

Medical Ethics and Law

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ABSTRACT

Published on 29th June 2009

Medical ethics and Law are both dynamic and are in a constant state of change. New legislation and court decisions occur and medical ethics responds to challenges created by new technology, law or other influences. American Medical Association adopted its first code of ethics in 1897. Since 1970, the growing influence of ethics in contemporary medicine can be seen in the increasing use of institutional Review Boards to evaluate experiments in human subjects, the establishment of Hospital Ethics committee. The 6 values considered sacred in medical ethics are discussed. So it is the responsibility of the profession to see that it follows the noble path so that the dignity and credibility of the profession is maintained at all costs.

Keywords: Medical ethics, Ethical values, Hospital Ethics Committees

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Medical ethics and Law are both dynamic and are in a constant state of change. New legislation and court decisions occur and medical ethics responds to challenges created by new technology, law or other influences.

The word "Ethics" is derived from the Greek word Ethos (Character). Medical ethics is a discipline/methodology for considering the implication of medical technology/treatment and what ought to be. Law is the established social rule for conduct, a violation of which may create criminal or civil liability. Good ethics has been described where the law ends. The moral conscience is a precursor to the development of legal rules for social order. Law and medical ethics thus share the goal of creating and maintaining social good and have a symbiotic relationship.

There are significant distinction between law and medical ethics in philosophy, function and power. A court ruling is a binding decision that determines the out come of a particular controversy. A statute or administrative code sets a general standard or conduct, which must be adhered to or civil/criminal proceeding may follow a breach of the standard.

Historically, a stern medical ethics may be traced to guide lines on the duty of physician in antiquity, such as Hippocratic Oath and early Rabbinic and Christian teachings. In Vedas and Upanishads also there are guidelines for physicians conduct. In the medieval and early modern periods, the field is indebted to Muslim physicians such as Ishaq Bin Ali Raghvi who wrote the

conduct of physician

By the 18th and 19th centuries, the medical ethics emerged as a more self conscious discourse. British doctor Thomas Percival {1740-1804} wrote about "Medical jurisprudence" and reportedly coined the phrase "medical ethics". In 1847 American Medical Association adopted its first code of ethics. Since 1970, the growing influence of ethics in contemporary medicine can be seen in the increasing use of institutional Review Boards to evaluate experiments in human subjects, the establishment of Hospital Ethics committee. Plenty of literature is available on the discussions taking place on ethical issues.^{1,2}

Six of the values that commonly apply to medical ethics discussions are

1. Autonomy- the patient has the right to refuse or choose their treatment.
2. Beneficence- A practitioner should act in the best interest of the patient.
3. Non-malificence - "First, do no harm"
4. Justice- Concerns the distribution of scarce health resources, and the decision of who get s what treatment.
5. Dignity- The patient and the doctor have the right to dignity.
6. Truthfulness and honesty- The concept of informed consent etc.

When moral values are in conflict, the result may be

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ethical dilemma or crisis. Ethics and morals are every body's concern. They keep changing as they constitute a compromise between liberty and security on the one hand, and progress and development on the other. Human rights are said to be universal, inviolable and indivisible. Yet when it comes to application in specific situations we find standards of reasonableness varying at different periods a matter of perception, interpretation and experience.

Medical professionals on several occasions have felt that intervention of law and courts in matters of professional ethics had been inappropriate. Lawyers know little of science and technology, particularly the frontier science of biomedical research. The medical community would prefer issues to be settled within the peer group rather than outside the profession. In that set up the redressal set up of the profession should be credible and appropriate. When the society feels that the technology can be abused in the name of experimentation, law cannot be totally avoided. Human rights have become central to governance, and no activity can escape the moderation of the human rights discipline. Wherever there are rights, there are duties as well and implementing rights and duties is the business of law and court. If ethics prevail, law becomes unnecessary. Law and ethics have the same centre, that is human beings in society. In a sense, law also is a moralizing

force. Certain violation of ethics may not be violation of law, but all violation of law is violation of ethics as well. As medical practice assumes the character of an industry with tradable products and services, more and more ethical norms will change to legal rights and duties enforceable through the court. One will not even in the wildest of the imagination assume the medical profession as a trade and treatment as a commodity. So it is the responsibility of the profession to see that it follows the noble path so that the dignity and credibility of the profession is maintained at all costs.

END NOTE

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Conflict of Interest: None declared

Cite this article: T N Babu Ravindran. *Medical Ethics and Law*. Kerala Medical Journal. 2009 Jun 29;2(2):59-60

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