter what happens, that blood should not be transfused to her. This was the same thing she did in the first hospital before she was subsequently transferred to the respondent's hospital. The respondent accepted her undertaking and refused to transfer blood to her, subsequently she then died. The mother and uncle of the deceased then charged the respondent before the Medical and Dental Practitioners' Tribunal.

CONFIDENTIALITY

Confidentiality and privacy are generally required in all human relationships(9).Physicians require the patient's permission and consent before disclosing such information to others, even among colleagues and medical professionals.

BENEFICENCE

The principle of beneficence is that everything a physician does is in the best interest of the patient. In the case of Malette V Shulman et al Ontario High Court of

Justice [10], In that case, a woman was seriously injured in a road accident. She was virtually unconscious and unable to speak. A nurse searched through her handbag and found a Jehovah's Witness Card in French. It was understood by the Hospital Staff, and in particular by the Doctor in charge of her treatment, to state clearly that because of her religious beliefs she did not wish blood or blood products to be administered to her. The card stated that she fully realized the implications of this.

It went on to state that she had no religious objection to the use of non-blood alternatives, such as Dextran, Haemacel, PVP, Ringer's Lactate or Slime Solution. Her condition deteriorated and the Doctor in charge, fully aware of the card, decided to administer blood and did so personally. The patient's daughter arrived, objected and declared that in her view the patient had made it clear that she did not wish to have blood transfusion. Upon her discharge, she sued the Doctor, the hospital and four Nurses for negligence and trespass.

NONMALEFICENCE

Nonmaleficence means doing no harm. This principle confirms the need for medical competence. It is clear that medical errors are possible; However, this principle articulates a fundamental obligation of healthcare professionals to protect their patients from harm [11]. Though all health practitioners encounter ethical challenges in the course of their work, the principle of not to do harm is always a priority. [12]

PATERNALISM

The classic "paternalism" of medical practice was derived from virtue-based *ethics*. In this view, the physician is a genuinely virtuous person with inherent qualities of competence, sincerity, confidentiality, and altruism, who naturally knows and does what is correct for the patient. The patient, uneducated about medicine, has to trust the physician to decide what is best.

In the case of *Marshall v. Curry Nova Scotia* [13], In this particular case, the patient gave consent to the physician for the singular removal of a hernia in his groin. Unfortunately, due to an unexpected emergency during the procedure, the physician had no other option than to remove the testicle of the patient as well. This singular act of the physician was deemed to have been done reasonably with the intention to save the life of the patient. The physician could not have been held for any malpractice whatsoever or negligence as he acted strictly on his primary duty to preserve the life and health of the patient.

JUSTICE

The idea that the burden and benefits of new or experimental treatments should be shared equally among all groups company. Require that the procedure respects the spirit of existing law and is fair to all players involved. A health care provider should consider four main areas when he assesses equity. equitable allocation of scarce resources, competing needs, rights and responsibilities, and potential conflicts with established laws [14].

Equality requires fairness in patient care and resource allocation. In particular, fairness is required when there is a shortage, or when priorities must be maintained, such as: Mass casualties and pandemics. Individuals should always be treated fairly when visiting health care facilities.

The distribution of health resources requires fairness and equity. Justice is also necessary to respect patient rights. In times of scarcity, we use the ethical principle of equality to prioritize the allocation of medical resources(15).

LEGAL FRAMEWORK FOR ENFORCEMENT OF MEDICAL ETHICS IN NIGERIA

To ensure ethical compliance or sanctions as the case may be the Medical and Dental Practitioners Act LFN 2004, provides for the Establishment of Medical and Dental Practitioners Disciplinary Tribunal [16]. There is a provision for the establishment of an Investigation Panel called the "Panel" [17].The Panel investigates and reports cases of professional misconduct.

Section 16 of the Act provides for penalties for all forms of professional misconduct. The penalties range from admonition; and suspension; to the striking out of the name of erring person from the register of doctors [18]. By virtue of Section 16 [6] of the Medical and Dental Practitioner Act, under reference; there is a right of appeal from the decision of the Disciplinary Tribunal to the Court of Appeal.

Section 17 of the Act contains a long list of offenses, for instance, it is an offense to impersonate or make false representation as to status, name and identity [19]. It is also an offense to administer, supply or recommend the use of dangerous drugs within the meaning of Dangerous Act Part V, LFN 2004(20).

