Abuse of the Doctor–Patient Relationship

Abuse of the Doctor–Patient Relationship

Edited by Fiona Subotsky,
Susan Bewley and Michael Crowe

RCPsych Publications

RCPsych Publications is an imprint of the Royal College of Psychiatrists,
17 Belgrave Square, London SW1X 8PG
http://www.rcpsych.ac.uk

British Library Cataloguing-in-Publication Data.
A catalogue record for this book is available from the British Library.

ISBN 978-1-904671-37-4

Distributed in North America by Publishers Storage and Shipping Company.

Printed by Bell & Bain Limited, Glasgow, UK.

Contents

Figures, tables and boxes

Figures

Tables

Boxes

Contributors

Susan Bewley Consultant Obstetrician, King's Health Partners Women's Services, St Thomas' Hospital, London

Dinesh Bhugra President, Royal College of Psychiatrists, and Professor of Mental Health and Cultural Diversity, Institute of Psychiatry, King's College London, London

Peter Carter Chief Executive, Royal College of Nursing, London

Ngozi Chukwudi Medical Student, King's College London, London

Michael Crowe Psychiatrist in private practice, previously Consultant Psychiatrist, South London and Maudsley NHS Trust, Honorary Senior Lecturer, Institute of Psychiatry, King's College London, London

Patricia Crowley Associate Professor of Obstetrics and Gynaecology, Trinity College, Dublin, and Consultant Obstetrician and Gynaecologist, Coombe Women's and Infants' University Hospital, Dublin

Chess Denman Consultant Psychiatrist in Psychotherapy, Fulbourn Hospital, Cambridge

Dawn Devereux Director of Public Support, The Clinic for Boundary Studies, London, and psychotherapist in private practice

Bobbie Farsides Professor of Clinical and Biomedical Ethics, Brighton and Sussex Medical School, Brighton

Tanya Garrett Clinical and Forensic Psychologist, Honorary Senior Lecturer, University of Birmingham, Birmingham

Peter Haughton Senior Adviser in Medical Ethics and Law, School of Medicine, King's College London, London

David Misselbrook General Practitioner, Lewisham; Dean, Royal Society of Medicine, London

Andrew Pickering Medicolegal Adviser, Medical Protection Society, Leeds

Pete Snowden Medical Director, Calverton Hill Hospital, Partnerships in Care, Arnold, Nottinghamshire

Claire Spake Medical Student, King's College London, London

Julie Stone Independent Consultant in Healthcare Law and Ethics; Visiting Professor in Ethics, Peninsula Medical School, Exeter

Fiona Subotsky Emeritus Consultant Child and Adolescent Psychiatrist, South London and Maudsley NHS Trust; Honorary Archivist, Royal College of Psychiatrists, London

Joan Trowell Emeritus Fellow, Nuffield Department of Medicine, University of Oxford, previously GMC Council member and Chairman of the GMC Fitness to Practise Committee

Foreword

The doctor–patient relationship is at the core of treatment, whether psychological, pharmacological or surgical. There is considerable evidence that even when treatment involves no more than a prescription, the expectations and the nature of the therapeutic encounter dictate the response and acceptance of treatment. The doctor–patient interaction works at various levels and both sides respond to this, depending upon their experience, education, gender, ethnicity, age and other factors. The nature of the therapeutic interaction in psychiatry – in risk assessment and psychotherapy sessions especially – ensures that the psychiatrist is in a powerful position. This may lead to physical, sexual or emotional exploitation of the vulnerable individual, sometimes unintentionally but at other times deliberately.

Ethical issues related to such encounters are at the heart of this volume, which deals with the context, prevalence and sequelae of such events, and also considers prevention. Healthcare professionals have their own personality characteristics and life experiences, as do patients, which should not interfere with therapy but sometimes may. The editors are to be congratulated for providing a pragmatic and extremely helpful overview. They show that to improve upon the present situation there needs to be an increase in awareness and education, alongside better monitoring and regulation.

This book should be essential reading not only for trainees and psychiatrists, but also for other health professionals. The therapeutic encounter must be safe and beneficial for the patient. Both vulnerable patients and their carers must have full confidence in the probity and ethical values of a treating psychiatrist and the medical profession as a whole. It is up to the profession to set the standards and ensure that these are met. This book provides a welcome first step for raising standards. I hope it will be read widely.

