

Editorial

New Code of Medical Ethics, Bioethics and Hope

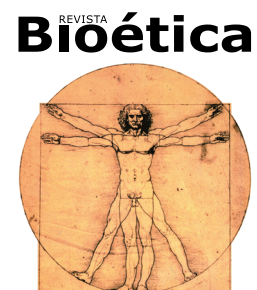
The new Código de Ética Médica (Code of Medical Ethics - CEM), established by the Resolution of the Conselho Federal de Medicina (Federal Council of Medicine - CFM) 2.217 / 2018¹, was published in the Diário Oficial da União (Official Journal of the Union - DOU) on the first of November 2018 and will come into force 180 days after its publication. The revision of the CEM's version which has been in force since April 2010, Resolution CFM 1931 / 2009², began in 2016. At that time, the document was considered to be truly innovative, as it brought topics such as palliative care, research involving children, patient autonomy and focus on rules for assisted reproduction.

Since then, however, the need to revise and refine the code has become evident because of the accumulation, in a short space of time, of technical and scientific advances occurring both in the realm of medical art and science per se and in professional and social human relations. Another reason is the need to adapt the code to recent CFM resolutions and the legislation in force in the country.

The current review was an initiative of the CFM, which coordinated the participation of the Conselhos Regionais de Medicina (Regional Medical Councils - CRM), local and national medical entities, medical teaching entities and a team of experts. They formed state commissions and the National Commission, coordinated by CFM's president and its magistrate. Since then, in addition to local and national working meetings, three regional meetings and three national meetings have been held to debate and deliberate on exclusion, amendment and addition to the current text.

All physicians regularly registered in CRMs, medical entities, as well as civil society organisations and professional societies were able to send suggestions from 1 July, 2016 to 31 March, 2017³, enabling a broad and qualified participation. In all, 1,431 online proposals were received and fully analysed. The work was completed on 15 August, 2018, when the elaboration of the Resolution was completed and then sent for spell check and legal review. It was later approved in the CFM Plenary to be published in the DOU, thus complying with all legal formalities.

Themes such as patient and doctor safety and autonomy, ecosystem protection, doctors' acting in regard to disability, palliative care, research, discrimination, time to be dedicated to the patient, were some of the points discussed in the fundamental principles and in the ethical norms. With regard to chapters and ethics articles, contents such as professional responsibility, human rights, relationship with patients and relatives, relationship between doctors, professional remuneration, professional secrecy, including with regard to the care of a child or adolescent patient, medical documents, medical advertising, teaching and research, transplantation, among others, were also widely discussed before they were approved.



Few professions have their own code of ethics. The CRM and the CFM use code of ethics since they were created in 1945 by Decree-Law 7.955⁴, which put into effect the Code of Medical Ethics⁵, approved one year earlier in the IV Congresso Sindicalista (Fourth Trade Union Congress). With the Estado Novo (New State) and the trade union difficulties experienced at that dictatorial period in Brazil, another type of organisation emerged: The professional association in the form of the Associação Médica Brasileira (Brazilian Medical Association - AMB), which developed in 1953 a new Code of Medical Ethics, based on the Hippocratic oath, the *Geneva Declaration*⁶ adopted by the World Health Organization (WHO) and the International Code of Medical Ethics⁷.

Medical councils, as we know them today, established themselves from 1957 with Law 3.288⁸, with the determination that they would adopt the AMB Code of Medical Ethics⁹ until another document was prepared. A new code was produced in 1960 under the title of Code of Medical Ethics, which, while retaining the contents of the 1953 version, was inspired by Swedish, American and English norms¹¹. Approved in July 1963 at a CRM Congress, it entered into force with the approval of the CFM and publication in the *Diário Oficial da União* (Official Journal of the Union) in January 1965.

This document guided medical practice until 1984, when the new Código Brasileiro de Deontologia Médica (Brazilian Code of Medical Ethics)¹² was approved and adopted. This Code, however, was in force for a short period of time, because in 1987, as part of the country's redemocratisation process, the Primeira Conferência Nacional de Ética Médica (First National Conference on Medical Ethics) was held in Rio de Janeiro in November, when the text of a new code was produced¹³. According to Francisco Álvaro Barbosa Costa, then president of the CFM, the purpose of that code *would be not only to contemplate the reality of medical practice, but also to have the perspective and commitment of its very transformation*¹⁴.

The document, published in the DOU in January 1988, was considered innovative for the time because it contemplated not only the qualified scope of medical practice but also broader issues related to health and society. Perhaps that is why the need to revise it intensified only many years later, which resulted in the 2009 Code. It should be noted, however, that the guidelines established in 1988 were kept at the heart of subsequent documents, supporting the following codes, which remained true to their origins, inspired by human rights and human dignity.

The new CEM, published in 2018, is not a code of principles only, but a code of principles, rights and duties of physicians which are mandatory because the CFM and CRM have an institutional duty to supervise ethics in the practice of medicine. To that end, they use the CEM and resolutions that have the force of law for doctors, protecting the dignity of the patient, as well as of all those who practice medicine. In addition, the new code punishes those professionals who fail to comply with its precepts and determinations.

