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Whistleblowing: a neglected role of the physician

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Abstract

Whistleblowing is the act of an employee raising concerns about wrong doings or potential wrongdoings within an organization. It is crucial that when doctors suspect malpractice, they document factual information and convey their suspicions to someone with authority. Ideally, they should seek advice from a senior colleague or legal representative before doing so. Concerns can range from doubts about registration status and medical licensing to standards of medical professionalism and fitness to practice. Whistleblowing differs from personal grievances as it has a community interest aspect, usually because the activity reported threatens patient safety.

Ethically, whistleblowing can be challenging for healthcare professionals, balancing between advocating for patients' safety and maintaining employment. It is seen as an act of virtue ethics, fulfilling obligations of professional conscience. Unwarranted disclosure of a patient's medical treatment is a breach of the patient's personal rights, but at the same time there may be an obligation to compromise confidentiality to prevent harm to a third-party.

The low prevalence of whistleblowing among medical practitioners the world over is often due to the fear of personal reprisal and a 'blame culture'. Whistleblowers need legal protection from retaliation by employers, and in developed countries, they are protected by whistleblower protection acts.

The downside of whistleblowing includes alleged professional jealousy and the potential for the whistleblower to suffer personally and professionally. Despite this, it is a crucial activity for maintaining standards and preventing harm to patients in healthcare settings.

Key words: whistleblowing, patient safety, malpractice, virtue ethics

Case report

A news item in the *'Divaina'* newspaper (a national daily newspaper in Sinhala) dated 21 September of 2022 highlighted that a community health survey done in Lunugamvehera and Sooriyawewa had shown that 80% of children below 5-years of age showed features of malnutrition. One of the doctors who carried out the survey revealed this information at a news conference conducted on site. He urged higher health authorities in the Ministry of Health to verify these facts.[1] Instead of verifying this information and taking action to remedy this alarming incidence of malnutrition, the Ministry of Health interdicted the doctor for making the statement and exposing what was misinterpreted as short-comings of the Ministry.

This account illustrates the wrath that a whistleblower can face even from the concerned authorities despite revelation of factual details with genuine intention to rectify such issues. Whistleblowing is a concept that is not included in the curriculum of medical schools, although doctors need to be knowledgeable about it. As there is a paucity of whistleblowing in Sri Lankan medical literature, the authors took up the task of writing a brief review with an intention of sensitising readers.

What is whistleblowing?

'Whistleblowing' is where an employee, former employee or a member of an organisation raises concerns about any shortcomings in the workplace to

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people who have the power and presumed willingness to take corrective action.[2]

When should one blow the whistle?

If a doctor thinks some matter needs to be informed to higher authorities, he or she should accurately document it, noting factual information such as when, who and what and concerns in relation to the incident and keep this information secure for future reference.[3] Whistleblowers should ensure that the information is a factual account of what happened and not someone else's opinion and should convey their suspicions to someone with appropriate authority and experience. They should deal with the matter promptly if they feel their concerns are warranted. They should also request a copy of any minutes of meetings where concerns were raised with a senior colleague and ensure these accurately reflect what was said. Whistleblowers should be mindful that the matter is likely to be both sensitive and confidential. They should seek advice from a senior colleague, medical or clinical director, local medical committee, defence body, deanery, attorney-at-law or a trade union as appropriate to safeguard themselves before acting.[3]

When a junior colleague is at fault, the whistle blower should consider discussing the matter with the person concerned with a view to taking corrective action as the supervisor whenever possible, prior to making a formal complaint to health authorities or regulatory authorities, unless the activity is criminal in nature. This can take place as an informal discussion involving the supervisor or may be brought up at a department meeting or a mortality-morbidity conference.

What types of concerns can whistleblowers raise?

According to the General Medical Council (GMC) of the United Kingdom areas concerning whistleblowing can fall into four functional categories. These are, registration and medical licensing (including revalidation), medical education, standards of medical professionalism and fitness to practise.[2] Under these functions are included matters concerning any of the following six criteria: a criminal offence, a failure to comply with a legal obligation, a miscarriage of justice, a risk to the health and safety of any individual, environmental damage, or attempts to conceal or suppress any of the above. In addition, GMC indicates that the following can also be reported: a doctor raising concerns that trainee doctors are not provided with adequate supervision or a doctor raising concerns about a consultant's clinical practice and clinical outcomes, which their employer has failed to notice or investigate.

