

MEDICINE AND THE LAW

Pandemics, professionalism and the duty of care: Concerns from the coalface

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It is likely that the SARS-CoV-2 pandemic will affect a large part of the world's population and will last for several years. Many critical ethical issues have arisen in the healthcare context. While response from healthcare professionals to participating in the care of patients in the era of COVID-19 has generally been positive, there have also been disturbing experiences on the ground. The practice of medicine is a social contract with humanity. Challenges have arisen because the patient is both a victim and a vector of the coronavirus. All humans should have a natural instinct to care for those in need. Ethically and legally, healthcare professionals cannot be expected to assume a significant and unreasonable risk of harm. While fear is understandable, altruism and interest in serving the sick exemplify the value of solidarity. Social harms like stigmatisation and discrimination can occur. Concerns have been raised regarding protection of privacy and respect for rights of infected individuals. In the era of COVID-19, fear, misinformation and a detachment from one's calling put professionalism strongly to the test.

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Infectious disease outbreaks such as Ebola and influenza have featured prominently at an international level over the past few decades, with data suggesting that these catastrophes are increasing in frequency.^[1] Since the 16th century, at least three pandemics per century have occurred at 10 - 50-year intervals, with varying levels of morbidity and mortality. It has not been possible to predict the impact of future pandemics.^[2] This inability is also evident in the novel SARS-CoV-2 pandemic, which has resulted in an enormous burden on human health, major disruptions in healthcare systems, and grave social and economic consequences. It is likely that the pandemic will affect a large part of the world's population and will last for several years.^[3] Many critical ethical issues have arisen in the healthcare context, which put healthcare workers' professionalism to the test. Professionalism is challenged at all levels of service provision – from students in training, to qualified practitioners, to professionals who function at the level of the health authority. In this article, using a bioethical lens, we share some concerns about uncomfortable practices occurring at the coalface of healthcare delivery that the authors have grappled with. Generally, positive attitudes, teamwork and willingness to go the extra mile have been observed. However, what has also been witnessed is a shift away from the moral obligation to provide care, and abuse of power by some professionals who are in positions of authority.

Duty of care

Duty of care is closely aligned to professionalism. Healthcare professionals share a common heritage – that of caring for the sick and suffering. This has been the situation through the centuries, with professionals applying their skills and knowledge competently, altruistically and, from time to time, heroically. It could be stated that

medicine has a social contract with humanity.^[4] However, questions that repeatedly arise at times like the present are whether healthcare professionals have obligations to work during the pandemic, irrespective of the level of personal risk and risk to their families; whether healthcare professionals have a right to refuse to provide care; whether there are reciprocal obligations on governments and society; and whether healthcare professionals should be absolved of their obligations in the event of these reciprocal obligations not being honoured.^[5]

The reality is that under these circumstances healthcare professionals do experience some challenges to the dynamic of the traditional patient-professional relationship, because the patient is not only the victim but also the vector of the disease, and therefore also a danger to others.^[6] Inherent in this dilemma is that availability of healthcare professionals is essential in order to provide an effective response to the pandemic and to continue to provide healthcare for non-COVID-19-related problems. A strong case can be made for a moral obligation to provide care because of the skills obtained during their training that cannot be provided by others.^[2] Moreover, there is a definite line between self-protection and the dereliction of duty.^[6] Duty of care also requires fidelity, i.e. non-abandonment of the patient.^[7]

Compassion, which is a foundational value of medical ethics, is described as an understanding of and concern for another's distress.^[8,9] Compassion is closely linked to caring, the goal of which, in the healthcare context, is to relieve a patient's suffering so that life becomes bearable.^[9,10] All humans should have a natural instinct to care for those in need. It is therefore of concern when some nurses and doctors have been heard to say 'if there is no PPE, the patient can die', presumably based on the belief that 'as a healthcare worker

I am of far greater value alive than dead'. While ethically and legally healthcare professionals cannot be expected to assume a significant and unreasonable risk of harm to themselves and their families,^[11] and there is a reciprocal obligation on the state and employers to ensure their safety, this attitude expressed by some members of the caring profession is devoid of compassion and caring.

Plans to bring medical students back to the clinical training platform have resulted in some students expressing reluctance to resume their clinical training for fear of being infected and of infecting their families. Other reasons include that they will not be paid to 'work' in the front line during the COVID-19 pandemic, and that they are not eligible for compensation should they contract the virus.^[12] Given that these students publicly took oaths to respond to their calling, it is not unreasonable to expect them to be held to the obligatory caring inherent in these pledges. In some facilities, some staff are similarly not happy to be involved in screening because of the fear of contagion. While fear is understandable, it must be remembered that altruism and interest in serving the sick exemplify the value of solidarity,^[13] which is essential in the fight against pandemics like COVID-19. Responding to the pandemic is intrinsic to the contract between the healthcare professional and society, so that their expertise is available to respond to the outbreak. Crucial to this social contract is that healthcare professionals have a responsibility to respond and to help society by showing solidarity and a commitment to care.^[14] Solidarity calls for working together in response to the pandemic and for self-interest to be set aside. It is a fellowship between people united by common responsibilities. Where health professionals have a reasonable belief that their personal protective equipment (PPE) is insufficient and that it does not satisfy the expected professional standards, the appropriate action would be to have this issue raised urgently with their managers and/or relevant associations^[3] and not to detach themselves from care and caring.

