



# A study of law and ethics in local and global medical practices

Review Article

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**Abstract:** Determining ethical standards is often quite difficult to do as it is largely a subjective topic. Some industries, such as the medical industry, encounter more ethical dilemmas than others. Due to the emergence and rapid evolution of biotechnology and its increasing applications, devising and maintaining ethical standards has become a crucial as well as a very delicate topic. For this reason, ethical standards within the medical field are maintained by both doctors and lawyers. This review paper compares and evaluates the ethical principals followed in both a local Indian-originated medical practice of Ayurveda and the more widespread practice of Allopathic medicine. This paper also includes interviews with professionals in both the legal and medical industries in order to develop an understanding of the role played by both in maintaining ethical standards. Through these interviews and research, the paper discusses the liabilities in the current implementation of medical ethics within medical practices in both Ayurvedic and Allopathic practices. By researching ethics in Ayurveda and Allopathy, it becomes evident that there is some scope for the integration of Allopathic ethical principals and Ayurvedic principles in order to maximize benefits for the patient as well as increase the ethicality of treatment given. This includes using the instantaneous results of Allopathy and combining them with the pure medicine of Ayurveda, or offering both methods of treatment to the patient post-diagnosis.

**Keywords:** Ayurveda • Allopathy • Ethical • Integration

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## 1. Introduction

Ethical dilemmas are difficult to judge because they often pit personal benefit and harm against those of society. The problem is compounded by the fact that ethical issues do not have one correct answer. In fact, it is quite the contrary. An ethical dilemma can have multiple perspectives, and all these perspectives can be deemed valid based on ones point of view. Medical ethics is no different. For example, the raging debate over the ethicality of taking stem cells from an embryo has engaged the minds of many.

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This paper will investigate the actions taken by both medical and legal professionals to ensure that medical practices are under ethical standards. This can be seen through current medical ethics standards; existing laws and hospital regulations; professional opinions; and suggestive action. While the problems may be different, the theme is universal. This essay will be investigating both Allopathy [1] and Ayurveda to provide a global and local perspective on this topic.

### 1.1. What are Bioethics and Medical Ethics?

Warren Thomas Reich, Editor in Chief of the Encyclopedia of Bioethics (1995 revised edition) [2] defined bioethics as “the systematic study of the moral dimensions including moral vision, decisions, conduct, and policies of the life sciences and health care, employing a variety of ethical methodologies in an interdisciplinary setting.” Essentially, Bioethics is the study of issues that are typically considered controversial that emerge from advances in the field of medicine and biology. Bioethics is a broad topic and encompasses numerous other branches of ethics within. Bioethicists are concerned with the ethical questions in the relationships among life sciences, biotechnology, medicine, philosophy, politics, and law. In the medical journal “Trends in Anesthesia and Critical Care” [3], Dr. Andrew D Lawson defines medical ethics as “the application of ethical reasoning to medical decision-making”. Medical ethics also includes moral judgment as it relates to medical policy and practice. Medical ethics should not be confused with bioethics, as it is only a branch of bioethics.

### 1.2. The Importance of Medical Ethics Today

Rapid advancement in medical technology has left medical ethics more important than ever before. New technologies allowed us to re-examine the need for ethical standards, and the meaning behind these standards. These ethical standards promote the values that are essential to good communication between caregiver and patient, which include trust, accountability, mutual respect, fair medical care. Other ethical requirements, including informed consent, protection of privacy and maintenance of confidentiality, provide a guarantee for respect for patients. They are important as they ensure certain qualities to a patient that makes them feel safe in a medical environment. An article in the Sudanese Journal of Public Health written by the University of Al-Zaiem Al-Azhari, notes “Above all, the purpose of medical ethics is to protect and defend human dignity and patients’ rights.”, [4].

