Review

Initiatives by the government and physician groups to improve awareness of medical ethics: Challenges in Japan

By Yasuhiko MORIOKA*1,*2,†

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Abstract: Physicians have been required to possess high ethical standards, as medical practice is directly involved with patients’ lives. Although ethics arise out of an individual’s consciousness, ethical regulations imposed by the nation/government together with self-regulation by physician groups are important in the practice of ethics, for which reason countries around the world undertake various initiatives. This paper investigates physician licensure, organizations governing physician status, the role of physician groups, and the actual conditions of lifelong learning and ethics education in developed countries worldwide, in contrast with which it throws problems in the situation in Japan into relief. Organizations governing physician status, the form of medical associations, and the improvement of lifelong learning are pointed out as critical issues especially in Japan.

Keywords: law, medical association, organizations governing physician status, ethics education

1. Introduction

Medical science and medical care have advanced remarkably in recent years together with hot debates on issues in medical ethics. In this context, it has become increasingly important for physicians to have an interest in ethical issues and to set themselves straight in the conduct of medical practice. Ethics is essentially based on an individual’s consciousness and can therefore be personal and non-compulsory in nature. However, given that individual humans are sometimes apathetic to ethics and sometimes engage in misconduct out of a sudden impulse, society delineating rules and demanding individuals to adhere to them becomes an important issue in the practice of ethics. Since physicians, in particular, perform work that is directly pertinent to patients’ lives, nations grant licenses to physicians at the nation’s responsibility, manage their status, and implement ethical regulations through laws. At the same time, the independent initiatives of physician groups (medical associations, hospital organizations, specialty societies, etc.) are also important. With a view toward improving physicians’ ethics, this paper considers issues in Japan with reference to the situation in developed countries regarding efforts made on the part of governments and physician groups.

2. Code of medical ethics and ethical regulations

The Hippocratic Oath that Hippocrates is said to have made new practitioners take in ancient Greece has been famous since long ago in the West when speaking of medical ethics. Even today, medical students in Western countries recite this oath at their graduation. In addition, the aphorisms and maxims regarding medical ethics of many great figures, both Eastern and Western, are known. In Japan, the phrase “Medicine is the benevolent art,” based on Confucian teaching, has been used widely. Sayings such as these are deeply ingrained in the hearts of physicians even now.

In recent years, however, complex ethical issues have arisen with the progress of medical science and medical care and their specialization and subdivision, creating a situation in which issues must be addressed case by case. Thus, various concrete rules are being created and initiatives undertaken in regards to medical ethics.

*1 Professor Emeritus, The University of Tokyo, Tokyo, Japan.
*2 Advisor, Japan Medical Association, Tokyo, Japan.
† Correspondence should be Addressed: Y. Morioka, M.D., Japan Medical Association, 2-28-16 Honkomagome, Bunkyou-ku, Tokyo 113-8621, Japan.

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(1) Legislation. Governments regulate the most important issues in medical ethics through legislation. In principle, laws establish penal provisions against violators for each clause and produce a compulsory effect. Laws are, however, less than perfect, and government authorities make efforts to regulate individual ethical issues by supplementing the law with government decrees, directives, and guidelines. These directives, guidelines, and other such measures have the advantage that they can be changed easily, and so this method is used to regulate most leading-edge research and advanced medical care in Japan. It could be called semi-compulsory, since administrative discipline can be taken in response to violations although there are no direct penal provisions.

Just how detailed such ethical regulations are established by legislation differs from country to country.

(2) Rulings in lawsuits. As mentioned above, laws are involved in only a few critical issues. On top of this are drawbacks such as interpretation of the letter of the law becoming a problem or the law not being able to address new issues. Disputes over the interpretation of text occur and become the basis for lawsuits. The rulings handed down in lawsuits must decide right and wrong and, since they offer a clear answer concerning ethical issues, they are considered important when thinking about medical ethics.

