UAE Ministry of Health and Prevention: 2017 Code of Ethics and Professional Conduct for Health Professionals

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At the end of 2017, the United Arab Emirates ('UAE') authorities issued a number of announcements concerning changes to the legal and regulatory landscape of its various emirates. A change that might not have been at the forefront of the attention of the healthcare sector, but that merits further consideration, is the Code of Ethics and Professional Conduct for Health Professionals ('Code') issued by the federal Ministry of Health and Prevention ('MOHAP'). While the health authorities within the individual emirates of Dubai and Abu Dhabi (the Dubai Health Authority ('DHA') and the Abu Dhabi Department of Health ('DOH')) have passed their own codes of ethics applicable to their respective emirates, the Code is federal and applies to all healthcare practitioners in the UAE.

The Code restates that a health practitioner must first obtain a licence to practise from the respective health authority, prior to practising as a healthcare professional in the UAE; it also remains a prerequisite that the health professional must have a record 'free from any misconduct or ethical problems' in order to obtain a licence to work in the UAE.

Many of the ethical values and standards set out in the Code are what would be expected and remain consistent with other recent laws, such as the Federal Medical Malpractice Law (Law No. 4 of 2016). The key elements of the Code are:

- health professionals are expected to put their patients' interests above their own and to limit examinations, prescriptions, or surgical procedures to the extent necessary for the patient;
- patients are entitled to autonomy and making their choices in an informed manner and health professionals must provide clear and honest information to patients concerning their condition and diagnostic and therapeutic procedure options;
- patient information must be maintained as confidential, in accordance with the applicable laws;
- health professionals should be holistic in their care of patients, having concern for the patients psychological and social needs;
- personal, religious, or cultural convictions of a patient should be respected;
- health professionals must avoid providing unnecessary services and the patient should only be referred for treatment or tests that are necessary;
- it is strictly prohibited for health professionals to provide a health service or prescribe a pharmaceutical or other product in exchange for a personal benefit; and
- health professionals should seek ongoing knowledge and skills development in their field of work.

All violations of the Code will be referred to the licensing committee of the MOHAP, in order to conduct investigations into the violating practices and take the necessary actions, which may include suspension or revocation of the health professional's licence. It is not clear whether a violation of the Code could constitute malpractice. It is likely that while a violation of the Code may not be a per se malpractice, we expect that the authorities will review a medical malpractice complaint in light of the Code in order to assess a health professional's compliance with his ethical

and professional conduct obligations and the implications of such on a medical malpractice claim.

Implications for healthcare institutions

Healthcare institutions should review their clinical governance frameworks and update their policies in light of the Code. Below, we have addressed a number of key points from the Code that should prompt a review of a healthcare institution's internal policies and clinical governance processes.

1. Effective Communication Training

The Code requires that doctors and health professionals receive adequate training in effective communication skills. Such skills should equip the health professional with the ability to provide reassurance to patients in an effective communication manner. Further, while complete and accurate information is required to be shared with the patient, the Code states that a doctor must assess 'whether it is better to inform a [patient] of part of the truth only, or to limit the disclosure of information to the family of the [patient], if this is in the interest of the [patient]'. This element of the Code requires substantive thought. The moral basis for withholding information from a patient is clear; however, the prevailing ethical framework in medicine is patient autonomy and that a patient has a right to full and complete information. Thus, this element of the Code is contradictory with its other elements and, in our opinion, a violation of the doctor's role as a fiduciary. Yet, as in other jurisdictions, the Code does leave room for doctors to exercise therapeutic privilege. A healthcare institution must lay out a clear process and guidelines under which their doctors may exercise this discretion.

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2. Disclosure Regarding Interns Providing Care in Educational Institutions

If care is being provided in an educational institution, patients must be informed that they will be examined and treated by an intern. Patients must be informed that interns are supervised by a consultant or specialist, who is ultimately responsible for providing the medical service. Once informed, patients maintain the right to consent or refuse examination and treatment by an intern. Consequently, teaching facilities should consider adding appropriate language to their patient consent forms and training their healthcare professionals on the necessary patient disclosure requirements.

3. Informed Consent

Further, the Code expands upon the concept of informed consent. Typically, the patient must be given sufficient information, so that consent is given without coercion or pressure; however, the Code adds that information should be provided in a language that is easy for the patient to understand. Consequently, healthcare institutions should consider preparing consent and disclosure information in multiple languages and permit a patient to avail themselves of a staff translator.

4. Confidentiality

While the Code reinforces confidentiality of a patient's information, disclosure of some of a patient's confidential information is permitted 'to raise the awareness of the remainder members of the health care team'. When a patient's confidential information is disclosed for such internal educational purposes, any disclosure that may result in knowing or identifying the precise patient should be avoided.

5. Prohibition on Gifts or Other Benefits

Internal policies should be updated in order to comply with the Code's strict prohibition on health professionals receiving any gifts or other benefits from patients or their relatives. Specifically, the Code states that '[i]t is strictly prohibited to take any gift, advantage, benefit of cash or an equivalent to cash such as bonuses, discounts or any other forms of financial benefits, from any party for the provision of a health service or prescription, supply, sale or use of a medical product in treatment'.

The health professional is strictly prohibited from linking the provision of 'health service or medicine in any health or pharmaceutical facility with any monetary benefit or considerations of profitability such as provision of free goods or inclusion fees or others'. In addition to the obvious, this raises concerns regarding the industry wide practice of healthcare institutions incentivising their practitioners by providing remunerations structures that are connected to the volume of procedures or tests run at the facility. Clarity is required from the health authorities on this point as the Code appears to prohibit such arrangements.

6. Referral Obligations

In light of the Code, referral policies should be reviewed. In particular, a healthcare institution's referral policy should include an obligation on the health professional to take reasonable steps so as to ensure that the person to whom he delegates or refers the patient 'has the qualifications, experience, knowledge, and skills required to provide the required care'. While the referring health professional will not be responsible for the services provided by the delegated person, the Code maintains that the referring health professional will remain responsible for the delegation decision.

7. Reporting Cases of Misconduct

In terms of reporting cases of misconduct, health professionals are obligated, under the Code, to report any violations of a patient's rights or immoral conduct by a colleague. Further, the competent authority is to be informed if the soundness of any health procedure may be affected, or it is believed that the condition of a colleague will most likely harm the patient. Consequently, healthcare institutions should update their reporting mechanisms and procedures, as well as the scope of obligatory reporting requirements.

The UAE Vision 2021 National Agenda aims to achieve a world class healthcare system. To achieve this, the health authorities have been working to update laws, regulations, standards, and codes. In particular, in 2017, the MOHAP issued the 'Code of Ethical Practices for the Promotion and Distribution of Medical Products in the UAE'. At the individual emirate level, the DHA, in line with its strategic objective to "[e]nsure quality, stability and availability of health professionals", issued the 'Code of Conduct for Healthcare Professionals' and the 'Code of Ethics and Professional Conduct for licensed Health Professionals' in 2014. In 2017, the DOH issued the updated 'Healthcare Providers Policy Manual' and the 'DOH Policy for Quality and Patient Safety'. We can expect further developments to the legal and regulatory framework of the healthcare industry in the UAE to be issued over the course of the year.

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