## Ethical Principles of Allopathy and Ayurveda

The medical practices of Allopathy and Ayurveda are both governed by a set of ethical principles. Although the verbiage may vary between the two as a result of cultural influence, the essence remains consistent. These ethical principles have been established as a result of the collective knowledge of society prevalent at the time. Allopathic ethics are made up of 5 key principles: respect for autonomy; non-maleficence; beneficence; justice; and privacy

and confidentiality. Respect for autonomy is allowing patients to make their own decisions. However, doctors are also obligated to create the conditions necessary for the patient to make an autonomous choice. Non-maleficence includes not only obligations not to inflict harm, but also not to impose risks of harm to the patient. Beneficence is an ethical principle that addresses the idea that a caregivers actions should promote good. Doing good is thought of as doing what is best for the patient. This principle acts as an obligation for caregivers to avoid and remove unfavorable situations and instead promote favorable situations in order to protect their patients from harm. Beneficence should not be confused with the closely related ethical principle of non maleficence, which states that one should not do harm to patients. Justice, the fourth ethical principle, refers to giving each individual or party what they are due. Justice often focuses on equitable access to care and on equitable scarce resource allocation. Privacy refers to the right of an individual to keep his or her health information private. Confidentiality refers to the duty of anyone entrusted with health information to keep that information private. There are a few exceptions when it comes to the scenario of doctor-patient confidentiality. This includes concern for the safety of other, involved, specific persons, as well as legal requirements to report certain conditions or circumstances [5].

Ayurveda as a medical practice is very different when compared to allopathy. To begin with, Ayurveda follows a custom patient Specific Treatment Model based on body constitution (Prakriti); mental state; Agni - digestive power/metabolism; diet; behavioral aspects; and environmental influences. The treatment approach and treatment protocol changes with each patient. The ethical standards for Ayurveda are also different. There are 7 main areas in which ethical standards are maintained. These are social value, scientific validity, fair subject selection, favorable risk-benefit ratio, independent review, informed consent, and respect for subjects. The social value indicates that the knowledge gained should be able to lead new improvements in Ayurvedic medical treatments. Scientific validity requires that the research conducted should be able to produce beneficial and general knowledge for the public to use. With respect to fair subject selection, subjects should be selected based on scientific importance and not on convenience, bias, or vulnerability. The potential benefits of participation must outweigh the risks of participation and must be justified to satisfy the favorable risk-benefit ratio, and the independent review standard. Informed consent requires that the patients/participants are informed and aware of the treatment and its possible side effects by the medical professionals. Doctors should also have respect for patients, by operating within their comfort zone and allowing them the right to withdraw [6].

## Maintaining Ethical Standards

Ethical standards, especially in a medical workplace are needed in order to establish a strong relationship between the patient and the caregiver. Although as a patient it may seem like when it comes to ethics, there are only two parties: the patient and the caregiver, on the professional side, however, ethical standards are upheld by experts in the medical and legal spheres. To ensure ethical standards are maintained, an action is required on behalf of

both doctors and lawyers.

### 1.3. Medical Professionals

An interview was conducted with two professionals: Dr. Purushottam Shastri, Professor of Orthopedics and consultant orthopedic surgeon in JSS Medical College Hospital, Mysore as well as Dr. Geetha AB, Gynecologist, and Obstetrician at (self-owned) Sai Ram Hospital, (Gowribidanur, Karnataka).

After investigating the ethics procedure practiced in hospitals the following can be concluded:

Both doctors agreed that “ethics in medicine” entailed providing proper, scientifically proven medical care to the patient. Dr. Geetha AB emphasized the fact that ethical practice to me is not harming the patient even if you cant help them. This includes treatments you are very sure of and no experimentation at the expense of the patient.

Hospitals have to take many steps to maintain ethical practices and avoid medical malpractice. On the external front, it is mandatory for every hospital to have an ethics committee. Ethics committees are erected at research institutions and hospitals in order to ensure the safety of patients during trials or medical procedures, to safeguard the interests of the patient, and in the case of an unforeseen event, the accountability of the practitioner or researcher is assured. This ethics committee is made up of representatives of nurses, basic sciences, social workers, rehabilitation personnel, priests and/or philosophers, lawyers, administrative personnel, statisticians, and clinicians, [7].

There are measures taken within a hospital regarding documentation and prescriptions to avoid malpractice. This includes a completely prescribed case sheet, which essentially means all details regarding the medical care of a patient are documented and computerized (if possible). Treatments and prescriptions are also legibly written to avoid misinterpretations or oversight. Hospitals also avoid purely oral commands to patients.

The Hippocratic Oath (propounded by Hippocrates) is an oath that requires medical practitioners to swear to uphold distinct ethical standards [8]. When asked about the effectiveness of the Hippocratic Oath, Dr. Shastri responded saying “That is very difficult to answer, as every individual has their own interpretation of the oath”. However, Robert Shmerling, M.D, an associate professor in medicine at Harvard Medical School and associate physician and clinical chief of Rheumatology at Beth Israel Deaconess Medical Center feels that the Hippocratic Oath is lacking. He says, “The modern-day Hippocratic Oath covers only a few issues relevant to the ethical practice of medicine.”, [8]. Nevertheless, this long-held tradition is yet another method aimed to instill the value of ethical practice in medical practitioners.