(3) Code of ethics of physician groups. It goes without saying that it is of the utmost importance for physicians themselves, who are the central player in medical ethics, to wrestle with ethical issues of their own accord and that it is important for physician groups (medical associations, hospital associations, etc.) and specialty societies to establish a code of ethics that members are required to observe and to strive to further improve ethics. Most countries, especially in the developed world, have a representative medical association that has its own ethical regulations and guidelines and that tries to improve the ethical level of its members (Table 1).1

Countries such as Germany and France, in particular, have medical associations with compulsory membership. Members who violate the ethical regulations of these associations are disciplined by the association. The American Medical Association, in contrast, is a medical association with voluntary membership. It has had a code of ethics since its establishment in 1847, although the code has been revised frequently. The latest version is a large volume providing guidelines and explanations, with citations, on more than 200 issues. Since the code was established by an organization with voluntary membership, violators are not subject to direct constraints on their medical practice. The association’s code of ethics is highly regarded socially.

The Japan Medical Association (JMA) is the medical association representing Japan. After the World War II, it restarted as the organization with voluntary membership. In 1951 it prepared a Code of Ethics for Physicians and in 2000 it adopted a new Code of Medical Ethics. In 2004 it established the Guideline of Medical Ethics for Physicians (revised in 2008), which members are required to observe.

The World Medical Association (WMA), which is a federation of medical associations from different countries, is also working passionately on medical ethics. The WMA has made declarations on a number of occasions and also published “World Medical Association Medical Ethics Manual” (2005). In particular, the Declaration of Helsinki (amended most recently by the WMA General Assembly in Seoul in 2008) is well known, regarding medical research involving human subjects. Many countries today adhere to this declaration in the conduct of clinical research.

Specialty societies related to medical science establish ethical regulations concerning research and medical care in specific disciplines. In Japan, most medical associations have an ethics committee and indicate rules regarding the ethics of research. The Japan Society of Obstetrics and Gynecology, in particular, requires its members to observe guidelines that it has prepared regarding controversial assisted reproduction technologies.2

In addition to these, various organizations make codes of ethics and ethical regulations regarding “medical ethics,” and require their members to honor them. But, many of these organizations have voluntary membership and, therefore, their effectiveness is limited. In any case, there is a role for the

| Association/country | Title of code of ethics |
|---------------------|-------------------------|
| American Medical Association | Code of Medical Ethics |
| British Medical Association | The Handbook of Medical Ethics |
| Ordre des Médecins (France) | Code de Déontologie Médicale |
| Bundesärztekammer (Germany) | Berufordnung für die Deutschen Ärzte |
| Japan Medical Association | Guideline of Medical Ethics for Physicians |

Table 1. National medical associations and code of ethics
national government and a role for physician groups, and while these are complementary, it is important to resolve issues, in which matter the role for physician groups is especially large as the central players.

3. Physician licensure and the organizations governing physician status

As medical care has a direct bearing on people’s lives, governments in each country protect the status of physicians and also establish a licensing system through which the government issues physician licenses under certain conditions, such as passing a national exam, and specifically engages in oversight of physicians’ medical practice after being issued a license. The licensure and organizations governing physicians’ medical practice can be roughly divided into three forms, each of which reflects national character (Table 2).3)

(1) Medical association with compulsory membership. In countries such as Germany, France, and Canada, a medical association with compulsory membership leads the governing of physician status. This is, so to speak, self-administration by a physician group.

(2) Third-party organization. In this case a third-party organization recognized by the government governs the status of physicians’ medical practice after being issued a license. The licensure and organizations governing physicians’ medical practice can be roughly divided in to three forms, each of which reflects national character (Table 2).

(3) Government ministries or agencies. At present, in Japan and many other countries, government offices such as a Ministry of Health and Welfare or a Department of Health directly control physician licensure.

4. Disciplining of physicians

While physicians are granted assurance of status by law in providing medical care to patients, they are subject to strict punishment for unethical conduct. The punishment of physicians who do wrong is mainly carried out by the above-mentioned organizations governing physician status, but there are differences between countries in the severity of disciplinary action, those who are subject to disciplinary action, and the methods of discipline.

