A STUDY ON MEDICAL ETHICS AND REGULATORY SYSTEM IN INDIA

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ABSTRACT:

*There is Growing public awareness regarding the ethical conduct of medical practitioners, and complaints against physicians appear to be escalating. The changing doctor-patient relationship and commercialization of modern medical practice has affected the practice of medicine in India. The way of approach i.e in medical term as ethics have been followed based on the location and region. This ethics and regulations followed would be changing from place to place. This paper is based on the Indian based ethics followed by the doctors and medical students.*

INTRODUCTION:

Medical regulation in India is characterized by a complex governance structure, with bodies at the federal and state levels sharing responsibilities. The Medical Council of India (MCI) and the Dental Council of India are responsible for setting the standards of medical education, maintaining the medical works and accommodating the medical and dental colleges. More than that MCI, each state in India has its own separate medical council, which look up the professional medical code and standards of good conduct. The state councils maintain the doctor’s registration in the state and promotes Continuous Professional Development (CPD) among its members of the committee.

Basics of medical regulation:

India has a well established medical regulatory system with responsibility of diversion between national and state level groups. These both the Medical Council of India (MCI) and the Dental Council of India are responsible for setting up the standards of medical education, maintaining the medical registration and setting up more the medical and dental colleges thought the country. In an over view for MCI, each state in India State has its own medical council, which will be looking after the profession’s medical code and good conduct.

The MCI is a statutory body which was established in February 1934 under the Indian Medical Act of 1933. Then it was repealed in 1956 and amendment came into use as the Indian Medical Council Act 1956; later after 1956 amendments to this act were made in 1958, 1964, 1992, 1993, 2003, 2004 and 2006.

The other medical regulatory bodies are the Central Council of Indian Medicine, which regulates the practice of Ayurveda traditional Indian medicine, and the Central Council of Homoeopathy, which regulates the practice of homeopathy in India. The MCI has created a regulatory system which has well defined and detailed processes for administrating registration, setting out codes of ethics, developing standards and identifying needs for medical education, and implementing programmers’ for CPD. Even how the decentralized system of work nature makes it difficult to assess its effectiveness, which will be definitely varying from state to state (India has 29 states and seven union territories).

There are some following aspects that a well governed state would be practicing:

• Effectively managing the process of registration and renewal;

• Making registered doctors for promoting;

• The quality of medical education will be high standard in all the aspects.

On the other hand, concerns have been expressed in some states regarding:

• There would be special significant under-supply of doctors, which may leads leading to quackery;

• Especially in implementation of the standards relation to the doctors on the code of ethics and even often private medical colleges are being inspected;

• There is lack of frequent feedback from patient to doctor for their issues.

Purpose, values and methods:

These are the functions of the MCI that include:

• Maintaining a medical schools with more ethically and proper standards of medical education in India states.

• Allowing the educational institutions to establish new medical colleges and new courses (including postgraduate courses) and to increase the number varieties in medical field itself.

• Verifying the quality and genuinety of the course validity of Indian Qualifications or foreign qualifications obtained in some other countries.

• Register their work ask doctor after their completion of course.

• Maintaining the All India Medical Register. The structure of the MCI is set out in Section 3(1) of the Indian Medical Council Act 1956. The Council is composed of the following members:

• From each state one member has to be selected by the central government with the consultation with the state authorities and also this selection is not from the union territories.

• One member from each university’s medical faculty, to be elected by members of the university;

• One member from each state in which a state medical register is maintained, to be elected by fellow registered members;

• Seven members who possess the appropriate medical qualifications, to be elected by their fellow professionals who possess these same qualifications;

• Eight members to be nominated by the central government. In addition to the MCI, which operates at a central level, each state in India is required by the 1956 Act to have its own separate medical council. These serve the primary purpose of overseeing the registration of doctors, as well as the profession’s medical code and standards of good conduct in the respective state. Allowing for minor variations from state to state, the main functions of the state medical councils include the following:

• Overseeing the code of conduct of the medical practitioners registered with the council, and taking action against doctors that fall within the jurisdiction of the state who contravene such codes of good practice;

• Promoting CPD among their members, including providing assistance in this matter to members of the council facing financial hardship;

• Maintaining the state register.