Within India, unethical practice is unfortunately quite common. A study conducted by Dr. Abhishek Yadav in the AIIMS forensic department reveals that “The allegation [of medical negligence and malpractice] against the hospitals, both private and government is in the ratio of 1.8:1”. He says, “Wrong treatment/procedure was the main reason (45%)”, [9].

It is especially common in smaller medical setups such as clinics or maternity homes. In the effort to save

money these setups do not adequately document case files of their patients medical history and treatments. For example, a clinic that has only partial files can deny medical claims made by patients because their partial files will assist the hospitals case. Partial case files are uncommon in larger corporate hospitals.

There are multiple fields that play a role in influencing ethical behavior of professionals in the medical industry. This includes insurance companies, pharmaceutical personnel, hospital administration, doctors, and support staff.

Doctors Geetha AB and Shastri both had suggestions for improvements governments and hospitals could make to their schemes and/or systems in order to ensure ethical medical practices. Dr. Shastri believes that educating the people involved is key. He says that patients need to be educated about their rights, and also on what to expect from a medical consultation. He also stresses that nurses need to be educated on how to properly care for, or tend to a patient. Doctors need to be aware of their responsibilities towards a patient. Physicians must provide complete information to patients and their attendant not only about the symptoms/disease but also about available treatment. At the same time, he highlighted that doctors need to be informed about the options they have to safeguard their rights such as the Indian Medical Association (which will be discussed in the following paragraphs). Lastly, he touched upon the hospital ethics committee. He expressed that “[the] forum has gone more in favor of patients than required.” The doctor proposed creating a knowledgeable, authoritative ethical committee, where there is a special forum for doctors to define what malpractice is and decide whether or not doctors are guilty. He believes that current forums may not have medical professionals to make an informed decision based on the situation at hand, and due to the ethical aspect of the same, decisions often subjective in nature.

Dr. Geetha AB recommended well-communicated case files to avoid issues. She also highlighted the important issue of cross-practice. Cross-practice is essentially when a doctor who is trained in one field practices medicine in another field that is in stark contrast to their expertise. She explains, saying “Hospitals in rural areas often lack doctors because most doctors want to practice in cities. To cope with this, these hospitals hire Ayurvedic, Unani, and even homeopathic doctors to practice allopathy. Not only is this unsafe, but it is also wrong” She suggested providing financial and resource-based incentives to doctors so that they would work in rural areas.

She also talked about the environment in hospitals. She said that in many hospitals there is not an acceptable ratio of staff to patients. This means nurses are often overworked and may be hostile towards patients, which affects the typically compassionate atmosphere of a health facility. The doctor once again proposed financial incentives for employees in order to balance the nurse-patient ratio.

#### 1.4. Legal Professionals

Similar to the interview with doctors, an interview was held with four legal professionals: Ms. Anina DCunha, Associate (Corporate), L&L Partners; Sahana Raghunandan, Advocate, Raghunandan Associates; Nick

**Table 1.** Action taken by the Indian Government [10].

1956	Indian Medical Council Act (Established the maintenance of a medical register for India).
1969	Registration of Birth and Deaths Act.
1973	ICN Code of Ethics for Nurses.
1976	Dentists Code of Ethics Regulation
1986	Consumer Protection Act (Protects the consumer from exploitation by a business).
1993	Protection of Human Rights Act.
2002	Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations.
2002	Yeshasvini Health Insurance Scheme (Medical facilities to farmers across Karnataka, India).
2003	MCI Rules for Internship Training Medical Registration (Amendment) Act.

Pellegrino, Associate (Mergers and Acquisitions), Proskauer Rose and Sindhu Pellegrino, Transactions Attorney, Ernst and Young. After investigating the legal aspect of ethics in hospitals the following can be concluded:

“According to me, it is the duty of every medical practitioner/doctor to educate his patient about the treatment/ course of action to be taken for the particular medical problem that the patient suffers”, says Ms. Raghunandan. Ms. D’Cunha believes that “When ethical dilemmas arise, the best approach is to think through these ethical principles logically and methodically. Patients place their trust in physicians and nurses to care for them in a compassionate and ethical manner, and the doctors have a moral obligation to properly fulfill that role.”

