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When doctors serve as experts

MEDICAL ETHICS

GUNNAR SKIPENES

E-mail: guskipen@online.no
Gunnar Skipenes (born 1958), Senior Occupational Physician, Norwegian Armed Forces and Member of the Medical Ethics Council (2009–17).
The author has completed the ICMJE form and declares no conflicts of interest.

Many colleagues find themselves in challenging and unpleasant situations following consultations where the role of the doctor has not been clarified adequately.

Doctors have different roles – as treatment provider, expert and administrator of welfare benefits. Ambiguity and misunderstandings about the role often lead to discontent and strong reactions. The Medical Ethics Council regularly receives complaints asserting that doctors have been biased, breached the duty of confidentiality, lacked competence, lacked expertise, or have not undertaken sufficient examinations. There have also been cases where doctors in their role of expert have not complied with the client's rules

The role a doctor plays is a deciding factor in establishing his/her rights and obligations, and much discontent would be prevented if the role and tasks of the doctor were clarified. The Medical Ethics Council therefore decided to clarify the responsibility of doctors to provide information about their role when dealing with patients. At the 2016 General Meeting of the Representative Body, a change to chapter I section 2 (1) of the Norwegian Code of Ethics for Doctors was adopted, so that it now reads as follows: 'Doctors have different roles as treatment provider, expert and administrator of welfare benefits. These roles have a bearing on how doctors behave, and how they treat sensitive information. A clear distinction must be made between their roles of treatment provider and expert. Doctors are responsible for providing necessary information and appropriate information about their role and the purpose of the contact.'

The role of expert is particularly distinct from the role of treatment provider. When we issue medical certificates and other certified documents, certify people for different tasks and functions, carry out assignments for employers, the police, the national insurance system, the Norwegian System of Patient Injury Compensation or the courts,

we are experts, and our work is based on a mandate and a concrete mission. During such consultations, it is important that both the doctor and the patient understand that the doctor's 'loyalty' lies with the client, which may be NAV, an insurance company, an employer or the judiciary, and that the doctor is not the patient's treatment provider. This means that the doctor's rights and obligations (e.g. the duty of confidentiality and competence) depend on who the client is and the task at hand. Doctors must be aware of their role, and provide necessary and appropriate information about their task, role, and the purpose of their contact with the person being examined or assessed.

This is particularly challenging when no clear distinction is made between roles and responsibilities. For example, doctors often have an unfortunate dual role when dealing with people who are detained. There is a good description of this phenomenon in the Ombudsman's report (2) following an unannounced visit to the Police Immigration Centre at Trandum in March 2017. The report shows that, among other things, health personnel had advised that detainees be isolated in the security section.

The direct involvement of health personnel in decisions to place a person in the security section is an ethical dilemma. Placement in the security section generally entails isolation. Human rights standards have clearly established that health personnel must not play any role in the decision-making process regarding restrictive measures like isolation. They must solely address measures to safeguard the medical treatment of the patient. Reference is also made to the UN Principles of Medical Ethics from 1982 (3) and to chapter I, sections 1 and 2 of the Norwegian Code of Ethics for Doctors.

The Ombudsman's report states how detainees were not always aware that they had spoken to health personnel (2). It is important that people always identify themselves clearly as health personnel, and explain their role in a given situation. Another finding was a lack of respect for and breaches of the duty of confidentiality. The duty of confidentiality is a key component in the establishment of trust between patients and doctors.

Regardless of the reason for the complaint, the cases sent to the Medical Ethics Council show that communication is not only a challenge, but a deciding factor in establishing trust in health personnel. Information about the role as an expert is vital to patients' understanding of the doctor's task and of what information is passed on to the client later. Clear information about the doctor's role in each case will provide the best foundation for a safe dialogue and will reduce the risk of subsequent complaints and misunderstandings.

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