

ETHICAL, LEGAL, AND PROFESSIONAL FOUNDATIONS OF THE AUTONOMOUS REGULATION OF THE DENTAL PROFESSION, THE CASE OF BULGARIA

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SUMMARY

The **purpose** of this study is to present the traditional and contemporary views on autonomous management of the dental profession in Bulgaria during the period of transition. **Methods:** The interdependence between the professionalism and ethics was analyzed and the concept of system approach in ethical conduct of the practicing doctor is defined. **Results:** Dynamic of social relationship shaped by the globalization and European integration and the design of the social contract between the profession and the society are reviewed. Moral, legal and professional issues relevant to current social and economic aspects of health reforms impacts on the reestablishment of professional autonomy in Bulgaria are presented. Professional autonomy is based on self-regulation aiming to keep the collective image and standards but is focused on the professional conduct and behavior of the members. A model of ethical discourse and ethical approach is discussed. **Conclusions:** Ethics and professionalism are in interdependence in the democratic society. Autonomy, or self-determination, as the core value of dentistry has been reestablished along the reestablishment of democracy in Bulgaria. In the value system of professionals traditional and contemporary virtues form a complex mixture. There is a need for integrity and consensus on formulating the rules of professionalism in dentistry. Professional ethics must be taught and appropriate courses should be part of the dental curriculum and continuing education in dentistry.

Key words: ethics, dentistry, professional autonomy, ethical system, professional conduct.

INTRODUCTION

Autonomous regulation and professional ethics are the most important social features of the professionalism [1, 5]. The social contract between the profession¹ and the society is based on the acceptance by the society of the

¹ Dentistry has been recognized as a *profession* for less than two centuries [3];

freedom for self-management of the profession and professionals on one hand and the acceptance by the profession the duty to prioritize the society's good, on the other [2, 6].

The Dental Profession in Bulgaria, during its centenary history² passes through periods of blossom and declines comprising stabilization of the liberal professional status (till 1944), autonomy limitations (1944-1973) and complete loss of autonomy (1973 -1991) [3].

As a result of the radical social transformation, by the end of 20th century, the dental profession in Bulgaria, as well as all over former communist countries of Central and Eastern Europe did, got the unique chance to determine such ethical frames of the professional standards that to obtain again its adequate place in the society for its members and the confidence of the public based on respect to professional competence without any outside restrictions [4].

This fact should be undertaken with attention and consideration. During the transitional period some voices among dental community insisted in "Let us establish rules that would accommodate us by avoiding the strong organization this way". This is not surprising. After a long period of forced centralized and over-supervised organization, people now tend to go to the other extreme – from a total lack of choices towards a total lack of obligations.

Other opinions were also very popular such as: "Nowadays dentists only care about their income and new practical methods, yet they are not interested in philosophical matters". Of course there is a simple explanation for this phenomenon too – not that long ago the professional ethics used to be abused by manipulative institutions in order for them to fully control doctors' interests in the name of the public interest. This practice

² Foundation of a dental professional association in 1905. Start of national university dental education course (1942); Stabilization of the liberal professional status (till 1944); Autonomy limitations (1944-73) and complete loss of autonomy (1973 -1991); Reestablishment of the professional autonomy (1991 and now)[2].

created a rather absurd paradox – the above mentioned appeals for self-abnegation took over the need for minimum freedom of taking an autonomous and competent professional decision, which actually would be harmful for the patients [7, 8].

Those times irreversibly went after the law for the medical professions was enforced [9]. Dentists in Bulgaria, have now the opportunity to demonstrate their professional best. For the time being, two very important changes that directly affect the professional and social situation could be clearly outlined:

Changing nature of professional activities is expressed by:

- 1. Contractual nature** of the professional activities becomes evident;
- 2. Complexity of the product** dentists deliver to the public increases.

Undoubtedly, knowledge of clinical methods and their appropriate application represent a sound basis for successful dental practice. The research and experience of all the professionals from the last few decades yet show that knowing the technology aspects is only a prerequisite rather than a sufficiency in building a successful practice. Professionalism has multiple components. The everyday practice of a dentist offers various precedents of legal and ethical nature where the lack of preparedness to solve those proves to be a draw back of the public recognition even the best technical solutions were applied [1, 10].