There are numerous laws, associations, and acts that have been put into place in order to ensure medical practices are ethical. Some of the various laws that have been put into place by the Indian Government can be seen in Table 1.

Nick and Sindhu Pellegrino, who are practicing lawyers in New York City, USA say that “on an average, about 85,000 suits are filed in the U.S. each year”. In India, statistics show that 5.2 million people die annually due to human error, a figure which is in stark contrast to the USA.

With respect to the Indian Government, there are multiple acts and laws that have been enforced in order

**Table 2.** Indian Medical Ethics Laws [10].

1860	Indian Penal Code Sections 336, 337 and 338 (Causing hurt by act endangering life and personal safety of others).
1872	Indian Evidence Act (Disclosure of privileged / confidential patient related information before a court of law under protest).
1872	Law of privileged communications (Rules for provision of uninterrupted power supply).
1935	Rules for provision of safe drinking water.
1991	The Public Liability Insurance Act.
1994	Transplantation of Human Organ Act.
1995	Transplantation of Human Organs Rule.
1996	Consumer Protection Act - Right to consumer education; Right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers.
2009	Karnataka Prohibition of Violence against Medicare Service Personnel and Damage to Property in Medicare Service Institutions Act.

to safeguard the interests of patients, doctors, and hospitals (see Table 2).

When asked about medical malpractice/negligence cases Ms. Raghunandan has come across in her career, she says, “I have handled a case relating to medical negligence during my early years of practice before the Karnataka State Consumer Forum where an order of the District Forum directing a Doctor to pay heavy compensation for his negligent treatment on a patient resulting in death of the patient was questioned in Appeal. Recently, I have come across two cases which involve insurance companies who have denied cashless hospitalization facilities to its customers stating frivolous reasons and by labeling the treatments as genetic disorders which are not covered under the policy. Such cases are filed before the Consumer Forum which is pending adjudication.”

Each of the four legal professionals had an input as to what the government and/or other health organizations should do to ensure ethical medical practices. The Pellegrino family suggested that regulations to avoid medical malpractice should balance the interests of patients as well as that of medical practitioners. While it has to curb malpractice behavior, it also has to ensure that it does not stifle the practice of medicine through an unwarranted

frivolous lawsuit.

Ms. D’Cunha believes that there needs to be a re-evaluation of the ethical issues in medical practice including changing doctor-patient relationships, and the need for introducing ethical training in the undergraduate and postgraduate medical training. She emphasizes that it is crucial in today’s day and age for doctors to have ongoing medico-legal education. Referring to “Ethical and Legal Issues in Medical Practice” by Joseph Thomas, she answers, “It is no longer a matter of choice, but a context-driven legal mandate and necessity for the doctors to be conversant with basic legal issues involved in medical practice.”, [11].

According to Ms. Raghunandan, government/health organizations should conduct seminars, workshops, lectures or advertise the ethical code of the Medical Practitioners to increase awareness among the consumers of the same. She also suggests strict measures be taken against doctors violating the law to prevent the situation from repeating itself.

## Integration of Allopathy and Ayurveda

In addition to implementing solutions that require government action such as more financial incentives and awareness campaigns, there are certain steps that can be taken by medical facilities to ensure both ethical practices in hospitals, as well as the most beneficial outcome for patients. One such example of this is the integration of allopathy and Ayurveda. Although the medical practices of allopathy and Ayurveda seem worlds apart, under certain conditions, it is possible to use both methods for maximum gain.

Before discussing the ways in which the two can be combined, it is essential to evaluate each individual medical practice. To begin with, allopathy is a drug-oriented treatment system which is made up of three things, hypothesis, experimentation, and results. It is often regarded as a mainstream medical practice. Allopathy is best suited for emergency response situations, such as results of accidents. It is also best for trauma and immediate pain relief. Scientific and technical developments in this field can help identify the disease before symptoms appear.

However, no individuality in allopathy as the same pill is given to the patients suffering from the same disease, and sometimes even similar diseases or symptoms. Oftentimes, the treatments only address symptoms and not the root causes [12]. The medicines that are given also have side effects, the severity of which ranging with the dosage and nature of the pill.