In the case of *Allison V General Council Medical Education and Registration* [21], the following charge was made against the plaintiff, by the society called Medical Defence Union that claimed that being a registered medical practitioner, a licentiate of the royal college of physicians and surgeon of Edinburgh, he systematically sought to attract practice by the system of extensive public advertisements containing his name and address and qualification and invitations to person in need of medical aid to consult him. The court held that: "It is infamous where a medical man in pursuit of his profession does something, which is regarded as disgraceful or dishonorable by his professional brethren of good repute and competent conduct". Furthermore, the Supreme Court held in the case of *Garba vs University Of Maiduguri* [22] that an administrative tribunal does not have jurisdiction to conduct inquiries or take decisions in a matter involving an allegation of crime.

Also in *Akintade Vs Chairman, Medical & Dental Practitioners Disciplinary Tribunal* [23], the case critically X-ray the concept of infamous conduct in a professional respect. One Chief (Mrs) Florence Olusola Abe (now deceased) was admitted at the Christian Health Centre, Ilesha on 27th October, 1997 for appendectomy. The operation was carried out by Dr. R.O Akintade. After the surgery, complications set in and the patient's conditions deteriorated. She was later referred to OAUTH where she later died. Secondary cause of death was septicaemia. It was found out that proper investigation was not carried out to ascertain that the deceased was diabetic. The doctor was charged for the following: (a) failure to attend to the patient promptly; (b)incompetence in the assessment of the doctor by failing to diagnose her as a diabetic and failure to realize that the patient had post operations complications of fecal peritonitis (c) deficient treatment and poor post-operative management. He was found guilty and sentenced to suspension from practice for three months.

IMPLICATIONS OF MEDICAL ETHICS

The legal implications of any ethical violation depend on each individual's circumstances or case. It refers to the positive or negative effects of various codes of conduct or guidelines in healthcare. There are various impacts of medical ethics on society. Some may be positive, some may be negative, but these social impacts depend on the standard or level of social development. Most developed societies apply ethics that primarily benefit people and their various basic medical institutions. For the most part, these ethics are applied or created according to different medical institutions in their respective societies. Primary, secondary or tertiary. Not all codes that apply to tertiary systems are applicable to secondary or primary systems. In referring to the various impacts of medical ethics, it is of utmost importance to recognize that not all impacts are dependent on a particular medical facility or disease case. Physicians and other medical and health care professionals often face ethical challenges, many of whom view ethics as a concept related to avoiding harm. Impacts of medical ethics include: [24]

1. In maintaining standards of professionalism (physicians must be honest or avoid dishonesty in all professional interactions), physicians in environments or societies rife with a variety of corrupt practices should: You may be tempted to defraud patients or commit fraud.
2. To respect the patient's rights, the doctor should listen to the patient more than he wants to talk in order to fully understand the patient's wishes and to enable the patient to exercise all of his or her rights.
3. Most doctors are tempted to get angry or angry with their patients because they may not be able to give full details of what the problem really is. Do not disturb or upset such patients. For example, if a doctor is trying to explain some facts to a patient and the patient keeps asking questions, many of them may be irrelevant.
4. Physicians need to love, respect, and care for their patients, regardless of their circumstances and current status, which leads to empathy and, ultimately, building a relationship with them. This is completely against the ethical norms and values that guide doctors.
5. Physicians should share relevant information with patients, colleagues, or the public. This information may contain confidential or private matters that the doctor does not want to reveal. Patients may be psychologically harmed, and physicians may be involved in ethical violations.
6. Although physicians make patient care and responsibility their top priority, these behaviors can mislead physicians and lead to patients exploiting them through abuse. Especially if the doctor is a woman.

GRAY AREAS

Despite available legal and institutional frameworks for the discipline of medical practice Nigeria; comparative analysis of medical practice in Nigeria shows patient rights still abused and incompetence are staggeringly high, and cases of medical negligence are very common, Patients are not treated promptly and cases of misdiagnosis are alarmingly high.

One of the biggest challenges to Nigeria's health care law is inadequate legislation. Evolving medical fields such as euthanasia, abortion, fertility treatment, human cloning, surrogacy, and organs Grafts, cadavers and many others with no legal basis or support or insufficient legislation in Nigeria, as opposed to other jurisdictions. Some of these emerging fields and their inherent challenges are:

EUTHANASIA

A critical examination of the 1999 Nigerian Constitution (as amended) shows one thing, Right to life [25], but there is no corresponding right to die. The law does not actually provide for any regulation to make or decide at the end of life when the bearer of that life is terminally ill or dying. Provisions of the Criminal Code [26] expressly prohibit all forms of euthanasia or assistance- in-dying. Being terminally ill or consenting to the euthanizing act is not a justification and does not affect the criminal liability of persons by whom such death is caused [27]. The law as it is in Nigeria today is to the effect that killing a person or hastening the death of a person is criminal and can amount to either murder or manslaughter. 'Life' and 'death' has been redefined in several jurisdictions of the world [28] with the choice between the two not left to the State. The need to specifically legislate to either prohibit or allow euthanasia in Nigeria is no doubt imminent.

