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PRACTITIONER ETHICS, MEDICAL SCHEMES AND FRAUD IN THE SOUTH AFRICAN PRIVATE HEALTHCARE SECTOR

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ABSTRACT

The biggest healthcare funders in South Africa are the South African Government and medical aid schemes and they operate in a highly-regulated environment. Unfortunately, the pervasiveness of healthcare fraud concerning collusion between medical aid members and healthcare providers such as physicians is swelling. Health care fraud is invariably a method of white collar crime that could be carried out by a number of stakeholders, *inter alia*, health care providers, customers, firms providing medical goods or services, and also health care organizations such as medical aid schemes. This article introduces the South African healthcare sector, the numerous ethical challenges for the healthcare providers and the notion of ethics education. The objective of this article is thus even in small measure, to seek to instil a positive ethical mind-set in all medical practitioners and health sector employees. It seeks to support industry initiatives to reduce fraud and ethical misconduct, and offers ethical guidance to practitioners and medical aid schemes and proposes a Medical Practitioner Ethical Guidelines Framework.

KEYWORDS

Medical aid, ethics, healthcare, medical aid schemes, practitioners

INTRODUCTION

The props supporting medical ethics are autonomy, beneficence, maleficence and justice. Truth and the notion of informed consent are statutory duties. All patients should thus be viewed as partners towards whom the doctor, medical scheme administrator or other stakeholders, should not harm in any way. Fairness must prevail in all transactions with patients. The idea of beneficence requires that all should be done for the benefit of a patient with no underhanded intentions on the part of the service provider. "It requires for example, that in the Emergency Room, all is done to save a patient's life, prescribing the correct medication/s and obtaining a second opinion where deemed necessary. Doing the right thing is non-negotiable".[27]

Ethical practice is not optional in medicine but rather an indispensable and integral part of health care provision. Society through its organizations has obligations and responsibilities for all its citizens and non-citizens, and every individual's rights need to be respected. Thus, the public must be knowledgeable about what its private and public health services offerings are and what options one has when it comes to health issues. It especially needs to know that ethical practice prevails first and foremost. Medical practitioners and indeed the other professionals in the health sector are traditionally governed by the assertions of Hippocrates that genuine compassion is critical in medical related activities since one is dealing with fellow human beings. What is of paramount importance then, is the guarding of the interests, self-determinations and well-being of all patients. The key focus of healthcare providers must be on providing compassionate medical care to consumers without any unethical aberration from the main task. However, health care fraud is a grim and shameful global reality.

Medical aid fraud, while not the sole type of fraud, is on the rise in South Africa, thus the occurrence of healthcare fraud involving collusion between medical aid members and healthcare providers is growing. In fact, the 'estimates by the Healthcare Forensic Management Unit (HFMU) of the Board of Healthcare Funders of Southern Africa (BHF), find that at least 7% of all medical aid claims in South Africa are fraudulent and the figure could be as high as 15%.'[1] This makes healthcare fraud one of the foremost crimes in the country. In fact, it is so pervasive that it accounts for increases of between R192 and R410 per month to every primary member's medical aid contributions [50]. What is highly problematic is the fact that it is a very intricate form of financial scam to distinguish, monitor and ultimately prevent. Medical aid schemes have been attacked. For example, The South African National Consumer Union (SANCU), recorded a surge in medical aid grievances, and urges South Africans to understand their benefits and know their rights when it comes to the Prescribed Minimum Benefits (PMB) covered by medical schemes.[22]

Healthcare fraud transpires at all the points along the healthcare delivery chain. White collar crimes are considered to be deceitful, as they camouflage the facts and violate all confidence in the perpetrators. They are acts which are in essence not in any sense

reliant upon any threat of physical force or violence and are committed by individuals and organizations to obtain personal or business advantage.[2] South Africa is not alone in its problem of malpractice and fraud in healthcare. In the United States the problem of white collar crime in healthcare is pervasive and there has been new interest by political leaders and prominent government officials in increasing public awareness of the nefariousness of the problem. Not surprisingly, the investigation of health care fraud is fast becoming one of the major priorities of law enforcement. South Africa faces the largest HIV caseload, in the world as well as widespread tuberculosis (TB) and growing obesity. Consequently, healthcare is under exceptional stress. According to The Guardian (2014), The government of South Africa spent in excess of 8.5% of GDP on healthcare in 2012, significantly higher than the 5% suggested by the World Health Organization (WHO) for a country of its socioeconomic rank, thus far it has however performed worse than similar nations.[5]

In South Africa, the healthcare sector is not in the least unbiased, despite the 1994 democratic dispensation. This state of affairs has necessitated the government spending significantly more on healthcare. In 2011, for example, the Annual Budget stated that the state spent at least R112.6 billion on health. This accounted for a huge 11.5 % of the national expenditure (National Treasury, 2011).[3] The 2011 Budget took the first steps in establishing a needed national health insurance (NHI), which was part of the Minister of Health's 10-point plan for improving health outcomes in South Africa. The public health system was thus being strengthened, and a health infrastructure grant was been established, with numerous new facilities being built and existing ones upgraded to be at suitable standards of operation.