Dinesh Bhugra
President
Royal College of Psychiatrists

Introduction: mapping the territory

Fiona Subotsky, Susan Bewley and Michael Crowe

The breaking of boundaries in doctor–patient relationships has been discussed in many recent publications, mainly from North America, Australia and New Zealand, where there have also been extensive modifications to codes of medical practice as a result (see Sarkar, 2004). In view of the lessons learned from recent scandals, it is timely to write about the British experience, especially as the delivery of healthcare, the legal and financial contexts, and even the favoured theoretical understandings are so different. In this book, we have concentrated on the paradigm case of the breaching of sexual boundaries, although other areas of transgression are also discussed. The greatest risk appears to exist in the specialties of psychiatry, gynaecology and general practice, and so it is appropriate that this educational book has a multidisciplinary authorship and editorship.

The genesis of the book was in the Royal College of Psychiatrists' need to respond to both the process and the recommendations of the Kerr/Haslam Inquiry. This formal inquiry, chaired by Nigel Pleming QC, examined how, despite complaints of sexual abuse by patients over many years, two male psychiatrists working from the same hospital in the north of England were able to continue professionally without challenge (Department of Health, 2005; Kennedy, 2006). By reflecting on these events and other cases of boundary transgression, we hope readers may help avoid the repetition of such occurrences.

Are we perhaps too optimistic that people are interested in the topic of abuse within the doctor–patient relationship? After all, the public response to the final report of the Kerr/Haslam Inquiry was very muted. On the other hand, heightened interest in particularly shocking cases seems only to raise denial or distancing from the profession, and demands for extreme punishment and increased regulation from others. Between these two extremes doctors must recognise that it is by being aware of the need for professional boundaries that the vital trust of the public may be maintained. Thus, the Royal College of Physicians' report (2005) *Doctors in Society: Medical Professionalism in a Changing World* defines professionalism as: 'a set of values, behaviours and relationships that underpins the trust the public has in doctors'.

Unequal relationships

Abuses, and taboos to prevent them, do not occur in medicine alone. Any unequal relationship has the potential for sexual abuse and abuse of power built into it. Priests and parishioners, teachers and pupils, sports coaches and their trainees, producers and actors, and above all parents and their children should be in relationships in which sex is expected not to occur. This is for the very good reason that the less powerful member of the dyad is at a disadvantage in terms of influence, and often age, and therefore not able to give free, informed and voluntary consent to what is happening. The trusting relationship puts the more senior member in a position resembling a parent: *in loco parentis* is generally used to characterise the teacher–pupil relationship, but could equally be used to describe the doctor–patient or priest–parishioner relationship, without carrying the negative associations of paternalism. It is perhaps significant at the present time, when authority is being challenged as never before, that there is an outcry about sexual abuse by priests, about incest within families, about sexual harassment within military training academies and about sexual abuse within therapeutic relationships of all sorts, including medical, psychological and psychotherapeutic.

The purpose of rules

The enforcement of boundaries within unequal relationships is based on good reasoning. Despite fashionable movements to turn the doctor–patient relationship into a partnership of equals, this can never be achieved. Doctors and therapists must be constrained by legal and ethical duties of confidentiality, consent and competence in ways which are not necessary for patients. Trust is required for patients to tell secrets, to take potentially harmful medications and to undergo operations when unconscious. The construction, maintenance and repair of professional boundaries is a one-sided responsibility. Medical professionalism itself is threatened not only by the few doctors who infringe appallingly but also by the many whose infringements appear trivial at first.

There are many stages on the slippery slope towards the breach of a boundary within a therapeutic relationship. These can include the giving and receiving of gifts, the sharing of personal information by the doctor/therapist, socialising with the client/patient, entering into commercial transactions outside those involved in therapy itself, the disclosing by the doctor/therapist of personal information or problems, and eventually by the breaking of the greatest taboo, that of sexual touching. Sometimes these initial infringements are part of a grooming process by a therapist wanting to progress to an intimate relationship with a client, but at other times they are made innocently and with good intention. However, once boundaries are breached it then becomes more difficult to restore a therapeutic relationship in which the proper boundaries are respected.

