

SUBMISSION

To: The Medical Council

From: The Adelaide Hospital Society

Re: A Guide to Ethical Conduct and Behaviour

Revision of Fifth Edition, 1998



Seal of the Adelaide Hospital Society

September, 2002

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Appendix 1 Submission to The Commission on Assisted Human Reproduction

I.1 Introduction

The Adelaide Hospital Society welcomes the invitation from The Medical Council to submit views concerning the current review of the fifth edition of A Guide to Ethical Conduct and Behaviour. The Society commends The Medical Council for seeking submissions from a range of agencies and bodies representing both the public and the profession.

I.2 The Adelaide Hospital Society

The Adelaide Hospital Society is a charitable voluntary organisation with an involvement in the provision of healthcare since 1839. In particular it governed and managed the Adelaide Hospital, Dublin until 1996 when this Hospital merged with the Meath Hospital and The National Children's Hospital to form The Adelaide & Meath Hospital, Dublin, Incorporating The National Children's Hospital. In 1998 the Hospital moved to a new 30-acre campus in Tallaght continuing to serve as a public voluntary teaching Hospital. Under the Charter of the Hospital, approved by the Oireachtas in 1996, the Adelaide Hospital Society continues to provide a significant role in the governance and management of the Hospital. In addition under its own Memorandum and Articles of Association the Society serves independently to advance healthcare in accordance with an inclusive and pluralist ethos which seeks to treat each person as they would wish to be treated.

I.3 Ethics in The Adelaide and Meath Hospital, Dublin

The Charter of The Adelaide & Meath Hospital, Dublin, Incorporating The National Children's Hospital has a number of particular features which are relevant to the ethical aspects of medical practice:

- (i) An object concerning doctor/patient confidentiality Clause (5)(c):
“To promote and secure the availability, as a matter between the patient and his or her doctor, of such medical and surgical procedures as may lawfully be provided within the State from time to time.....the Hospital will ensure the availability of an adequate range of staff to enable this object to be achieved but not so as to prejudice the rights of conscience of individual members of staff of the Hospital...”
- (ii) Health, happiness and welfare of patients (5)(e)(f)
“To provide as far as possible for the health, happiness and welfare of children and adults accepted as patients.”
“To manage the Hospital premises and services provided by it in the interests of patients”.
- (iii) Religious character of the Hospital
“To maintain the Fundamental Principle upon which the Adelaide Hospital, Dublin was established, namely that it should be an essentially religious and Protestant institution, by maintaining the Hospital as a focus for Protestant participation in the health services and thereby preserving its particular denominational ethos. While maintaining this focus and preserving the denominational ethos, freedom of conscience and the free

profession and practice of religion by all...are equally affirmed and guaranteed. The Hospital will, therefore, have a multid denominational and pluralist character. It is recognised in particular that religious welfare is part of the total welfare of the patient and the support of such religious welfare by chaplains of each major denomination is essential to the attainment of that object.”

(iv) Freedom of conscience and rights of conscience Clause (7)

“The freedom of conscience and the rights of conscience and the free profession and practice of religion by all associated with the Hospital and in particular the members of staff of the Hospital.....are affirmed and guaranteed.”

(v) The President’s duty to preserve ethos Clause (13)(2)

“It shall be the duty of the President [The Church of Ireland Archbishop of Dublin] to protect the ethos of the Hospital as set out in this Charter.

These Clauses provide the ethical framework which governs medical practice in the Hospital and they accord with the ethical framework for such practice supported by the Adelaide Hospital Society.

2. Submission by the Adelaide Hospital Society on aspects of A Guide to Ethical Conduct and Behaviour

2.1 Introduction page 10

The Society warmly endorses the views of Professor Gerard Bury, President of The Medical Council, that “Independent decision making by doctors and their patients is a key part of how medicine operates in Ireland; the Medical Council has no wish to interfere with its effectiveness. The Ethical Guidelines are not a set of rules or a code to be consulted in order to find an answer to every difficult case. They are a set of principles which doctors must apply in each situation, together with their judgement, experience, knowledge and skills. The welfare of our patients is paramount.”

2.2 Section A Conduct and Behaviour 1.3

The Society submits that doctors require the maximum support which may be given in A Guide to Ethical Conduct and Behaviour so that they may sustain ‘independence of judgement’ especially in adverse financial situations where lack of resources might affect their professional actions and the care required by each patient.

This is linked to Section C ‘Healthcare Resources’ par.4.9 There are major ethical dilemmas for doctors (as well as for other staff in healthcare) when financial pressures prevent timely and/or appropriate care to patients. The Society submits that the public advocacy role of doctors in relation to society-wide responsibilities for healthcare for all, especially for the less well off and the poor, should be strengthened in A Guide to Ethical Conduct and Behaviour. Such advocacy will be ethical and effective when it is informed by social justice principles, adequate research and analysis, and is not directly related to the remuneration of doctors themselves.

2.3 Trust and Privilege 1.4

The Society supports the existing paragraph at 1.4 but submits that serious issues have arisen affecting trust and privilege which need to be considered.