Current South African Scenario

The four groups involved in the health sector in South Africa are regulators and statutory bodies such as Council for Medical Schemes, healthcare funders, service providers and the consumers. The private hospital market in South Africa is dominated by three organizations which are listed on the Johannesburg Stock Exchange. These are the Life Health Group, Netcare and the Medi-Clinic Cooperative. These groups account for at least 84% of private hospital beds and they are charging extremely high prices for the services that they offer to those able to afford their services.[12] Furthermore, in 2005, the spending on private hospitals accounted for an inordinately high 98.5% of all medical scheme expenditure in South Africa.[53] In order to deliver leadership and harmonization of health services to promote the health of all people in South Africa through an available, caring and high quality health system based on the primary health care approach, the government of South Africa will spend over R38 billion in 2016/17.[4] The Department of Health of South Africa is in its fourth year of the phased 15-year rollout of national health insurance, which is the government's route to collective, quality and affordable health care. National health insurance involves key financing reforms in the health sector and the department is leading innovative health financing mechanisms, including contracting with private general practitioners to deliver services in public facilities and also in the development of a new hospital reimbursement mechanism.[4]

The private sector uses 60% of total health expenditure yet supplies only 15% of the population with health care. Their facilities are world class and far cheaper than in for example, Britain or the United States but significantly more expensive than areas such as India. Public healthcare struggles to meet the medical needs of the other 85% of the population. State facilities are heavily congested and often equipped with sub-standard equipment and the problems are compounded by shortages of drugs. It was reported in The Guardian in 2014 that the number of health professionals in the public sector is far less than in the private sector, for example, less than 30% of doctors, dentists, pharmacists, physiotherapists and psychologists, and just 40% of professional nurses, are employed in it.[5] Unfortunately, a number of corrupt doctors, pharmacists, physiotherapists, radiologists and pathologists are defrauding medical aid schemes to the tune of R22-billion a year with the result that members having to pay far more in premiums and additional doctor fees.[6] South Africa currently has the world's largest public-sector HIV programme, with over 2.5 million people getting treatment. This places huge strains on health provision. Crucial services such as tuberculosis treatment are provided free by the state and such treatment is not obtainable at private clinics. Nonetheless, the average monthly fee for a medical scheme member in 1997, which was R995.00 per month, escalated to R 1 727.00 by 2005.[12] Currently, increases for open medical schemes for 2017 are averaging 10.3%. and a family of four on one Medical Scheme, with an average contribution increase of 5.5%, will pay R4 719 more for their annual medical aid contributions in 2017 than what they have paid in 2014.[51] Such an increase demonstrates that fees escalated far more than average wages over the same period. It is also apparent that due to limited supply, private hospitals have been responsible for medical schemes increasing their costs since the former negotiate the rates with the latter.

Van der Berg, et al., found in 2010, that the percentage of general practitioners who were employed in the public sector totalled up to 8 027 while 6 917 were serving in the private sector. In private practice, there were 5 177 specialists while only 4 026 served in state institutions.[13] Due to the low quantity of doctors practicing in South Africa, they are able to escalate their consultation fees which invariably place patients at an economic disadvantage since they are obliged to make additional add-on payments to doctors who are not considered to be preferred providers of health care for one or other of the medical schemes. Many health practitioners also charge South African Medical Association rates which are usually at higher rates than what medical schemes consider to be standard rates of payment to them.[14] Given the fact that medical schemes reimburse medical practitioners on a fee-for-service scheme, there is huge scope for ethical malpractice as oversupplying services will increase an individual's earnings.

Sadly, fraud is a huge problem and the wastage and abuse of medical aid benefits is a grave challenge that seriously hinders national exertions to resolve the huge challenge of providing reasonable, quality healthcare for all South Africans'.[6]

Medical Aid Schemes

The Council of Medical Schemes asserted in 2011, that there were at least 100 medical schemes covering almost 8 500 000 members.[15] Medical schemes in South Africa are what are termed Section 21 organisations, which have a responsibility to provide healthcare insurance to individuals, couples or families and should be protecting them against unexpected sudden healthcare costs. Care is based on different benefit packages that are selected by primary members for either themselves or selected beneficiaries, and payments are made to service providers under predetermined criteria.[15] Medical aid scheme members need to know where their payments go and what they should be paying to guarantee they get the benefits they are entitled to when visiting medical practitioners. Since many medical practitioners are currently requiring additional payments, and claiming 'shortfalls' in payments, consumers also need to know exactly what their benefits are and if practitioners are overcharging them. It is important to note that consumers in South Africa are protected by the innovative Consumer Protection Act No 68 of 2008, which was promulgated in April 2011. Medical schemes operate as non-profit organisations (NPOs) which means that they have no shareholders but only directors who are reimbursed for services rendered. There are also administrators who are paid for their services to a scheme and they can make a profit, which means medical costs may and do often rise substantially.[14]

Medical schemes should fully disclose to their members all conditions which they are covered for, which comprises of a list of chronic conditions, medical emergencies and an additional list of 270 conditions. PMB is a set of distinct benefits to guarantee that all medical scheme members have access to all minimum health services, regardless of the benefit option they have chosen. Thus, a list of 270 medical conditions and 25 chronic conditions, for which all schemes have to cover their diagnosis, treatment and care, whether someone is on a low-cost hospital plan, or a comprehensive high-cost medical scheme option is essential to inform consumers about.[22] Health-care providers are all accountable for unprofessional conduct and consumers must not hesitate to lodge valid complaints against them with the Health Professions Council of South Africa (HPCSA).

