



# patient education

## BRIEFINGS

2012

## New courses in law and ethics signal key changes

by Claire Story

Undergraduate and postgraduate courses in health law and ethics have become important because healthcare professionals need to have an understanding of their legal obligations and responsibilities, according to educator Rowan Story, a Melbourne lawyer and oral and maxillofacial surgeon.

“Medical practitioners, dentists, and allied professionals have obligations and responsibilities towards patients in common law and statute law,” Dr Story said.

“In regard to common law, this means being aware of the need to inform patients of material risks.

“With regard to statute law, this means being aware of the legal requirements relating to confidentiality and privacy.

“Professionalism, ethics and law are interconnected and interdependent. Laws alone cannot ensure professional behaviour.

“Students should be exposed to this in their undergraduate training.

“When students formally study ethics and law, they better understand how their own aspirations can match the ethical principles of patient care.”

### Doctor of Dental Surgery

As an example, Dr Story cited the Doctor of Dental Surgery degree at the University of Melbourne and believed that it is cultivating a new generation of graduates informed about professionalism, legal obligations and responsibilities to patients.

As Australia’s only Masters’ level qualification for training general dentists, the curriculum includes the course ‘Law and Ethics in Dental

Practice’ which teaches these topics to dental students in formal course work for the first time in Victoria. Dr Story is the course coordinator.

“The first and foremost responsibility of all healthcare professionals is the Hippocratic injunction *primum non nocere*, meaning: first do no harm,” Dr Story said.

Other responsibilities include:

- making the correct diagnosis
- discussion of treatment options
- benefits of those options
- informing patients of material risks
- explaining the costs involved and informed financial consent
- being sensitive to patients’ individual circumstances.

Dr Story outlined the central ethical principles of patient care as:

- respect for patient autonomy
- beneficence (the promotion of what is good for the patient)
- non-maleficence (avoiding harm)
- justice (fairness in the distribution of scarce funding and resources).

“These principles are particularly important when informing patients about treatment, as there are serious medicolegal consequences when a healthcare professional fails to properly inform,” he said.

Healthcare professionals must



Dr Rowan Story

decide what information they will provide to their patients about the proposed treatment. They must consider both the incidence and gravity of the risk. Therefore, any significant risks must be explained to patients, regardless of a low incidence.

“If a serious risk is not explained to a patient because of a very low incidence, and the risk subsequently occurs, the patient can sue for damages,” Dr Story said.

“Regardless of how competently the procedure was carried out, it may be classified as negligence, because if the patient was given sufficient information and warned of material risks, then the patient may well have chosen a different course of treatment.

“The results can be a damaged reputation and significant damages payments, which has happened in Australia in several high-profile cases.

“These are important lessons for students to learn and which need to be taught at the tertiary level.”

Monash University was the first to introduce formal law and ethics teaching for medical students in Australia.

The University of Melbourne then started its program of law and ethics for the new dental curriculum, reflecting the increasing recognition of the importance of patient-centred care in all aspects of health.

“Patient-centred care is a core component of modern healthcare,” Dr Story said.

“It involves the doctor and patient working together to devise a treatment plan, in consideration of the patient’s cultural traditions, preferences, values, beliefs and lifestyle.

“It requires transparency of the healthcare professional and is manifested by adhering to ethical principles and seeing patients as humans needing care.”

#### Reviews of health science curricula

Graduate-entry dental training occurs in other states in Australia at the University of Sydney, University of Queensland, Griffith University and La Trobe University.

Many universities are reviewing their health science curricula and will likely offer formal law and ethics teachings in the future.

The new four-year Melbourne Doctor of Dental Surgery degree replaced the five-year Bachelor of Dental Science degree in 2011, with its first intake of 85 students from Australia and overseas.

As part of the Melbourne model, implemented in 2008, students must complete an undergraduate degree before starting a professional-entry degree in law, medicine or dentistry.

Included in six ‘New Generation’ undergraduate degrees, students wanting to become dental practitioners must first complete either a Bachelor of Biomedicine or Bachelor of Science to qualify for the DDS.

Students must complete two

degrees with a combined duration of seven years. The first students will graduate in 2014.

The Law and Ethics in Dental Practice course is taught in first year and again in fourth year. The first-year subject comprises an introduction to law, ethics, and the Australian legal system, and an overview of the law as it applies to dentists, with reference to informed consent and confidentiality.

#### The meaning of informed consent

As Dr Story explained, “Students are taught that informed consent means that a patient has the right to decide what will be done to his or her body.

“Confidentiality is the duty of care of all doctors, dentists and healthcare professionals to treat all information about patients as confidential.”

After the first-year coursework in law and ethics, the topics are revisited in fourth year with a review of first-year studies, completion of practical activities such as writing a medico-legal report, appearing in court, and learning more about dental negligence, end-of-life issues and the globalisation of health.

Law and ethics have often been taught in medicine, but not always in dentistry. The law and ethics course in the DDS marks a shift in the perception of the importance of law and ethics in dentistry. The Australian Dental Council has advocated this emphasis.

In Professional Attributes and Competencies of the Newly Qualified Dentist (June 2010), ADC says that ‘On graduation a dentist should be able to...understand the ethical principles and legal responsibilities involved in the provision of dental care to individual patients, to communities and populations, practising with personal and professional integrity, honesty and trustworthiness.’

#### The Hippocratic Oath

The first intake of DDS students in 2011 discussed the philosophy of

ethics and ethical practice. Dr Story referred to the Hippocratic Oath as being an important declaration that describes the aspirations of a professional group.

Dr Story chose the first assignment: students had to write their own declaration, a Declaration of Melbourne. Included were statements about what the students felt was important when practising, how they would practise, and how they would relate to society after graduation.

“This was an exercise in thinking about where those types of aspirational documents came from and what they are for,” Dr Story said.

“Such documents don’t have force of law, but they are an important, self-imposed standard of behaviour.

“An affirmation like this assists students as they come to think of themselves as a health professional, which is distinctly different from a non-health professional.

“In this sense, they learn to become a figure in whom people place their trust and are subject to the expectations of society.

“Having a time set aside to consider this declaration gives a space for reflection.”

Dr Story said that the law and ethics course in the new DDS prepares students for practice more thoroughly than previously.

“Overall it improves the quality of students’ education, results in more mature and informed students, and ensures they are ready for work in all aspects of dentistry,” he said.

*Dr Story is an honorary clinical associate professor at the University of Melbourne. He has served as member and President on the Dental Board of Victoria; the Australian Dental Examining Council; the Australian Dental Council; the ADA Victorian Branch Council and The Royal Australasian College of Dental Surgeons council and the Victorian Civil and Administrative Tribunal. He has been part of a volunteer cleft-palate surgery team visiting Vietnam annually since 1998.*

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