Funding for MCI

The MCI does not receive any direct funding from the central government; however, it sometimes receives a grant from the central government which may vary from year to year. The bulk of its revenue comes from the fees collected from inspections and registrations. The MCI spent about Rs. 6 million (approximately ￡80,000) on salaries, travel, contingencies and other allowances in 2006–2007.62

**Requirements for registration process**

Only candidates who successfully complete a Bachelor of Surgery and Bachelor of Medicine (MBBS) or Bachelor of Dental Surgery (BDS) from a recognized university or college are eligible for registration with the MCI. Candidates who complete the 4/1\2 year MBBS course can apply for provisional registration (valid for one year) provided they pass the screening test, after which they can complete the internship and apply for a full registration. Candidates can register directly with the MCI or with the state medical council.

Indian citizens educated abroad wishing to register as medical professionals in India need to pass a screening exam conducted by the MCI as specified in the Screening Regulations, 2002. There is no immediately available information on the requirements for doctors educated abroad who are not Indian citizens.

**Revalidation or Re-registration**

In some of the state medical councils, especially those of Delhi, Maharashtra and other major cities, registrations are only issued for a stipulated period of time (typically five years) and thereafter need to be renewed. As this is only an administrative procedure it is not essentially a revalidation. By contrast, in some other states registration is issued only once, on a permanent basis. After obtaining the registration, should the professional obtain any higher degree, he/she must register the additional qualification with the MCI or the respective state medical council.

Due to India’s huge population and growing economy, the demand for health care is rising rapidly, and the existing number of registered professionals is inadequate to deal with this increased demand. This is leading to the spread of quackery, which is one of the most serious challenges facing the medical regulatory system in India. The supreme court of India states that “any person who does not have knowledge of a particular system of medicine but practises in that system is a mere pretender of medical knowledge or skills”

This quotation highlights the extent and seriousness of the quackery problem in India. Various steps are now being taken to increase public awareness of the extent of the quackery problem. Faced with the need to raise awareness of the importance of professional healthcare, especially in rural areas, the Ministry of Health and Family Welfare commissioned a programe in 2005 called the National Rural Health Mission (NHRM), whose primary objectives are the improvement of health infrastructure and facilities to make healthcare more accessible in rural areas. In addition to the NHRM there are a considerable number of non-governmental organizations that help provide better healthcare, especially in rural areas.

**Ethics and Standards**

The MCI’s Code of Ethics Regulations, 2002 sets out the standards of professional conduct, etiquette and ethics for registered medical practitioners.

Here it is listed as chapters, Chapter 1 to Chapter 7 of the Code of Ethics Regulations, 2002 sets out the regulations in each of the following areas:

1. Code of medical ethics

A doctor shall:

• Uphold the dignity and honor of his profession with the prime objective of rendering service to humanity.

• Maintain good medical practice;

• Keep detailed medical records;

• Prominently display his registration number;

• Use the generic names for drugs as far as possible;

• Provide the highest quality of patient care;

• Expose any unethical conduct encountered.

2. Duties of doctors towards their patients

• Exercise patience and sensitivity, and uphold patient confidentiality;

• Give an honest prognosis (the doctor should neither exaggerate nor minimize the gravity of a patient’s condition).

3. Duties of doctors in consultations

• Avoid unnecessary consultations;

• Ensure that the benefit of the patient remains the main priority of a consultation;

• Strive to be punctual for consultations;

• All statements to the patient or his representatives should take place in the presence of the consulting doctors, except as otherwise agreed;

• No decision should prevent the attending doctor from making changes to a patient’s treatment if any unexpected developments occur, but the reasons for the variations should be discussed or explained during subsequent consultations.

• Provide a written case summary when referring patients to specialists;

• Provide information on fees and other charges prior to the treatment.

4. Responsibility of doctors to each other

• No insincerity, rivalry or envy should be indulged in;

• Careful appointment of locums wherever necessary;

• Respecting another doctor’s cases.