The HPCSA and why ethics is important

The Health Professions Council of South Africa (HPCSA) is a statutory body that was established in terms of the Health Professions Act (No. 56 of 1974). Its purpose is to control the behaviour of health professionals who are required to be registered with it.[18] The HPCSA thus regulates the health professions in South Africa in aspects relating to registration, education and training, professional behaviour and ethical behaviour, and strives to ensure continuing professional development, while nurturing compliance with healthcare standards[18] and yet ethical malpractice is rife. Medical practitioners then as registered members of the Health Professions Council of South Africa (HPCSA) are expectedto serve and defend the interests, choices and especially the well-being of all patients. Ethics is thus a critically important aspectin the medical context. Any and all types of unprofessional conduct perpetrated by HPCSA-registered medical practitioners is unacceptable and yethealth care fraud has failed to seize the attention of the public or the mass media which would be an important means of helping to reduce it. The ethical challenges encountered in the healthcare system in South Africa require urgent attention.

The Council states: "Ethics are defined as "moral principles". Within the health care field there are standards which must be met and maintained with regard to ethics. We highlight various ethical aspects and offer easy access to more detailed documentation. The Hippocratic Oath is the 'oath to the medical profession that all practitioners swear to'.[18] It is debatable if its contents are taken to heart by all new practitioners as would be expected of them.

The Professional Board of the HPCSA sets, upholds and applies fair-minded standards of professional conduct and practice in order to effectively protect the interests of the consumer. They have the power to institute disciplinary proceedings apropos any grievance, charge or allegation of unprofessional conduct against any person who is registered with the Council. Registered practitioners are subjected to a disciplinary process in terms of the regulations if unethical practices are uncovered in a range of areas including: Unauthorised advertising, over-servicing of patients, criminal convictions, improper relationships with patients,improper conduct of practitioners towards other stakeholders, operational procedure conducted without a patient's permission or consent, disclosing of information relating to patients without their permission, incompetence in the treatment of patients, charging excessive fees and blatant overcharging, deficient care towards patients, racial discrimination and discourteous behaviour towards patients, providing prescriptions to already addicted patients and accepting or soliciting perverse incentives and kickbacks. While the list is not comprehensive, practitioners may be charged in terms of the ethical rules and the various related acts including the National Health Act 61 of 2003, the Health Professions Act 56 of 1974, the Mental Health Care Act 17 of 2002, the Medicines and related substances Act 101 of 1965, the Promotion of access to information Act 2 of 2000 and the Protection of information Act 84 of 1992.[18]

It is apparent that many health practitioners think they know what they can't do so they incorrectly surmise that the rest must be acceptable. While it is indeed a fact that if we wish to cover likely ethical or unethical behaviour that could exist, we would need a handbook of great proportions. If we ask the question, 'Who is ultimately accountable for ethical behaviour in the health sector?' then we need to honestly state 'everybody'! Important aims in medical education should be primarily the professional development of individuals followed by the enhancement of general standards of professional practice encompassing inter alia ethics. The myriad of ethical challenges which could face medical practitioners should be unpacked from early on in their education and subsequent careers so that when faced with ethical dilemmas and moral mazes, they will be able to make correct choices. Many doctors appear to be uncomfortable about the profit related aspects of their profes-

sional lives while some may worry that outsiders will incorrectly perceive their profit intentions.[10] Some doctors suffer from a delusional 'halo-effect', and falsely believe that they can do no wrong and are beyond reproach. Many health care practitioners believe that the health sector offers amazing financial rewards based on unethical acts. The health sector is for many a pitiless meritocracy. Sadly, disappointments of this sort are becoming common. The closed nature of ethics in medical practice is highlighted by the fact that even professional journals such as for example, Medical Economics, are kept away from the general public as they discuss ethical issues such as malpractice, fees and managing money. In fact, the subscribers are sent a cautionary note by the editor to restrict access to the public by keeping copies away from examination and waiting rooms.[10]

Healthcare practitioners have an obligation to recurrently update their professional knowledge and skills for the end benefit of their patients or clients. Thus, the HPCSA has applied a Continuing Professional Development programme which makes every practitioner liable to is accumulate 30 Continuing Education Units (CEUs) annually and five of the units are mandatory and are in ethics, human rights and medical law. Each CEU is effective for a two-year period from the date on which the education unit activity occurred after which it lapses.[18] This stresses the notion that it is imperative to create operational service quality cultures in which it is far easier to do the right things and much harder to do the wrong things. The notion that taking short cuts is easy and acceptable in a neo-liberalistic sense is fallacious. According to an advocate of the Supreme Court, unethical practices cost millions of rand every year and compromise basic human rights and needs. Thus, a culture needs to be reinforced by both formal and informal processes in health sector organisations so that ethical conduct is promoted and is seen to exude a culture that yields trust. For example, it is vital to then create an honest atmosphere and demonstrate that ethics is exuded in the ambience of a practice. It is often the case that medical care in countries is organized for profit and while many hospitals are non-profit, the private ones are certainly profit driven and for example, their doctors are part of a very affluent and highly privileged occupational group. There are physicians who are amongst the highest paid group in the United States of America where the median income for primary care physicians is $185 000 per annum while surgeons earn about double that amount, especially cardiologists.[11]

In South Africa, with its vastly uneven society, people must be treated with dignity and respect and when medical care abused by practitioners thus compromising human rights of others, those responsible must be held accountable for what they do. For example, the Hippocratic Oath called upon doctors to be genuinely concerned for their patients' welfare, conscious of fairness, caring and compassionate and empathetic. Many people in society believe that medical care should be based upon the need thereof and that it should not only be provided to people based on their ability to pay. These values have to an extent fallen by the wayside in a world caught up in materialism and greed and in which the 'end justifies the means'. We need to instil a sense of ethical decision making and promote the notion of caring citizenship in the African spirit of Ubuntu. For example, ethical behaviour should be a minimal requirement for all action and not a guarantee for success in a practice and all should be aware of this and unethical conduct sanctioned when it manifests.

