REVIEW

Ethical problems in clinical practice

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Ethics is about judgment, which is rarely black and white. This paper highlights some of the ethical dilemmas that face practising clinicians in their everyday life and restates how useful the General Medical Council guidance is to make appropriate decisions. The authors have faced all eight of the clinical scenarios in this paper in their routine clinical practice.

The modern workplace in general medical clinical practice is intense and demanding and the job of a consultant physician is changing all the time. Although the main role will always be related to patient care, consultants also have responsibilities for training, and often for managing the service. Physicians must be aware of ethical and legal aspects of modern medicine which pervade all aspects of their role. In this article we discuss some ethical dilemmas that we have experienced. When a problem seems especially challenging the General Medical Council's (GMC) guidelines usually offer a clear direction in the decision making process.

Scenario 1

As a specialist registrar you hear that your consultant is involved in a clinical drug trial. You believe he is fabricating data and submitting it for the trial. What do you do?

The GMC's guidance is clear on this:

"You must conduct all research with honesty and integrity.

You have responsibility to act on concerns brought to your attention about the quality and integrity of research including allegations of fraud or misconduct; you must take action promptly, including:

- Taking account of participants' safety.
- Establishing the facts as far as you are able, separating genuine concerns from those made mischievously or maliciously.
- Have systems in place to deal fairly and promptly with complaints and allegations of fraud or misconduct".¹

You must be sure of your facts, so you should try to confirm your suspicions if possible. However, being suspicious is enough and you should not use your lack of evidence as an excuse for ignoring the issue. You might find it difficult to discuss

your concerns with the consultant directly, but this should be your first action if possible. What you believe to be the case may have a simple explanation. If you are not satisfied with the response you get from the consultant or do not feel that you can directly address it with him/her then you should inform someone of appropriate authority of your concerns. This may be another consultant for whom you have some regard. It may be helpful to make a confidential file note of all the facts relating to the incident so you have something to help your recall in the future. Each NHS trust has established a mechanism for ensuring the highest standards are applied to research and will have a lead clinician responsible for research governance. This may be the director of research and development, medical director, or clinical director. For university employees then the head of department, research dean, or even dean of the medical school should be informed.

Many clinical trials are sponsored by pharmaceutical companies. The consultant signs an agreement to conduct the trial honestly and according to established guidelines for clinical research practice,² and receives a payment in return, which is usually related to the number of patients actually recruited. This income is usually managed by the trust's financial officers and is paid to the trust and not the consultant. Fabricating data clearly constitutes fraud and breaks this agreement. Thus, in cases of commercial research you should raise your concerns also with the companies' representatives. They will then initiate an audit and obtain all the evidence required to confirm or refute the allegations. If scientific fraud is confirmed then the company would normally inform the GMC. This is a matter of extreme concern as the doctor could be found guilty of serious professional misconduct and erased from the register, as well as losing his consultant position with the trust.

Scenario 2

You are due to do a bronchoscopy/gastroscopy/cardiac catheter list tomorrow and your father has been rushed into a hospital in another city with bowel obstruction. He is going to have emergency surgery and your mother would like you to be with her during this difficult time. What do you do?

This scenario occurs regularly. As doctors we owe a duty of care to our patients but we also have personal responsibilities to our families. In this scenario there is clearly a conflict between the two. However, patients must be able to trust doctors

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with their lives and wellbeing and to know that the doctor's primary concern is to them. In essence the GMC says you must *make the care of your patient your first concern*.³

You would betray your patients if you cancelled the list at short notice, and you would be breaking the GMC code. You cannot walk away from your responsibility and turn your back on your patients. You should try to arrange with a colleague of equal training and experience to do your list. You should not expose your patients to a higher risk than normal by asking an inexperienced colleague to substitute for you. If you are unable to get a substitute or locum at short notice then you have little alternative but to do the list yourself. You should remember you also have a duty to ensure that you are capable of doing your job without jeopardising patient care. The GMC says you must *act quickly to protect patients from risk if you have good reason to believe that you may not be fit to practice*. Thus, if you are so upset by your family circumstances you should declare yourself unfit to practice.

Scenario 3

Your senior house officer tells you after an outpatient clinic that one of your patients made obscene and lewd suggestions to him/her during the consultation. He/she managed the consultation professionally and the patient has now left the clinic. What do you do?

Rarely, there are circumstances when you will find it necessary to end the professional relationship with a patient—for example, where a patient has been violent to you or a colleague, has stolen from the premises, or has persistently acted inconsiderately or unreasonably so that the trust between you and the patient has been broken. In such circumstances, you must be satisfied your decision is fair and you must not allow your views about your patients' lifestyle, culture, beliefs, race, colour, gender, sexuality, disability, age, or social or economic status, to prejudice the treatment you provide or arrange. You must be prepared to justify your decision if called on to do so. It would be good practice to document the issues contemporaneously and clearly in the medical records. You should not end relationships with patients solely because they have made a complaint about you or your team, or because of the financial impact of their care or treatment on your practice.