ABORTION

Provisions regarding abortion in Nigeria are scattered throughout the law [29]. Abortion is permitted only if the act is ordered to save the lives of pregnant women. However, in practice provisions of the Criminal Code and Penal Code are flagrantly ignored as abortion is carried out even for economic reasons [30].

The fact that abortions are routinely performed without guilt in Nigeria explains why there are few legal precedents on abortion. There is no way to monitor or control medical centers or abortion doctors.

SURROGACY

There is no legal framework for surrogacy in Nigeria. Although the concept of surrogacy is relatively new in Nigeria, the surrogacy 'business' is booming. The absence or at best inadequacy of laws to determine the legality or otherwise of surrogacy in Nigeria has brought to the forefront issues of exploitation, 'baby factories,' child trafficking among others. Whether surrogacy is for altruistic reasons or on pure commercial considerations, it is important that surrogacy contracts be drawn up and all parties involved (the commissioning parents, surrogate (agencies) mother, or the child) taken care of. It does appear that there are gaps in Nigeria medical law and the current legislations cannot match the pace of advancements in medical practice. The implication of these legislative inadequacy is gargantuan. Apart from the fact that it portends serious challenges during enforcement proceedings; it leaves the rights of affected patients and their hopes hanging.

RECOMMENDATIONS

If we want to ensure the health of Nigerians and think about the future of medical and dental care in Nigeria, many innovations and improvements are urgently needed. While the professional regulatory bodies and tribunals should remain strict in their decisions on reported cases of ethical breach, the judiciary too should not apply any liberal approach that will encourage any erring, careless or killer doctor to slip-away through legal technicalities. In the medical negligence cases, the court should not be too protective of the medical practitioners who fall short of set standards [31].

1. Nigerians' health rights must be abolished from the Fundamental Objectives and Guiding Principles of Public Policy in accordance with the Nigerian Constitution. The Fundamental rights according to this chapter are not enforceable or contestable before any court. Health Rights must be enforceable and the Nigerian government can thus be held accountable for Violation of patients' rights due to government negligence and error.
2. One of the major banes of prosecution of erring medical practitioners is ignorance of patients' rights among Nigerian citizens. Also, in this claim, when death occurs; notwithstanding the cause of death, people tend to attribute it to the Act of God even if the medical practitioner was negligent. Citizens of Nigeria must be educated about their health rights. Existing legislations which guarantee patients' rights must be given adequate publicity. Similarly, citizens should be educated about the existing institutions and mechanisms that are available for the ventilation of their grievances.
3. In advanced jurisdictions such as Canada, the United Kingdom, and the United States, there is specific and detailed legislation regarding reproductive health, surrogacy, use of human bodies or organs as specimens for training, euthanasia and other growing areas of medical practice. Undoubtedly, the current legislation in Nigeria contains a serious legal gap that does not correspond to modern trends in medical practice. Immense, complete and updated legislation that can fill existing gaps in medical advances should be enacted to cover the gaps.

CONCLUSION

Medical practitioners can by no means be too careful, extra so their job contains lifestyles which reputedly have no duplicate. A health practitioner ought to always be an epitome of confidence, competence and integrity within the discharge of his professional responsibility. It is a recognized truth in medication that factor may also nevertheless pass incorrect in spite of the quality to be had care. Hence, a health practitioner treats at the same time as God heals. A physician isn't dependable in negligence if he has acted according to moral exercise normal through an accountable frame of clinical guys professional in that specific art. There is consequently an duty on scientific practitioners to maintain updated with new techniques and innovations, as a clinical practitioners can't obstinately keep on with vintage approach which has been proved to be opposite to knowledgeable clinical opinion. seventy four Also, sufferers ought to now no longer be recklessly subjected to untried and probably risky experimentation. Knowledge of medical ethics is essential for health care practitioners worldwide and Nigeria in particular. It is therefore humbly suggested that periodic seminar, talk, workshop, symposium e.t.c be organize to sensitize members of the medical profession on the ethical code and the mandatory duty to comply therewith. It is humbly suggested that medical institutions or hospitals should have an in-house legal unit or Solicitor from where they can constantly consult on ethico-legal issues and other contemporary medico-legal topics.

On the whole, compliance with professional ethical codes makes the profession a better one and makes the world a better place. The law supplements medicine and Law and medicine are not enemies, but development partners.

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