Medical practitioners thus need to carefully consider how they and their stakeholders act. Their mantra should be to act ethically as a matter of course. Medical schools need to seek out students with strong ethical character traits. While most practitioners act ethically, and possess the desire, capacity and willingness to be ethical, there are those who have such a strong desire to win at all costs and happily sacrifice their ethical side to the detriment of a country trying to arrive at an equitable dispensation for all of its citizens. By allowing even a minor unethical practice this encourages greater malpractice. A good medical practitioner will then model the correct behaviour and have the courage to act from the heart. In all their actions, medical practitioners should then strive to be truly caring, precise, honest, and comprehensive since such values are beyond measure. While unethical medical practitioners may be able to manage information, they cannot manage the truth since eventually all is revealed.

Types of ethical misconduct

While the majority of medical practitioners are ethical in orientation and practice, a marginal percent are seemingly quite content to conduct themselves unethically.[8] Such individuals prompted the Board of Healthcare Funders and medical aid schemes to meet at a conference in Johannesburg to deal with the increasing problem that is posing huge challenges in the health sector. Health care fraud is a pervasive system of white collar crime that could be and is committed by some health care providers, some consumers, and also some companies which provide medical supplies or services, and a range of health care organizations.[7]

There are numerous shameless tactics employed by medical practitioners which are all illegal and also unethical schemes that are nothing less than health care fraud.[9] For example, some physicians bill consumers for services that were never rendered, and regularly provide needless treatments or tests. There is also a trend to up-code or bill for a more expensive diagnosis or procedure that was not conducted.[51] Certain practitioners falsify or even exaggerate the severity of the medical illness to justify their up-coding, and there are those who also happily receive kickbacks for referral.[9] Kickback schemes exist in diverse forms. A pharmacist may, to the detriment of a patient's health, fill a prescription with a specific make of medicines as a substitute for another that yields a windfall from the pharmaceutical company concerned.[30] It is also the case that some doctors deceitfully write prescriptions for financial gain which is basically a kickback from the unlawful sale of these drugs.[31]

In 2016, Hoffmann and Nortjé conducted a study in which they unpacked unprofessional conduct and discovered that there is a vast range of fraudulent conduct in operation. Fraudulent conduct includes misdemeanours and crimes in a range of areas such as inter alia, false billing; negligence or incompetence in

evaluating, treating and caring for patients; improper professional role conduct; negligence regarding patient documents and records; performing procedures and interventions without patient consent and also professional registration misconduct.[9] It seems to be common to find cases in which patients are billed for non-rendered services and also the Issuance of misleading, inaccurate or false medical statements and false or inaccurate medical aid claims. There were cases in which there was issuance of medical certificates or prescriptions without ever examining or seeing the patient concerned. Hoffmann and Nortjé (2016) also refer to other unethical practices including a sub-optimal diagnostic assessment of patients and negligence or inappropriate administration, dosage or prescription of drugs to patients; Sub-standard surgical procedures; negligent post-operative patient care; A failure to refer patients to specialists for evaluation and treatment when indicated; Failure to properly manage the care of patients, which in certain cases resulted in a patient's death; Performing of surgical/intervention procedures while not suitably qualified or competent to do so; Failure to respond to HPCSA investigation or enquiry letters; Downright-spokendisparaging, insulting or discourteous remarks towards patients; A failure to communicate a diagnosis or treatment with a patient and/or family members; the issuance of medical certificates and prescriptions that do not fulfil HPCSA guidelines requirements; A failure to keep proper clinical notes and medical records; A failure to obtain consent for charging rates higher than medical-aid fees; A failure to obtain consent for intervention procedures, and also preoperative consent; Engaging of non-HPCSA-registered persons as health professionals; Practising as medical practitioner while not appropriately registered with the HPCSA ; Disclosing ofpersonal information without the patients permission and the unauthorised disclosure of patient information to third party for unprofessional conduct such as negligent patient care.[8]

Many medical practitioners are also guilty of what is termed as self-referral.[32] They will for example, refer a patient to a clinic, diagnostic service, or hospital etc. in which they have a financial association. Patients often also get involved in doctor shopping in which they search for a doctor who is willing to make available to them a wanted prescription. A patient can thus register with numerous doctors, to obtain prescriptions several times.[33] A study mentioned by Carlson in 2013 refers to a study which found that in 2011 there were approximately 600 patients in a Medicare program that obtained prescriptions from over than 20 doctors each.[33]

Medical aid members are paying more due to fraud and it is projected that every member of a medical scheme in South Africa was effectively paying between R2500 and R2800 a year to cover fraudulent and irregular expenditure.[9] Healthcare providers are often able to claim for an excessive number of appointments and claim from multiple medical schemes simultaneously. Medical aid schemes are defrauded for example by: "Instead of using one billing code for a procedure, such as surgery on a shoulder, doctors bill for multiple procedures, using one code for cutting into the shoulder and another for operating on the shoulder muscles – the latter billed as an additional procedure though covered by the first code; A radiology practice in Gauteng billed medical schemes for disposable gowns for every patient, irrespective of whether the patients needed a gown. They bought them for R16 and sold them for more than R100 a patient. One small scheme paid out R10000 a month for disposable gowns...".[9] There are also cases in which doctors were disposed to request more investigations for patients than was required exacerbated by the problem of excessive fees charged by some private facilities.[16]