5. Duties of doctors to the public and to the paramedical profession

• Doctors as citizens: Doctors, as good citizens possessed of special training should disseminate advice on public health issues.

• Public and community health: Doctors, especially those engaged in public health work, should enlighten the public concerning quarantine regulations and measures for the prevention of epidemic and infectious diseases;

• Pharmacists and nurses: Doctors should recognise and promote the practice of different paramedical services such as pharmacy and nursing as professions and should seek their cooperation wherever required.

6. Unethical acts

• Advertising: Soliciting patients directly or indirectly by a doctor, by a group of doctors or by institutions or organisations is unethical.

• Patent and copyrights: A doctor may patent surgical instruments, appliances and medicine or copyright applications, methods and procedures. The benefits of such patents or copyrights should be made available in situations involving a large population.

• Running an open shop: A doctor should not run an open shop for the sale of medicine, for dispensing prescriptions prescribed by doctors other than him, or for the sale of medical or surgical appliances. It is not unethical for a doctor to prescribe or supply drugs, remedies or appliances as long as there is no exploitation of the patient. Drugs prescribed by a doctor for a patient should explicitly state the proprietary formulae as well as the generic name of the drug;

• Rebates and commission: A doctor shall not give, solicit, or receive nor shall he offer to give, solicit or receive any gift, gratuity, commission or bonus in consideration of or return for the referring, recommending or procuring of any patient for medical, surgical or other treatment.

• Secret remedies: The prescribing or dispensing by a doctor of secret remedial agents of which he does not know the composition, or the manufacture or promotion of their use is unethical and as such is prohibited.

• Human rights: The doctor shall not aid or abet torture nor shall he be a party to either infliction of mental or physical trauma or concealment of torture inflicted by some other person or agency in clear violation of human rights.

• Euthanasia: Practising euthanasia shall constitute unethical conduct. However on specific occasions, the question of withdrawing supporting devices to sustain cardiopulmonary function even after brain death, shall be decided only by a team of doctors and not merely by the treating doctor alone.

7. Misconduct

The following actions count as professional misconduct:

• Violation of the regulations;

• Adultery or improper conduct;

• Conviction by a Court of law for criminal offences;

• Performing sex determination tests (in connection with a possible termination);

• Falsifying professional certificates, reports and other documents.

Circumstances may and do arise from time to time which do not fall within any of these categories. In such instances, the MCI and/or the state medical councils have to consider and decide upon the facts brought before them.

Each state medical council oversees and implements these regulations within its own state judiciary.

The MCI received 732 complaints relating to ethical matters during the year 2006–2007. Out of these 732 complaints, 293 were referred to the relevant state councils/authorities for necessary action, 58 are awaiting clarification or further details from complainants and comments from the doctors in question, while 381 complaints have been resolved. The appropriate council may prevent a doctor from performing the relevant procedure or practice until the complaint has been settled or dismissed

**Disciplinary proceedings**

Chapter 8 of the Code of Ethics Regulations 2002 sets out the rules relating to sanctions and disciplinary action.

“It is made clear that any complaint with regard to professional misconduct can be brought before the appropriate Medical Council for disciplinary action. Upon receipt of any complaint of professional misconduct, the appropriate Medical Council would hold an enquiry and give opportunity to the registered medical practitioner to be heard. If the medical practitioner is found to be guilty of committing professional misconduct, the appropriate Medical Council may award such punishment as deemed necessary or may direct the removal altogether or for a specified period, from the register of the name of the delinquent registered practitioner. Deletion from the

Register shall be widely publicized in local press as well as in the publications of different Medical Associations or Societies or Bodies.”

An amendment in the Consumer Protection Act 1986 gives patients the right to sue or file a case against a doctor; this can be either a civil or a criminal case, depending on the nature of and seriousness of the issues.

**Medical education**

Graduate Medical Education Regulations, 1997 and Postgraduate Medical Regulations, 2000 laid out by the MCI govern the entry requirements, phasing and curriculum of medical education.