Respect for persons

People have intrinsic worth, dignity and sense of value.^[15] All persons are to be respected, and this includes patients and healthcare professionals. In the context of COVID-19, while privacy remains important, some aspects of confidentiality must be limited in order to halt the spread of the virus.^[16-18] However, social harms like stigmatisation and discrimination can occur. Care must therefore be taken to avoid these adverse consequences when limiting a person's confidentiality. There is anecdotal evidence of stigmatisation of people, including healthcare professionals, who have been infected with the disease.^[19] The World Medical Association reports that in some countries physicians and other healthcare workers are being stigmatised, ostracised, discriminated against and even attacked because of the perception that they are carriers of the virus.^[20] In South Africa, in early April, two doctors who were infected by the coronavirus, but were asymptomatic and were in quarantine at their home, were forcibly removed and quarantined in a Limpopo hospital by the health authority of that province, contrary to the World Health Organization and National Institute for Communicable Diseases guidelines. The health official who issued the order is a healthcare professional. The reported reason for this action was that this official blamed the doctors for 'bringing the virus into my province to infect my rural people.'^[21] Not only did this action result in extensive media coverage impacting on the doctors' privacy, but it also portrayed callous disregard for their dignity and sense of value. It also exposed the doctors to the risk of social harm. The action taken by the health official was irresponsible and unprofessional, particularly in light of the prevalent misinformation of the COVID-19 'infodemic'. In terms

of the COVID-19 pandemic disaster regulations,^[18] any information obtained through the regulations is confidential and may not be disclosed unless one is authorised to do so, or the information is necessary to address, prevent or combat spread of the virus. Stigmatisation of COVID-19-positive staff and students has also been reported in the workplace, with demands to identify those who are infected, raising concerns about the protection of privacy and respect for individuals' rights. Such behaviour reflects poorly on the professionalism of any of the healthcare workers involved.

Challenges to professionalism

The Health Professions Council of South Africa defines a professional by 'a dedication, promise or commitment publicly made', and states that practice as a healthcare professional is based on a relationship of mutual trust between patients and their practitioners. A lifelong commitment to sound ethical and professional practices and an overriding dedication to the interests of one's fellow human beings and society are required.^[15] Similarly, Williams^[22] states that professionalism is 'an occupation that is characterised by high moral standards, including a strong commitment to the well-being of others, mastery of a body of knowledge and skills, and a high level of autonomy'.^[22] It is worth noting that the healthcare professionals mentioned above, and the students, made these commitments when they took their oaths publicly.

Professionalism in the healthcare context is promulgated globally. For example, the Physician's Charter of the USA and Europe underscores three fundamental principles of professionalism, with the most important being the primacy of care to the patient, followed by autonomy and social justice.^[23] It further mentions 10 professional responsibilities, which include commitment to patient confidentiality, commitment to improving access to care, and commitment to professional responsibility. However, duty-based charters have been criticised as being inadequate, as there should be more to professionalism. It has been advocated that professionalism be categorised into basic and higher types, with the basic type requiring competent and timely service under the rights and duty framework, and higher professionalism being a calling that provides 'exceptional service that transcends the provider's self-interest'. The latter resides in the virtue-based framework.^[24] Given the demands by staff and students for fee for service and PPE prior to commitment, it could be argued that some healthcare professionals align their ethical obligations with basic professionalism, with the students' trajectory in this regard being influenced by the 'hidden curriculum'. The hidden curriculum relates to how students are socialised, learning from those they take as role models.^[25] Of concern is whether all in the 21st century adopt the higher calling, or whether some individuals enter the medical profession as a business venture. Nevertheless, it is judicious to bear in mind that professionalism sets the standard for what a patient can expect from the healthcare professional. A career in healthcare involves more than just knowledge about disease. It includes an understanding of patients' experiences and feelings. They often present with extraordinary moments of fear, anxiety and doubt. This situation is exacerbated in the context of COVID-19. It is because of this very vulnerable position of the patient that professionalism underpins the trust that the public has in healthcare practitioners (see, generally, Royal College of Physicians^[26]). Trust is critical to successful care. When individuals infected by the coronavirus cannot trust that their practitioners will act in their best interests because of a fear of becoming infected, or suspect that their confidentiality, while limited, may not be respected, they may be frightened into not

presenting for care when it is indicated, resulting in their health and the health of society being seriously jeopardised.

There have already been several substantial challenges to professionalism in healthcare in the pre-COVID-19 era. These include the fact that political, social and economic factors, together with advances in science and technology, medical negligence and adverse media coverage, have reshaped the attitudes and expectations of the public and healthcare professionals.^[27] In the era of COVID-19, fear, misinformation and a detachment from one's calling put professionalism even more strongly to the test. In addition, a major challenge is that even a caring response may not always translate into pragmatic ends.^[28]

Conclusions

While response from healthcare professionals to participating in the care of patients in the era of COVID-19 has generally been positive, there have also been disturbing experiences on the ground, some of which have been described in this article. The hidden curriculum is of particular concern, and it is imperative that its hazards with regard to its influence on students are recognised. Perhaps at times like this it would bode well to remember the ethics of care, which emphasises varying degrees of care within relational contexts, both personal and with patients.^[28] Caring provides for shaping responses to the needs and distress of others. COVID-19 could perhaps bring about a transition from the healthcare professional-patient relationship to the carer-cared for relationship.

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