Forensic Medicine and Toxicology - Topic 10 - Medical jurisprudence (medical law and ethics)

Foundations of Medical Ethics

History and Meaning

Meaning and Historical Foundations

- **Medical ethics** concerns the professional duties and moral choices involved in caring for patients and serving society.
- Ancient Indian traditions associated with **Charaka and Sushruta** emphasised learning, discipline, good conduct and duties towards patients.
- The **Hippocratic tradition** emphasised beneficial care, avoidance of harm and confidentiality within its historical setting.

Modern Ethics and Bioethics

- Modern ethics also recognises patient autonomy, equality, human rights and independent oversight of research.
- The Nuremberg Code and later research declarations developed in response to serious abuse of human participants.
- **Bioethics** applies ethical reasoning to medicine, health research, life sciences and their effects on individuals and communities.

Professional Oaths and the Declaration of Geneva

- An oath is a public commitment to professional values and is not a substitute for clinical competence or compliance with law.
- During an oath ceremony, the professional commitment should be explained and affirmed clearly in the form prescribed by the institution.
- The **World Medical Association Declaration of Geneva** is a modern physician's pledge that includes patient welfare, autonomy, dignity and confidentiality.
- It rejects discrimination and the use of medical knowledge to violate human rights.
- The pledge also recognises duties to colleagues, learners and the physician's own health and abilities.
- Historical oaths should be interpreted in their context rather than used to justify discrimination or deny modern patient rights.

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Principles of Ethical Practice



1. Respect for Autonomy

- Respect for autonomy requires supporting a person's informed decisions about their own care.
- A capable adult may refuse a recommended treatment after an adequate discussion of its consequences.

2. Beneficence

- Beneficence requires acting to promote the patient's welfare using appropriate evidence and clinical judgement.

3. Non-maleficence

- Non-maleficence requires avoiding preventable harm and balancing the risks of intervention against the risks of inaction.

4. Justice

- Justice requires fair treatment, non-discrimination and reasonable allocation of limited healthcare resources.
- A patient's social position, accusation of a crime or ability to pay must not determine whether emergency stabilization is offered.

Registration, Regulation and Professional Conduct

Registers and Regulatory Bodies

Registration and the National Framework

- A medical register identifies practitioners with recognised qualifications and a lawful basis to practise within the applicable registration system.
- The historical **Indian Medical Register** and the current national registration framework must be distinguished from possession of a degree alone.
- The **National Medical Commission Act, 2019** provides the present national regulatory framework.
- The NMC and its autonomous boards address medical education, assessment, registration and professional ethics within their statutory roles.

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National and State Responsibilities

- The **Ethics and Medical Registration Board** maintains the relevant national registration framework and exercises assigned ethical oversight functions.
- State Medical Councils maintain State registers and investigate professional misconduct within their jurisdiction.
- Registration details, recognised qualifications and any conditions on practice must be stated honestly in professional documents.

The Operative Code of Ethics

Current Regulatory Position

- The **2002 Professional Conduct, Etiquette and Ethics Regulations** remain the reference adopted by the NMC after the 2023 conduct regulations were placed in abeyance.
- A provision from the suspended 2023 regulations must not be presented as operative merely because it was once notified.

Clinical Duties and Medical Records

- The practitioner must keep knowledge current, work within competence and arrange referral when the patient's needs exceed available expertise.
- Certificates, prescriptions and reports must contain accurate identification and the required registration particulars.
- The 2002 Code requires inpatient records to be maintained for at least three years and requested records to be supplied within 72 hours.
    - Longer retention may be required by another law, institutional policy, an unresolved medico-legal case or a preservation notice.

Unethical Commercial Conduct and Publicity

- Unnecessary procedures, false certificates, fee splitting, referral commissions and misleading claims are unethical.
- Professional advertising and social-media communication must comply with the operative rules and must not disclose a patient's identity without proper authority.
- **Dichotomy** in this context means an improper division of fees or commission for referring a patient or service.

Rights, Privileges and Discipline

Professional Privileges and Duties

- A registered practitioner may practise within lawful competence, issue permitted certificates, give expert evidence and claim agreed lawful fees.
- These privileges are accompanied by duties of care, confidentiality, truthful documentation and accountability.

