

Justice in health care – the role of health care workers in advocacy

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When we remove all the dynamics that encase the health care system, it becomes apparent that the patient-health care professional relationship is in essence the foundation of health care. Crucial questions must be answered in order to fully understand the boundaries of the association between these two key role players, doctor and patient. Does this relationship only exist in hospital corridors, or does it extend further into patients'

lives? Are health care workers obliged to play multiple roles of advocate, social worker and advisor to their patients? In order to answer these questions and explore other relevant issues this essay will probe socio-economic factors affecting the role that might be expected of a professional, especially in the context of South African communities in the era of HIV/AIDS and economic uncertainty.

'The good physician treats the disease;

The great physician treats the patient who has the disease.'

Sir William Osler, 1849 - 1919

As the quote above implies, health care would be a far less intricate profession if the duties of the modern health care worker were isolated to identifying and treating clinical ailments. In reality, the basis of all the health care professions lies in the critical interaction

between the ailing patient and the professional who is expected to repair, heal or cure.

When we remove all the dynamics that encase the health care system, it becomes apparent that the patient-health care worker relationship is in essence the foundation of health care. In order to fully understand and appreciate the significance of this relationship, we must be aware that it is the patient who comes in search of help and the 'good' doctor who will be required to serve the patient with sincerity and professionalism.¹

Introduction to the winning entry of the 2011 University of Witwatersrand's Medical Protection Society Bioethics Competition

Today's students are tomorrow's health care workers and the day after tomorrow's leaders in the field. Health care workers and their leaders need to grapple with ethical issues on a daily basis, and to do so requires the ability to reflect cogently on moral dilemmas confronting them. When better to initiate this process of reflection than as undergraduate students? This is why MPS supports the University of Witwatersrand MPS Bioethics Essay Competition.

This year the students had to confront the issue of advocacy in health care. One suspects that the majority of students entering the health care sciences anticipate that their education will concentrate on the sciences of the field. Soon it will dawn on them that their responsibilities and dilemmas will extend beyond science and into areas that they may consider to be the humanities.

South Africa offers its young health care workers many challenges, and an important one is their role as advocates. The winning essay by Nolonwabo Moyakhe offers insight into how a medical student views this challenge. Remember that she is not a philosopher, but she is to be applauded for entering the debate, putting her thoughts down on paper and winning the competition. She may not have all the answers – who does? – but she has joined the debate.

Graham Howarth

Director, MPS Africa

These facts lay the foundation for the question posed by this essay, which obliges one to probe deeper into the levels of this relationship. Crucial questions must be answered in order to fully understand the boundaries of the association between these two key role players: doctor and patient. Does this relationship only exist in hospital corridors, or does it extend further into patients' lives? Are health care workers obliged to play multiple roles of advocate, social worker and advisor to their patients? Is it realistic to assume that our already inundated health care system can handle treating every patient with individual and undivided attention?

In order to answer these questions and explore other relevant issues, this essay will utilise relevant literature on medical law and ethics. It will highlight an actual case that assists in defining the role of the health care worker, and lastly it will probe socio-economic factors affecting the role that might be expected of a professional, especially in the context of South African communities in the era of HIV/AIDS and economic uncertainty.

The Hippocratic Oath versus harsh realities

At the beginning of our medical school careers, in order to start off on the right foot on the road to becoming competent physicians, we had to recite and fully understand the oath taken by all future health professionals, the famous Hippocratic Oath. For many of us one line resonated as a major mandate of health care work, simply stating: *'I will keep them from harm and injustice.'*²

The values expressed by this extract further emphasise the purpose of health care practice, which is always to care for the

ailing and the sick, promote the interests of health, and strive towards healing environments.³ This defines the role that many of us have come to associate with health care workers. In a Utopian world these duties could truly be carried out as they are written.

Needless to say, there is always a certain incongruity between what is written and what actually occurs. With passing generations and additions of new dimensions to the health sector, the significance of such oaths begins to waver in the settings of understaffed hospitals, empty medicine storerooms, overcrowded wards, and underpaid but overworked professionals.

Despite the harsh realities of conditions in the public health care sector, health care workers are bound to ensure that the patient receives quality health care, which is a basic human right.⁴ When delving deeper into this issue, it must always be remembered that to be a good health care practitioner requires a lifelong commitment to sound professional and ethical practices and an overriding dedication to the interests of one's fellow human beings and society.⁵

Legal duties and moral obligations

Furthermore, implicit in every consultation with a health care professional is a contractual agreement obligating both parties to undertake to perform certain actions. It is therefore justifiable to say that health care workers have a legal duty to the patient. Legal duties imposed by legal instruments require health care practitioners to follow certain procedures and to use particular skill and care when dealing with patients.⁶ If we have a duty to another person, it means we are bound to that person in some respect and for some reason.⁷ Hence patients hold a legal right or claim against health care workers.

