

Medical Law and Professional Ethics in Bangladesh: Challenges and Implications

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Abstract: Medical ethics is a part of applied ethics studying the moral judgments and values related to medicine. The understanding of moral values is considered as ethics. Medical ethics is the moral values that should monitor the followers of the medical profession in terms of their practice of medicine and engaged with their patients and other associates of the profession. This study examines the ethical and professionalism issues that may arise in the context of medical practice in Bangladesh and the challenges this pose for medical regulatory bodies in Bangladesh, in upholding ethics in professional practice. A rectangle of the source of the problems giving rise to the breach of ethics in medical practice is identified, and prompt steps, supported moral principles and thought, is projected towards the resolution of the issues conferred.

Introduction

The doctor-patient relationship and smooth communication is the fundamental subject of medical practice. There are various forms in this regard as the form of health center one to one meetings, or among the medical team, the community, and the doctor. The relationship in the case of the people or particular patient contributes a great portion in the supervision of their illness or singular as well as when the satisfaction of a patient is looked for. The matter of doctor-patient relationship is not smooth due to some reasons which contaminate their smoothness of the relationship. In this inter-play relationship of doctor-patient, the reasons which affect the relationship and the matter of the stability of dynamism, or else input the commanding balance at any portion in the relationship; set up the role of medical ethics and professionalism in the field of medical practice. Few infringements instantaneously are uncovered when one ponders the rectangle of matters are (bio) ethics, patients, doctors, and professionalism, particularly in Bangladesh. These infringements are exposed in the public field including doctors consuming the professional encounters to attack nakedly with their patients, doctors bullying patients to charge an extra amount of money to get admission, or the proper treatment, in other ways fee-free public hospitals in some cases the doctor's initial treatment because they are not able to place their demand before the public. Even in some cases, Doctors provide certificates to the so-called good persons regarding their sickness by taking money, they allow bribes without any hesitation for rendering their extra care to particular patients. Doctor involves themselves in organ harvesting business or Doctors engaging in clandestine organ trade, and organ harvesting or doctors' fraud the health systems of the country or boost trading in forged medications maintaining the informal relationship with pharmaceutical companies.

Origin and Development

Medical ethics is especially an area of applied ethics learning the ethical judgments and values associated with the medication. The understanding of ethical morals is taken into account as ethics. Medical ethics is that the ethical values which ought to monitor the followers of the health profession

in terms of their follow of medication and engaged with their patients and different associates of the profession. Medical ethics is the most important wings for the person of the medical profession in order to provide the service in the best way to the humanity and to keep the respect and prestige of this medical profession. Globally most of medical schools have introduced the well-diagramed programs for their students in the field of medical ethics. But it is the shocking matter that these medical practices are not exercised in Bangladesh. There has a long history about the introduction of medical ethics since the Code of Hammurabi about 2200 BC. Then Greek physician, Hippocrates confirmed an oath known as Hippocratic Oath within 460 to 377. The Hippocratic Oath was articulated in the 4th century BC. The oath had been the nucleus of all medical ethics. The oath was revised during the 20th century, but the ethical demand was remained. The revised version was written by Lasagna, which later had been known as the Oath of Lasagna. In 1948, the Second World Medical Assembly implemented a modern equivalent of the Hippocratic Oath that is known as the Declaration of Geneva in 1968 and again in 1983. The modern ideologies of medical ethics had been organized by Thomas Percival in 1803. At last Geneva declaration was stated in 1948 and had been acknowledged in 1949. The first code of ethics of American Medical Association recognized with the human based in great portion upon Percival's work.

Conceptual Framework

Medical Decorum: It is one of the common predictable laws of courtesy to justify the persons in the field of medical profession. No physician makes any comment upon any other physicians. Even the conduction of professional ill-reputation is considered professional misconduct.

Professional ill-reputation manners:

Conviction: Misusing the attained professional position by attempting infidelity or making any misbehavior with a patient or not to establish the proper association with a patient. In short, Adultery, addiction to drugs and alcohol, and misconduct etc. are the ingredients of convictions.

Contravention: There has no authority for a registered medical practitioner to disregard the rules and regulations of the medicines and cosmetics anymore.

Covering: The term covering means connection with an unregistered or unqualified person practicing medicine illegally.

Issuing fabricated certificate: A registered medical practitioner cannot issue any fabricated certificate to an unqualified or non-medical person.

Dichotomy: Allowing commission or other remunerations from/to medical practitioner or any consultant in the purpose of introducing of a patient. This type of practice is called fee splitting or dichotomy.

