Of professionalism and health care strikes

Forum

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Strike action is by no means an unfamiliar situation in the South African context. However, health care strikes are now emerging as a highly controversial topic. Current teaching of medical students does not adequately cover this unique ethical dilemma facing health care professionals. Only with a broader understanding of the subject can medical students' future decisions on the matter be informed and based on the ethical principles governing the medical profession. I attempt to explore the issues surrounding health care strikes and assess whether or not this is compatible with true medical professionalism in the 21st century.

Introduction to the winning entry of the 2010 University of Witwaterand's Medical Protection Society Bioethics Competition

As a year has gone by since the introduction of the competition, this is an ideal time to reflect on the enterprise. The importance of encouraging and supporting undergraduate thought on important contemporary ethical issues cannot be over-emphasised, and we hope that the competition contributes to this, albeit in a small way. As initially promised last year's competition was the first of what we anticipate will be an annual event, and we are already in the second year. As hoped, other universities are also taking up the challenge.

Much has been written about last year's industrial action by the medical profession in South Africa. Unfortunately a great deal of it was poorly informed, biased or emotional, and appeared in the lay press. The more balanced views, when published, were usually from older and more experienced practitioners.

Setting the topic of the 2010 competition, to address health care strikes, forced students interested in entering to think carefully and broadly about the issues. All the entries were of a high calibre, but one received the judges' unanimous support. Again the journal's editorial team are to be congratulated on publishing the winning entry, 'Of professionalism and health care strikes', by Kelsey Stuart, which it is my pleasure to introduce.

When reading the essay, remember that it was written by an undergraduate student with no formal training in philosophy or ethics. The essay is written from the perspective of somebody entering health care who will probably have to grapple with many of the same issues facing those who were involved in the strikes. At least Kelsey and his fellow competitors will have had the opportunity to carefully review the issues in the absence of emotion and rhetoric should they also be confronted with the possibility of striking. Although their decisions may be no better or no worse than those of health care workers who went before them, hopefully they will be better informed.

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The doctors' strikes that rocked certain South African hospitals in 2009 have catapulted the issue of health care strike action into the spotlight of South African medical ethics, with heated debate both for and against.[1,2] Although not a recent development in world health (and indeed, health care-related strikes have been occurring for at least 40 years now),[3-5] the South African situation must be viewed against a backdrop of ever-increasing debate as to the true nature of medical professionalism and the obligations that this entails.[6]

More than ever, doctors are facing perverse incentives, dual loyalties[7] and waning patient and public trust.[8,9] The current trend among health care workers is a shift in perspective regarding the motivation underlying their entry into the profession. Morally founded reason is giving way to financial and power-driven aspirations. This parallels a similar shift in the perception of medical doctors as 'professionals' towards mere 'employees' – a perception shared by doctors and public alike. Is strike action the natural progression of such a shift? Or is a reversion to founding moral principles necessary?

In order to comment on the professionalism of health care strikes, it is necessary to explore the two concepts independently. Only with a complete understanding of both professionalism and the nature and effects of health care strikes can the compatibility of the two be determined.

Professions, by their very nature, are founded on clear moral and ethical principles. Strike action has traditionally been viewed as contrary to the most basic ethical guidelines governing the medical profession.[10] This argument is easily defended hypothetically, usually with oversimplified and idealised situations. However, can an absolute rule be applied to a situation that in reality entails a far more complex aetiology and broader spectrum of intention? Likewise, can all strike action be broadly clumped together as 'contrary to the best interest of the patient' – as if all strike action was a homogeneous entity?

Changing perceptions of the medical professional, on the part of both the public and the members of the profession themselves, cloud this issue slightly. It is therefore necessary to resolve whether this paradigm shift is the natural evolution of medicine in the 21st century or an aberrant mutation that threatens the fundamental principles of professionalism. In essence, a more explicit choice between self-interest and self-effacement is necessary.[11]

It appears that in the debate concerning health care strikes, it is clarification of the exception to the rule, and not the rule itself, that is the critical component in resolving the issue.

The nature of professionalism

A profession may be defined as 'a vocation founded upon specialized educational training, the purpose of which is to supply disinterested counsel and service to others, for a direct and definite compensation, wholly apart from expectation of other business gain'.[12]

Historically there were only three professions, Medicine, Divinity and Law,[12] but this list has grown to include, among many others, engineers, architects, accountants and teachers in recent times.

The medical profession, however, is steeped in tradition, with a history dating as far back as 3000 BC with Imhotep and the ancient Egyptian doctors. This was followed by the Babylonians, most famously Esagil-kin-apli of Borsippav, around 1100 BC, while the ancient Greeks opened their first medical school in 700 BC.[13] Hippocrates of Kos (*c*. 460 BC - 370 BC) is regarded as the 'father of modern medicine' and composed the Hippocratic Oath, a professional pledge that underlies the medical profession and is still relevant today.

