EDITORIAL VIEW

Vexatious complaints and sham peer review; medicine in the times of capitalism

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SUMMARY

Medical practice has evolved from 'free for all' to 'fee for all' model over the past few decades. With changing times consumerism, capitalism and gluttony became acceptable norms. Doctors adapted in this dystopian new-normal by neglecting allegiance to the Hippocratic Oath of fair practice. Floodgates of previously unimaginable medical fraud and malpractices were let open. The relentless pursuit of profits led to unique new challenges by the corporate medicine. 'Quality' and 'safety of care' became irrelevant for hospital administrators, as the values and guiding principles conflicted from the healthcare professionals. In this hostile work climate, anaesthesia often has to face vexatious complaints and sham peer reviews, from the surgeons as well as the managers. It can be a very dehumanizing and nerve wrecking experience. Patient and physician welfare demands that medical community is mindful of this abuse of system.

Key words: Sham Peer Review; Peer Review; Health Care; Anesthesia; Surgeons; Capitalism

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Capitalism is a religion. Banks are churches. Bankers are priests. Wealth is heaven. Poverty is hell. Rich people are saints. Poor people are sinners. Commodities are blessings. Money is God.

-- Miguel D Lewis

Monetary profit, in a 'fee for service'[1] model, is a motivating factor in rushing for surgical interventions[2,3]. In a free market economy based on capitalist principles, the patient is treated as a customer and a client.[4] Medical regulators cannot be omnipresent. It will take a long time for laws and systems to evolve to the point when unscrupulous medical practice is challenged involuntarily. Until the time it does happen, a second layer of patient protection needs to be present. Anaesthesiologists can play that role naturally. Anaesthesiologists (at least in an ideal world) have a fiduciary duty to ensure patient is not taken advantage of.[5] It is important that the patient exercises his rights as a human being, a citizen and indeed even as a customer at a moment of vulnerability. Ensuring this role, underpins the fundamental tenet of our role both as a clinician and a humane, conscientious doctor bound by Hippocratic oath.[6]

Anaesthesiologists' first and foremost allegiance lies with the patient. We are doctors first, and ensuring patients' safety, interests and wellbeing should precede any of our actions. Our field has travelled a long way from times when anaesthesia provider was a nurse, under instructions of a surgeon. Today, anaesthesiologists are highly trained, and independent perioperative specialists. This fact needs to be reiterated when discussing the complex Rubik of monetary and corporate interests, ill-informed patients, and unrealistic expectations.

Whilst corporate hospitals have played an important positive role in streamlining standardized quality healthcare to the patients, it has proven to be a double-edged sword. Initially looked upon as a western problem, the countries in the developing world have now started witnessing unique new challenges posed by the corporate medicine.[7] Incentivization (of lucrative surgical procedures), unnecessary laboratory tests, futile treatments/ interventions and chasing fiscal targets are the new nemesis in a field that traditionally thrived on humanitarian and charitable principles. Conveyor-belt line-up of patients, cosmetic procedures and elective surgeries based upon personal whims rather than clinical needs pose a set of challenges that was unthinkable earlier.[8,9]

Roles have been altered and moulded into desirable shapes to fit into corporate slots. An important technique

employed by management consultants is labelling specialist doctors as 'service providers'[4,7]. The changed nomenclature is designed to strip the professional of his own autonomy and transform him into a subservient corporate employee[10]. A 'service provider's' allegiance shifts from the patient to the corporate goal. He is given an identity to which he must conform. Once emasculated, he is no longer bound by principles of medical ethics, morality and Hippocratic Oath. He is coaxed into abrogating his responsibility as an independent doctor and turns into a compliant technician. These fears have unfortunately turned out to be true when studies[2,3,4,7] indicated that 'quality' and safety of care' are indeed not present on the top priority lists of hospital administrators (non-medically qualified). The same studies indicated that these two indicators were 'high priority' for doctors. This proves that the distinction between the two groups is because of difference in values and guiding principles.[11,12] All of this becomes relevant because anaesthesiologist is privy to inside information and is duty bound to protect the patient. It is their fiduciary duty to oppose futile treatments where benefits outweigh the risks.[13]

Commercial interests do cloud judgments. Business interests (of doctors) are a real conflict of interest while caring for patients.[2] Increasingly physician and surgeons have been urged to openly disclose their financial interests in prescribing surgeries, medicines and investigations. Anaesthesiologists need to act as second wall while working as whistle blowers and adjudicator to mitigate abuse of trust and egregious transgression of patient doctor relationships.

SHAM PEER REVIEW

How to manage a non-obedient employee...