Looking at the ratio of the number of physicians disciplined with actions such as the revocation or suspension of license versus the overall number of physicians, the U.S. has by far the highest rate of discipline while few physicians are disciplined in Japan. Moreover, disciplinary actions besides revocation or suspension of license, such as stern warning, censure, and fines, are hardly ever used in Japan as they are in other countries (Table 3).

5. Responsibility of physician groups (medical associations, hospital organizations, specialty societies, etc.)

As already mentioned, legal regulations exist for important issues in medical ethics, but laws are imperfect and, moreover, extremely limited even within the ethical issues that they do address. The practice of medical ethics is, in the end, the responsibility of medical associations, hospital organizations, and specialty societies—i.e. groups of physicians, who are the professionals. After all, physicians are the most familiar with the issues in the professional field of medicine and medical care; they can formulate more appropriate rules, and it is easier to follow rules that people set for themselves.

Currently there are medical associations in nearly every country of the world. These medical associations are influenced by different national medical licensing systems and management schemes to obtain and maintain valid licenses. Consequently, they differ greatly in form, character, and operation (Table 4), but they all take the utmost care to enhance medical ethics.

The WMA comprises medical associations that represent their country and has issued several declarations regarding medical ethics, as mentioned above. Currently the WMA has more than 100 member national medical associations (NMAs),

Table 2. Organizations governing physicians in different countries (2001 Investigation by the Japan Medical Association’s International Section)

| (1) Medical association with compulsory membership |
| France | Ordre des Médecins (regional, national) |
| Germany | Landesärztekammer (states) |
| Canada | College of Physicians and Surgeons |

| (2) Third-party organization |
| U.S.A.  | State Medical Licensing Board |
| U.K. | General Medical Council |

| (3) Government ministries or agencies |
| Sweden, Finland, Denmark, Israel, South Korea, Japan (Ministries of health and welfare) |

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making it even more difficult than ever to reach agreement on medical ethics due to various state of affairs, different cultures, and religious issues among NMAs.

Furthermore, one condition of WMA membership is that member NMAs have no ties with state power in their respective countries, which reflects the WMA’s strong concern for physicians’ professional autonomy. Apart from anything else, independent efforts of organizations of physicians such as the WMA and medical associations not only protect physicians but also uphold the honor and reputation of the medical profession itself, and they play an important role in securing the safety of the general public and maintaining the support and trust from the general public.

The JMA, which represents Japan, made a fresh start as a voluntarily established medical association with voluntary membership after World War II, until which it had compulsory membership. According to its articles of incorporation, the “enhancement of medical ethics” is its first objective. As mentioned above, the JMA established a Code of Medical Ethics and a Guideline of Medical Ethics for Physicians. It makes proposals regarding bioethics in the JMA Council on Bioethics and continues to carry out initiatives for improving ethics through the Committee for Improving the Ethics and Quality of Members and the Committee on Stimulation of Self-cleansing Mechanisms. However, as an organization with voluntary membership that at present is about 60% of registered physicians, the JMA is limited in that capacity. Especially in Japan, where there is a tendency to value harmony, people are reluctant to criticize their colleagues and blow whistles on misconduct, because of which there are issues such as self-cleansing mechanisms not working within professional associations.