Some medical practitioners and professionals submit false claims to the systems, and find the thresholds of the claim handling systems helping them to submit claims for services never actually provided, that do not activate the monitoring systems.[31] Health care providers have been found to submit so many claims on a single day that is unimaginable that they serviced so many patients.[34] There are also cases similar to what is common abroad, in which there is a negligent administration of drugs which severely compromises a patient's health. Medical practice is increasingly moulded by commercial reflections and fraud.[41] The financing of health care governs all aspects of medicine such as education, research, doctor-employer and doctor-doctor exchanges, and also doctor-patient relationships.[24] The HPCSA's has reported in their professional misconduct report for 2013 that of roughly 1 830 reviewed cases in the 2013 financial year, 734 were finalized. A staggering number of 200 doctors were referred to the HPCSA's Professional Conduct Committee and found guilty of professional misconduct.[29]

There is clear evidence of price manipulation of both medical apparatuses and the services Providers of medical equipment or health services who are able to manipulate prices for pre-determined groups of clients. Fraud by pharmaceutical companies is also a problem involving kickbacks schemes.[40] For example, there may be an 'off-label' promotion of drugs involving the marketing of drugs for uses which are not intended or even approved. Prices may also be manipulated often in complicity with other pharmaceutical companies which have been exposed on several occasions.[40] Cady refers to the notion and practice of 'unbundling' which means that separate claims are manufactured for services or supplies that should essentially be grouped collectively. Cady states: "Healthcare fraud is an important area of risk for the nurse executive and an area about which all nurse executives need to be aware. Healthcare fraud primarily relates to improper billing…".[44] Unbundling can thus be viewed as an aspect of improper coding, however not all authors allude to it as such, but rather see it as a distinct type of medical fraud.[42]

Saudi Arabian and USA medical misconduct as a comparative example

It is interesting to note that in for example, Saudi Arabia, medical fraud is also a growing concern. This serves as an interesting example, since in Saudi Arabia, virtually no private practices exist and all doctors are employed by large organisations. It is evident that Health services in Saudi Arabia have developed immensely over the last few years. Health facilities are springing up over all parts of the Kingdom. The Saudi Ministry of Health (MOH) delivers in excess of 60% of the services while the rest

are shared between other government agencies and the private sector. From November 2013 to January 2014, Towers Watson surveyed 173 leading medical insurers operating in 58 countries. The respondents' were queried about factors driving medical costs. Unfortunately, Saudi Arabia approximates a premium rise in health insurance up to at least 10% as insurers' fight with the ongoing problem of bogus claims and falling profits.[48]

Government services are currently provided by more than ten agencies, including the Ministry of Health. The management of these services is not identical, and some which are managed by private servicers are expensive. Health administration and the management of resources could be coordinated and this would result in a more sensible use of available resources and also proficiency, to the utmost advantage.[45] The Health services are principally publicly financed, and even though they have increased budget allocations for their free services, the actual average expenditure per capita is projected to decrease. This is due to a rapidly growing population and declining government revenues.[46] Other sources of financing are then essential. The government has consequently embarked on a plan for the execution of the co-operative health insurance scheme, which is in any event already applied to non-Saudis.[47]

In a study in Saudi Arabia, conducted by Alkabba et al. in 2012, the major medical ethical challenges facing the public and healthcare providers were found to show similarity to what is evident in South Africa. Despite the fact that South Africa and Saudi Arabia being dissimilar in many ways, not least of all, cultural and religious perspectives on health care, what is evidently similar is the presence of unethical conduct by health care providers in both countries. This demonstrates the universality of the problem of unethical conduct and the greed of practitioners from diverse backgrounds. Saudi Arabia spends vast amounts of money on health care and its health system is highly centralized with its primary focus on secondary and tertiary care rather than primary care.[16] There are thus many ethical challenges posed to healthcare providers. From an Islamic perspective, it is critical to show care and act ethically as a health care provider, just as it is from a Judaeo-Christian and traditional African Ubuntu philosophy of care perspective.

The chief ethical issues in medical practice in Saudi Arabia were found to revolve around aspects including: (1) Patients' Rights, (2) Equity of resource distribution, (3) Confidentiality of patients, (4) Patient Safety, (5) Conflict of Interests, (6) Ethics of privatization, (7) Informed Consent, (8) Dealing with the opposite sex, (9) Beginning and end of life, and (10) Healthcare Team Ethics.[16]

The Alkabba study suggests that a code of ethics would be useful if applied effectively. A code need not however, stipulate hard and fast rules, but should rather offer guidance as to how medical practitioners can deal with ethical issues as they manifest.[17] The greatest medical ethical challenge in the Saudi healthcare system was the issue of patients' rights followed by equity of access to medical resources. This corresponds to an extent with South Africa in which only a minority have good medical care availability. As in South Africa, there are different levels of treatment for locals and foreigners in both public and private facilities. While South Africa strives to offer care to all, albeit it not always enough, in Saudi Arabia, very few exceptions are made for patients with some grave diseases, such as, tuberculosis and dengue fever, who one imagines would be patients that should have access to free management, irrespective of their legal status.[17] Another major ethical challenge facing the Saudi Healthcare system was confidentiality of patient information,[16] which is also problematic in South Africa to an extent. Just as in South Africa, treatable conditions are not always treated on time and preventable diseases are not prevented as they could be. A number of physicians in Saudi Arabia work in the private sector during their official working hours, when they are officially on duty in government hospitals.[21]

In neighbouring Dubai, Billions of dirhams a year are being squandered on unnecessary medical tests and procedures, as well as prescriptions for expensive medicine and patient fraud – all of which, are paid for by severely impacted health insurers. It has been estimated that as much as US$1 billion, or Dh3.67bn, is being lost to causes such as identity fraud by patients and a culture of over-prescribing by medical practitioners who are given financial inducements to prescribe brand-name drugs.[49]