As professionals we have 'moral obligations', general duties we acquire by virtue of being qualified and licensed as professionals. These duties include providing medical care, relieving pain, gaining informed consent, respecting confidentiality, and being truthful.⁸

Advocacy

The responsibilities of the health care worker towards the patient give a solid foundation on which to discuss the fundamentals of 'advocacy'. This is a controversial term, understood in different ways by different groups of individuals. A simple definition describes advocacy as active support of an idea or cause, especially pleading or arguing for something.⁹

A more elaborate definition claims that advocacy can be by an individual or a group with the aim of influencing public policy and resource allocation decisions within political, economic and social systems as well as institutions. It may be motivated by a moral, ethical or faith principle, or simply to protect an asset of interest.¹⁰

The accepted definition of advocacy, as implied by the preceding descriptions, takes on a different framework when applied in the health care system. In the context of the health worker-patient relationship this concept translates to a resolute beneficence, the knowledge that whatever one does must be in line with the patient's overall well-being.

Health care workers must always regard concern for the best interests or well-being of their patients as their primary professional duty.¹¹ In order to speak for your patient and truly advocate for

them, the health care worker must advocate for the patient's health. This means that one is required to challenge everything that stands in the way of a healthy patient. In all ways the health care worker must 'protect' the patient's health and well-being.

Health care practitioners should be aware of the rights and laws concerning unfair discrimination in the management of patients or their families on the basis of race, culture, ethnicity, social status, lifestyle, perceived economic worth, age, gender, disability, communicable disease status, sexual orientation, religious or spiritual beliefs, or any condition of vulnerability such as embodied in health rights legislation.¹²

This relates back to the earlier enquiry regarding the duties required of modern-day health care workers. Is it fair to allocate the duties of social worker and advisor to professionals who should exclusively be dealing with ailments? Let us analyse a hypothetical practical case: a nutritionist working in the public health sector is required to formulate a diet for a patient. In the course of the consultation, the patient tells the nutritionist that she will be unable to afford some of the items in the diet.

This creates a dilemma. The nutritionist has legally fulfilled all medical duties towards the patient by indicating the necessary diet that will ensure her 'well-being', but how are the ends of beneficence furthered if the patient's interests are not met fully? What further steps are necessary in order to advocate for the patient?

Thousands of health-related cases in which finance is the underlying problem pass in and out of clinics and hospital wards every day, and the true question lies in the justice of the health care system. This gives the perception that those individuals who are not on medical aid, those who lack financial means, may have to settle for less health care than their more affluent counterparts.¹³

The impact of South Africa's economic status both directly and indirectly affects the health care system. One must be aware that no duty is absolute or stands without exception irrespective of time, place or circumstance. This is not surprising, since different duties may prescribe quite opposite decisions and actions in a specific concrete or real-life situation.¹⁴ Therefore, despite uncontrollable factors, health care workers must always work within the premises of beneficence. They have to make sure that they perform their duties even in the presence of governmental uncertainties.

The rule of advocacy does not only apply to external factors like finance that may impact on the patient's health, but also to internal dynamics. Practitioners have an obligation to protest when the behaviours of other colleagues violate professional ethics and human rights standards. They must act promptly to protect patients from risk if they believe that they or their colleagues are impaired.¹¹ Questioning the competence of a practitioner by a colleague may prove difficult, but the patient's well-being must always be placed first.

Freedom of choice

The practitioner should not only speak on behalf of the patient but must also be fully aware that the patient has a right to freedom of choice. He or she has the right, for instance, to change his/her physician and hospital or health service institution, regardless of whether these are based in the private or public sector. Once a patient has made an informed choice or decision regarding their

health, the practitioner must ensure that the choice or decision is protected.