For that reason, some people are of the opinion that a medical association with compulsory membership, like that before the war, should be established. In the first place, following the war the American occupation forces obliged the establishment of a voluntarily established medical association with voluntary membership based on the principles of freedom of association, freedom of vocational selection, and respect for professional autonomy. However, Japan has professional organizations with compulsory membership, such as bar associations and certified public accountant associations, and so the establishment of a medical association with compulsory membership seems like an issue that should be reconsidered.3)

6. Continuing medical and ethics education

Progress in medical science and healthcare is constantly advancing, and physicians engaged in medical care must diligently pursue studies and learning over their entire lives. At present, it is possible to say that lifelong learning is carried out and made an obligation in developed countries worldwide. In Japan, each specialty society requires training to secure qualifications as a medical specialist and the JMA asks its members to continue their studies through a declaration system as lifelong learning. But, these are not exactly sufficient as lifelong learning. Additionally, some ethical education is provided at medical colleges and medical faculties at universities in Japan, and nowadays people have come to take an interest even in postgraduate ethical education. However, in this kind of ethical education after university, it is important to give each individual an awareness of the issues. Cases studies, especially education based on discussion in small groups, are emphasized, but as the matter stands now, in most cases ethical education is provided through lectures, and so that kind of

| Country         | Physicians | Instances | Revocation of license | Suspension of license | Censure, reprimand, warning | Fine | Other |
|-----------------|------------|-----------|-----------------------|-----------------------|-----------------------------|------|-------|
| U.K.            | 91,157     | 42        | 16                    | 4                     | 22                          |      |       |
| U.S.A.          | 701,249    | 3,401     | 1,642                 | 745                   | 1,014                       |      |       |
| France          | 171,807    | 446       | 5                     | 102                   | 83                          | 0    | 256   |
| Sweden          | 27,300     | –         | 2–10                  | –                     | 355                         | –    | –     |
| South Korea     | 53,372     | –         | 5                     | 141                   | 3                           | 1    | –     |
| Japan           | 240,908    | 48        | 6                     | 42                    | –                           | –    | –     |

Note: The number of physicians is for fiscal 1996 (1994 for the U.K.).
education is still not sufficiently widespread. There are a number of reasons for this, including a shortage of instructors, the training of which is considered an urgent task. There is also the idea that suitability as a physician should be screened on entrance exams to medical faculties, but there are difficulties in the implementation of that idea.4),5)

7. Discussion

Nations around the world are each undertaking their own initiatives regarding the practice of medical ethics. Alongside the legislation and administrative regulations of the state, autonomous regulations by physician groups are also important. This paper has investigated, from this standpoint, the physician licensing systems and the status management and disciplining of physicians specifically in developed countries, especially the role of physician groups and the status of lifelong learning, and considered the current situation in Japan.

Japan has no renewal system for physician licensure and lifelong learning is voluntary. What is

| National Medical Associations (NMAs) | Status | Law or Act to regulate the establishment of medical association | Purpose to establish the medical association | Involvement of the government in Health policy | Organizations other than the government involved in formulation of health policy | Organization of physicians like union |
|-------------------------------------|--------|---------------------------------------------------------------|--------------------------------------------|---------------------------------------------|---------------------------------------------------------------------------------|-----------------------------------|
| American Medical Association (AMA) | Voluntary (38.3%) | None | Leadership for medicine and physicians of the US | 1. membership fees | Yes | very many |
| British Medical Association (BMA) | Voluntary (58.5%) | Regulation to manage the activities of labour unions | To promote the medical and allied sciences, to maintain the honour and interests of the medical profession, and to promote the achievement of high quality healthcare. In summary, the BMA is both a trade union and a professional association. | 1. membership fees 2. business 3. publications 4. investment return from estates | Yes | |
| Canadian Medical Association (CMA) | Voluntary (97.5%) | None | To advocate on behalf of physicians and for the highest standards of health and health care for Canadians. | 1. membership fees 2. government subsidies 3. business 4. dividend from affiliated company | Yes | None |

Table 4. The different nature of some major National Medical Associations (NMAs; 2007)

Continued on next page.
more, in the disciplining of physicians who have committed misconduct, as a general rule only the revocation or suspension of license is carried out for physicians who have already been convicted as guilty in criminal procedure. The number of physicians disciplined is small compared to other countries, and there were no punishments such as censure or reprimand until recently. Does this reflect the high ethical character of Japanese physicians or lenient discipline? A quick conclusion cannot be drawn, but it is undeniable that governing organizations are weak.

