Medical Board Hearings for Physicians who Torture: Aims, Rules, Punishments.

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Physicians Sanctioned for War Crimes / Torture 1975-2013

Combinations signify multiple events for one person

Sanctioned
Domestic Court
International Court
Died during crim trial

Medical Board

Rwanda
Yugoslavia
South Africa
Argentina
Brazil
Guyana
Chile
Uruguay
Bangladesh
Pakistan
Sri Lanka
UK
AIMS OF MEDICAL BOARD SANCTIONS
To Remember and Atone
To Punish
To Deter
Domestically and Internationally
To Protect International Colleagues
To Remember and Atone
Army doctor struck off over death of Iraqi detainee Baha Mousa after failed resuscitation when he was severely beaten by soldiers.

Dr. Keilloh showed 'repeated dishonesty' in claiming not to have seen injuries.

Dr. Derek Keilloh was struck off the UK medical register over the death of Iraqi detainee Baha Mousa.
To Deter Torture

- **Physicians**
  - Belong to civil society and have professional ethics binding them to the well being of patients.
  - Belong to prestigious and somewhat protected domestic and international communities.
  - Are in every prison and thus do see torture or the results of torture.

- **Medical Boards** by asserting and enforcing ethics,
  - Inform physicians of their duty
  - Let torturing regimes realize that not all the prison “eyes’ belong to them.
  - Create a domestic and international message that can deter torture or medical complicity with torture.

- The capacity to openly perform this role may be diminished in extreme totalitarian states.
To Protect International Colleagues

Dr. Anatoly Koryagin, USSR, published a paper in The Lancet describing 16 special hospitals for psychiatric abuse of Soviet dissidents.

He was arrested in 1981, sentenced to 7 years of hard labor, to be followed by 5 years of internal exile for anti-Soviet activities.

British and US medical community protests secured his release and exile to the west.

Dr. Ramin Pourandarjani, Iran, examined prisoners wounded and killed during the 2009 post-election protests in Iran. He testified before a parliamentary committee investigating torture at the Kahrizak jail.

Western medical associations were muted by US medical complicity with brutal “war on terror” interrogations.

After testifying, he was arrested and died of a “heart attack” in police custody at age 26 in November 2009. No autopsy was allowed.
DESIGNING MEDICAL BOARD HEARINGS

Physician or Soldier?
Rules to Evaluate Unprofessional Conduct
Punishments
<table>
<thead>
<tr>
<th>Physician or Soldier?</th>
</tr>
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<tbody>
<tr>
<td><strong>Were Medical Skills, Training, Experience or Education used?</strong></td>
</tr>
<tr>
<td>• how to keep a person alive,</td>
</tr>
<tr>
<td>• how to exploit specific physical or psychological weaknesses to harm the person.</td>
</tr>
<tr>
<td>• How to harm without leaving scars.</td>
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<tr>
<th>Were Physician Powers misused?</th>
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<tr>
<td>• access to medical records,</td>
</tr>
<tr>
<td>• physical examination,</td>
</tr>
<tr>
<td>• authority to complete and sign medical records or death certificates.</td>
</tr>
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</table>
AUTHORITATIVE RULES FOR MEDICAL BOARDS TO USE TO EVALUATE PROFESSIONAL CONDUCT

DO AUTHORITATIVE PROFESSIONAL RULES EXIST?

CAN THE RULES BE TRANSPARENTLY APPLIED?

Local Medical Codes  World Medical Association  United Nations
World Medical Association Standards for Board Hearings.

- Declaration Concerning Support for Medical Doctors Refusing to Participate in, or to Condone, the Use of Torture or Other Forms of Cruel, Inhuman or Degrading Treatment. 1997.
- Declaration of Geneva. 1948.
- Declaration of Malta on Hunger Strikers.
- Guidelines for medical doctors concerning torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment 2006.
- International Code of Medical Ethics.
- Regulations in Times of Armed Conflict. 2006.
- Resolution on the responsibility of physicians in the documentation and denunciation of acts of torture or cruel or inhuman or degrading treatment 2007.
- Statement on the licensing of physicians fleeing prosecution for serious criminal offences 1997.

All of these standards may be found at www.doctorswhotorture.com
WMA Code of Medical Ethics 1949

“The following practice is deemed unethical:

• any act or advice which could weaken physical or mental resistance of a human being.”

