Ethical dilemmas and dual loyalty of Occupational Medical Practitioners

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OUTLINE

- Background and introduction
- Medical ethics
- Core ethical values
- Principlism
- Power and OH
- Elements of dual loyalty
- Risk factors for dual loyalty
- Recommendations and conclusions
• HCP encounter *challenging ethical* questions freq.
• Bioethics—moral issues as a result of developments in biological sciences.- focus on good clinic. practice
• Traditional bioethical literature *neglected dilemmas* facing OMPs
• **Failure to prioritise** ethical obligations as required of all MPs
• MPs may experience *conflict of interest.*
• Contributes to dual loyalty of practitioners
• Dual loyalty affects actions and decisions by OMPs
• Actions may have *profound consequences* for employees.
• May lead to *human rights violations* of employees
Generally MPs encounter dilemmas regarding their loyalties.

Cannot det. If obligations to pxs or their employers.

Most MPs work under 3rd parties--employers.

Employers may incl. insurance companies and mining companies, amongst others.

The involvement of a 3rd party – competing obligations

MP caught in-between- ethical dilemma

In OH space...PXS regarded as employees
Medical Ethics

1. Moral principles governing practice of medicine.
2. All MPs guided by “ethical standards and values”.
3. The likelihood of a conflict exists,
4. occurring because of competing demands,
5. Result: MP chooses between competing demands,
6. Ethical dilemma might ensue for the MP
Core ethical values

**Respect for persons:** respect employees as persons and acknowledge their intrinsic worth, dignity and sense of value.

**Human rights:** recognise human rights of all individuals: should not trample on human rights of employees, to please employers.

**Integrity:** core ethical values and standards—foundation character. OHP with integrity is respected and trusted by employees and even employers sometimes.
Ethical Principles- Principlism

Principlism

Approach in ethics-simplifies thinking around ED

Addresses moral problems in medical ethics

Best approach...applying one or more of four basic “moral principles”, indicating:

- Respect for autonomy
- non-maleficence;
- Beneficence (doing good)
- justice
**PRINCIPLISM**

1. *Respect for autonomy* - e.g. employer who is Dr
   - informed consent; confidentiality, truth telling
   - Concurrent with legal positions of the Constitution.
   - sections 10(dignity); 12(2)(b) bodily integrity; 14 (privacy). (e.g. HIV PXs)
   - Challenge: Paternalistic tendencies of OMPs

2. *Beneficence* - (e.g. Hay v B Case):
   - protect and defend the rights of others—rights of employees usually perceived as unimportant
   - prevent harm from occurring to others—may lead to maleficence—decision by OMP might have negative impact
   - help persons with disabilities—discrimination more likely
     Usually helped to exit the mine
Non-maleficence
- doing no harm to employees
- Not depriving others the goods of life as OMPs
what are we depriving employees with our decisions?

Justice
- Fair treatment of employees (avoid discrimtn)
- Respect for human rights of employees
- Respect for morally accepted laws (Cannot ignore Constitution; other Acts)
Leslie London said:
“both rights and ethics are normative approaches ...to maximize human well-being...alleviate discomfort and suffering”.
“..... power is critical for consideration of the ethical and human rights dimensions of occupational health practice.”
“A need for the OMP as the professional exists,.. to be trusted by both employees and by employers, concerning medical ethics.”
Workplace health challenges d.t power conflicts between management and employees occur....intervention by OMP might be necessary......ethical dilemma.( decision swayed by who pays your salary)
Dual loyalty and conflict of interest
Dual loyalty

• Defined as role conflict between professional duties to a patient and obligations, expressed or implied, real or perceived, to the interest of a third party, e.g. mine employer
• OMPs often in a contractual relationship with industry bosses
• Expected to maintain doctor-patient relationships with employees as patients or users of occupational health services
• Unfortunately employer of the OMP is also the employer of the worker/patient
• Sets the scene for potential dual loyalty.
Elements for dual loyalty

- The existence of simultaneous obligations to the worker/patient and employer as third party.
- The incompatibility of these simultaneous obligations.
- The existence of some measure of pressure on the health professional from the third party qualitatively differ to the power of the employee.
- The separation of the health professional’s clinical part from that of a social agent.
Risk factors for dual loyalty

- risky employment relationships
- role conflicts for health employees
- personal bias, institutional discrimination and stigmatization of patients/employees.
- presence of a repressive political environment.
- professional power and self-interest.
• Contracts may focus on and distinctly mention specific legal obligations on the OMP
• OMP’s ethical obligation to the employee remains at a moral and hortatory level, subject to differing interpretations
• Usually lacks legal enforceability
• Medical ethics are not considered when contracts between employer and OMP are entered.
• Becomes the responsibility of the OMP to remember and observe medical ethics.
• (J Ladou et al., (2002). Codes of ethics (conduct). Occup med 17: 559-585.)
Recommendations

- Dual loyalty affects OMPs in the mining industry
- Raising the level of awareness amongst employer bodies
  - respect practitioner independence and impartiality
  - first step to enable practitioners to assert ethical obligations.
- Nature of the OMP’s contract with a third party should explicitly include the ethical obligations of the OMP
  - Contract can be supported by regulation.
- OMPs should not allow the employer's business objectives to bias their professional judgement.
  - Consider best practice and medical ethics
CONCLUSIONS

• Ethical principles guide all medical practitioners in their doctor-patient relationships
• Medical ethics are clear on where obligations of health practitioners should lie....in the best interest of their patients/employees.
• Consider using guidelines by dual loyalty working group as best practice
• To be tailor made to suit our mining environment
Are you dealing with dual loyalty?

1. Consider **human rights...are they violated?**
   - Right to dignity; cornerstone of our Constitution (J Ackerman)
   - Right to equality; full and equal enjoyment of all rights
   - Right to fair labour practice: no discrimination for certain conditions; right to reasonable accommodation
   - 2. Consider **ethics.....4 principles.**(autonomy; beneficence; non-maleficence; justice)
“How much knowledge you gain depends on your willingness to learn.” Anonymous

“Share your knowledge. It is a way to achieve immortality.” Dalai Lama
Thank You