**Entry requirements for medical education**

The undergraduate degree for medicine in India is the Bachelor of Medicine and Bachelor of Surgery (MBBS) and for dental education it is the Bachelor of Dental Surgery (BDS). There is a range of exams, at national or state level, which candidates seeking to be admitted to medical college can sit. Eligible candidates in each state must obtain aggregate marks of at least 50%.65

The MBBS course is of four and a half years and is followed by one year of Compulsory for house surgeon that he\she be doing . The course is divided into three phases:

• Phase 1 (two semesters): Pre-clinical subjects, including human anatomy, physiology (including bio-physics), biochemistry and an introduction to community medicine (including humanities).

• Phase 2 (three semesters): Para-clinical and clinical subjects. Para-clinical subjects include pharmacology, pathology, microbiology forensic medicine (including toxicology) and part of community medicine. Clinical subjects are medicine and its associated specialties, surgery and its allied specialties, obstetrics and gynecology and community medicine;

• Phase 3: Continuation of clinical subjects. Medicine and its associated specialties include training in general medicine, pediatrics, respiratory medicine, dermatology, genito-urinary medicine, psychiatry, radiology and infectious diseases. Surgery and its associated specialties include training in general surgery, orthopedics surgery (including physiotherapy and rehabilitation), ophthalmology, otorhinolaryngology, an aesthesia, dentistry and radiotherapy, etc. The obstetrics and gynecology training include family medicine and family welfare planning.

To obtain a degree, a candidate must obtain an aggregate pass mark of at least 50% in each subject, with a minimum of 50% in the theory examinations (including the oral examinations) and in the practical/clinical examinations. Furthermore, candidates are required to pass all subjects in each phase before proceeding to the next phase. After successfully completing the course, candidates are awarded a provisional MBBS degree and may register provisionally as a medical professional. This registration is valid for one year. They can also start the year-long Compulsory Rotating Residential Internship. At end of the Internship they are evaluated on proficiency of knowledge, responsibility, capacity to work in a team, and other parameters. To be successful they should obtain a score of at least 3 (average) on a scale of 0–5 (with 0 being poor and 5 being excellent).

There are a number of postgraduate degrees for medical education in India, including Master of Surgery (MS) and Master Chirurgical (M.Ch.); in addition, institutes offer diplomas in various other fields. Postgraduate degrees generally span three years and sometimes more, with the exception of diplomas, which take only two years. The cost of medical education can vary significantly between states and between colleges

**FINDINGS:**

There is variability in the examination requirements of medical degrees in the other countries. Entry to medical school is broadly divided into two main categories: it is either determined by school leaving averages (Egypt, Pakistan, South Africa), or by specific university entry exams (Spain, Italy, India). In Poland some schools apply a mixture of both systems. In South Africa, other requirements also influence admissions to medical schools, for example knowledge of an African language and English as a second language. Therefore the ethics followed will be also different from the other countries including India.

**CONCLUSION:**

Even after implementation of Medical Council Act many unethical activities exist in medical profession. So it is highly necessary to amend Medical Council Act with provision to remove all deformities. Medical profession needs strict disciplinary action. MCI takes up disciplinary actions only on complaints. Most of the victims of medical negligence may not interested in proceeding against the doctor or may not be aware of the procedures to be followed. In such cases the council has nothing to do. Apart from this, the Medical Council Act, 1956 does not provide any procedure to be followed for conducting an enquiry or neither have they specified any time for its completion. Such investigation is often conducted by adhoc committees and they take a long time to submit reports due to their unaccountability. To sum up there are rarely any disciplinary action instituted against doctors guilty of negligence and hardly ever are the doctors punished for the same. Some kind of legal machineries should be required in the context of new emerging medical tourism, and its impact on markets. Medical tourism are rampant in India just like visiting shopping centers. Advancement of medicine and technology has created new challenges in the medical field. Problem relating to infertility treatment, artificial nutrition and hydration, treatment of patients in coma are some of the controversial issue in this regard. The regulations to medical practice could not be done by the council alone. In the new world of medical technology formal and informal regulations by professionals and institutions are necessary. So an effective law can provide better atmosphere in medical practices.