The patient must always be made aware of the consequences of their choices, meaning that decisions must be informed.¹³

Health care practitioners should honour the right of patients to self-determination and to make their own informed choices, to live their lives according to their own beliefs, values and preferences.¹⁵

While paying due respect to the autonomy of the patient, health care workers must act in the best interests of patients even when the interests of the latter conflict with their own personal self-interest.¹⁶

Confidentiality

Confidentiality between patients and practitioners is in line with the principles of advocacy. The health status of the patient must be protected at all times. At times protecting a patient's health status allows them to continue with life, without social discrimination or judgement. This becomes especially true in the case of HIV-positive patients, for whom revealing their status to community members and potential employers could prove harmful.¹⁷

Health care practitioners should treat personal information and communications as private and confidential in professional relationships with patients, unless overriding reasons confer a moral or legal duty to disclose.¹⁸ When a practitioner cannot provide necessary treatment, or if the treatment goes beyond their level of expertise, they may refer the patient to another doctor. Such referral requires that certain information about the health status of the patient be disclosed. This does not break the boundaries of confidentiality, as the aim is the well-being of the patient. The practitioner must fully explain the reason for the referral to the patient, and most importantly must obtain consent to breach confidentiality by giving the patient's records to another practitioner.¹⁹ The right of the patient to confidentiality has proved to be controversial in the health sector. Much has been written about the clash of confidentiality with the advocacy role of the practitioner.

In cases where a patient divulges information that may be harmful to their personal well-being, the doctor must act in line with his or her first duty as a professional, which is to ensure that no harm comes to the patient. In cases where a patient informs the practitioner that they intend to not only harm themselves but to harm others, the practitioner must make sure that no harm comes to the patient or to others.²⁰

When informing authorities about a patient's threat to harm, the doctor must make the authorities aware of the patient's mental and emotional status, so that there will be an understanding of the conditions under which such threats were made. In legal cases where a doctor is required to testify 'against' a patient the doctor must remember that they have 'natural duties', which are unacquired general duties simply by virtue of the doctor's being a member of the human community, natural duties such as refraining from doing harm and promoting fairness. As is the case with everyone, health care professionals owe these duties to all other people (whether their patients or not), and quite independently of their professional qualifications.²¹

Conflicting beliefs

In many cases the patient's beliefs, values or cultural norms may clash with or differ from those of the practitioner. This clash reduces the level at which a practitioner can advocate for the patient. In such cases, if they feel that their beliefs might affect the treatment they provide, practitioners must explain this to their patients and inform them of the right to see another health care practitioner.²² It would serve no justice to either the patient or the health care worker to perform treatment when fully aware that it goes against one's principles or beliefs. Allowing personal beliefs to hinder quality medical practice is not in line with the justice that the patient deserves.

After examining the legal basis of advocacy for patients in health care, it becomes evident that the association between a patient and a health care worker is built on a relationship of mutual understanding, confidentiality, compassion and professionalism. Despite the conspicuous external and internal factors that encumber the health care system, it must be highlighted that the main duties of health care workers will always be advocating for the health and well-being of the patient.

Justice in health care

Justice in health care is truly possible when the health care sector and its affiliates can work in conjunction to ensure that all citizens in a community, especially those who are under-privileged, receive quality and affordable medical treatment. No incident resonates with this sentiment more than one that occurred nearly eight years ago, at the height of South Africa's dilemma in the fight against HIV/AIDS. South African hospitals were inundated with AIDS patients, and the government had no solid structure for the provision of antiretroviral treatment. The health sector and all its affiliates were calling on the government to ensure that HIV-positive patients receive proper treatment. One act of advocacy, however, revolutionised the South African stance on HIV/AIDS and resulted in one of the most significant changes in health care policies in our history.

In August 2003, Zachie Achmat, acclaimed leader of the Treatment Action Campaign (TAC), proclaimed to the South African community and the world that he would completely stop taking HIV treatment until antiretroviral drugs were made available to all HIV-positive South Africans who were in need of them.²³ This outstanding act of solidarity and advocacy led to major political and economic change, and as a result thousands of South Africans today have access to antiretroviral treatment and countless lives have been spared.

The legal obligations and boundaries that commit the health care worker to the patient must be observed at all times. The appropriate functioning of the health care system will always depend on the level of expertise in which its health care workers operate. Hence it is of paramount importance for all practitioners to understand that their profession is based on ensuring that they advocate for justice and fairness in all matters pertaining to their patients' health.

Health care is a dynamic profession that has a certain intricacy due to the fact that it solely revolves around human lives and human health. Mortality is something that all human beings must deal with, but this is especially true in the case of health care

workers, who choose to dedicate their lives to handling the fragility of human life. In all cases health care workers must advocate for the well-being of all patients, especially in developing countries like South Africa, where many patients have no voice of their own.

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