The chapter of fundamental principles is support and enforcement tool in defence of the human rights of doctors and patients, the environment and individual and collective freedom, based on bioethical and humanistic principles. Such an attempt is exemplified by the first and second principles, which state respectively:

Medicine is a profession in the service of the health of the human being and the community and will be exercised without discrimination of any nature;

*The target of the attention of the physician is the health of the human being, for the benefit of whom he or she must act with the utmost zeal and the best of his or her professional capacity*¹.

Here are some other articles that also directly address issues related to bioethics: 1) *the physician will have absolute respect for human beings and will always act for their benefit, even after death*; 2) *physicians will never use their knowledge to cause physical or moral suffering, the extermination of human beings or to allow and cover up attempts against the dignity and integrity of human beings*; 3) *the physician shall communicate to the competent authorities any deterioration of the ecosystem which is harmful to health and life*; 4) *in the application of the knowledge generated by new technologies, (...) the physician shall ensure that persons are not discriminated against for any reason*¹.

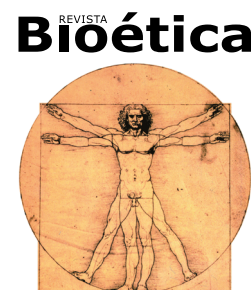
In this brief and selective collection of articles, it is clear that bioethical reflection permeated discussions and decisions. Many experts and scholars in the field contributed to the formulation of the document, which was essential to the quality and fairness of the CEM. As a result, many articles that are part of the code reveal the very noticeable presence of principles and values derived from bioethics. This can be observed in several chapters such as, for example, the one that establishes the possibility of access to medical records in retrospective studies, provided that it is justified by a study design appropriate to ethical and bioethical principles and authorised by the Comitê de Ética em Pesquisa (Research Ethics Committee - CEP) or by the Comissão Nacional de Ética em Pesquisa (National Commission for Research Ethics - Conep).

With regard to bioethical reflection and its application in clinical practice, it is important to consider that perhaps one of the most significant contributions of the new CEM is in its Article XXII, which focuses on palliative care: *In irreversible and terminal clinical situations, the physician will avoid unnecessary diagnostic and therapeutic procedures and will provide patients under his or her care with all appropriate palliative care*¹. The relevance of this guideline corroborates the fact that 19% of the 120 papers of the seven issues of the *Revista Bioética* (Bioethics Journal) published between 2017 and 2018 discuss issues related to the termination of life. From this it is clear that professionals must receive, through the CEM, precise guidelines on how to proceed in these circumstances.

Thus, it is verified that bioethics is connected to the CFM and could not be otherwise, since bioethics is both an integral part of CFM's Code of Ethics and the daily practice of physicians. Ethics is the suitable counterpart of technique for all human beings, contributing to quality health care based on respect for professionals and patients and on the dignity of the human being.

The importance of bioethics for medical practice is confirmed by the fact that the CFM created the *Revista Bioética* (Bioethics Magazine) in 1993, even before the founding of the Sociedade Brasileira de Bioética (Brazilian Society of Bioethics - SBB), which represents the scholars of this field in the country. The Federal Council has maintained the journal for 26 years, fostering its constant improvement and modernisation to make it a national reference in bioethics. Currently, the printed version of the magazine is distributed to Medical Schools undergraduates and students of other health care areas in order to be used as teaching material in the classroom, in line with the Diretrizes Curriculares Nacionais (National Curriculum Guidelines - DCN) for medical schools¹⁵.

The CFM also set up its Câmara Técnica de Bioética (Technical Chamber of Bioethics) in January 2011, encouraging the formation and maintenance of bioethics committees and commissions in health units and in the CRMs, which



has been a growing trend. In the same year the CFM held *the I Congresso de Bioética Clínica* (1st Congress of Clinical Bioethics), which, from then on, takes place together with SBB's Brazilian congresses. This institution, which since 1996 has been the guardian of this flourishing field and has been strongly supported by the CFM, already amassing a collection of publications, norms, decisions and recognised names inside and outside our borders, promoting events, publishing articles and books, gathering and stimulating the teaching and research of this discipline.

From 2005 onwards, with the adoption of the *Universal Declaration on Bioethics and Human Rights*¹⁶ by the United Nations Educational, Scientific and Cultural Organisation (Unesco), bioethics is clearly evolving, influencing the development of norms and ethical guidelines for health professionals' practices around the world. We have a new Code of Medical Ethics in Brazil which is capable of responding to clinical and research impasses, contributing to the strengthening of a good doctor-patient relationship.

Medical boards are renewing and reorganising their actions, and professionals are mobilising to address the health system's severe problems. We therefore have the prospect of a considerable struggle and will only find ways to succeed through persistence, resistance, hope and union of the Brazilian society around the well-being of all groups and segments of the population.

The editors

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REVISTA
Bioética