Further, while the Japan Medical Association, which is Japan’s largest physician group, has been making efforts to improve physicians’ ethics, to stimulate self-cleansing mechanisms, and to encourage lifelong learning, it is limited in those endeavors as an organization with voluntary membership.

Once they obtain a license, Japanese physicians can engage in medical practice anywhere at anytime; there is no license renewal and, excepting legal regulations pertaining to especially basic matters, their practice of medicine is unfettered, which seems like a happy state of affairs for physicians. However, considering that there are always physicians, although few, who take part in misconduct, and the fact that society’s view of such physicians is growing increasingly stern, the system for governing physician status needs to be improved, including the method of selecting medical students. Within that system, it is especially important to make the best use of self-regulation by physician groups.
8. Conclusion

Many countries are undertaking various thought-provoking initiatives to improve medical ethics. Joint efforts by the government and physician groups are needed in improving the ethics of physicians, and the following matters in particular, selected in reference to the situations in major foreign countries, are issues that Japan needs to address.

(1) It must be said that adequate management and guidance is difficult when a department of a single ministry administers more than 270,000 physicians as the governing organization of physician status. A more substantial governing organization should be created, either by the national government transferring management authority to local governments or considering the establishment of a medical association with compulsory membership or a third-party organization. On top of this there is also a need to think of measures to prevent misconduct and to improve medical ethics, instead of only disciplining physicians who commit misconduct.

(2) Although they are limited as organizations with voluntary membership, Japan’s physician groups, as professional organizations, have a social mission in regards to ethics; it is important for them to endeavor to improve the ethics and quality of their members. Additionally, for organizations such as medical associations, another important issue is carrying out measures to increase their membership.

(3) Improving and mandating lifelong learning for physicians and enhancing ethical education throughout undergraduate and postgraduate education are inevitable.

Data from the Japan Medical Association’s committee for improving the ethics and quality of members were used to prepare this paper. I would like to express my appreciation to the committee members who provided data for investigation and to the staff of the JMA’s secretariat who cooperated in this investigation.

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Dr. Yasuhiko Morioka was born in Tokyo in 1930. He graduated from the University of Tokyo Faculty of Medicine in 1955. In 1956 he joined the University of Tokyo Faculty of Medicine Department of Surgery 1, pursuing the path of a surgeon. In 1966-1967, Dr. Morioka studied in Paris on a scholarship sponsored by the French Government. In 1972 he became a professor of gastroenterological surgery and general surgery at Jichi Medical University, and from 1981 until 1991 he was a professor in the University of Tokyo Faculty of Medicine Department of Surgery 1. During this time, he also served as Director of the University of Tokyo Hospital and as a court physician (goyo-gakari). After retiring from the university, he served as Director of the Kanto Rosai Hospital and as Director of the Japanese Red Cross Medical Center until September 2001, during which time he performed many surgical operations. Moreover, over nearly 20 years, he dedicated himself to the education and guidance of his students and juniors as a professor at the both universities in addition to publishing numerous research papers in the field of surgery, pouring particular effort into the advancement of hepato-pancreato-biliary surgery—fields that at the time were still in their infancy. In 1979 Dr. Morioka became the first Japanese surgeon to become a member of the French Academy of Surgery. Furthermore, from around the time he retired from the university, he became especially interested in the issue of medical ethics, and through many papers and lectures presented throughout the country, he has endeavored to widely educate physicians and member of the general public about new and important medical ethics issues such as informed consent and terminal care. From 1996 to 1998 he served as Vice President of the Japan Medical Association (JMA), and as Chairman of the Committee on Medical Ethics and Quality Improvement for Member Physicians of JMA has for 14 years contributed to the formulation of a “Principles of Medical Ethics” and “Guidelines for Physicians’ Professional Ethics”.

Dr. Morioka is Professor Emeritus of the University of Tokyo, Professor Emeritus of Jichi Medical University, Director Emeritus of the Japanese Red Cross Medical Center.