Clinical peer review,[14,15] is a process where health care professionals evaluate each other's clinical performance and see if an individual's practice adheres to standards of care. Historically, inception of peer review was based on principles of self-regulation and striving for excellence. However, that was then and with the passage of time the process became embellished. Clash of interests and advent of corporate principles possibly led to this way. Sham peer review[16-20] is a process where a genuinely good practice of peer review is cynically abused as a tool to achieve political supremacy. It is one of the tricks that have evolved in the mean, impersonal milieu of financial targets and return on investments. The process is designed to appear seemingly very meticulous, and following due process but in reality there is a predetermined agenda to obey corporate and management designs. Different authors have classed sham peer review as an exercise in bullying and harassment. The goal is to 'beat the animal' into submission. It not only robs the doctor of his livelihood but also jeopardizes his prospects for future employment. It has been described as a premeditated assault on one's reputation and livelihood. This has been documented to cause serious health troubles and even fatalities among doctors who were subjected to the orchestrated disciplinary proceedings.[17,18] The process is a catalyst for 'burn out' and 'clinical depression' quite understandably because the physician faces an existential threat against a well-coached corporate armoury of lawyers, administrators and sycophants.[19] This topic has managed to come in mainstream after being suppressed for fair amount of time. It is increasingly reported and discussed now in literature.

Experiences[16-20] from the west (USA) show that typically sham peer review was instigated against doctors who either could not gel into the crowd e.g. foreign graduates, new entrant physicians, those who do not bring in large business revenues and those in solo practice who were easy to be preyed upon. Surgeons and physicians who were seen as a business threats were typically commonest victims of these sham processes.

Since the laws of economics are universal, it will not be too unrealistic to assume that the same pattern is being practiced in developing countries e.g. India and Pakistan.

CLASH OF VALUES

One of the more plausible theories how medicine turned from a vocation of service and passion of treating poor to a toxic exercise of chasing fiscal targets, zeroes down to advent of capitalism. Goals posts were changed, new rules invented and new identities were formed. Patients became 'clients'[20] and 'any operation, no question asked' became an acceptable norm, because 'customer knows best' and/or 'customer is always right'. Consumerism won. Of note is the fact that executives, who are not medically qualified themselves, often manage today's corporate hospitals. They are not bound by Hippocratic Oath.[3,4,7] which translates that the reference for ethical and moral behaviour is different. The managers are not in a regulated profession category, unaccountable for their actions and immune from any negative implications as long as the balance sheets (or accounts) show a profit. For physicians, raised in an era when capitalism was not rampant, on medical degrees gained from subsidized government colleges and most importantly facing dreary faces of patients—decisions are not so cut and dry.

When surgeries, investigation, procedures and interventions act as the mechanism to achieve monetary targets, ethics becomes a bendable commodity. Business targets for physicians have recently been highlighted

in medical literature.[7,8,21] They are frowned upon with intense suspicion. This becomes even more sceptical when hospitals reap tax benefits claiming non-profit status.[8] It is the this clash of values (humanity versus capitalism) that is perhaps the seed of animosity leading to orchestrated pantomimes called sham peer review.

VEXATIOUS COMPLAINTS

In the pursuit of targets, the surgeons are geared to maximize their turnover. Large patient volumes may bring in large revenues but it brings just as many surgical complications.[22,23] Complications mean poor patient feedback and bad experiences lead to bad 'customer experience'. Then the blame game begins. Anesthesiologists often have to face blame for surgical complications and complaints, which are in fact untrue and mala-fide.

Surgeons as vexatious complainants against anaesthesiologists is a well-known topic within anaesthesia circles. Unfortunately this phenomenon has not been researched. Anaesthesiologists, who refuse to expedite unjustified surgeries, raise patient safety concerns or act as whistle blowers (of hospital's inadequacies) are labelled as troublemakers.[24] The complaint process against them turns into abuse because of a systematic and premeditated agenda. The idea is to stun, silent and eliminate the anaesthesiologist. This is done by excluding him from practice and replacing him with more compliant specialist. Once again experiences from USA have shone light on the 'pathophysiology' of the problem. Dr. Huntoon, an American neurologist with multiple publications on this problem, has discussed how quality issues, patient safety concerns and other well-meaning slogans are abused to silence anyone not towing the party line.

PROPOSALS

First step in addressing this problem should be acknowledgement of the problem. It should not be treated as a taboo or a sensationalist topic. Support of anaesthesiology fraternity will embolden the valour of their colleagues who are harassed for being patient advocates.

I propose that there ought to be a registry of doctors who are found to be making false complaints. This should be in the public domain. Disciplinary proceedings should be instituted for those who waste resources and cause undue mental distress with malicious complaints. Medical administration should be a regulated profession where 'managers' should be made accountable for system failures or accidents, which happen because of inadequacies of hospital administration.[4,10,11] Medical managers and executives need to cover hospital 24 hours a day, seven days a week. That would need commitment and ability to go above and beyond the call of duty. They must have first hand experience of hospital setup from scratch. That would require apprenticeship based training with logged work experience and competency based education. The managers aspiring to work in medicine and hospitals ought to be formally trained in ethics, morality and empathy in context of human illness.

Apart from that, openness and transparency ought to be made guiding principles of medical bureaucracy. Most critically active effort must be taken to prevent replication of conventional mercantile oriented business management skills in health care. This multifaceted approach will improve patient safety and help us focus our energies collectively on patient care.

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