



Relevant ethical codes

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Relevant ethical codes

A. ETHICS OF THE LEGAL PROFESSION

A. Ethics of the legal profession

Judges:

(Principle 6 of the United Nations Basic Principles on the Independence of the Judiciary)

“The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected”

A. Ethics of the legal profession

Prosecutors:

(Article 15 of the United Nations Guidelines on the Role of Prosecutors, 1990)

“Prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences.”

A. Ethics of the legal profession

Lawyers:

(Principle 14 of the United Nations Basic Principles on the Role of Lawyers)

“Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.”

Relevant ethical codes

B. HEALTH CARE ETHICS

B. Health care ethics

Ethical obligations of health professionals are articulated on three levels:

United Nations documents and guidelines

International professional umbrella organisations (World Medical Association, World Psychiatric Association, International Council of Nurses)

Regional / National Level



B. Health care ethics

Morally binding but not always anchored in concrete national legislation :

Central to all health-care ethics is the fundamental duty to always act in the best interests of the patient, regardless of other constraints, pressures or contractual obligations!

→ See also section: D. Health professionals with dual obligations

B. Health care ethics

United Nations documents and standards

1. **Standard Minimum Rules** for the Treatment of Prisoners (1957, 1977)
2. **Principles of Medical Ethics** relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1976)
3. **Body of Principles** for the Protection of Persons under any form of Detention or Imprisonment (1988)
4. **Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders** (2010)



B. Health care ethics

United Nations documents and standards

Obligations:

- Medical, including psychiatric, services must be available to all prisoners without discrimination.
 - Sick prisoners or those requesting treatment must be seen daily.
 - Quality and standard of medical care must be the same as for people not in detention.
- ➔ Moral duty to protect the physical and mental health of detainees.

B. Health care ethics

United Nations documents and standards

Obligations:

- Specific prohibition to use medical knowledge and skills in any manner that contravenes international statements of individual rights.
- It is a gross contravention of health-care ethics to participate, actively or passively, in torture or condone it in any way

...whereby

B. Health care ethics

participation in torture means....

- Evaluating an individual's capacity to withstand ill-treatment;
- Being present at, supervising or inflicting maltreatment;
- Resuscitating individuals for the purposes of further maltreatment;
- Providing medical treatment immediately before, during or after torture on the instructions of those likely to be responsible for it;
- Providing professional knowledge or individuals' personal health information to torturers;
- Intentionally neglecting evidence;
- Falsifying reports, such as autopsy reports and death certificates.

B. Health care ethics

Professional umbrella organisations (WMA)

1

Declaration of Tokyo (WMA 1975,2005,2006)

2

Declaration of Malta on Hunger Strikers (WMA 1991, 1992, 2006)

3

Declaration of Hamburg (WMA 1997, 2007)

4

Resolution on the Responsibility of Physicians in the Documentation and Denunciation of Acts of Torture or Cruel or Inhuman or Degrading Treatment (WMA 2003,2007)

B. Health care ethics

Professional umbrella organisations (WMA/WPA)

5

Statement on the Law and Medical Ethics (WMA 2003)

6

WMA Council Resolution on Prohibition of Physician Participation in Torture (WMA 2009)

7

Declaration of Hawaii (WPA 1977, 1983)

8

Declaration of Madrid (WPA 1996, 1999, 2002, 2011)

B. Health care ethics

Professional umbrella organisations (other)

9

Declaration of Kuwait (07/04/1996)
(International Conference on Islamic Medicine)

10

Directive on the Nurse's Role in the Care of Detainees and Prisoners *(International Council of Nurses) (under revision)*

Relevant ethical codes

C. PRINCIPLES COMMON TO ALL CODES OF HEALTH CARE ETHICS

C. Principles common to all codes of health care ethics

1. *Duty to provide compassionate care*

- Prerequisite: Independence of Physicians
- First principle: Do no harm!
- Duty to act only in the patients' interest, regardless of other considerations, including the instructions of employers, prison authorities or security forces.
- Individuals are entitled to appropriate health care, regardless of factors such as their ethnic origin, political beliefs, nationality, gender, religion or individual merit.
- Only acceptable criterion for discriminating between patients is the relative urgency of their medical need.

C. Principles common to all codes of health care ethics

2. *Informed consent*

- Precept: patients are the best judge of their own interests.
- → Give precedence to a competent adult patient's wishes rather than to the views of any person.
- → Where the patient is unconscious or otherwise incapable of giving valid consent, health professionals must make a judgment about how that person's best interests can be protected and promoted.
- Duty to obtain **voluntary** and **informed** consent from mentally competent patients to **any** examination or procedure.

C. Principles common to all codes of health care ethics

3. Confidentiality

- Incorporated into national law in many countries.
- May only be overridden with the informed consent of the patient.
- **Exception:** ...where it will foreseeably give rise to serious harm to people or a serious perversion of justice.
- **Non-individual- patient-related data (e.g. medical statistics) may be freely used for other purposes (especially in the collection of data about patterns of torture).**

Relevant ethical codes

D. HEALTH PROFESSIONALS WITH DUAL OBLIGATIONS

D. Health professionals with dual obligations

What does dual loyalty / dual obligations mean?

- Patients
- Ethical obligations



- Law
- Prison authorities
- Military orders
- Employer
- Society, ethnic identity

D. Health professionals with dual obligations

What are the principles for all health professionals that face dual obligations?

Refuse to comply if in conflict with medical ethics!

Ethical codes apply in any circumstance!

Explain purpose of examination/treatment!

Identify yourself!

Tell the Patient!

D. Health professionals with dual obligations

*Conflicting ethical obligations:
Keep confidentiality or report abuse?*

Patients might not want their abuse to be reported, due to

- Fear of reprisals for themselves;
- Fear of reprisals for their family and friends;
- Shame.

Obligation to report, because of

- Possible benefits for a prison population;
- Preventing perpetuation of abuse;
- Requirement of the law and professional standards.

D. Health professionals with dual obligations

*Conflicting ethical obligations:
What to do?*

Health practitioners should

- Above all avoid harm to the patient and themselves;
- Seek information and help from national or international medical bodies;
- **Respect needs of data safety, confidentiality, and data security;**
- Report to authorities outside the jurisdiction in which torture has allegedly taken place.