The modern medical profession can be characterised by four main attributes:[14]

1. a learned body of knowledge that its members must increase and teach
2. a code of ethics that includes a duty of service
3. principles and actions that put performance above reward
4. self-regulation, a privilege granted by society.

Although well accepted as distinctive characteristics of a profession, these attributes are incorrectly used to define the true essence of professionalism.[6] Self-regulation is most commonly understood to be the sole defining feature of professionalism, where this is actually no more than a distinguishing characteristic.

Above all else, the medical profession is founded on an explicit moral and ethical base. Defining characteristics may arise, but should not be confused with the true essence of professionalism. Similarly, entrance into the medical profession implies acceptance of these underlying moral premises.

In the early 20th century, Parsons[15] defined the characteristics of professions and made a number of important observations. He concluded that professionals were predisposed to public service because they placed greater importance on achieving peer recognition through good work than on accumulating wealth. He also took the view that co-operation between professionals was favourable to competition because rapid spread of information was in the best interests of the public they served.

More recently, an amended Hippocratic Oath[16] can be used to better define the expected obligations of members of the medical profession. This public avowal of values is another defining feature of a profession (the word 'profession' is derived from the Latin *profiteri* – 'to declare publicly').[17] Importantly, the oath includes the pledges: 'I promise that my medical knowledge will be used to benefit people's health; patients are my first concern' and 'I will not put personal profit or advancement above my duty to my patient'.

There is growing belief that this concept of professionalism is an outdated antiquity with little relevance to modern society. However, it can be shown that it is not only necessary but indeed fundamental to the good practice of medicine. The benefits of professionalism are manifest not only to the patient, but also to society and to the medical profession itself.

Professionalism is fundamental to the patient-doctor relationship because of the unique encounter that occurs between the two. Patients typically present in a state of need with very little knowledge concerning their condition, and place utmost trust in the doctor to treat them. Professionalism protects the patient from exploitation that may occur as a consequence of the gross power imbalance present at the onset of the encounter. Confidentiality over sensitive issues and the belief that the doctor has the patient's best interests at heart further allows the patient to fully divulge necessary information that might not be forthcoming in a non-professional context. This professional interaction is also cited as a vital element of the therapeutic process.[18] It is critical that this relationship be morally based and professionally protected so that there may be shared legitimate expectations from the outset for cases, such as emergencies, where this relationship does not have time to develop naturally.[6]

In societal terms, medical professionalism is much more than a way of behaviour that provides necessary goods and services, and goes beyond regulating market competition and government legislation.[19] It can be seen instead as a 'structurally stabilising, morally protective force in society'.[6] Vulnerable social values, such as care for the poor and the sick, may be ignored by individuals and society, but are actively protected by the medical profession. It is the mark of a progressive society that entrusts these susceptible values to a committed, dedicated group of individuals and relies on them to safeguard these ideals.

Lastly, the benefits of professionalism are easily felt by the members of the medical profession themselves. Issues such as sensitive information, physical examinations, disability and death are better handled and managed within a professional framework than they could possibly be in a non-professional environment.

It is evident that true professionalism is critical in the provision of effective health care and that, should this factor be removed, the quality of service offered would be detrimentally affected. However, can the new perception of the medical professional as an 'employee' confer similar benefits to all parties involved? Or is this perception contrary and harmful to the provision of an effective health care service?

The changing role – from professional to employee

The present situation in South African health care sees health care providers straddling two divergent institutions: professionalism on the one hand, and on the other what can best be described as a 'health care employee'.[20] Although it can be argued that an employee may still demonstrate professional traits, such as honesty, trustworthiness, confidentiality and respect for human worth, the two concepts are still fundamentally opposed. One entails self-

effacement, the other is based on self-interest. One is patient-orientated, the other predominantly physician-orientated.

The current climate is causing further divergence and is effectively forcing a decision to be made. As stated previously, a growing trend is directed towards the 'health care employee' side, with a resolute declaration that this is not mutually exclusive to professionalism. However, it seems that in this scenario the distinctive traits of professionalism have been confused with the true definition of the concept. Professional traits, although considered obligations in the professional field, are not limited to, and by no means define, a professional. Empathy, respect and countless other professional characteristics are indeed considered important human characteristics. Instead, professionalism is based on a strict underlying moral and ethical code that calls for the patient to be placed ahead of physician self-interest, including personal profit. Based on this definition, the incompatibility of the two is more clearly defined.