How is whistleblowing distinct from grievances?

A whistleblower is an employee with a concern about the danger or illegality that has a community interest aspect to it, usually because it threatens patients. A grievance or private complaint is, by contrast, a dispute about the complainant-employee's own employment position and is of no interest to the community.[2]

What are the ethical aspects of whistleblowing?

Whistleblowing can be a difficult task for healthcare professionals as they may be torn between their duty to advocate for patient safety and their desire to maintain employment and goodwill of colleagues. Whistleblowing can be seen as an act of virtue ethics, where the whistleblower is practicing obligations of professional conscience fundamental to virtue-based medical ethics.[4] This involves healthcare whistleblowers making complaints that are reasonable, made in good faith, in the public interest, and not tainted with an ulterior motive and annoying.

Unwarranted disclosure of a patient's medical treatment, advice or medical records is regarded as a breach of the patient's personal rights. Confidentiality protects the patient's autonomy. However, sometimes there may be an obligation on the doctor to breach confidentiality, usually in situations when harm to a third party may occur. As such, there is leverage to disclose confidential data of patients to colleagues, hospital administrators or other relevant authorities such as the medical council.[5]

What are the reasons for the low incidence of whistleblowing among medical practitioners?

These include fear of personal reprisal, 'blame culture' due to institutional secrecy, and reducing the reporting of medical errors, making the repetition of such errors more likely.[6]

Do whistleblowers need legal protection?

Yes, they most certainly do. They need protection from retaliation by the employers. Legal protection encourages future reporting by whistleblowers whenever it is warranted. In developed countries whistleblowers are protected by whistleblower protection acts [US: Whistleblower Protection Act (1989), UK: Public Interest Disclosure (Protection of Whistleblowers Bill, 2002), in the form of the Public Interest Disclosures Act 1998][7].

What is the downside of whistleblowing?

In a survey done by the Medical Protection Society of the United Kingdom, 16% of the 1544

respondents had been the subject of whistleblowing and of this group over half (51%) believed issues were raised as a result of 'professional jealousy'.[3] This is more likely to happen if the whistleblower is anonymous. Despite such concerns GMC entertains complaints from anonymous whistleblowers.

Placing staff members in a position where they feel driven to approach the media to ventilate concerns is unsatisfactory both for the staff member and the health provider.[8] In the case scenario mentioned at the outset it was the press which galvanised the administrators into action. *The Medical Journal of Australia* narrates a first-hand story by a whistleblower who suffered a great deal when he reported an unacceptable number of deaths occurring amongst infants undergoing cardiac surgery at the Bristol Royal Infirmary in the United Kingdom over several years.[9] After he blew the whistle his life in the United Kingdom became intolerable and he had to relocate to Australia. As mentioned in the *Lancet*, concerns of whistle-blowers were ignored in several health-care scandals with catastrophic results for patients.[10] Many of those who report poor practices have been subject to sanctions, suspension, and even dismissal.

Discussion

Let us reflect on the case report mentioned at the outset. The officer concerned may have erred by holding a news conference without reporting the matter directly to his superiors or the Health Ministry. But this incident shows how sensitive the authorities are to exposure of facts that could be construed as shortcomings on their part. Such a reaction by the health authorities can be considered one of the important barriers in the Sri Lankan healthcare system, both public and private, that makes whistleblowing uncommon. The medical officer concerned has now been reinstated.

As far as we are aware, there are no guidelines about whistleblowing laid out by the Sri Lanka Medical Council, which is the regulatory authority for Sri Lankan doctors. The lack of such guidelines is one of the important reasons for whistle blowing to be so uncommon in Sri Lanka. Other important reasons are the lack of legal protection for whistle blowers and the lack of an explicit incident reporting protocol within health care institutions. Even if an incident reporting protocol is available often the staff including new recruits are not made aware of it. There is also a tendency for the hierarchical culture in hospitals to influence junior staff not to follow such protocols. When nurses witness some doctors' unethical or unsafe practices, they become helpless bystanders as they are powerless and could face adverse repercussions if they blow the whistle.

Doctors and nurses need a support service which should include a 24-hour telephone hotline maintained on a strictly confidential basis to seek advice on matters such as ethics in relation to complaints that are being made. It is time that Sri Lankan professional Colleges and the Sri Lanka Medical Association come together to set up a scheme to support whistleblowers among medical and allied professions in the country.

Author declaration

No conflict of interests.

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