Ethical basis for charging medical fees

Lopa Mehta

This essay will discuss the ethics of medical fees charged by doctors in their individual capacities, for services rendered to patients. There is no rational basis for current practices in fee charging. There are no laws or norms in this regard. Also, what is and is not ethical varies with circumstances, from person to person and place to place. Still, we will attempt to identify and elaborate the areas which can be definitely called unethical – the avoidance of which is the first step towards ethicality – and evolve basic principles to guide fee structuring.

In our society, professionals are more respected than are manual labourers. This is partly because of the rewards professionals are paid for their work, which in turn produces a gap in the income between the two groups.

Both the physician and society as a whole are responsible for this scenario. Society believes that the more a doctor charges, the more competent s/he must be, and the better the associated services. Society is also result-oriented: health is seen as a commodity that a doctor can easily provide. Spending money for relatives is equivalent to caring for one's near and dear and fulfilling one's obligations to them.

The doctor also sends the message that s/he alone can provide good health. This is not a recent phenomenon. Centuries ago, Archimatheus spelled out the physician's code of conduct: "Even if no medicine is necessary he should prescribe some harmless concoction, lest the patient think the treatment not worth the fee, and lest nature should seem to have healed the patient without the physician's aid."

The kickback and under-the-table fees

A pervasive unethical practice is the kickback or cut practice. The kickback is ultimately recovered from the patient and hence forms a component of the medical fee. The kickback givers are consultants, pathologists, radiologists and those who run laboratories and small nursing homes. General practitioners top the list of recipients. Others both give and receive. A cardiologist pays to a general physician for referring a patient for a 'plasty' and the cardiologist takes from the cardiac surgeon, the last in the chain. No wonder the surgeon's charges tend to be exorbitant.

This brings us to the next unethical part of charging fees: under-the-table, unaccounted for money, beyond the hospital's official tarriff. This can never be justified. Instances are even reported of families being held to ransom half-way through an operation.

Both the cut practice and under-the-table charges represent avarice and extortion. The recipient of a cut wants to earn without labouring. Charging under the table is also misuse of one's technical and knowledge know-how to earn by exploitation.

Other frauds

There are doctors who charge fees without issuing receipts. This form of cheating generates unaccounted-for or black money. However, doctors alone are not to be blamed here. Patients often force doctors to take cash without a receipt if they want to pay with unaccounted-for cash.

The availability of insurance has given rise to other unethical practices. When an insurance company or an employer will reimburse expenses, patients and doctors sometimes conspire to inflate receipts, and share the excess amount If there is a ceiling on reimbursement, a request is made for the bill to be split, and made for two different dates. Sometimes the doctor is even asked to replace the patient's name with that of the working next of kin who is entitled to get the amount reimbursed.

Such practices naturally have contributed to many unhealthy trends in society. Some doctors use their black money to speculate in real estate.

Unethical justification for fees

Now let us go over some unethical means for justifying the charging of the fees.

- A general practitioner buys pills at the wholesale rate, but dispenses them at much higher prices, in addition to his consultation fees.
- A family physician accompanying a patient to a consultant charges for the visit – and also anticipates a kickback from the consultant.
- General practitioners running nursing homes can be tempted to advise unnecessary admissions, and prescribe unnecessary treatments.
- Surgeons perform sham operations - this is more common when patients' paying capacity is very high.
- Unnecessary investigations only help to swell the doctor's coffers. Physicians prescribe ECGs, stress tests, 'plasties', 'scopies' or laboratory or radiological investigations, depending on the speciality involved. The doctors benefit directly or indirectly through kickbacks.
- Unnecessary follow-ups also represent misconduct. Charges are heavy for a "Ct all" follow-up. Calling a patient for a check-up when it is not required, is unjustifiable, and exploiting the patient. Only those situations in which active evaluation and management decisions are to be taken call for follow-up charges.
- Owners of small nursing homes exploit with the Intensive Care Unit. The essence of an intensive care unit is skilled manpower. Private 'ICUs' charge high rates for their services, though they often have only a junior doctor on call.
- We are not entering the arena of corruption in medical practice introduced by pharmaceutical companies. Their free holidays with airfare, cocktail dinners and other hospitality are an insidious way of charging patients by doctors through pharmaceutical companies. All the

Dr Lopa Mehta, *department of anatomy, Seth G.S. Medical College, Parel, Mumbai 400012.*

expenses incurred by pharmaceutical companies are finally borne by patients.