A multidisciplinary matter

Our brief, as shown by the range of contributions, is one that embraces different medical specialties, and other areas where counselling, psychotherapy and similar activities take place. There is a particular risk in the fields of counselling and psychotherapy, where therapist (or counsellor) and client may be in regular one-to-one contact for a prolonged period, and the patient may be both more vulnerable psychologically and less likely to be believed. However, what applies to mental health practitioners is also true to a lesser extent for the majority of doctors, especially those who see patients regularly, perform intimate examinations, or have knowledge of their patients' lives that their patients would prefer to be kept secret.

Ethics and harm

Of foremost importance are ethical principles, discussed by a number of contributors, but particularly in Chapter 1 by Bobbie Farsides, a medical ethicist who reflects on John Stuart Mill's injunction against harm. She emphasises the obligation placed on the therapist to work within defined boundaries and ensure that the encounter is therapeutic, despite the seeming intimacy of the situation. The harmfulness of boundary violation may be difficult to research quantitatively, but attending to the patient's voice has rightly become part of mainstream medical evaluation and education, and so Dawn Devereux's contribution, 'The patient's perspective', follows (Chapter 2). She writes from the point of view of a psychodynamically trained non-medical psychotherapist who has developed expertise in treating patients who have been previously abused by therapists and has also researched published accounts of such treatment experiences. She draws attention to the phenomenon of 'bystanding' – the wider culpability of those who witness or know but do nothing – perhaps a widespread experience in health services.

Witnessing, observing and reflecting are what Peter Haughton's medical students are asked to do in their course on ethics at King's College Medical School. With two medical student co-authors, Haughton presents ideas and problems regarding medical education that have arisen in the course (Chapter 3). He thus provides some theoretical background and reflection on real examples of poor practice and the dilemmas of how to respond.

Context

The past may reveal patterns that are less clear to us when close up. So a brief historical approach follows, looking first at the development of Western medical codes of ethics and early British regulation through the

General Medical Council (GMC) and then at some particular cases of egregious boundary breaking, and how they were responded to at the time (Chapter 4). The difficulties of discovering the prevalence of even clear-cut boundary breaking are reviewed by Tanya Garrett, a clinical psychologist with a long-standing interest in this area (Chapter 5). The statistics about present rates of abuse largely relate to psychiatry and surely are underestimates, as they are mostly based on self-reports. Nevertheless, what is known, primarily from studies in the USA, Canada, Australia and New Zealand, gives considerable cause for concern, while data from the UK are extremely limited.

In response to the Kerr/Haslam Inquiry, guidance and professional recommendations were developed by the Royal College of Psychiatrists (RCPsych), the institution which has most of the UK's consultant psychiatrists as members, and is responsible for education and standard setting in psychiatry. Fiona Subotsky, who was the College officer responsible for liaising with the Inquiry, outlines this process as it developed (Chapter 6) – a process which needs to continue as greater understanding emerges of the abuse of mental health patients by professionals. Indeed, the production of this book is a further attempt to increase awareness and help prevention.

Specialties

David Misselbrook, a practising general practitioner and current Dean of the Royal Society of Medicine, looks at the culture of general practice in the UK, with its pressures of time and demand (Chapter 7). These produce tensions between ideals of good practice and practicality, which are often a cause of professional stress. He outlines formal theoretical attacks on the medical power structure, from Foucault, Illich and Kennedy, and illustrates the abuse of medical power with several examples. While expressing hope that measures such as audit and revalidation may help, he thinks complete success is unlikely.

The violation of sexual boundaries has been examined in detail especially by psychoanalytically trained and practising psychiatrists. Chess Denman is a consultant psychiatrist in psychotherapy who looks at boundary violations in psychotherapy (Chapter 8). She explains related psychodynamic ideas such as the role of dependent attachment in the patient and unconscious sadistic motivation in the therapist. These phenomena occur in the processes of transference and countertransference, but are not confined to psychodynamic treatments. The field of sexual therapy, reviewed by Michael Crowe (Chapter 9), might be assumed to be a particularly high-risk area. In consequence, one association has developed a strong and explicit professional code in the UK, which includes the need for supervision and for chaperones.

Obstetrics and gynaecology are areas of medical practice which necessitate genital examination of an exclusively female clientele. Patricia Crowley,

Associate Professor of Obstetrics and Gynaecology in Dublin, advises on the prevention of abuse by the appropriate use of chaperones, better information for patients about what to expect and better education for doctors, nurses and midwives (Chapter 10). She warns that the dynamics of the doctor–patient relationship can easily lead to excessive intervention, whether through the doctor's vested interest or desire to progress modern techniques, or the wish of the patient for ready solutions. Ideally, these specialties should be a force for the improvement of women's rights in health.

