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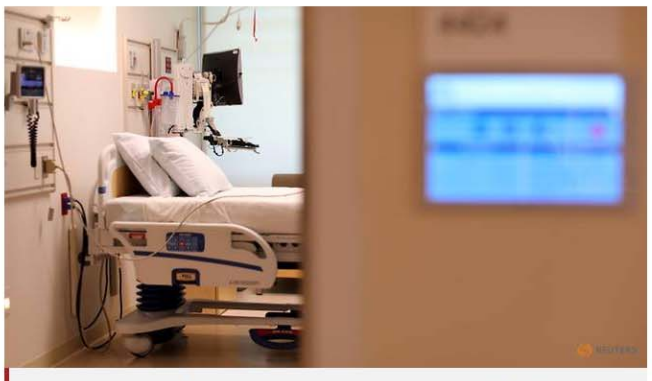
★ Commentary | Singapore

# Commentary: How should we regulate doctors and protect patients in a complex world?

A slew of cases involving complaints against doctors has been brought to the Singapore Medical Council recently. Kumaralingam Amirthalingam discusses the challenges of regulating healthcare services in a complex world.



An electronic patient chart is shown on the wall to a hospital room. (Photo: REUTERS/Mike Blake)

SINGAPORE: 2017 has placed doctors in Singapore under the microscope. New Year's Day marked the coming into force of the Singapore Medical Council's revised Ethical Code and Ethical Guidelines, raising the bar on the ethical obligations of doctors.

Parliament is debating new legislation to regulate healthcare. The Singapore Court of Appeal delivered two landmark decisions, one of which rejected the traditional physician-centric test for medical negligence (the Bolam test), replacing it with a patient-centric test to determine what information and advice should be given to patients.

Beyond civil litigation, there have also been several high-profile disciplinary actions against doctors for overcharging or failing to meet professional standards in rendering services.

With more complaints and seemingly greater regulation, doctors are feeling the heat.

Doctors are expected to exercise good clinical judgment to manage patients accordingly, said Senior Minister of State for Health Lam Pin Min in Parliament on Aug 1, in response to questions about the Health Ministry's regulation of doctors. (Photo: AFP)

Everybody is trying to regulate the healthcare profession: Parliament, the Court and the Singapore Medical Council (SMC). Add to that the cacophony from the media, lawyers, insurers and academics, and it is no surprise that 2017 looks rough for the healthcare professional.

There have been calls for more regulation of healthcare services, better access to affordable healthcare, more protection for patient safety and more investigation of healthcare practitioners.

**THREE SHIFTS IN HEALTHCARE IN SINGAPORE**

It may be more therapeutic to take a step back and focus on a bigger question: What is driving the current dynamics in the legal, ethical and regulatory responses concerning healthcare professionals in Singapore?

To answer that, we need to understand that healthcare in Singapore, to paraphrase Thomas Friedman, is going through a "climate change." Friedman, in a recent New York Times article on US politics, made an observation that is pertinent to healthcare in Singapore, observing:

> *"We are in the middle of not one but three climate changes ... We are in the middle of a change in the climate of the climate."*

So, what are the three climate changes in the healthcare environment?

The first climate change is in the ethos and culture of the medical profession. In the western Hippocratic tradition, there is a sacred bond between doctor and patient - the paradigm is a bilateral relationship. The doctor's highest duty is to the patient, not to the community, the Government or the CEO of the hospital.

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Yet, today, the paradigm is corporate medicine – with managed care, structured hospitals, regulatory oversight and competition, domestically and internationally in the lucrative health tourism market.

The doctor, as an individual, is held to ethical standards from 2,500 years ago, while the world around has changed fundamentally.

Medicine to the doctor is a calling, yet medicine to the healthcare industry is a business.


A doctor anaesthetises a patient before the start of surgery. (Photo: REUTERS/Suhaib)

**FOCUS ON PATIENT AUTONOMY**

The second climate change is the shift from medical paternalism to patient autonomy.

It is unfortunate that the general discourse has been framed as a tension between medical paternalism (doctor knows best) and patient autonomy (individual rights). This misplaced tension has fostered antagonism and suspicion instead of mutual collaboration and trust.

Recall for a moment the four pillars of medical ethics: Autonomy, non-malfeasance, beneficence and justice. The first respects the patient's right to self-determination, the second requires the doctor to do no harm, the third requires the doctor to benefit the patient, and the fourth requires all patients to have equal access to healthcare.

Medical paternalism results from viewing the principle of beneficence from the doctor's perspective. Viewed from the patient's perspective, the principle of beneficence is harmonious with the principle of autonomy.


File photo: A nurse tends to a patient at a hospital in Singapore.

Take, for example, a singer suffering life threatening throat cancer who is advised by a surgeon to undergo surgery.

The surgeon does not inform the patient of a 1 per cent risk that she might lose her voice as a result of the surgery. In the doctor's opinion, the patient's life is more important than her voice.

But, for the patient, singing is her life, and she would have wanted to know of the risk, and may well have preferred to live with the cancer as long as she could continue singing. That was the benefit that the patient wanted from the surgeon, and which the principle of beneficence protects.

So, this second climate shift is actually a restoration of the harmony between beneficence and autonomy.


Patients waiting to see the doctor at a clinic in Singapore. (File photo: TODAY)

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**RAISED EXPECTATIONS**

The third climate change is brought about by disruptive progress. Humankind has always been progressing, discovering new knowledge, technologies and resources. We are at a period of human history where the pace of progress is destroying conventional industries, practices and assumptions.

In the field of medicine, with the internet, patients have as much information as doctors but not the training to understand the information, thus creating a mismatch of expectations. As medical knowledge, technology and resources grow exponentially, patients' expectations are raised, sometimes to unrealistic levels.

When things go wrong, litigation in court is commenced or complaints to the SMC are made, putting doctors on the defensive. As a Malaysian court once noted:

> *"A doctor would be forever looking over his shoulders to see if someone was coming up with a dagger; for an action for negligence against a doctor was like a dagger."*

**REGULATING FAIRLY**

So how does one regulate fairly, ensuring the interests of patients, doctors, public and corporate medicine are protected? It is not easy.

It is vital that knee-jerk reactions to exceptional cases are avoided. Equally, it is crucial to have a full and thorough understanding of the facts and contexts of particular cases for public debate. Here, the media has a crucial role to play.

Finally, it is important to distinguish between regulating the healthcare industry, disciplining individual practitioners for professional misconduct, and compensating victims of medical mishaps.


A doctor performing a surgery. (File photo: AFP)

There is sometimes a blurring between the SMC complaint process, whose focus should be on the professional wrongdoing of individual practitioners, and civil litigation, whose focus should be on the compensatory needs of patients who are victims of medical mishaps.

The cases carried by the media all draw attention to the individuals, rather than the system.

The assumption is that medical decisions are made by doctors within a bilateral doctor-patient relationship when the reality is that there are institutional and systemic constraints, whether in the public system which is bound by cost, or the private system which is driven by profit.

Just as doctors need to tailor their treatments to meet the particular needs of different patients, so too regulators need to tailor their strategies to address the different aspects of healthcare services in a complex world.

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