

Ethics in psychiatric practice

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Summary

Considering the exercise of Psychiatry there are three different levels-criteria of ethical commitment.

- a) Legal rules that determine the minimum required from a professional to do or to abstain from doing in order to avoid adverse legal consequences.
- b) Scientific knowledge and standards deriving from such knowledge that should guide psychiatric practice.
- c) Ethical values that guide the therapist to choose what to do within the limits of legal regulation.

The legal rules are mainly contained in the Codes of Civil Law, Criminal Law and Medical Ethics. The scientifically accepted way of exercising psychological and psychiatric practice are included in widely accepted by the scientific community, textbooks, manuals, guidelines. The deviation from such standards is acceptable only if the therapist can justify it convincingly. Moral values within the limits of law are a matter of subjective choice. Yet, there are common ethical principles such as: maximizing beneficence, avoiding maleficence, respecting of the patient's autonomy, fairness.

The most common ethical problems arising in psychiatric practice are related with a) decisions considering treatment, particularly with regard to involuntary hospitalization b) the patient's right to receive information, give an informed consent considering his treatment, and being respected as an autonomous personality. c) issues of secrecy and medical confidentiality, d) the therapeutic relationship between the therapist and the patient, especially with respect to incidents of financial exploitation or sexual abuse, e) transactions of psychiatrists with other involved parts, e.g. pharmaceutical companies, f) standards of professional competence. At times, ethical dilemmas are created (e.g. conflicts

between values or between values and interests). Some of these dilemmas are associated with cultural and ethical particularities or differences between the therapist and his client. A satisfactory solution of such dilemmas may require on the part of the therapist integrity, increased self awareness, knowledge of ethical rules, scientific competence, zero tolerance to discrimination, transcultural and empathetic sensitivity.

Key words: Ethics in psychiatric practice, confidentiality, involuntary hospitalization, informed consent, asymmetrical relationships, autonomy of the patient

Introduction

Considering the exercise of Psychiatry by mental health professionals (such as psychiatrists, psychologists, social workers, nurses) one can distinguish levels of ethical commitments.

A) In every country there is a grid of legal rules, that is rules with which compliance is mandatory. The violation of these rules may cause several adverse consequences for offenders: 1) amends to people who suffered any damage as a result of an illegal act 2) disciplinary sanctions 3) penal sentences. Many of the rules that are in force in Greece and concern directly or indirectly the provision of mental health services are contained in codes such as the Civil Code, the Criminal Code, the Public Employees Code, the Code of Medical Ethics.

B) The ethical beliefs and values that the mental health professional embraces. Abiding to these values is a matter of subjective choice, provided that one acts within the limits of laws. Non-compliance with ethical values while not implying legal sanctions may produce social criticism and cause self-blame.

C.) The social attitudes, harms and habits, i.e. social or community patterns and standards of relations between people, or acceptable ways of expressing one's emotion and dealing problems, particularly in the field of mental health. When ever there is a difference

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between legal rules and social attitudes or habits, law prevails. However the legal rules sometimes refer to social harms, e.g. to professional habits in order to determine roughly the legitimate ways of fulfilling a legal obligation.

D.) International treaties and declarations signed by Greece, as the UN Declaration of 1991, or the Declaration of Madrid (1996), which are concerned with the protection of the rights of persons with mental disorders and with the improvement of the mental health care. The general principles governing the provision of health services in most countries of the world, is another source of ethical commitment. These principles, in modern developed societies express the vision of Hippocratic Medicine and could be summarized in the following obligations of health care providers [1]:

1) Autonomy: Respect to the freedom to the personality and self-determination of the receiver of health services.

2) Beneficence: Services should aim at the benefit (e.g. the most effective treatment) of the patient.

3) Nonmaleficence : Abstaining from causing harm to the patient.

4) Fairness. Nowadays, this principle is expressed mainly by zero tolerance to any discrimination (e.g. racial, cultural, ideological grounds) in the provision of health services [2].

E.)Scientific knowledge, standards and guidelines based on such knowledge. This criterion is often associated with incidents of malpractice due to negligence. One of the most common conditions that can lead to attributions of negligence against a professional is his deficiency in knowledge, skills, diligence (in comparison to a usual professional of the same education, credentials and experiences), if such deficiency has caused damage to a client [3].