“A doctor should certify or testify only to that which he has personally verified.”
Declaration of Tokyo - 1975

• The doctor
  • shall not countenance, condone or participate in torture or cruel, inhuman or degrading procedures in any situations, including armed conflict and civil strife.
  • shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment.
  • shall not be present when torture or other forms of cruel, inhuman or degrading treatment are used or threatened.
Regulations in Times of Armed Conflict and Other Situations of Violence

• Medical ethics in times of armed conflict is identical to medical ethics in times of peace.
• Physicians’ primary obligation is to their patients in all their professional activities,
• Physicians should adhere to international conventions on human rights and WMA declarations on medical ethics.
• Privileges and facilities afforded to physicians and other health care professionals in times of armed conflict and other situations of violence must never be used other than for health care purposes.
Regulations in Times of Armed Conflict and Other Situations of Violence

It is unethical for physicians to:

• Give advice or perform prophylactic, diagnostic or therapeutic procedures that are not justifiable for the patient's health care;
• Weaken the physical or mental strength of a human being without therapeutic justification;
• Employ scientific knowledge to imperil health or destroy life;
• Employ personal health information to facilitate interrogation;
• Condone, facilitate or participate in the practice of torture or any form of cruel, inhuman or degrading treatment.
Documentation and Denunciation of Acts of Torture or Cruel or Inhuman or Degrading Treatment

NATIONAL MEDICAL ASSOCIATIONS should

• Attempt to ensure that physicians include assessment and documentation of symptoms of torture or ill-treatment in the medical records using the necessary procedural safeguards to prevent endangering detainees.
Medical Standards for Board Hearings.

- Hippocratic Oath
- Universal Declaration of Human Rights
- Geneva Convention relative to the Treatment of Prisoners of War.
- Islamic Code of Medical Ethics
- United Nations.
  - Principles of medical ethics. 1982,
  - Standard Minimum Rules for the Treatment of Prisoners

All of these standards may be found at www.doctorswhotorture.com
UN Principles of Medical Ethics

It is a gross contravention of medical ethics, for physicians, to

[1] engage, actively or passively, in acts which constitute participation in, complicity in, to commit torture or other cruel, inhuman or degrading treatment or punishment, ...

[2] be involved in any relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health, ...
UN Principles of Medical Ethics

It is a gross contravention of medical ethics, for physicians, to

[3] apply their knowledge and skills in order to assist in the interrogation of prisoners ... in a manner that may adversely affect the physical or mental health or condition of such prisoners ...; certify, or to participate in the certification of the fitness of prisoners ... for any treatment or punishment that may adversely affect their physical or mental health.

[4] participate in any procedure for restraining a prisoner ... unless such a procedure is determined in accordance with purely medical criteria as being necessary for the protection of the physical or mental health or the safety of the prisoner or detainee himself ... and presents no hazard to his physical or mental health.
Convention Against Torture

Torture: any act by which severe pain or suffering, whether physical or mental,
• is intentionally inflicted on a person
• when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.
• does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
UN Principles for Protection of All Persons under Any Form of Detention or Imprisonment

“Cruel, Inhuman and Degrading Treatment or Punishment:”

• should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental, including the holding of a detained or imprisoned person in conditions which deprive him, temporarily or permanently of the use of any of his natural senses, such as sight or hearing, or of his awareness of place and the passing of time.
PUNISHMENTS

Revoke License
Suspend License
Restrict to public (non-military hospital)
Censure
(Medical boards cannot imprison)
## Remove license

<table>
<thead>
<tr>
<th>Advantages</th>
<th>Sends a strong message and deterrence</th>
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<tr>
<td>Disadvantages</td>
<td>Aggravates physician shortages</td>
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<tr>
<td>Status</td>
<td>Rarely used.</td>
</tr>
<tr>
<td>Suggest</td>
<td>Use only for physician leadership</td>
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## Suspend license

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<td><strong>Disadvantages</strong></td>
<td>Often seen as too weak given the severity of crime. (Most suspensions are a few weeks to two months.)</td>
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<tr>
<td><strong>Status</strong></td>
<td>Somewhat common.</td>
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<tr>
<td><strong>Suggest</strong></td>
<td>Should be more widely used.</td>
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Restrict license to public service hospitals

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### Statements of Censure

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<td>Suggest</td>
<td>Should be widely used (and can be combined with others).</td>
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We will not have accountability for individual physicians until medical boards and professional associations are institutionally accountable for upholding the standards they proclaim.

"It is not only what WE do, but also what WE do not do for which WE are accountable."

~John Baptist Molière
Health Professions Council of South Africa: Matter of W.J. Basson MD
SLIDES AVAILABLE ON REQUEST

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