

The Hippocratic contract

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Introduction

The Hippocratic Oath was a voluntary statement of the good intent of the medical practitioner. Increasingly the medical profession is being restricted by legislation and contract. It seemed appropriate therefore to formulate an updated version of the Hippocratic Oath in accordance with the spirit of the age.

The Hippocratic contract

1: PARTIES TO AND PURPOSE OF THE CONTRACT

1.1 *Parties to the contract*

The parties to this contract shall be the patient (hereinafter known as the Purchaser) and the doctor (hereinafter known as the Provider).

1.2 *Purpose of the contract*

This contract shall govern the behaviour of the Provider in relation to the Purchaser.

2: GENERAL CONSIDERATIONS

2.1 *Scope of Provider/Purchaser relationship*

2.1.1

The Provider undertakes to care for the health of the Purchaser, to use his/her best endeavours to correct any defects therein and to prevent the development of further harm. When there is a conflict between the interests of the individual Purchaser and the interests of Purchasers in general, the resolution of this shall depend on the circumstances prevailing and the Provider shall be guided by peer review and current accepted ethical practice.

2.1.2

The Provider further undertakes to use his best endeavours to maintain the highest standard of care for the Purchaser, but the latter, as a party to this contract, recognises that such standard of care may be restricted by the extent of funds allocated by

third parties to the Provider for the provision of such care.

2.1.3

The Provider undertakes not to enter into any form of non-professional relationship with the Purchaser.

2.2 *Autonomy and respect of the Purchaser*

2.2.1 *Autonomy of the intact Purchaser*

The Provider shall respect the autonomy of the intact Purchaser, ie the Purchaser's ability to decide his/her own future and live according to his/her own ethical values. In order to assist this function the Provider shall furnish the Purchaser sufficient information relating to his/her condition to enable him/her to function as a self-determining and self-governing individual. The Provider will whenever possible provide and explain diagnoses; list and explain the consequences of and obtain consent for any investigative or therapeutic procedures. The Provider will avoid a directional and/or paternalistic approach, in that recommendations thought to be for the good of the Purchaser will not be made without respecting the right of that individual to make his/her own decisions, though in exceptional circumstances the Provider, in a spirit of compassion, may withhold from the Purchaser information judged to be damaging to the Purchaser's welfare.

2.2.2 *Autonomy of the non-intact Purchaser*

When the Purchaser is not able (for example by reason of mental illness or mental handicap) to exercise his/her full autonomy the Provider shall at all times attempt to work for the benefit of the Purchaser in a spirit of compassion and fairness. In such circumstances a paternalistic or directive approach may be unavoidable, but in such situations this will be carried out with proper consultation with peers, ethical committees and relatives with a proper interest in the Purchaser's welfare.

2.3 *Consent*

Because the autonomy of the Purchaser implies that she/he has the right to self-determination the Provider undertakes to obtain consent from the intact Purchaser before undertaking any procedure

Key words

Hippocratic oath; contract; purchaser; provider.

which without such consent those bodies indicated in 2.2.2 above would consider the Provider did not have the right to perform. The type of consent shall be governed by the nature of the procedure to be undertaken and the circumstances under which the procedure is to be performed. For example, consent shall be implied for procedures generally considered as not harmful by the act of entering into this contract. Venepuncture would be an example of such a procedure. Written consent shall be obtained for any procedures requiring a general anaesthetic, or when there is a perceived possibility of harm. The Provider shall wherever possible ensure that the consent shall be informed, with an explanation in non-technical language of the nature, purpose and risks of the proposed procedure. The Purchaser must be intact; in other words he/she must be capable of understanding the explanation given. If this is not the case then informed consent cannot be assumed and resort shall be made to policy as outlined in 2.2.2 above. Consent must be given freely, ie there shall be no coercion in obtaining such consent.

2.4 Confidentiality

The Provider undertakes that information elicited from the Purchaser in the privileged circumstances of a professional relationship shall be confidential. There shall be an exception to this undertaking when information has to be released to fulfil a statutory obligation, for example, if the Purchaser is suffering from any notifiable illness. In addition, should the Provider feel that despite there being no statutory obligation for disclosure, a breach of confidentiality is warranted for the general good, advice shall be sought from appropriate external bodies such as experienced colleagues, a medical defence organisation or the General Medical Council, and the Provider reserves the right to act in accordance with the advice received. The Purchaser must also recognise that during the exercise of this contract there may be the involvement of other health-care parties whose confidentiality is not covered by this contract.

2.5 Intra-professional communication

2.5.1

The Provider will maintain good communications with his fellow Providers, for the purpose of maintaining the highest levels of clinical service to the Purchaser.

2.5.2

Where breach of confidentiality is not an issue, the Provider may make publicly available information thought to be of actual or potential benefit to the Purchaser or to other potential Purchasers.

2.5.3

Within the provisions of 2.5.2 above, the Provider shall not be debarred from communicating novel information obtained during the course of his professional activities for the purpose of obtaining

patents or other commercial protection thereof and to benefit financially therefrom.

2.6 Realms of competence

The Provider undertakes to dispense his/her services only within his/her own realm of competence. Should the Provider feel that there are others better equipped to assist the Purchaser he undertakes to seek their advice or so to inform the Purchaser.

3 SPECIFIC CONTRACT SITUATIONS

In addition to the generalities of this contract agreed above, the Provider notifies the Purchaser that in the specific situations outlined below, the following conditions will apply.

3.1 Termination of pregnancy

Though the Provider undertakes to maintain and respect the importance of human life from the time of conception until death, he will with the consent of the Purchaser, agree to the abortion of an unborn infant, but only in accordance with the statutory rules currently prevailing. He undertakes in all circumstances to act in the perceived best interests of the mother, whose wishes in the matter (within the statutory limitations imposed) shall be overriding.

3.2 Transplantation

This contract recognises that there may be circumstances where the Provider may wish or may be requested to provide organs from a Purchaser under his care for the purpose of transplantation. Where the Purchaser is capable of giving informed consent (obtained as in paragraph 2.3 above) this shall not be sought in conjunction with any financial inducement to provide such consent. Organs will not be obtained from a Purchaser not capable of informed consent with the exception that organs from a Purchaser considered to have fulfilled the criteria of brain death shall be eligible for transplant use if the Purchaser has, prior to death, provided written confirmation of consent for such use, or in the absence of such confirmation the consent of the next of kin has been obtained. Brain death shall be diagnosed not by the Provider, but by two experienced registered medical practitioners with no beneficial interest in the organ donation.

(This contract additionally contains a series of other undertakings under this heading, the details of which will be made available on specific request!).

In the event of a dispute arising out of this contract both parties undertake to use every endeavour to resolve this in an amicable manner and in the first instance without recourse to non-contractual parties. Should this not bring about resolution of the dispute both Parties undertake to submit this to arbitration. The arbitrating body shall have equal representation from medical and non-medical members who shall be agreed by both parties. Only

if arbitration fails to bring about satisfactory resolution to the dispute will legal redress be sought.

Signed (Purchaser)
Signed (Provider)
Witnessed by
Dated.....of.....19

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News and notes

Ethical Review of Clinical Research

A conference entitled Ethical Review of Clinical Research will be held at Lancaster University from 15–17 September 1993. The conference is the latest in a series run over several years for members of NHS and private research ethics committees, and for others involved in clinical research.

Topics will include: The process of ethical review in the UK; Legal aspects of ethical review; Informed consent and the rights of research subjects, and Future directions of ethical review.

For further information please phone: 0443 690977, ext 242 or fax: 0443 692494.