Ethics, law and human rights: a South African perspective

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This edition of CME underscores the pivotal role of medical
ethics, law and human rights in South African health care
practice. The burgeoning of units, divisions and departments
of bioethics at most health science faculties in South Africa
over the past 5 years affirms the unmet need for medical
ethics teaching in undergraduate health science curricula.
The Health Professions Council of South Africa (HPCSA) has
validated this requirement by its current investigation into the
teaching of ethics, law and human rights in both undergrad-
uate and postgraduate health science curricula. This issue
of the journal highlights some of the current deliberations in
ethics, medical law and human rights in SA.

As a point of departure, an overview of medical ethics in
clinical practice is presented to contextualise the dilemmas
faced by health care professionals in the clinical setting.
One of the central debates in medical ethics – the bal-
ance between acting in the best interests of the patient and
respecting the patient’s right to self-determination – is illus-
trated. The application of ethical theory to practice is crucial
and is explored in this article.

Undoubtedly, the HIV/AIDS epidemic in SA has highlighted,
more poignantly than any other disease in current times, the
complexity of ethical issues that arise in the clinical context
– confidentiality, informed decision-making, medical futility,
rights to treatment access. Dr Theresa Roussouw highlights
these issues from the perspective of a busy HIV clinic.

HIV/AIDS has also sensitised us to the human rights per-
spective of health care. Professors Leslie London and Laurel
Baldwin-Ragaven take us on a journey from a historical
perspective of human rights abuses to the current focus on
health and patient rights. The obligations of health care pro-
fessionals in protecting and upholding the rights of vulner-
able patients is outlined.

The ethics literature abounds with a perspective based in
Western philosophy that dates back 2500 years BC to the
Greek philosophers – Socrates, Plato and Aristotle.

However, in traditional South African communities, ethi-
cal decision-making is based in African philosophy that
emphasises collective and familial as opposed to individual
autonomy. Professor Nhlanhla Mkhize describes the concept
of ubuntu as an example of a communitarian ethical theory
and discusses its impact on decision-making in health care.

On 2 May 2005, President Thabo Mbeki signed off 10 of
the 12 chapters of the National Health Act 61 of 2003.
The Act has been described as the most significant piece of
legislation to impact on the health care profession in South
Africa. Professors Mo Dada and David McQuoid-Mason
interpret the Act and explain its relevance to health care
practitioners.

In our current highly commercialised health care environ-
ment, the concept of medicine as a profession is often
neglected. Professor Ames Dhai and Advocate Boyce Mkize
revisit the role of the HPCSA. The challenges being faced by
this professional body are described as complaints against
the profession escalate.

Medical ethics is both extensive and intensive, and a single
edition of any journal cannot do justice to all the possible
dilemmas one may face in clinical practice. For further per-
spective, two short articles provide insights into termination
of pregnancy [Ms Chelsea Morroni, Professor Geoffrey Buga
and Dr Landon Myer] and some of the ethical issues specific
to research in private medical practice are discussed by
Dr Lyn Horn.

A wide range of ethical dilemmas arise in clinical practice
both in generalist medicine and across the various disci-
plines at secondary and tertiary levels of care. It is hoped
that this issue of CME will sensitise health care professionals
to the ethical and medico-legal dilemmas inherent in clini-
cal practice and that it will assist in enhancing the care we
provide to our patients as they navigate a very complex and
sometimes hostile health care system.