In today's new conditions, a dentist actually enters a whole bunch of contracts every day. At first glance those contracts reflect the relation between patients and dental doctors. In reality, however things are much more complicated than that. Relationship with patients and the contracts signed therefore are modeled at a significant level by third parties - public financial institutions and public's expectations. Patients' and society's satisfaction as well as professional prestige heavily depend on dentists' preparedness to work in those special conditions. Yet the profession still needs to consider both the autonomy of the patients as well as society's norms as represented by its institutions [8].

For the last twenty years dentists in Bulgaria demonstrated that they ultimately identify themselves as liberal practitioners. Today they have the freedom of taking independent professional decisions and to turn them into effect in their own practices. On the other hand, the broken tradition of professional autonomy, the dynamics of the legal frame, and the economic limitations and specific viewpoints of the general public require a strict determination of dentists' rights and duties. Those should be specified as both a liberal practitioner's rights and duties and also autonomous structural determinants for the right balance of personal,

group and social interests in any public health activity [11, 12, 13].

The universal ethical norms are a common regulator in social relations, including the professional relations' field. Why do some professions require a special ethical framework for professional behavior?

Specific traits of the interaction between professions and society

1. Professions are **autonomous**, which gives the professional a considerable freedom in the choice of methods and means within his/her professional activities and meanwhile it makes **impossible a constant supervision** of his/her professional conduct.

2. Professionals actualize their product in the most part as a result of **individual interactions**. People are positioned physically close to each other during a treatment, consultation, teaching, or a legal defense. Only the **professional's self-consciousness** can be a warranty for the patient against an abuse with his/ her trust.

3. Professions bring **social prestige** to its members. The hopes and expectations that society puts on them gives them a **great power** in terms of influencing the public opinion and developing a public value system [1, 2].

Professional ethics carries somewhat specific features yet it cannot differ considerably or contradict in any way with the acceptable social moral norms. The professional moral demands additional responsibility for the professional without waiving the basic moral virtues. The rights of all participants in a given professional field are being defended, balanced, and coordinated by the norms and standards of professional ethics [10, 13].

Since interests are mentioned again, we have to determine the basic kinds of interests in question, which are being satisfied by considering the basic and specific rights of the participants. The so-mentioned interests are divided in four separate groups: patient's interests, based on his/ her individual rights; dentist's interests, based on his/her individual rights; interests of the given professional community or association based on autonomous status; and interests of society as a whole, which are based on collective rights [6, 15]. Only after having defined the rights and created conditions for mutual acceptance of those interests, we can and we should start defining detailed contract conditions for each professional activity. The latter actually represent the rules for good professional practice and conduct. The main task for the autonomous community through its direct tools and members is to actually put those rights on paper. The process of writing those rules should include the discussion on these issues [14].

The purpose of this paper is to discuss traditional and contemporary views on autonomous management of the

dental profession in the context of current social and economic impact of European integration and health reforms in Bulgaria. It features the autonomous regulation of the dental profession as a real social practice based on ethical, legal, and professional prerequisites and directives.

Methods: The interdependence between the professionalism and ethics was analyzed and the concept of system approach in ethical conduct of the practicing doctor is defined.

RESULTS

1. Moral prerequisites for regulation of the interactions in professional activities

Society is generally ruled through the institutions of power and the institutions of authority. Moral belongs to the second group of institutions. Moral represents a field of internal individual freedom, in which social and human requirements overlap with the internal individual motives to do well. The social moral is a function of the moral of individuals' activities [15, 16].

Society gradually and constantly develops a system of criteria for evaluation of motives, actions and results of those actions for individuals and social groups. The most important values stemming from the moral of all developed societies are: justice, veracity, equality, freedom and autonomy. These values should be kept in their unity both for the individuals and for society as a whole [17, 18].

1. Principle of the equal freedom: Each individual's freedom should be protected from other party's intervention, and it should be equal to the freedom given to anybody else. Yet since every society produces inequality of some form, it should deal with accordingly to:

- Principle of the equal opportunity: every post-industrial society should assure equal minimum opportunities for participation in social life and goods' distribution for all of its members.

- Principle of the inequality correction (justice): since every post-industrial society produces inequality of some form, it has to insure improving the positions for the ones that lag behind since it is in the best interest for all [2, 21].