Advertising: If a physician or a group of physicians of institutions or organizations provoke for soliciting of patients directly or in directly is unethical.

Professional Death Sentence: When a practitioner's name is erased due to his infamous conduct in any professional aspect by which he is deprived of all the privileges of a registered practitioner is called Professional Death Sentence.

Professional Secrecy: The term Professional Secrecy is inferred an agreement between the medical practitioner and his patient. Due to have this bond, the medical practitioner is assured both morally and ethically to keep the all secrets of his patient regarding the medical ground in course of treatment and exposure of which without any reasonable basis is punishable under law.

Medical Law and Professional Ethics in Bangladesh

The Bangladesh Medical and Dental Council (BM&DC) implemented its first code of ethics regarding Professional ethics, conduct, and etiquette for the medical practitioners in implementation of the power mentioned under the Sections 5 (22) of Bangladesh Medical and Dental Council Act, 2010. What is anticipated of all doctors registered to Practice medicine/ dentistry in Bangladesh is defined well by the code. The ideologies that describe good medical practice and built the obvious standards of ethical and professional conduct anticipated of doctors by their professional peers and the communities are pointed out. The term “Ethics” is used to denote to matters encompassing (1) moral values or performs and (2) matters of social policy encompassing the subjects of morality in the practice of medicine. The code is very important way for the doctors because it is intended to let the doctors and medical community knows what they are supposed to get the service from doctors. It is compatible with the Announcement of Geneva and the international code of medical ethics, granted by the World Medical Association. The practice of medicine is exciting and pleasing. The insight and professional judgment of good doctors cannot be justified by any code or guidelines. In the meaning of Good medical practice is to exercise in a way by this verdict that would run into to assist the individual doctors in the emerging job of supporting a good medical care keeping the best grade. All doctors, women & men are judged by the code of professional conduct published by BM&DC. Anyway, in the purpose of creating it more relax and short to study the masculine is applied in all respects. The requirements of the existing code have been compulsory for all practicing doctors as well as all the branches related to acting dental/ medical methods and dentistry or medicine. Through this process they may get the alarm for justifying their all performed actions. If any failure is appeared in case of the principles stated above, the disciplinary action might be taken. BM&DC has the authority to investigate against any raised compliance applying these provisions and can take the disciplinary actions like suspension, censure or even exclusion the BM&DC registration as well.

The doctors have professional accountability which is indicator to be considered them as good doctors. This code is applied for helping the individual doctors in the emerging duty to provide the best medical care to accomplish their professional act and it is to create an outline for judging them professionally, to support Bangladesh Medical & Dental Council in its role of defending the public, by preserving and setting up the principles of medical practice by which a doctor can be evaluated in respect of professional conduct.

At the side of the BM &DC Code, there have several practicing laws in the field of Professional ethics, conduct and etiquette.

- a) The Vaccination Act, 1880
- b) The Drugs Act, 1940
- c) The Eye Surgery (Restriction) Ordinance, 1960
- d) The Pharmacy Ordinance, 1976
- e) The Drug (Control) Ordinance, 1982
- f) The Bangladesh Unani and Ayurvedic Practitioners Ordinance, 1983
- g) The Transplant of Organ in Human Body Act, 1999
- h) The Safe Blood Transfusion Act, 2002
- i) The Consumer Rights Protection Act, 2009
- j) The Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982
- k) Mental Health Act, 2018

Challenges of the Implication of Medical Law and Professional Ethics in Bangladesh

Patients across the country were suffered greatly because the doctors stopped their practice privately on Sunday. According to the new report published in New Age on 20.06.2017, the doctors kept

themselves away from their duty that was the integral part of month-long protest of the Bangladesh Medical Association against the current assaults on doctors and medical associations. The 73 doctors, according to BMA statistics, had been invaded accusing that they had given the treatment wrongly in the last five years. Though the assaults by the relatives of the patients on the doctors along with the people connected to the medical service is inexcusable, the BMA's taken resolution to stop providing medical service is undoubtedly a breach of professional ethics. It is also considered a breach of oath as well. It is a very astonishing matter that BMA was to select such a path in the lieu of finding any other ways to give light to their demands.

According to the code of ethics of Bangladesh Medical and Dental Council Act, 2010, the Bangladesh Medical and Dental Council (BM&DC) is not an additional wing for the implementation of case law and legislation. If any struggles occur between the law and code, law always gets the priority. Because the code is not a comprehensive study regarding ethics of medical ethics and it does not discourse the values of practice detail among the particular medical castigations; these might be seen in the policies and guidelines distributed by the professional bodies.

