

Editorial

Ode to Duty

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William Wordsworth in his poem written in 1805 mentions “*ode to duty*”, which is a noble appeal to the principle of morality for guidance and support. Every medical provider has a duty of care they owe to patients. Preserving life and caring are considered as the utmost duties of a doctor.

Doctors and hospitals are expected to provide the treatment with adequate knowledge and skill and not to do anything harmful to the patient because of their negligence, carelessness, or reckless attitude. Though a doctor may not be able to save the patient’s life, it is expected to use the knowledge and skill in an appropriate manner keeping in mind the interest of the patient who has entrusted his life to him. Misdiagnosing, failure to diagnose, failure to perform appropriate investigations, failure to adequately monitor, procedural mistakes, surgical errors and medication errors are few examples of medical negligence.(1) In the current years we see errors committed by the juniors which are contributed largely to lack of training and supervision by their superiors.

Medical negligence becomes medical malpractice if the negligence was the direct cause of harm that the patient should be compensated for. Elements of a medical malpractice claim can be due to not carrying out the said duties, provides low standard of care leading to medical negligence, directly causing harm and patients suffers damages that they must be compensated for. (2)

In Sri Lanka many incidents have happened but not many have come to the courts. The reasons are that the medical profession is held at top of the hierarchical order as noble profession and public accepts the negligence mainly due to the lack of proper knowledge and understanding of medical negligence and being not aware of their fundamental rights. (3) It is hard to identify the exact factor which finally led to the harm. In case of a terminally ill situation, one would argue in courts whether the defendant is negligent or would it have eventually happened. The public will lose the

respect for the law and society when these types of arguments are put forward.

Civil medical negligence and Criminal medical negligence are the two types generally followed by every jurisdiction worldwide. In civil medical Negligence, a patient who suffers can make a complaint against a medical professional with the intention of financial compensation, which is the most famous type in most jurisdictions. Criminal medical negligence is when punishments are ordered on top of compensatory damages.

Criminal medical negligence cases are of negligible number in Sri Lanka as well as worldwide. The reason may be since the state is reluctant to prosecute the noble people but, someday the state will prosecute for disruption of owed duty. One such situation can be being negligent during trade union action and failing to attend an emergency.

Fair redressal which is practical is essential to our country. Mediation, Arbitration and pre-trial screening have been successfully implemented in the medical arena throughout the world (4). It has been argued in many instances that Sri Lankan Constitution (1978) does not expressly recognize right to life and right to health care services as a fundamental right. (5) The cost and time for a court case is high hence Sri Lankans rarely go to the courts. Also it is difficult to establish the negligence, because doctors are reluctant to provide evidence against their own professional colleagues. (6)

Effectiveness of medical care are lost when the medical profession practices defensive medicine due to the fear of litigation. They tend to conduct several tests and procedures to avoid litigations and to show that standards have been met. The litigation fear will lead to lack of clinical freedom and thereby hinder the standard of care. This again can lead to malpractice and negligence. (7) A system should be established to protect the patients and the doctors.



Educating the public through media and campaign is one mode. Public confidence in the legal system should be established by taking the responsibility in compensating the injured. (8)

Establish a confidential platform of discussion that enhances the doctor patient relationship. It is essential to have a good discussion regarding the benefits, risks and different alternatives available for a patient. Doctors should be able to have a healthy discussion and admit errors that have occurred, and assurance has to be given that admission of errors will not lead to creating evidence against them in courts. (9)

Medical malpractice insurance policy is available in many countries to safeguard patients against doctors who breached their professional responsibilities. There are civil societies and non-profit organizations that provide defense and insurance to their medical professional members.

Following the path of duty and morality, one could rise to noble heights of success in life. The altruistic feeling of self-sacrifice for the happiness of others uplifts man to the utmost glory.

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