Pellegrino[11] described three specific attributes of medicine that impose an obligation towards professionalism as opposed to the self-interested employee:

1. the nature of illness
2. the non-proprietary nature of medical knowledge, and
3. the oath of fidelity taken to protect the patient's best interests.

Firstly, a patient is expected to reveal intimate personal details and place absolute trust in the doctor. This usually occurs in times of vulnerability, anxiety and dependency. The doctor-patient power relationship is uniquely lopsided and subject to potential exploitation. A moral obligation towards professionalism is expected of those equipped to help.

Secondly, medical knowledge does not belong to the doctor providing it. It is obtained through certain invasions of privacy that have been sanctioned by society for its own benefit. Cadaver dissection, human experimentation, medical school subsidisation and care for the sick have allowed generations of doctors to expand on known medical knowledge for the primary benefit of the population they serve. Consequently, entry into the medical profession implies use of this body of knowledge to aid the sick and not for personal gain.

Lastly, the public pledge taken by medical graduates is an acknowledgment of the trust and unique opportunities afforded them by society and a promise that these will be used to serve the best interests of the sick and not themselves.

An important duality is evident in professionalism: a doctor's primary goal is to serve the best interests of the patient, to which they have a fiduciary commitment. For this they are granted a certain degree of prestige and power within society. These cannot be granted if the doctor places his own interests above those of his patients, as an employee would tend to do, but still seem to be expected by those who favour the move away from professionalism.

Furthermore, another important concept detracts from the pro-employee argument. Traditional market theory does lend itself to the health care industry.[20] Market theory is predicated on consumers having information about the product they are buying, an ability to 'shop around' and possessing enough funds to purchase the product. This is obviously incompatible with the health care system.

This incompatibility is best demonstrated by a practical example: a car mechanic and a doctor are both interested in providing the best possible service. However, for the mechanic, excellent service enables him to receive more clients, charge higher prices and maximise profits. Customer satisfaction is merely a means to achieve those goals. For the doctor, customer satisfaction is the primary goal. Quality of service is not related to financial or economic considerations. Conversely, the argument that higher wages for doctors will result in better service to patients flies in the face of the true nature of professionalism. Medical professionalism dictates that patient care be of the highest quality from the outset and, importantly, should be completely independent of extraneous factors such as monetary reward. To acknowledge a correlation between patient care and financial return is to disregard the most fundamental pledges of the Hippocratic Oath.

With a clearer understanding of medical professionalism and what it entails, as well as clarification as to why a return to classical professionalism is necessary in today's society, it is now possible to explore strike action and whether this is indeed compatible with the ethical foundations of professionalism.

The nature of strike action

In simplistic terms, there are essentially two types of health care strikes: those undertaken to further the interests of the doctors and those that aim to benefit the patients of the striking doctors.[21] Although both manifest in a similar way, it is unreasonable to classify them together as a single entity. As is the case with most ethical principles, it is not the action that is important – the determining factor lies in the intention underlying that action. Identical actions may be considered ethically disparate if the intentions behind them are different. Consider the example of an amputation performed for an ischaemic limb – a life-saving operation – compared with a similar procedure performed on a potentially salvageable limb, where the decision was based on the surgeon's time constraints or desire to practise the procedure. Although rather crude, this example highlights the concept of how a single action may be considered either ethical or non-ethical depending on the context. Let us now consider the nature of the two types of health care strikes in turn.

Doctor-motivated strikes aim to further the best interests of the very doctors involved in the strike, be it for higher wages, better working hours or increased leave. Strikes are commonplace in most other occupations, and with the shift in perception towards the concept of a 'health care employee', medical strikes seem to be the logical progression. This, however, is ethically problematic. Strikes, by their very nature, function by withholding work or services in order to exert pressure on the relevant authorities to meet the desired demands. In the health care setting this implies deliberately neglecting patient care, an action quite contrary to the professed obligations of the medical profession, with the ultimate intention being doctor self-interest – once more fundamentally opposed to the professional principle of placing the interests of the patient above all else. Furthermore, in the case of a health care strike, the major force compelling policy change is not exerted by the doctors, but rather by the patients affected by the strike.[20] Thus, patients are used as a means to achieve the doctors' desired ends – an action obviously inconsistent with professional practice, but also in violation of basic, mainstream ethical principles. Kantian ethics state that others should never be used merely as a means to an end, but always also as ends in themselves.[20]

This form of strike is also contrary to the most basic medical professional principles of beneficence, non-maleficence and social justice. Such action can therefore never be judged professional or deemed justifiable.

The immediate destructive effects aside, such a strike has further-reaching consequences. Public opinion of the medical profession, an important issue discussed earlier, is irreparably damaged. Society feels betrayed by those who profess to hold their interests in the highest regard. This loss of trust has severe, but non-quantifiable, implications on future doctor-patient relationships and the provision of an effective health care service.