The United States scenario

In the United States of America, tens of billions of dollars in Medicare and Medicaid funds are lost to fraud. Such financial losses represent health care dollars that could be spent on medicine, care for the elderly or emergency room visits, but these are instead are wasted on the insatiability of materialistic practitioners. Consequently, the Justice Department in the USA, is committed to working with the Department of Health and Human Services to eliminate medical fraud.[19] The Health Insurance Portability and Accountability Act of 1996 (HIPAA) provided funds to tackle the pressing problem of health care fraud, and made health care fraud a federal crime punishable by fines and prison sentences of up to 5 years. When fraud has resulted in serious bodily injury, the maximum sentence is a prison term of 20 years and if the violation results in a patient's death, the offender may face a life sentence.[7] To help combat medical fraud, the FBI has also established numerous national initiatives including the Internet Pharmacy Fraud Initiative, the Auto Accident Insurance Fraud Initiative, and the Outpatient Surgery Center Initiative. There have also been indications of organized criminal activity in the processes in an assortment of health care facilities and also increasing medical data theft.[20] What is clear is that medical fraud is a severe global challenge.[26]

Ethics Education

While it is largely valid to argue that employees learn their values and build their ethical conceptual frameworks primarily at home, school and church, the reality of the work environment poses fundamental ethical challenges for employees at all levels of organizational hierarchy on a regular basis. When faced with a myriad of ethical dilemmas and moral mazes, the issue of doing the right thing becomes highly problematic and in this context, medical practitioners and professionals may battle to make and take decisions that are ethical in nature. This is

particularly the case in organizations in which the ethos that pervades the workplace is devoid of a moral corporate culture. In such workplaces, some managers force employees to engage in unethical and highly questionable behaviour. This is despite such organizations purporting to adhere to strict codes of ethics and conduct. In organizations that are truly ethical, business conduct becomes more transparent and societal welfare is promoted. Where carefully crafted codes of ethics and conduct are employed in an honest fashion, and where organizations comply with corporate governance regulations and requirements, sustainability is more likely. Where ethical leadership is evident and leaders are also trusted and have integrity, success and sustainability are almost certain to follow.

Medical ethics today places enormous stress on the principle of respect for patients' independence and human rights. It is the patients who should ultimately be the final decision-makers as to medical treatment they obtain but this is often not the case. The Consumer Protection Act now stresses that there is strict liability for harm caused by any goods offered and services provided and it is strictly enforceable. This places health practitioners and professionals in a legal and ethical dilemma. The lack of congruence between the notions of wealth accumulation at all costs, and the enhanced bottom-line, and honest modalities of operation in business which focus on a triple-bottom-line approach, makes life difficult for example, foe medical students about to embark on careers in the health sector.

Doctors who are unethical are now susceptible to prosecution in the event of any malpractice. They should thus be prepared to accept their responsibility to be professionally ethical and always strive to develop a virtuous character, since they are bound by a social contract.[27] When healthcare providers and professionals enter their chosen health sector profession they need to be equipped with the mandatory medical knowledge, surgical methods and business skills, but especially knowledgeable concerning an ethics-based framework on which they must shape their careers.[27] The must be equipped with the requisite moral principles of human behaviour based on the values espoused in the Hippocratic Oath and internationally accepted humanitarian codes which may be, but not exclusively, Judaeo-Christian in origin and based largely on virtue ethics. Personal integrity should be evident in all activities and all medical practitioners and professionals should act in a manner that is consistent with their core beliefs and societal values. Professional integrity encompasses an obligation to implement the core values underlying any health sector practices. It also includes the development and nurturing of attributes, attitudes, and behaviours that enable them to perform well in their vocations. It furthermore calls upon them to be involved in reflective practice, display fair-mindedness, unpretentiousness, moral courage and above all, integrity.

The ethics education of especially medical practitioners and administrators must be on-going, methodical, all-inclusive and mandatory.[25] Only in this way can there be truly professional conduct towards all consumers, the health-care system and all its stakeholders. Medical school, for one, should carefully screen potential future medical practitioners and business schools should spend far more time on inculcating ethical values in future or current business administrators and leaders. Ideally, those seeking a career in health sector services should be screened to demonstrate their serious commitment to health provision and patient care. Ethics training for medical practitioners and professionals, must include the basic theoretical concepts, philosophies, values and moral theories and professional codes of conduct education, but also teach them how to navigate through possible moral mazes and ethical dilemmas they may encounter. As the saying goes 'practice makes perfect' and so medical practitioners and professionals are moral agents and they invariably develop their virtuous features by characteristically practicing what ethics entails and ultimately discovering that their natures become the personification of the values that encourage human prosperity. For example, by regularly practicing virtuous characteristics such as honesty, judgement, courage, and truthfulness a yearning to fulfil their diverse obligations and responsibilities will logically follow.

