

## ETHICAL AND LEGAL ASPECTS OF MEDICAL PROFESSION AND AYURVED- A CONCEPTUAL STUDY

Dr. Gajanan D. Chatuphale<sup>1</sup>, Dr. Ketki G. Chatuphale (Aurangabadkar)<sup>2</sup>

<sup>1</sup>Assistant professor, Department of Agadtantra,

<sup>2</sup>Assistant professor, Department of Rognidan,

Parul Institute of Ayurveda, Faculty of Ayurveda, Limda, Vadodara, Gujarat, India.

### ABSTRACT

Since ancient time people are suffering from various diseases & are being treated by physicians. India is having noble traditions of the medical profession since thousands of years. *Charaksamhita*, *Sushrutsamhita* & *Ashtangsamgraha* are the proof of advancement of medical profession in India thousands of years before. Charak, Sushruta, Vagbha and Kautilya has not only mentioned medical ethics but also explained various aspects about behaviour, qualities, types of physicians and even punishment for a physician or rejectable physicians are also mentioned in the texts. As we go through the modern texts one should feel the greatness of ancient masters because same concepts are written by them in different language. Medical ethics is one of the important and sensitive issues in current scenario of medical profession because unethical practice is serious concern for medical profession. Current article deals with various ethical and legal aspects of medical profession and their correlation with ancient Ayurved *samhitas*.

**Keywords:** Medical ethics, Professional misconduct, Negligence, Physician.

### INTRODUCTION

As stated by Acharya Sushruta, there is nothing great than treating a patient.<sup>1</sup> Ancient text *Charaksamhita* described that preservation of human life by a vaidya is of great value. Preservation of human life is of paramount importance.<sup>3</sup> Medical service being the most humane of the services to humanity needs constant improvement, enrichment and application of mind. A qualified medical practitioner, who is entrusted with the physical and mental wellbeing of his patient, must realize his obligations to his patient. The society also has obligations to its members. It has to see that the doctor, on whom it has vested the duty to safeguard the life and

health of the members of the society, does his job with responsibility. The medical practitioner must also be aware of his responsibility to the society. There are ample scopes for the doctor to misuse his capacity and special position in the society for his own interest at the cost of others. The society and the state cannot allow this. Both the members of medical profession and the society or for that purpose the state, must concurrently try to uphold the respectful position of the profession. Hence members of the profession follow certain ethics and etiquettes. The government has framed certain legislations and acts concerning the practice of medicine. If

the doctor deliberately does any wrong or harm to his patient who hopefully surrenders himself to his physician for his well-being, then there are certain acts and legislations come to the rescue of the sufferer and erring doctor is punished.<sup>4</sup>

As mentioned by Chanakya in his famous book Kautilya Arthashastra, a physician should be punished for his misbehaviour with the patient.<sup>5</sup>

Hence new medical practitioner should be well conversed with the provisions of these legislations and should know his own rights as well as his duties and obligations towards his patient and the society. Hence it is necessary that members of medical profession themselves should follow certain ethics and etiquettes in the course of their professional practice.

Ethics means the branch of knowledge that deals with moral principles. Ethics means moral principles that govern a person's behaviour or the conducting of an activity.

#### **Medical Ethics-**

Medical ethics means the moral principles which should guide the members of the medical profession in course of their practice of medicine and their dealings with patients and other members of the profession.

The first code of medical ethics, *Formula Comitis Archiatrorum*, was published in 5<sup>th</sup> century; during the reign of the ostrogothic king *Theodoric the great*. *Ishaq ibn Ali al-Ruhawi* wrote conduct of a physician, the first book dedicated to medical ethics.

The first use of code of ethics is seen in the 5<sup>th</sup> and 4<sup>th</sup> century B.C. during the period of "Father of Medicine", Hippocrates popularly known as Hippocratic Oath. It was modified by World Medical Association in September 1948 and was called as Declaration of Geneva. It was amended at Syd-

ney in 1968, and the same is followed by Medical Council of India as a code of medical ethics in India.

At the time of being admitted as a member of the medical profession, every medical officer has to sign a pledge that he will follow these ethics throughout his professional life.

#### **Declaration of Geneva-<sup>10</sup>**

1. I solemnly pledge myself to consecrate my life to the service of humanity
2. I will give to my teachers the respect and gratitude which is their due
3. I will practice my profession with conscience and dignity
4. The health of my patients will be my first consideration
5. I will respect the secrets confided in me
6. I will maintain by all means, in my power, the honour and the noble traditions of the medical profession
7. My colleagues will be my brothers
8. I will not permit consideration of religion, nationality, race, party-politics or social standing to intervene between my duty and my patient
9. I will maintain the utmost respect for human life from the time of conception
10. Even under threat, I will not use my medical knowledge contrary to the laws of humanity
11. I make these promises solemnly, freely and upon my honour

#### **Qualities of the physician-**

The ideal physician should have properly studied the subject with ideas, should have undergone the demonstrations, should have practised himself, should be skilled, clean and pure, courageous, equipped with accessories and drugs, having presence of mind, wise, industrious, expert and devoted to truth and virtue.<sup>2</sup>

Who is invincible (in debate), unopposed, steadfast, friendly and polite with all, pleasing in appearance, who has read many sciences, knows the appropriate time (for every activity), who has mastered the science of Ayurveda, is conversant with Arthashastra (etymology), who looks after the destitute and the sick as his own children and who has obtained the permission from his teacher to practice medicine deserves to be called a *Physician*.<sup>6</sup>

Previously a student has to complete his studies of science and then only teacher would permit him to enter the medical profession. Now a days council has laid down degrees, after completion of education & internship, qualified doctors can be registered with council.