Such a strike is often defended by weighing the right of the doctor to strike against the right of the patient to accessible health care. The scales are always tipped in favour of the patient by a single important fact. Entry into the medical profession is a conscious decision and implies willingness to uphold the founding principles irrespective of the situation. Disease and illness, however, are usually not governed by choice and place the patient in a particularly vulnerable situation. For those trained to help, it can never be justifiable to withhold treatment, even if this entails some degree of self-effacement.

The discussion now turns to the more complex issue of patient-motivated strikes. These are conducted with the primary intention of improving the provision, delivery and quality of patient care. Antithetically, this is achieved through the act of withholding the very care that is considered sub-optimal. Although the intention behind the strike is compatible with professional behaviour, inasmuch as it demonstrates desire to achieve the highest level of patient care possible, the action is quite clearly non-professional. In such a case, do the means justify the ends? Kantian ethics would say no, but utilitarianism would disagree. This viewpoint would justify such a strike if the future benefits to patients were greater than the potential harm caused by such action. Indeed, limited or no health care might be no more harmful than the provision of sub-standard care. The important question is, is it professional to continue to provide poor-quality care if a superior level of care could be achieved through strike action? Or should patient care never be jeopardised, even if this may achieve long-term positive consequences for both current and future patients?

Wynia *et al*.[6] support the first option, but only if a certain order of events is adhered to and particular criteria are met. Strike action falls on the far right of the spectrum of professional advocacy. Only if other options fail should this be considered as an alternative. Initial options include mediation, arbitration, internal dissent and public dissent. Direct professional disobedience is the final option given failure of all other attempts to mediate change. This obviously has the potential to harm the patients, the professionals and the profession itself and should therefore be reserved for situations where the following criteria have been met: all other options have failed; the situation is deemed sufficiently severe; the action is clearly linked to the situation, is likely to remedy the situation and will result in lasting positive change; and the action is considered acceptable to the public and attempts to minimise harm to patients. Of particular importance is public perception of the strike. If it is viewed as causing harm to society, regardless of the underlying intention, it may cause lasting damage to individual professionals and to the medical profession as a whole.

Ultimately, the ethical validity of his argument is based on the definition of 'professional action' in this case, a definition that has not been explicitly stated and needs further clarification in order for a more definite obligation to be formulated.

Ethical considerations

Three important ethical considerations are raised by this topic.

Firstly, certain forms of strike action may be considered compatible with genuine medical professionalism, depending on the definition of what constitutes professional action in such a case. Is it defined by strict adherence to professional behaviours at all costs? Or is it defined as actively pursuing the highest level of care possible, even if this involves temporary withdrawal of available care? Clearly, more explicit professional guidelines and expected obligations are required to simplify this problem.

Secondly, an interesting concept regarding Kantian ethics needs to be considered. The basic rule states that others should never be used as merely a means to an end, but always also as ends in themselves. This rule, however, also applies to oneself. Implying that making oneself a means to achieving another's end (in this case, a doctor sacrificing everything for the good of his patients) is also ethically problematic.[20] Once more, this requires specific clarification as to the limits of professionalism and the degree of self-effacement that is expected in extreme cases. This leads to the final point raised by the subject.

It is evident that professionalism encompasses fully the ethical treatment of patients. It does not, however, deal explicitly with the ethical treatment of the professionals themselves. Indeed it may seem that the provision of ethical treatment of the sick comes at the cost of the ethical treatment of the health care providers involved. Whether this trade-off is a defining feature of true professionalism or not, once again depends on necessary future agreement on the limits and obligations expected of a professional.

Conclusion

Professionalism is defined not by distinctive characteristics, but rather by a solid ethical and moral foundation. These principles govern the treatment of patients and call for some degree of self-effacement and sacrifice of self-interest. Professionalism is critical to the patient, but also hugely beneficial to society and to medical professionals themselves.

The current trend is away from the concept of a 'medical professional' and towards a 'medical employee', with strike action the logical result of such a shift. This perception, however, has been shown to be incompatible with the concept of professionalism and with providing the highest possible level of patient care. Likewise, doctor-motivated strikes can in no way be justified as professional behaviour. The South African strikes fall into this category and, with documented evidence of patient harm as a direct result of withholding care, should be considered as detrimental to the medical profession in this country.[22]

The issue of contention lies with patient-motivated strikes. These may be justified in a professional context, but further clarification is required as to what defines professional action in such a situation. Indeed, a more explicit moral philosophy of professionalism is necessary in order to resolve ethical dilemmas raised by medicine in the 21st century, which were inconceivable to the original members of this ancient profession.

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