The principle of equality excludes any double standards as well as any use of individuals in the name of hypothetical collective humanistic goals³. The followers of Relativism⁴ reject the existence of universal moral values. According to them, moral evaluations depend on the given point of view. It is quite obvious why the relativist approach is unacceptable when trying to set up systems of rules [19].

2. Principle of veracity is the foundation of trust between different participants during the professional

³ The different philosophical schools define categories such as "good/bad", "correct/incorrect", "truth/non-truth" etc. in a different way. A quick reference to the basic philosophical schools in this case - **relativism, utilitarianism, and formalism** is probably relevant.

⁴ Relativism: Platho, Hobs [16,17]

interaction in the processes of health services delivery. Now we have the question of whether all people at all times and under all circumstances can go under the same criteria for moral evaluation. Therefore, consent is needed on evidence based approach implementation.

3. Principle of autonomy for the individuals means freedom of action and freedom of choice. Being autonomous is the most important prerequisite for moral conduct because if people do not act in a morally acceptable way under threatening circumstances it would not be fair and equitable to judge their morality. On the other hand even the best conditions had been created for individuals' autonomy protection in the society it is not obvious that every one would be respecting the other's people autonomy. That is why there should be various incentive mechanisms that could potentially protect society from possible immoralities, preceded by ethical debate [20].

The followers of Utilitarianism⁵ accept the natural human inclination to accept pleasure and reject suffering as a basis for moral assessment. As a result, we can say that a doctor who is ethical would cure as many people as possible thus eliminating as much suffering as possible. This sounds very natural at first glance. Yet, how can we explain a single doctor's behavior or even a whole system's behavior which could occasionally deny service to a single person in order to better accommodate "community needs" or ignore a patient's personal choice in that same token? The utilitarian concept is very traditional for the medical field. It defines the acceptance of "paternalism" in the doctor/patient relationship and an emphasis of responsibility that heavily falls over the doctor.

Unlike the above mentioned schools the Ethical Universalism⁶ puts the emphasis on the undoubted human right of self-determination. The moral life is ambiguous and frequently requires thoughtful reflection and justification for the choices made. Immanuel Kant, the 19th century German philosopher, helps further characterise moral justification with his famous dictum, "the categorical imperative": 'Act only on that maxim that you would will it as a universal law' [20]. Under the rule of moral imperative, every individual has rights regardless of the practical benefit or damage which exercising those rights might bring to society as a whole. The ultimate imperative of Kant's ethics presumes that we treat every individual as a free and equal to all the others. The rules are in the basis of individual autonomy as well as equality between individuals throughout the pursuit of their interests. A consideration for individual human rights as a social value is the most important part in the development of the European legislation.

For us, Bulgarian citizens, that is a major change both socially and economically - we move from a society of

⁵ Utilitarianism: Haedonism, Aristoteles [17]

⁶ E. Kant (1724-1804) [20]

privileges for some governing social groups to a society of protected universal human rights for citizens. We can observe a model of change from a centralized state system of goods distribution including health care to a decentralized, pluralistic system, which develops based on market demand and supply of health care and considerations for freedom of choice and self-determination for any participant in the market [22].

On a moral level, the acceptance of superiority for human rights means defining their nature whether individual or collective, common or special. Common are the rights that are valid for everybody regardless of conditions; special rights apply to a two-party individual or group agreement. The essence of each right stems from the fact that it defines activities, behavior and interests for the people who can use it through their freedom of choice. It is very important that a contradiction between individual and group rights be avoided. Rights represent a basis for justification of a given behavior of an individual, as well as a protection in case of undertaking or not undertaking of actions. Rights are closely related to duties. Usually the moral right of an individual is actualized through the moral duties of other individuals to the first one. Duties are the other side of the medal so to speak. For instance, the rights of our patients should correspond to the duties that we have assumed professionally [24, 25, 26].

In order for us, dentists in Bulgaria, to convert the professional duty into specific tasks, in order to satisfy the patients' and public's expectations we need get the right balance between social, personal and institutional requirements.

In today's society interactions between individuals are regulated, in the most cases, by institutions authorized to uphold the fair distribution of mutual consideration of rights. The most intensive development of Human rights came after World War II in both international and domestic plan. Today, human rights are in the basis of most European constitutions and therefore in those national legislation. The acceptance of human rights as a major guideline by the European countries is a prerequisite for the harmonization of the European legislation. Changes in Bulgarian legislation are mostly represented by those principles.