The Society submits that there is a danger that the position of trust in which doctors have been held is endangered in the public mind by a series of recent public events such as Tribunals of Inquiry or lapses by doctors overseas reported in Ireland. There is, therefore, an increased ethical responsibility on doctors to rebuild trust where it may have been eroded, for trust between doctors and their patients and the general public is paramount and essential to good medical practice and care. A guideline might be given to doctors that they have an ethical responsibility to sustain such trust through their involvement in public education concerning medical matters through the media, and their participation in community and voluntary organisations and with their patients.

This might be linked with paragraph 3.11 Communication with Patients which the Society submits needs to be widened as suggested above.

2.4 Possible Conflicts of Interest

The Society submits that there is a danger that the position of trust and privilege held by doctors will be eroded through possible ‘conflicts of interest’ situations. These may arise when doctors have a financial interest in certain healthcare facilities. We submit that the Medical Council should give ethical guidance to the effect that where a doctor has a financial interest in a healthcare facility or course of treatment and where they are recommending patients to receive care in such a facility or obtain such a course of treatment, that such an interest would be declared to the public and to the patients concerned. It is such situations the Medical Council has a duty to protect the interests of the public and the patients concerned.

3. Confidentiality 18.1

The Adelaide Hospital Society strongly endorses the statement “Confidentiality is a time-honoured principle of medical ethics. It extends after death and is fundamental to the doctor/patient relationship”.

As noted above (Section 3(i)) a key foundation of the Adelaide & Meath Hospital’s Charter is “to promote and secure the availability as a matter between patient and his or her doctor of such medical and surgical procedures as may lawfully be provided within the State...”.

The Society does not believe that the confidential relationship between doctors and patients should be breached by Ethical Committees in healthcare organisations when they function to intervene in particular cases concerning the treatment of individual patients, nor should doctors be asked to sign codes of ethics which inevitably will mean breaches of such confidentiality to such Ethical Committees.

The confidential nature of the relationship between doctors and patients is essential so that the patient may be enabled to disclose personal information needed for effective care. Whenever it becomes known that confidence may be broken, trust is eroded in doctors.

Hospitals and healthcare facilities with ethical codes which are prescriptive in relation to certain legal medical treatments to the extent of not allowing them in their facility, must ensure that their medical practitioners exercise their ethical responsibility to refer patients to where they may vindicate their legal right to treatment. There is an ethical obligation on the State and, therefore, on the Medical Council, to ensure every citizen has access to medical care and treatment which is legal in the Republic.

4. Section F Reproductive Medicine

The Adelaide Hospital Society believes that this section will require to be totally revised to reflect the fact that the Medical Council now recognises that termination of pregnancy is ethical where there is a substantive risk to the life of the mother, such risk including a risk of suicide. It is unfortunate that the report of The Commission on Assisted Human Reproduction is not available to assist The Medical Council in regard to the ethical issues which exist in reproductive medicine.

The Society would wish to reiterate a sentiment included in its Submission to the Commission on Assisted Human Reproduction:

“The Adelaide Hospital Society believes that AHR (Assisted Human Reproduction) relates to matters which are essentially private and of great delicacy. Therefore, the State has to be very careful about intrusion in these matters where confidentiality and privacy are of vital concerns. AHR involves matters for discussion between doctors and patients which must be private and confidential and there should be no direct State or external interference in the treatment of particular cases where the approach ought to be as inclusive as possible for all our citizens.”

4.1 The Submission which the Society made to The Commission on Assisted Human Reproduction covers the views of the Society in relation to the areas likely to be involved in the revision of Section F. This Submission is, therefore, attached at Appendix 1.

4.2 The Child in Utero 26.5

The Society welcomes the Amendment No.1 to the Fifth Edition of A Guide to Ethical Conduct and Behaviour approved by The Medical Council on 12 September 2001 as a considerable advance for the adequate care of women. Obviously, a further revision will require to be incorporated in the Revised Section F which will set out ethical guidelines on behalf of The Medical Council itself and without reference to other bodies or reports.

The Adelaide Hospital Society has favoured legislation in this State to regulate abortion in the circumstances defined by the X case. We believe that this would offer the best protection for the lives of women whose medical condition indicates that a termination of pregnancy is necessary to save the life of the mother.

We believe that the ethical guidelines provided by The Medical Council should continue to

- (a) recognise that termination of pregnancy can occur when there is real and substantial risk to the life of the mother
- (b) recognise the medical responsibility to provide full healthcare support and aftercare for women who decide to leave the State for termination of pregnancy

We further believe that an ethical guideline concerning each doctor's professional responsibilities to play a full professional part in the provision of comprehensive healthcare and health promotion for all citizens and to promote responsible sexual behaviour should be given.

5. Conclusion

Medical ethics must continue to reflect changing demographics, expanding knowledge in healthcare, public expectations in an evermore diverse society. The Medical Council is to be commended for seeking increased public deliberation of the revision of A Guide to Ethical Conduct and Behaviour and The Adelaide Hospital Society appreciates the Council's developing approach of providing guidelines for an inclusive pluralist approach which will treat each citizen as he or she would wish to be treated.

Appendix 1

The Adelaide Hospital Society

Submission To The Commission

On

Assisted Human Reproduction

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The Adelaide Hospital Society
Adelaide & Meath Hospital
Tallaght
Dublin 24
Tel: (01) 4142072
Fax: (01) 4142070
Email: info@adelaide.ie