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Disciplinary Process and Separate Liabilities

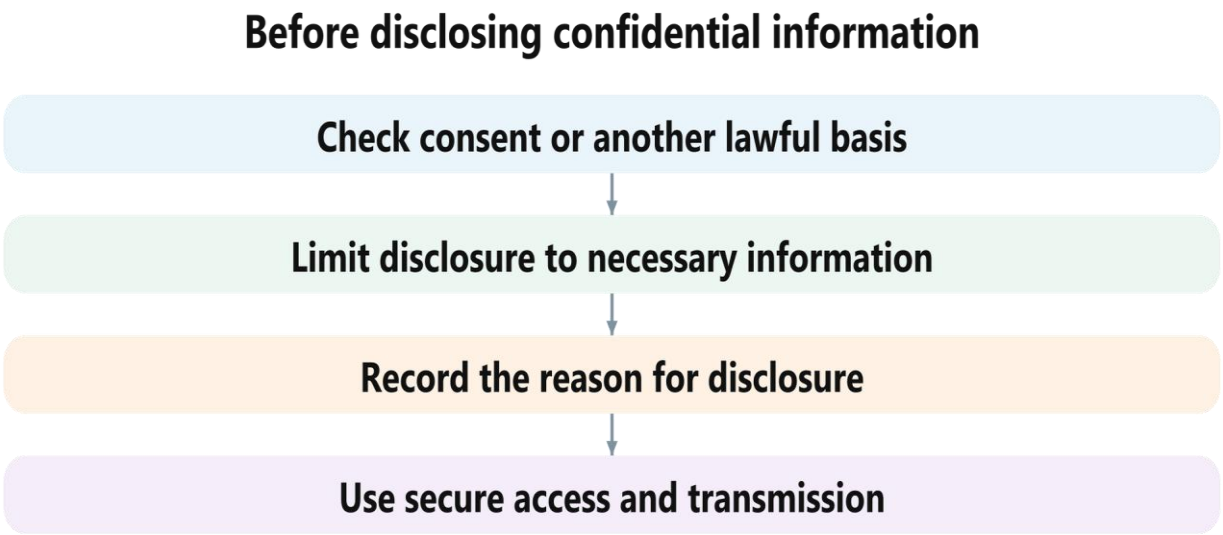
- Professional misconduct is assessed through a fair disciplinary process that allows notice, evidence and an opportunity to respond.
- Consequences may include a warning, restriction, suspension or removal from the register as permitted by the applicable framework.
- **Penal erasure** means removal from the register as a disciplinary measure, rather than punishment decided informally by a colleague.
- The historical phrase infamous conduct refers to serious professional misconduct and should be explained through the actual conduct alleged.
- A disciplinary finding, civil liability and criminal liability are separate questions and may follow different procedures.

Duties, Confidentiality and Communication

Duties towards Patients and Society

- A doctor should provide appropriate emergency care, obtain valid consent, maintain records and explain the diagnosis and treatment plan.
- Reasonable continuity of care is required, and withdrawal from a case should not abandon a patient who still needs urgent treatment.
- Public duties include legally required reporting, disease prevention, rational prescribing and cooperation with lawful investigation.
- Relevant laws include registration law, criminal procedure, public health law, medicines law, transplantation law and statutes protecting vulnerable patients.
- A clinical decision should be justified by the patient's needs rather than inducements, fear of criticism or pressure from an influential person.

Professional Secrecy and Privileged Communication



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Confidentiality and Lawful Disclosure

- **Professional secrecy** requires protecting information learned through the clinical relationship.
- Consent, a specific legal duty or another recognised lawful basis is needed before confidential information is disclosed.
- Only the information necessary for the legitimate purpose should be disclosed, and the reason should be documented.
- Examples include a valid court direction, required disease notification and mandatory reporting of a child sexual offence.

Privileged Communication and Secure Records

- The phrase **privileged communication** is sometimes used for a good-faith disclosure made to protect a lawful interest or fulfil a duty.
    - It is not a general permission to share a medical record or a blanket evidentiary privilege that defeats a court's lawful order.
- Discuss requests from employers, insurers, police and relatives within the applicable consent and legal framework.
- Secure electronic records with role-based access, audit trails, safe transmission and appropriate retention arrangements.

HIV-related Rights and Confidentiality

Non-discrimination, Consent and Confidentiality

- The **HIV and AIDS Prevention and Control Act, 2017** prohibits specified discrimination and protects informed consent and confidentiality.
- An HIV test should not be imposed as a routine condition for employment, admission or treatment contrary to the Act.
- Provide counselling and obtain the required consent, subject to the specific statutory exceptions.
- HIV status must not be announced to relatives, employers or the public merely because it is clinically known.

Safeguards for Partner Disclosure

- Section 9 permits a treating physician or counsellor to disclose to a partner only when its safeguards are met.
    - These include significant transmission risk, counselling the patient to disclose, the patient's likely failure to disclose and prior notice of the proposed disclosure.
    - Disclosure to the partner is made in person after counselling, and the provider has no duty to identify or locate the partner.

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