Some obstacles of Implicating of Medical Law and Professional Ethics in Bangladesh that cannot be neglected are:

- a) Insufficiency of the governmental resources for taking care of the medical carelessness in private and public hospitals
- b) Very a few numbers of private organizations inspect the issue of medical negligence incidences.
- c) Due to have the lack of expert judges and lawyers to deal with medical negligence.
- d) The law of "tort" is existed in Bangladesh but it does not practice.
- e) Medical negligence happenings are out of the continuous supervision; rather the government and people have been anxious about it, if it is possible to give the importance through media.
- f) Lack of consciousness of mass people about medical negligence cases.
- g) Doctors and hospitals usually are supposed to lessen medical negligence by negotiating with the sufferers
- h) Common people generally do not express enthusiasm to file a case against the doctors as well as the hospitals, thinking that there have not any level playing fields.
- i) The "legal aid" regarding medical negligence litigations is provided by a few private Organizations
- j) Litigation procedure in Bangladesh seems along procedure; where it takes a long time to have a final verdict.

Recommendations

- a) The government must start a consciousness program for ensuring the rights regarding patients' satisfaction such as the right to have information from physicians, to have safe and endurance of health care, the right to have privacy, right to have the respect and dignity, right to have the accessing freely for letting the highest authority know if any the rights are desecrated etc.
- b) The government should constitute an information desk for village to city town. Its purpose is restoring all the supportive information related to the health affairs. If it is demanded, they can take the measure for equipping information.
- c) Upazila Health Complex should have to be improved regarding infrastructure, equipment, manpower and should be hang a list of health facilities with mentioning the cost of those services.

- d) The training programs along with awareness program for the nurses and ward boy of the medical centers like hospitals, clinics should be introduced regarding the rights of a patient.
- e) A cautious measure should be taken in case of writing medical records and of its preservation. If it is required a different training program may be taken.
- f) Political intervene should be stopped by any cost.
- g) The allocation of the budget for health sector should be greater than before and ensure its right usage.
- h) Distinct Food, Health, Cosmetics and Consumer Tribunal should be reformed.
- i) The BMDC should be coming out from the blessings of political power and be a neutral and effective representative for common people.
- j) The environment of the hospitals should be improved and create as the patient concentrated.
- k) The responsibility of the authority of the hospitals must be ensured.
- l) The tribunal of the BMDC should be in active and vocal mood.

Conclusion

To get proper development regarding the health sector wants to have a strong mechanism to be established so that the complaints of the patients and their attendants can be reduced. The Medical Services Bill, 2016 was drafted by the Health and Family Welfare Ministry, which pursues to run resistance for the physicians' carelessness. It must be emphasized that without reestablishing a dependable association with the patients and the health care providers, it will be impossible to resolve the disaster at hand. Every physician has to feel a professional, legal and moral duty to his patients. They should, therefore, not apply to strike or stopped from satisfying their responsibilities to impulse for their reason. The government, predominantly the health and family welfare ministry, should endorse a law for medical negligence to stop medical malpractice across the country.

Works Cited

- [1]. Simms G. Hawks and Vulters Coming Home to Roost. Jamaica Gleaner. Published: Sunday/March 1, 2009.
- [2]. Azure JP. Unseemly Medical Practice. Jamaica Gleaner, letter. Friday/ February 25, 2005.
- [3]. Savedoff W and Hussman K, 'Why are health systems prone to Corruption?' in Transparency International's Global Report 2006 (London: Pluto Press, 2006).
- [4]. Medical Ethics, www.wikipedia.org.
- [5]. Nandy A. Principles of Forensic Medicine, India: New Central Book Agency (P) Ltd. 1996: 15-6.
- [6]. Veatch RM, Solitto S. Medical Ethics Teaching: Report of National Survey. JAMA 1976, 235:1030-3.
- [7]. Holly Eilen A. Gamutan R. N. Written in 1964 by Louis Lasagna. Academic Dean of the School of Medicine at Tifts University.
- [8]. Grolier International Encyclopedia.
- [9]. Percival, Thomas. Medical Ethics. Pp. 4957esp, Section 8. Pg. 52.
- [10]. Bangladesh Medical and Dental Council, Code of Professional Conduct, Etiquette and Ethics, Section 1.1, p.1.
- [11]. Physicians continue to compromise medical ethics, The NEWAGE, June 20, 2017.
- [12]. Talukder MHK, Nazneen R, Hossain MZ, and JC Ishrat, Basic Ideas on Medical Ethics, Bangladesh Journal of Medical Science Vol.09 No.3 Jul' 10.