Another area of malpractice is advertising by doctors — whether soliciting work or taking advantage of public and private hospital attachments. These too are unethical means of charging patients. Of course, controlling bodies have neither the power nor the inclination to regulate such practices. Practitioners of alternative systems of medicine openly advertise tall claims of cures for every illness, but no governing body seems to be bothered about this.

Basis of material returns

What is the doctor's financial and intellectual in-put, on which basis s/he expects material returns? We live in a materialistic world. This culture of consumption breeds avarice and corruption. As our population goes up, so does the number of takers for the same small pie.

Medical practitioners go through many difficulties before establishing their practices. Private medical colleges, capitation fees, bank guarantees and increased tuition fees have sent other costs spiralling. Time and money is invested amidst stiff competition. Once a doctor qualifies, s/he must bear the high costs of setting up a practice, space, equipment and running an establishment. This means borrowing, which in turn means repayment with interest – a vicious cycle.

Besides, people's expectations have gone up. The executive culture has arrived. Credit cards have become status symbols. Simple meals at home are not enough. Fancy restaurants and extravagant entertainment are seen as not just desirable but necessary. At the same time, old-fashioned ideals of integrity have been abandoned for the easy way to wealth without considering the means.

If these pressures were not enough, the doctor must also worry about the fact that medical services are now covered by the Consumer Protection Act.

We should look for the day when medical practice will not be seen as a way for the brilliant to make a prosperous career, but as a vocation for those who have an inner urge to serve mankind. Doctors would be sanyasis, not competitors in society.

Till this dream comes true, the State cannot take full responsibility for medical care. It should continue to provide for the poor and for emergency care. The private practitioner should remember that the doctor's role surpasses even that of a priest. Doctors are not purveyors of health but caretakers of sick bodies, and therefore of sick souls as well.

If a code for charging fees could be established 4,000 years ago, we could evolve one for our time, striking a balance between "swartha" and "parmartha".

The code of Hammurabi prescribed 4,000 years ago was as follows:

If a doctor has treated a gentleman for a severe wound with a bronze lancet and has cured the man, or has opened an abscess of the eye for a gentleman with a bronze lancet and has cured the eye of the gentleman, he shall take ten shekels of silver.

If the patient be the son of a poor man, he shall take five shekels of silver to the doctor.

If he be a gentleman's servant, the master of the servant shall give two shekels of silver to the doctor.

If a doctor has cured the shattered limb of a gentleman or has cured the diseased bowel, the patient shall give five shekels of silver to the doctor.

If he be the son of a poor man he shall give three shekels of silver.

If a gentleman's servant, the master of the slave shall give two shekels of silver to the doctor.

Some principles emerge from this code:

- The fee will vary with the type of illness. For curable and accidental illnesses, the charges are high. They are less for life threatening conditions.
- The fee depends on the patient's paying capacity.
- For an employee dependent on the employer, the treatment's cost is borne by the employer.
- Charges cannot vary grossly from doctor to doctor for the same service, in the same area.

In today's times, the following factors could be considered towards computing charges:

- Seniority, competence, experience, qualifications and the difficulty involved in the service
- Equipment and establishment running cost
- Time involved
- Locality where the practice is carried out
- Cost of living.

In other words doctors' fees should allow a doctor to live decently (fulfilling needs, not 'wants') and enjoy a certain social standing; to recover the cost of running the establishment, and to keep up-to-date so as not to depend on the pharmaceutical industry for continuing education.

At the individual level, doctors must balance their personal requirements with their patients' needs. A "subhashita" in Sanskrit advises a sanyasi against eating at a doctor's house because he has earned from another's suffering. Let us pray that if the doctor charges fairly, he will not be considered a physician who has unfairly exploited his skill and knowledge to earn money.

Law is not a solution to this problem. Only self-imposed discipline can ensure a healthy service to the sick patient, without kickbacks or other unlawful charges.

Capital punishment: the big question

Can a doctor be ethically involved in capital punishment? In response to this frequently-asked question, perhaps what is needed is not so much a discussion on medical ethics as one on capital punishment itself.

It doesn't take much to realise that capital punishment does not serve any of its avowed purposes. All it does is spend a lot of money to kill a few people arbitrarily and satisfy some perceived need for blood revenge--while people with the money and the connections get away free. Maybe we should be more worried about whether the medical profession is doing its job providing health care.