Medical professionals as citizens of a given country should have the same exact rights as the rest of the citizens of this country. Until recently it was considered normal for medical professionals – doctors and dentists – to only have duties with no rights. The reestablishment of private medical practices in Bulgaria brought back the essential professional rights for all medical professionals. The essential right of the profession and its members is the freedom to take professional decisions, independently from political or any other authorities based on power rather than on competence [4].

In the Enabling Act for the World Health Organization from 1948⁷ is written that “Using the highest

possible standard of health is one of the basic rights for any human being regardless of race, religion, political views, economic or social background”. The rights of the patient are based on the basic human right of living, non-application of violence or torture and non-violation of the physical and psychical wholeness of the human being⁸. This fact links with the recognition of social and economic rights of society as well as its duties of assuring of an adequate environment for professional activity [26].

3. Moral and Legal Aspects of Professional Responsibility

Responsibility ethics could be called a social phenomenon. The responsibility of the individual could and should not be juxtaposed to the ethical responsibility of society. Responsible behavior should be based on a mixture of moral and legal rights and duties in accordance with the already assumed personal, professional and social obligations. Professional responsibility means upholding the contract between the dentist and the patient in the course of the medical treatment. That also includes economic responsibility for the fair and adequate expense management for the patient's treatment. Deontological requirements for the medical professional have been defined ever since Hypocrites (IV c.b.C.) Those are in the bases of the declaration of Geneva and the International Code for Medical ethics from London. Resulting from the above distribution of rights and responsibility the deontological requirements for dental professions are influenced by the patient autonomy. Thus the responsibility of decision making is shared between dentist and patient. The “partners” model in doctor/patient relationship is now the regulatory frame of the law [23, 27].

4. Professional prerequisites - development of dentistry as a profession

The concept of profession is deeply rooted in the notion of making a promise to society and to individual members thereof (19). Professional ethics is not a simple system of ideal social interaction neither it is a special area of social life. It is rather an essential element of the social group identity. Thus the unconditional acceptance of professional ethics as social group criteria unifies all the different professions in the same social stratum. This mechanism is an important prerequisite for a sustainable social development. Professional ethics has its own very specific elements which stems from the specific appearance of the given professions. A specific manifestation of professional ethics in any profession would be the Code of Professional Conduct [10, 11, 12].

⁷ After World War II, the public sector in most developed countries deals with organizing and financing the health care.

⁸ The patient's rights are fully formulated in the Declaration of Lisbon from 1981.

5. Core content of the Ethical Professional Conduct. Ethical system of Dentists

The directives for improving the professional regulations in the conditions of self-management and in the framework of a democratic society follow a hierarchy of the above mentioned prerequisites – professional moral norms, professional legal guidelines, specific relations due to a given work, tradition or social background. The professional moral is a role model that sets the norms for a given profession. In general there are two main regulatory documents relevant to it.

Professional Moral in regulatory documents:

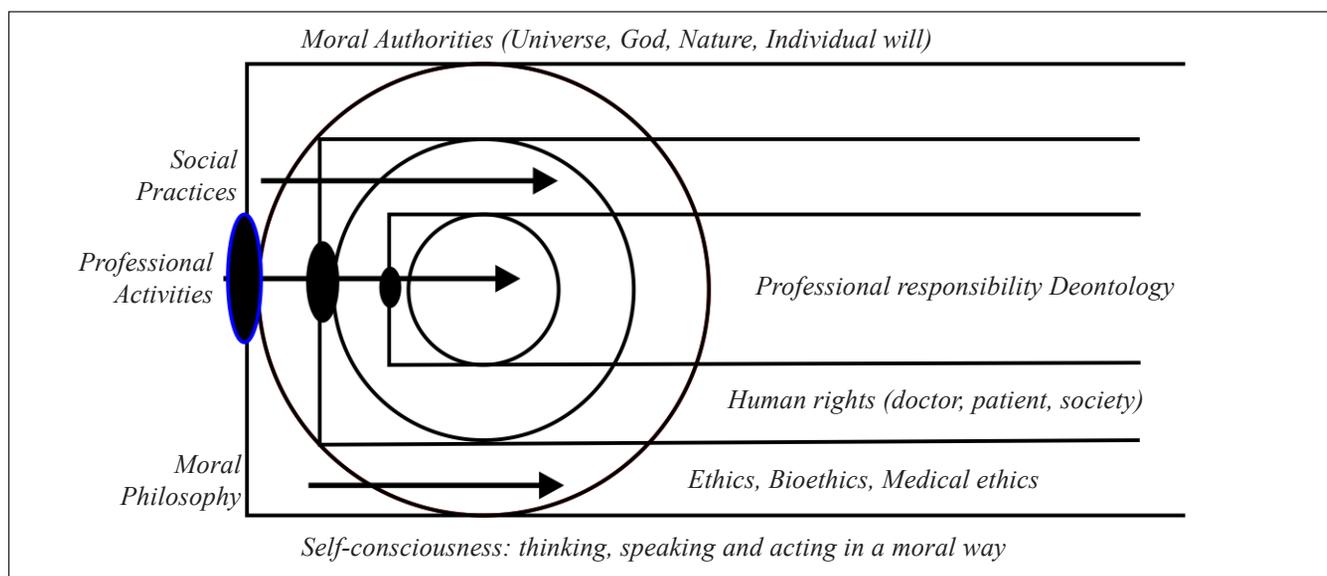
1. Code of Professional Ethics: To regulate the relations inside the professional community and in between the people of that profession as well as the institutions outside of it.

2. Rules for Good Practice: To formulate the professional standards such as quality, skills, habits, approaches in the professional community.

Regarding the specific profession, professional ethics such as an adequate formulation of professional moral norms, has integrating, harmonizing, and protective functions. Such a Code reflects the values shared by participants in the professional group, consent on the rules stated and regulations for controlling the following of rules. This document is a collective work of the dental community but is focused on the individual dentist. It is a part of the complex ethical system of practicing doctor of dental medicine [3] (Fig.1).

We can see that the act of healing and the interrelationship with patient being the focus of professional activity is subject of moral and professional control (central axis), but this is much more complex than a concrete practical application of scientific knowledge or skills. It represents the result of the whole personal and social experience of the dental practitioners. Their integral moral, professional and social identity is strongly shaped by the beliefs, moral authorities, and social practices from the cultural, family, and social environment

Fig.1. System of ethical decision making and professional activity of the Doctor of Dental Medicine



In the globalizing reality numberless combinations of individual values, social virtues and previous experiences both in doctors and patients' communities will challenge their professional conduct and trust. This should support once again the need for basic ethical education for professionals [10].

5. Need for ethical education:

Ethical principles such as respect for persons, informed consent and confidentiality are basic to the dentist-patient relationship. However, the application of these principles in specific situations is often problematic, since dentists, patients, their family members and other oral health

personnel may disagree about what is the right way to act in a situation. Moreover, developments in dental science and technology and changes in societal relations and structures are constantly posing new ethical challenges. The study of ethics prepares dental students and practicing dentists to recognize and deal with such issues in a rational and principled manner, whether in their interactions with patients, society or their colleagues and in the conduct of dental research [28, 31, 32, 33, 34].

According to the major competence "ethics and jurisprudence" the graduating dentist must have knowledge and understanding of the moral and ethical responsibilities involved in the provision of care to individual patients and

to populations, and have knowledge of current laws applicable to the practice of dentistry. In particular, the graduating dentist must:

Have knowledge of the ethical principles relevant to dentistry and be competent at practicing with personal and professional integrity, honesty and trustworthiness;

Be competent at providing humane and compassionate care to all patients;

Have knowledge and understanding of patients' rights, particularly with regard to confidentiality and informed consent, and of patients' obligations;

Have knowledge and awareness that dentists should strive to provide the highest possible quality of patient care at all times;

Be competent at selecting and prioritizing treatment options that are sensitive to each patient [29].

In addition we would suggest the systematic

discussion of relevant issues in their complexity as shown in fig 1.

CONCLUSIONS:

1. Ethics and professionalism are in interdependence in the democratic society.

2. Autonomy, or self-determination, as the core value of dentistry has been reestablished along the reestablishment of democracy in the society.

3. In the value system traditional and contemporary virtues form a complex mixture.

4. There is a need for integrity and consensus on formulating the rules of professionalism.

5. Professionalism must be taught and appropriate courses should be part of the dental curriculum and continuing education courses.

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