Overtreatment

Allegations of overtreatment take many different forms, but the majority of such allegations usually imply an improper motive on the part of the clinician.

Consent

Whenever any kind of professional service is being delivered to a member of the public by someone who is highly trained and knowledgeable in a professional field, an almost inevitable feature of the relationship that develops will be an inequality in the levels of knowledge and understanding between the professional on the one hand, and the lay person on the other. Patients are more likely to assume, for example, that treatment either needs to be carried out or it does not; as a result, they can find differences in clinical opinion very difficult to understand.

In the healthcare setting this imbalance has fundamental consequences for the patients' ability to decide for themselves whether or not to proceed with any particular treatment that has been suggested to them. The provision of medical and dental treatment is a very personal experience, and often the procedures are irreversible. Healthcare providers have a very privileged relationship with the patients under their care; patients have the right to expect that their best interests will be served in the manner in which the treatment is delivered.

The consent process is a fundamental aspect of patient autonomy. Patients have a right to decide what treatment they wish to undergo or to decline, and the role of the clinician in this situation is to assist the patients in such choices by providing sufficient balanced information expressed in simple terms so that patients can understand the explanation.

A defining and high profile case in the UK a few years ago involved the provision of excessive and unnecessary treatment by a dentist (and to make matters worse, treatment of a poor standard). The dentist was found not only to have acted negligently, but to have committed an act of “trespass” (a wilful assault) upon the patient, on the grounds that the dentist would, or should, have known that the treatment was not necessary. Because of this, the patient’s agreement to the treatment had been obtained in bad faith and on the basis of deliberately misleading information and guidance provided by the dentist concerned.

Aggravated (punitive) damages were awarded against the dentist in a substantial sum—exceptional and unusual penalty. Some time later, the regulatory body in the UK (the General Dental Council) erased the dentist from the Dentists' Register. A statement made by the President of the Council at the time summarised the serious way in which over-treatment is viewed, and conveniently puts the issue into proper context.

"The ethical point which I would like to mention today is the one I believe to be fundamental to the function of the Council and to the very ethos of the dental profession. I was reminded of this during a recent enquiry when a dentist was found guilty of providing excessive dental treatment which was not clinically necessary and which resulted in irreversible damage to the patient's oral health. Patient after patient, when asked whether they had experienced any doubts or reservations or even surprise at the considerable amount of treatment carried out, replied they had not. They believed that the dentist was the expert, totally qualified to advise them and that he would carry out only such treatment as was in their best interests. Such implicit confidence and unwavering trust are part of the privileges granted to members of a caring profession. They place an incalculable responsibility on members of the profession to justify that confidence and trust and never to allow their conduct, knowledge or clinical competence to fall below that which the public and their professional colleagues are entitled to expect."