You should inform the patient, orally or in writing, why you have decided to end the professional relationship. You may suggest to meet with the patient to discuss the issue. However, you still owe a duty of care to the patient and so you should also take steps to ensure that arrangements are made quickly for the continuing care of the patient. This could include referring the patient to another practitioner, and of necessity to hand over records to the patient's new doctors as soon as possible.⁴

Scenario 4

The solicitor of the wife of a patient telephones you to inquire about the diagnosis and prognosis of your patient. What do you do?

The principles of disclosure of information other than for treatment of the individual patient are described in the following instructions from the GMC:

"Information about patients is requested for a wide variety of purposes including education, research, monitoring and epidemiology, public health surveillance, clinical audit, administration and planning. You have a duty to protect patients'

privacy and respect their autonomy. When asked to provide information you should

- Seek patients' consent to disclosure of any information wherever possible, whether or not you judge that patients can be identified from the disclosure.
- Anonymise data where unidentifiable data will serve the purpose.
- Keep disclosures to the minimum necessary".⁵

There are circumstances where you have no choice but to disclose confidential information about your patient, for example if instructed to do so by a judge, or to comply with a specific statutory requirement such as notification of a known or suspected communicable disease.

In this case you may not tell the solicitor anything about your patient without the specific consent of the patient. When dealing with telephone queries it is difficult to ascertain with whom you are talking. It is better to refuse to discuss issues on the telephone but to answer questions in writing after obtaining consent. Even after obtaining consent you should only disclose factual information which you can substantiate and present it in an unbiased manner. Since the Access to Medical Reports Act of 1988 your patient has the right to see written reports about them before they are disclosed. You should ask your patient if this is required.

Scenario 5

You admit a barrister after a sudden collapse where an eye witness observes him to have a grand mal fit. After full investigations are negative you discharge him. He tells you that he is due in court the next day in Liverpool. You have advised him not to drive but you are convinced that he will. What do you do?

The GMC advice is:

"Disclosure of personal information without consent may be justified where failure to do so may expose the patient or others to risk or death or serious harm. Where third parties are exposed to a risk so serious that it outweighs the patient's privacy interest, you should seek consent to disclosure where practicable. If it is not practicable, you should disclose information promptly to an appropriate person or authority. You should generally inform the patient before disclosing the information".⁶

The GMC gives specific advice for the patient who continues to drive despite medical advice not to do so. If you think the patient may be a danger to himself or others when driving and you cannot persuade him to stop driving or to inform the Driver and Vehicle Licensing Agency himself, then you should disclose the information to a medical adviser at the agency. You should let him know of your decision.⁷ As always in these situations make sure that you fully document any and all discussions in the medical notes as a contemporaneous record.

Scenario 6

Your patient is a drug addict and during the course of the consultation admits to mugging a number of people to rob them in order to pay for his habit. He asks you for methadone in order to stop this recidivist behaviour. He tells you that if you don't give him the drugs he will immediately leave the hospital and seriously assault a passer-by in order to obtain money to buy drugs. What do you do?

The patient is admitting to having committed criminal offences involving violence. He is threatening to commit further offences. He is a possible threat to your safety.

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If you feel your safety is at risk you could sign a prescription as a means of getting the patient to leave so that you could contact the police.

Scenario 7

The ward sister complains to you that the cover doctor did not get up at night to see an elderly woman who was terminally ill and dying from leukaemia. She had severe thrombocytopenia and was bleeding from every orifice. The patient was very distressed, as were all the ward staff even though they knew she was dying. The doctor had been telephoned twice but refused to get up. He was a registrar acting down on a senior house officer call rota. What do you do?

Good clinical care must include:

- An adequate assessment of the patient's conditions, based on the history and symptoms and, if necessary, an appropriate examination.
- Providing or arranging investigations or treatment where necessary.
- Taking suitable and prompt action when necessary.
- Referring the patient to another practitioner, when indicated.⁹

This problem can therefore be considered in a similar manner to scenario 2 in considering an under-performing doctor.

Scenario 8

Your colleague appears to be drinking heavily. He is late for work, always smells of alcohol in the morning, and has unexplained absences during the day. What do you do?

You must protect patients from risk of harm posed by another doctor's, or other health care professional's, conduct, performance or health, including problems arising from alcohol or other substance abuse. *The safety of patients must come first at all times.* Where there are serious concerns about a colleague's performance, health or conduct, it is essential that steps are taken without delay to investigate the concerns to establish whether they are well founded, and to protect patients.

If you have grounds to believe that a doctor or other health-care professional may be putting patients at risk, you must give an honest explanation of your concerns to an appropriate person from the employing authority, such as the medical director, nursing director or chief executive, or the director of public health, or an officer of your local medical committee, following any procedures set by the employer. If there are no appropriate local systems, or local systems cannot resolve the problem, and you remain concerned about the safety of patients, you should inform the relevant regulatory body. If you are not sure what to do, discuss your concerns with an impartial colleague or contact your defence body, a professional organisation or the GMC for advice.¹⁰

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