Several times, the mental health professional during the exercise of activities, faces ethical dilemmas. These are situations not thoroughly regulated by legal or scientific standards. The therapist must choose between solutions each of which has both positive and negative, desirable and undesirable effects, so that the choice creates inner conflict and turmoil. Every case that may cause dilemmas has its own specific features, but there are some general guidelines that help the therapist to face a dilemmatic situation [4]:

a) Gather more Information about the case. This information may regard facts (e.g. clinical history, family or

social relationships) scientific knowledge (e.g. epidemiological data about the chances of an outcome or about treatment options of a disorder), environmental factors (e.g. community available support systems).

b) Determination of the crucial dimensions of the problem. What rights, interests or values are at stake? Which of them are the more important?

c) Collection of information on the legal dimensions of the problem (e.g. by asking advice from a legal expert). As already mentioned, legal regulations and the ensuing obligations prevail the subjective values or social habits. Sometimes, the mental health professional perceives a situation as dilemmatic because he is not sufficiently aware either of his legal obligation or (and) of his rights.

d) Asking supervision by a colleague. It is well documented that the directly involved in an issue, as much as experienced as he may be, might lose his objectivity. His judgment may be influenced by various, sometimes unconscious factors. He becomes emotionally involved. He may overlook important dimensions of a problem, and ignore facts. The mature therapist accepts the possibility of being mistaken and willingly asks for help, advice or guidance.

e) Examining one by one the available options, and the courses of action that need to be taken. Recording the probable positive and negative consequences of each act and their probabilities. Trying to create new options by combining older ones.

f) Monitoring the outcomes, rethinking and the reevaluating the problem after the taken decision, in parallel with acting for its solution.

In the following paragraphs some cases posing ethical or legal problems, are briefly presented and discussed

Confidentiality

Patient A. in a treatment session confesses to his therapist that (three different case-scenarios):

i.He plans to kill another person.

ii.Years ago, he has committed a serious crime, he has never been caught, another innocent person has been condemned for it, and this person is actually serving an imprisonment sentence.

iii. He has made preparations to commit suicide.

The law protects the confidentiality of the therapist-patient relationship. Whatever a therapist comes to know, within the framework of such a relationship, is

protected by the principle of confidentiality and he has the legal obligation to not disclose it. Nevertheless the Criminal Code expressly stresses an exception: in the case of an imminent commission of a felony, which cannot be prevented otherwise, the therapist has not only the right but also the duty to bypass confidentiality in order to prevent the crime. Thus, in the first case-scenario, if the danger is imminent and the best way to prevent it, is the violation of confidentiality, he must act accordingly. Besides, one should take into account that preventing a murder is beneficial not only for the victim but also for the murderer-to-be.

Regarding the second case-scenario there does not exist any obligation of violating the confidentiality. However, many therapists will find it morally intolerable to destroy an innocent's life in order to protect the confidentiality of a therapeutic relationship. In front of this dilemma, whoever chooses not to disclose the crime his client committed, is protected by law. On the other hand the therapist who chooses to reveal it, is also protected because the Penal Code provides that the obligation of secrecy is lifted, whenever the disclosure aims at preserving essential rights of a third person.

As far as the case-scenario is concerned, the obligation of confidentiality conflicts with the therapist's obligation to protect the health (in this case the life) of the patient. If the therapist can justify that disclosing the patient's intent was essential for ensuring the patient's life he can act accordingly. On the other hand, he may be accused for negligence if the patient eventually commits suicide, the risk has been evident, and the therapist did not take the appropriate measures to prevent it [5,6].

Dangerousness -involuntary hospitalization

A psychiatrist is ordered to make an expertise to determine whether the examinee A. : a) has a mental disorder, b) is dangerous c) should be involuntarily hospitalized. The examiner (two case-scenarios):

- i. Hesitates to pronounce an opinion. A. manifests a paranoid readiness and he demonstrated on several occasions violent behavior, but he does not present overt psychotic symptoms.
- ii. He diagnoses that there is a serious mental disorder requiring intensive treatment and decides for an immediate involuntary hospitalization of the examinee.

The current law considering involuntary hospital-

ization mainly requires from the examiner to evidence whether: 1) there is a mental disorder 2)involuntary treatment is necessary in order either to avoid a worsening of the patient's mental disorder or to prevent acts of violence by the interviewee against himself or others. If the expertise finds at that first and in addition the second or the third conditions are the case he must propose involuntary hospitalization, otherwise he must decide against it. Whatever his decision may be, he is liable to be sued for malpractice, so he should be able to prove that considering the execution of the expertise he worked with due diligence and followed the rules of psychiatric science.

Under the current law involuntary hospitalization requires in addition to the psychiatric expertise a court judgment and decision. The psychiatrist who decides to impose involuntary hospitalization before the issuing of such a decision, he must be able to demonstrate that the case was most urgent, i.e. that the hospitalization was necessary in order to prevent an immediate, serious danger which otherwise could not be avoided [7].

Informed consent

The examiner finds out that the interviewee presents a progressive dementia at relevantly early stages of the disease. He faces the dilemma whether to inform the examinee for the diagnosis and the prognosis.