The teaching of ethics at medical schools in South Africa is uneven and highly mutable. The HPCSA is seeking to create a core curriculum that would be implemented at all institutions presenting medical courses. Medical ethics education should however also be imparted as a condition of accreditation of any medical postgraduate programme that is in existence or envisaged for the future. Ethics should be merged into the very heart of all medical education curricula.[28] "Medical students and physicians often decry the highly theoretical approach followed in some traditional teaching programmes in medical ethics. There is increasing support for performance based approaches to be used and these are considered to be invaluable for effective medical ethics education. The difficulty of such an approach lies in the creation of dependable and applicable measures that could be utilised in evaluating individual medical students on their ethical performance during periods of their training at hospitals and clinics".[27]

The World Medical Association in 1999 robustly suggested that medical schools around the world teach both ethics and human rights and make them compulsory areas of study in their curricula.[15] Furthermore, the graduates should pledge, by means of a pronouncement that they will strive to observe the requisite ethical codes of conduct which incorporate the core values they are expected to espouse. There should of course also be a measure of assessment of integrity, ethical stance and character in a Medical School's student selection process. Additionally, medical students should be assessed regularly in order to ascertain their progress in moral reasoning, ideally during the initial 3 years of their education

A suitable approach

Socrates debated the question of ethics and his stance was unequivocal. Ethics consists of knowing what we should do in any given situation. He was of the belief that such knowledge could be taught. In any event, according to his teachings the best way for people to live was to focus on the pursuit of virtue and doing the right thing at all times, rather than the pursuit, for example, of material wealth at all costs. He promoted the

notion of a sense of community, as this was deemed to be the best way for human beings to grow together.[38] Recent research also suggests that a person's behaviour is greatly influenced by their moral perception and moral judgments and these are based on learning.[36] Consequently, as medical students expand their insight and understanding of the health sector business ethics field during their studies, they are more likely to take an informed approach and have a rounded understanding of what ethics entails. They are also well placed to tackle the challenges that may manifest in the workplace in the form of ethical dilemmas and moral mazes they must face on a daily basis. To intentionally expose students to health sector business ethics in the course of their studies and develop their basic problem-solving approaches concerning ethical issues, will undoubtedly influence their awareness of moral issues. It will also impact their judgement when it comes to making important decisions.

Health practitioners and professionals should be taught to seek justice in society and immediately shy away from unethically exploiting consumers. As compassionate human beings, we should all care about the plight of the deprived, less fortunate and marginalized elements in society and indeed all people. Additionally, we should teach health sector employees to be discerning. There is also a dire need to encourage health practitioners and professionals to carefully considered all the facts of all cases, the potential emotional response, and the motivations for acting in a certain manner.[28] When virtue ethics are inculcated, we could, for example, conclude that an empathetic, honest, and discerning doctor would typically respect a patient or other stakeholders such as medical aid schemes, in any given situation. An emphasis on critical thinking, effective problem-solving and decision-making skills in any and all health-sector settings would go a long way to help practitioners deal with ethical dilemmas. Individuals lead a good life when they fulfil the purpose and meaning of what it means to be a human being. They need to know how to deal with others and forge special relationships and adhere to codes of conduct and act virtuously at all times, and above all with compassion and kindness.[23]

While there are continuing professional development guidelines for the health professions provided by the Health Professions Council of South Africa (HPCSA),[43] what is important is initial ethics education prior to the commencement of a vocation in the health sector. In teaching ethics to students, descriptive approach may be utilised which describes how things are currently being done in the health sector, or a normative approach which describes a more idealistic view of what ought to be happening in practices and clinics. Ethics is not that straightforward for many students since d different cultures approach certain matters in different ways. It is essential to focus in education on health sector ethics on issues relating to diverse moral philosophies and to examine many case studies, thus looking at personal approaches to making ethical decisions in the workplace.

In this regards Forsyth's Taxonomy (1980) on ethics would be very useful for academics to employ.[49] This includes:

1. Situationism: which promotes a contextual analysis of morally questionable actions;
2. Absolutism; which uses unchanged, universal moral principles to formulate moral judgments;
3. Subjectivism: which argues that moral judgments should depend primarily on one's own personal values;
4. Exceptionism: which concedes that exceptions must sometimes be made to moral absolutes.[49]

By understanding these different ethical perspectives, medical students can for example develop individual critical thinking skills and better understand how values and principles should be part and parcel of all ethical decision-making. Students as future leaders and employees in the health sector must be able to use their personal moral compass to make careful ethical decisions. Tseng and Fan state that an organizational ethical climate influences employee attitudes toward ethics and also how they participate in activities. This is essential for students to note as they will be involved at some stage of their careers, as leaders, in co-creating codes of conduct/ethics with their employees. If they and their employees are involved in the creation of the code, they are more likely to observe it.[35]

Health sector ethics education needs to address all possible ethical risks facing an individual or an organization. Medical schools need to provide future medical executives with ethics education that is of lasting value. It is also critical to collect feedback on medical ethics education from the most important stakeholders from medical students themselves.

Health sector ethics courses need to teach students about the importance of codes of ethics and how to create these, compliance requirements issues, adherence to the laws and regulations and general conduct in business practices via case studies on topics such as, inter alia, hyper-materialism issues, cultural diversity, stakeholder engagement, corruption, developing an effective ethical practice and organizational culture, workplace health and safety, employee education, sustainability issues, employee rights and marketing and recruitment of health sector employees. What is thus sought are well rounded students who can traverse ethical conflicts, moral mazes and ethical dilemmas in the workplace. There is evidence, according to Treviño et al.,[37] that suggests that if an organization employs ethical employees, this in itself limits unethical conduct. This is ideal when the workplace culture is also ethical in orientation and where doing the right thing is exuded in the ambience of the workplace.[37]

Ethical leadership ideals

It is essential that leadership demonstrate strong support for ethics throughout a medical practice, medical aid schemes organisation, hospital, clinic or pharmacy business or any health sector enterprise as such. Ethics should be entrenched in the operating cultures of such entities. Operation should encapsulate the rights of free speech and freedom of opinion of all stakeholdersand integrate the principles of Hippocrates. Medical practice should mirror fairness to the everyday citizen in its solutions to all problems. The leader must of necessity create a strategy for managing ethics that is conversant with all the negative risks the establishment faces and be cognisant of the

non-sustainability of an operation in which there is unethical conduct. It is also imperative that suitable structures, systems and procedures are in place to guarantee that all stakeholders are acquainted with and observe the organisation's ethical standards and operational practices.