On the other hand, Ayurveda aims to eliminate the root cause of the problem and is a permanent cure in most of the cases. The treatment protocol is dynamic, which means that treatment methods and prescriptions vary with each patient and their individual requirements. Ayurvedic medicine is associated with a few side effects



that are mild in nature. Ayurveda involves a delicate balance of Vata<sup>1</sup>, Pitta<sup>2</sup>, and Kapha<sup>3</sup> [13]. It is believed that when these factors are imbalanced, illnesses are caused. However, the Ayurvedic treatment process is one which takes place over a long period of time, and will not come into effect immediately. In addition to this, some practices use methods in which metals, such as lead, are used in medicine. Consuming these metals can be very harmful to the body.

The practice of integration takes the instantaneous results of allopathy and combines them with the pure medicines of Ayurveda. Essentially, combining the two means using ayurvedic treatment when allopathy is not needed, only with the consent of the patient.

Allopathic hospitals can prescribe non-Allopathic medicines for issues that are not trauma-related or emergencies. One example of this is the Gandhi Hospital and Hyderabad. Dr. Siddipet Ramesh from Gandhi Hospital told the Deccan Chronicle [14], “We are using alternative medicines for a few diseases. For fistula, we are using the ayurvedic kshar-sutra. If we perform surgery the recurrence rate is more than 30 percent. Though kshar-sutra takes time it is effective. We have combined allopathic and non-allopathic treatments: We anesthetize the affected area and then apply kshar-sutra.”

Apart from offering the choice between Ayurvedic and allopathic treatment, another possibility is the use of complementary medicine<sup>4</sup>. Along with mainstream medical care, a complementary practice can be used to help with side effects. For example, the side effects of cancer treatments (treatments such as chemotherapy) can be lessened through processes such as acupuncture<sup>5</sup>. Research has even shown that Ayurveda works well with allopathy in cases of cancer, tuberculosis, and even HIV/AIDS [15].

Another point to keep in mind is the fact that for this method of integration to work effectively, both Ayurvedic and allopathic treatments should be equally available to patients. In addition to this, patients should be aware of all side effects of both treatments. Patients should have the freedom to make a choice, after receiving complete information regarding the options.

This method is beneficial to patients because it can help avoid the dangerous side effects of consuming multiple medicines simultaneously. Not only this but in situations where immediate treatment is not crucial the use of Ayurvedic medicine is ideal. It allows patients to make a well-informed choice of their treatment method if there are multiple options available. It adheres to ethical standards with respect to the principle of autonomy. By offering more than one practice of medicine, hospitals are keeping their patients well aware of the various possibilities. Hospitals which offer complementary medicine become globalized, as they offer the ‘foreign’ allopathy, as well as the local alternative method. In China, this could mean traditional Chinese medicine, and

<sup>1</sup> Considered the leader of Ayurvedic principles, Vata commands all of the movement of the mind and body.

<sup>2</sup> Governs heat, metabolism and transformation in the body.

<sup>3</sup> Governs structure and lubrication in the mind and body.

<sup>4</sup> Complementary medicine is used together with mainstream medicine in a process known as integrated medicine.

<sup>5</sup> A form of alternative medicine involving the insertion of thin needles into the body.

in India, Ayurveda, and even Unani.

To conclude, medical ethics is a system of moral principles that govern the practice of medicine and medical-scientific research. Medical ethics principles are important because they provide certain standards for medical practices to live up to in order to be considered 'ethical'. However, in recent times, the development of new technology has questioned the meaning of ethics in medicine. It is in situations such as this where the role of medical and legal professionals is crucial. Medical professionals contribute by following the five key principles of medicine, and mainly ensuring the patients sense of awareness and well being throughout the process.

On the other hand, legal professionals ensure the laws which are in place in order to safeguard the rights of patients, doctors, and medical facilities are being enforced and followed. A possible method that can be used to further assure practice is ethical is the use of integrative medical practices to provide more options to patients. Lastly, it is important to remember that as patients, it is also our responsibility to be aware of our rights. It is necessary that patients are actively participating in the discussion regarding their medical treatment, or treatment of their loved ones. As important as it is for doctors and lawyers to be involved and aware of the process, it is equally important for patients to be knowledgeable about the same.

## Conflict of Interest

Authors of this article declare that they have no conflict of interest.

## Human Studies/Informed Consent

No human studies were carried out by the authors for this article.

## Animal Studies

No animal studies were carried out by the authors for this article.

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