Peter Carter, Chief Executive of the Royal College of Nursing, considers the range of possible reasons for abuse by nurses, from the cultural and systemic to the intrapersonal (Chapter 11). He presents the case of David Britten – a senior nurse who sexually abused many young women patients in an eating disorders ward – and has some illustrative accounts from nurses who have admitted abuse. By way of contrast, a model example of good practice in the management of a case of alleged assault is given; it shows what persistence and dedication are necessary to secure a just result.

Prevention

Many of the contributors make recommendations on the prevention of boundary abuse, but evidence of success is difficult to obtain, as the baseline is so poorly defined and monitored. Fortunately, this situation is beginning to be improved in the UK, through the work of the National Patient Safety Agency and the National Clinical Assessment Service. Primary prevention may be considered to include clarification of principles, education for doctors and information for patients. Secondary prevention is generally understood as aiming at identifying risk areas and ensuring early identification of problems in order to react appropriately. This organisational level is targeted in Chapter 12, 'Medical management', by Fiona Subotsky, which advises a systematic approach to policies and audit to help prevent abuse, as formal inquiries have always shown up great weaknesses in these areas.

At the tertiary level of prevention (damage limitation), abuse has occurred and the abusive (or possibly abusive) doctor has to be dealt with. Peter Snowden, a forensic psychiatrist and medical director, writes about the range of sanctions and remediation available in the UK (Chapter 13). In terms of the latter, there is little systematic provision, unfortunately. While there is greater provision in the USA, it is still not yet clear what is effective enough to guarantee patient safety.

As in other areas of medicine, there can be false positives and false negatives. The medical defence organisations see another side of the picture and can also offer much useful advice to doctors. Andrew Pickering, a medico-legal adviser, notes that doctors are subject to 'multiple jeopardy', as complaints may be formally raised and action taken against them in a number of different forums (Chapter 14). The accused doctors may be

hampered from defending themselves by the restrictions of confidentiality, but their livelihoods are threatened irrespective of the truth or otherwise of allegations.

Regulation of medical and other health practitioners has been debated at length in the past decade, and we are fortunate to have a contribution by Julie Stone (Chapter 15), who led the Council for Healthcare Regulatory Excellence's project 'Clear Sexual Boundaries' (www.chre.org.uk) which produced so much useful material on the topic (see Appendix 3). She argues that while the CHRE has a major role to play in promoting professional excellence for patient safety, government support will nonetheless be critical for success.

The primary medical regulator in the UK is the GMC, whose practice and advice have recently been shaped by major scandals of errant doctors and the consequent inquiries and recommendations. The chapter by Joan Trowell, a past medical member of the GMC Council, outlines much of the GMC's current procedures and guidance in relation to boundary issues (Chapter 16). Real case examples from the GMC are included in Appendix 4.

Major themes

Case studies are provided in most of the chapters and also in the Appendices. This is partly because of their intrinsic interest and educational value, but also because the abstract metaphor 'boundary violation' conceals within it a huge range of behaviour, including the truly shocking and near unspeakable. It is this 'not speaking' which has contributed to so much abuse being permitted to continue for so long.

Professional self-interest, the abuse of power, risks and the rights of vulnerable patients, especially women and people who are mentally ill, have all been considered in this book. While there may be indignation, there is no cause for despair, as much could be improved. We hope that this book will speak to readers so that more doctors, therapists, nurses, trainees and students will reflect on boundaries and work on their maintenance.

References

Department of Health (2005) *The Kerr/Haslam Inquiry*. TSO (The Stationery Office).

Kennedy, P. (2006) Kerr/Haslam Inquiry into sexual abuse of patients by psychiatrists. *Psychiatric Bulletin*, **30**, 204–206.

Royal College of Physicians (2005) *Doctors in Society: Medical Professionalism in a Changing World*. Report of a Working Party (J. Cumberlege, chair) of the Royal College of Physicians of London. RCP.

Sarkar, S. P. (2004) Boundary violation and sexual exploitation in psychiatry and psychotherapy: a review. *Advances in Psychiatric Treatment*, **10**, 312–320.