The schedules of Medical Council of India includes list of medical degrees recognised by MCI as schedule 1, schedule 2, schedule 3.

In olden days student should have to obtain permission from his teachers to practice medicine. Currently qualified doctors registered with council are eligible for the rights of a registered medical practitioner.

#### ***Behaviour of a Physician-***

The physician attains the success who, visits the patient only after being called, who is pleasing to look at, sets out at auspicious omens, pays attention only to the patient at his house and to nothing else, examines diseases by its causes etc., **does not reveal to others such facts of which the patient feels shy (or is ashamed of)**, who knows to start appropriate treatment quickly without allowing the disease to progress.<sup>7</sup>

***Professional secrecy-***Professional secrecy refers to secrets about the health of the patient which a doctor comes to know of during the practice of medical profession.

As per code of medical ethics, every R.M.P. takes a pledge at the time of regis-

tration with medical council that he will maintain professional secrecy.

Revealing professional secrets or publishing photographs or records of a patient without consent is considered as professional misconduct and doctor can be punished.

As per medical ethics it is unethical to reject a patient in emergency. First and foremost duty of a doctor is to treat the patient to the best of his knowledge and practice and not to allow him to die.

Not attending a patient in emergency or a lady in labour is considered as professional misconduct and doctor can be punished for the same.

#### ***Behaviour of a Physician with females-***

The physician should neither receive any gift from any woman in the absence of her master (husband etc.), nor talk to her in secrecy and also avoid cutting jokes with her.<sup>8</sup>

Adultery or improper conduct or association with the patient *is considered as Professional misconduct*. If a medical practitioner abuses his professional position by committing any adultery or improper conduct with a patient or by maintaining an improper association with a patient then he is liable for disciplinary action.

Preferably a doctor should examine a female patient only in presence of a nurse or a female attendant.

#### ***Punishable Physician-***

The physician, who is conversant with the science but not skilled in his work, gets delusional when he approaches the patient, just as a coward in a battlefield. He, who does his work with audacity without the knowledge of science, does not get respect from the wise, deserves the penalty of death by the king.<sup>9</sup>

In modern world in following circumstances doctor can be punished-

**Professional negligence-** Negligence in medical practice is defined as omission to do something which a reasonably competent medical practitioner, guided by the prevailing standard of medical knowledge and practise and such other considerations, which ordinarily should regulate the conduct of a medical man, would do, or doing something which such a reasonably competent medical man would not do, leading to some harm or damage to the patient.

**Professional misconduct-** Conduct on the part of medical practitioner during the practice of his profession which would be reasonably regarded as disgraceful or dishonourable by his professional colleagues of good repute & competency.

### CONCLUSION

References and detailed descriptions regarding medical ethics are available in Bruhatrayees & modern texts but ethical practise is less common among practitioners. Though there are legislations and acts concerning the practice of medicine, fact of unethical practise is shameful for noble traditions of medical profession. Ethical practise & uplifting standards of practise of medical profession is the need of time.

### REFERENCES

1. Sushrutsamhita of sushruta, Vol-3, Kalpasthan, Chapter 8/142, Priya Vrat Sharma, Chukhambha Vishwabharati Oriental Publishers & distributors, Varanasi, Reprint 2005.
2. Sushrutsamhita of sushruta, Vol-1, Sutrasthan, Chapter 34/19-20, Priya Vrat Sharma, Chukhambha Vishwabharati Oriental Publishers & distributors, Varanasi, Reprint 2004.
3. Charaksamhita of Agnivesa, Vol-2, Sutrasthan, Chapter 1/4/61, Acharya Priya Vrat Sharma, Chukhambha Sanskrit Pratishthan, Delhi, Reprint 2013.

4. Principles of forensic medicine, Apurbanandy, Second edition, Reprint 2007, New central book agency private limited, Kolkata
5. Kautilya Arthashastra, Raghunath Singh, Krishnadas Academy Varanasi, 1<sup>st</sup> edition 1988, Part IV.
6. Jaikrisnadas Ayurveda series, Ashtangsamgraha of Vagbhata, Vol-1, Sutrasthan Chapter 2/8,9 Translated by Prof. K. R. Murthy, Chukhambhaorientalia, Varanasi, Ninth edition 2005
7. Jaikrisnadas Ayurveda series, Ashtangsamgraha of Vagbhata, Vol-1, Sutrasthan Chapter 2/15,17 Translated by Prof. K. R. Murthy, Chukhambhaorientalia, Varanasi, Ninth edition 2005
8. Jaikrisnadas Ayurveda series, Ashtangsamgraha of Vagbhata, Vol-1, Sutrasthan Chapter 2/18 Translated by Prof. K. R. Murthy, Chukhambhaorientalia, Varanasi, Ninth edition 2005
9. Jaikrisnadas Ayurveda series, Ashtangsamgraha of Vagbhata, Vol-1, Sutrasthan Chapter 2/10,11, Translated by Prof. K. R. Murthy, Chukhambhaorientalia, Varanasi, Ninth edition 2005
10. Singhal's forensic medicine and jurisprudence, fourth edition, fourth reprint 2013, S.K. Singhal, National publication

### CORRESPONDING AUTHOR

**Dr. Gajanan D. Chatuphale**

Assistant professor, Department of Agadtantra, Parul Institute of Ayurveda, Faculty of Ayurveda, Limda, Vadodara, Gujarat, India

**Email:** gajananchatuphale@gmail.com

**Source of Support:** Nil

**Conflict of Interest:** None Declared