Ethical medical practitioners and professionals appreciate that emotions are an essential and important part of moral perception. Their personal and work-related decisions are attached to their distinctive virtuous dispositions as moral agents who seek the greater good. They are able to work without rules and do the right things and apply creative solutions to dilemmas they face. Many health practitioners and professionals believe that their peers breach their professional codes relatively often, nonetheless, when we consider the inordinate number of unethical activities in the health sector, it becomes clear that not all people are virtuous, and this is where codes of conduct education and implementation, become important aspects. Continuing education for healthcare practitioners is not only a licensing requirement but also an ethical imperative. They have the responsibility to practice their chosen profession according to the expectations of their consumers and also a responsibility to identify and include pertinent voices in any 'care' discourse, particularly those of the marginalized in society.

Medical Practitioner Ethics Codes

At the outset, it is important to state that ethical standards must be clearly articulated in a code of ethics and supporting policies in a practice or any health sector enterprise. An accepted code should conform with the accepted codes and standards of behaviour articulated by the HPCSA and in fact go beyond these while also adhering strictly to the laws the country and recognised international norms. While bodies such as the HPCSA have a responsibility to endorse "position statements" on key issues that affect their members it seems that not enough is done concerning the "duty to care" and that this aspect is also lacking in many professional codes of ethics.[18] The ethical performance of all health sector entities must be included in the scope of internal audit and reported on in the entities integrated annual reporting. An insistence on truthfully resolving ethical hitches in a caring environment is non-negotiable.

Ethical codes frame and structure the moral environment and review the ethical position while leaving the actual ethical responsibility with the individual practitioner concerned. Ethical codes cannot as such, guarantee adherence, nor provide the answer to specific ethical problems but are rather to be viewed as instructive and enlightening instruments. Codes need to pronounce on the ideal ethical environment in which the delivery of health care is carried out and should not be viewed as punitive in any way, except for stating disciplining procedures for non-conformance and likely penalties. Codes of ethics must encourage self-regulation and high levels of professional integrity.[8]

Well-crafted ethical codes define the ethical attitudes that are common to all medical practitioners and care workers, and are enormously valuable and persuasive as they inspire the notion of self-regulation and enhance the professional integrity of the health sector. An ethical code can help facilitate the debate around ethical issues in problematic cases, and idiosyncratic ethical positions can be recognized and argued, leading to a more comprehensive and considered moral inference being drawn. Thus, an ethical code should not seek to make subjective aspects of healthcare more objective or distinct from practical situations faced, since individual responsibility for ethical practice remains with each individual healthcare practitioner.

A proposed 24 – point Medical Practitioner Ethical Guidelines Framework

While many medical practitioners adhere to high standards of professional conduct, many do not. The framework below is intended to re-ignite the passion for medicine and serving fellow-human beings within medical practitioners or other health sector employees, who may inadvertently or willingly stray from ethical conduct for whatever reasons.

The medical practitioner should:

- never allow his/her judgment to be prejudiced by individual gain.
- never accede to obtaining additional financial benefits or incentives for referring patients.
- never prescribe products which they know are substandard or harmful, for financial gain.
- always remember the Hippocratic Oath and why they became practitioners in the first place.
- always maintain the highest standards of professional conduct and adhere to ethical codes.
- always act within the ambit of the law.
- always respect and show sensitivity towards, the diverse cultures in the community.
- always maintain adequate records.
- always act in a spirit of self-awareness and self-reflection.
- regularly reflect on whether they are practicing efficiently.
- always consider the balance of benefits and possible harm in all their clinical-management decisions
- regularly update their skills and medical knowledge enhance their clinical judgment.
- always exercise autonomous professional judgment but if in doubt consult with peers.
- always endeavor to use health care resources to the maximum benefit of their patients
- always consider the plight of the poor in obtaining health care.
- always consider their duty to respect human life.
- always act in the patient's best interests.
- always be courteous, deferential, concerned and truthful.
- always provide emergency care as a duty, even if not in their practice.
- always respect a capable patient's right to receive or refuse any treatment.
- always respect the confidentiality of their patients.
- always provide capable medical service with sympathy and respect for human self-esteem.

- always facilitate the coordination and required continuity of patient care.
- always provide appropriate treatment.

CONCLUSIONS

Considering the rampant corruption in South African society, the researcher suggests that ethics education be the cornerstone of all health sector education. It should also include action learning and more inter-domain examples. Healthcare practitioners should be involved in ongoing lifelong education and training which are needed to maintain the needed competencies and which enhance professional development. They should subject their work to peer review and inspection for quality improvement initiatives to be implemented.

The effective adherence to good ethical standards is important for health care organizations. When practitioners possess individual and professional integrity, they are encouraged to preserve and enhance high levels of desired professional conduct. Ethical codes of conduct establish score ethical responsibilities of persons performing healthcare work. The public needs to know and trust the medical community to always act in their best interests. Ethics stresses that people should thus seek to understand and reflect ethically on all their actions in their processes and in their work and especially in health care. They should carefully weigh up their actions and the implications thereof and constantly strive to seek opportunities to uplift society. All patients, employees and other stakeholders must be treated humanely and medical leaders should be morally committed servants of society and manage their employees and all stakeholders with the utmost respect.

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