A psychotherapist informs his client that he presents depression and suggests an intensive psychotherapy with three sessions per week. The therapist omits to inform him that there are also other treatment options. The Code of Medical Ethics requires from the health professional to give to his patient full information about the state of his health, its prospect and the treatment options. Furthermore the professional should respect the choice of a patient not to be informed. Dilemmas arise when there is not such a declaration of the patient's volition and the therapist believes that the information would cause harm to the patient. The law protects the therapist who decides not to give the potentially harmful information. The unlawful character of an act is omitted if this act or omission constitutes a legal duty. Undoubtedly the obligation of not harming is a primary duty of the therapist. Nevertheless, the therapist should give the fullest possible information which is not expected to substantially harm the patient. In addition, he has to provide full information to close rel-

atives.

The examiner must present to the interviewee all the treatment options that are available and the advantages and disadvantages of each of them. Therefore, the professional who omits information on such options, especially if there is evidence that concealment is related to the financial or other profits, can be accused of malicious execution of his obligations ensuing from the therapeutic contact with his client [8].

Asymmetrical Relationships

A therapist enters a love affair with a close relative of his patients who contacts him in order to receive information on the patient's history.

The therapist asks his patient for a professional service which latter offers unprofitable.

The penal law prohibits directly sexual relations between people who work in the health sector and receivers of health services. Furthermore, the Greek Code of Medical Ethics disapproves the creation of inappropriate personal relationships with clients or their relatives. The term «inappropriate personal relationships» is not clearly defined. In order to determine whether a particular relationship belongs to this category, one should take into consideration the existing social mores and customs and the specific circumstances as well. However, in most developed countries the rules on this issue are quite strict [9]. The aim is to protect the weaker partner in a contract (in this case, the receiver of medical or psychiatric services) against the risk of exploitation of his dependence needs or of fears that are inherent to his condition. The above regard not only sexual but also vocational and economic relationships and extend to a degree to relationships within the staff of the providers of health service, e.g. supervisors and supervised [10].

Generally, considering the issue of personal relationships the following view has been supported: As far as such relations are concerned there are some widely acceptable limits of allowable actions and one should distinguish between crossing and violating limits [11]. Sometimes, the crossing may be acceptable or even useful for the therapeutic relationship (e.g. revelations of the therapist about himself, his life or his problems, jokes, physical contact, offer and acceptance of gifts of small value). But the frequent crossings of the limits can erode the therapeutic relationship and lead to vio-

lations, such as economic exploitation, physical contacts beyond the physical intimacy, pressure for sexual relations and threat for abandonment [12].

Respect of the personality of the patient and his autonomy

A therapist comments disparagingly or ridiculous the religious or ideological beliefs, the racial origin, the preferences or habits of the patient.

The therapist tries to impose to the patient his moral or ideological values (e.g. on issues relating to marriage, divorce, abortion), propagandizes (in favor of an ideology, or party, or religious or other organization) presses the client to vote for a candidate in the elections.

The therapist, using various methods of psychological influence, attempts (sometimes unconsciously) to manipulate his patient. For example he bursts into fits of anger (which generate fear), threatens to end the therapeutic relationship, neglects his commitments (postpones planned meetings, he is systematically in delay), imposes various psychological punishments on the patient [13,14].

The Civil Code requires from each participating in a contract (and therefore from those participating in a therapeutic relationship) to fulfill the obligations with candor, honesty and in accordance to the relevant social and professional standards (which, as noted often serve as a crude measure for determining the boundary between acceptable and unacceptable behaviors. In these cases-scenarios, the behavior of the therapist may raise demands for amends causing moral or material damage. Additionally, such behavior may lead to disciplinary and criminal sanctions (e.g. for non acting in accordance to one's duties).

Other inappropriate actions

A therapist advertises himself (on billboards, individual cards referring to specializations or skills for which he has not got certification).

A mental health professional participates in a show and exposes his views on the psychological or the psychopathological characteristics of an individual or on the psychological causes of his behavior.

A psychiatrist takes money, expensive gifts or other profits from a pharmaceutical company. He defends

himself by arguing that these benefits do not influence the exercising of his medical profession.

In Greece, in comparison with what is the case in most developed countries [15], there is a relative laxity and tolerance for situations that might constitute activities incompatible with the role of the mental health professional. For many subspecialties, particularly in the area of psychotherapies, they have not been clearly defined conditions for obtaining the relevant to them credentials. This ambiguity creates opportunities for misinforming and misleading the customers of psychological or psychiatric services. Medical or other relevant professional associations rarely sanction members that grossly violate the rules of dignified execution of their duties. The medical code prohibits the physician from

serving or depending or participating in pharmaceutical companies. This stipulation is rather weak since it does not include any transactions other than those intended to scientific information provided that they are accomplished in a transparent and auditable way [16].

The above are some of the issues that pose ethical problems and dilemmas relevant to these issues. In Greece, despite the undeniable progress, particularly during the last few years, there are several things to be done first in completing and strengthen the legal framework, second but not least in increasing awareness and sensitivity of mental health professionals and of the public as well on ethical issues relative to the provision of mental health services [17].

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