

OSSI ETHICS



OBESITY SURGEONS SOCIETY OF INDIA (OSSI)
ETHICS IN BARIATRIC & METABOLIC SURGERY

OSSI POSITION STATEMENT ON ETHICS IN BARIATRIC SURGERY

Introduction:

We define Ethics as a code of values. Ethics define a person's character the way a person's money reflects his financial health. In the medical field, ethical behaviour by physicians has been defined and codified since the time of Hippocrates. Most current ethical guidelines of contemporary medical organisations are versions of the same. It is our position that much of these ethical codes are flawed, unworkable, impractical and the major reason why medical practice is often so unethical.

In the field of bariatric surgery, OSSI aims to outline a broad set of positions on ethical issues that could be used by all concerned. It must be understood that there is a difference between what is ethical and what is legal.

Ethical is what one should or should not do. Legal is what one can or cannot do.

Society can punish an illegal act, but one cannot ordinarily punish an unethical one.

However, the reputation of a profession rests not on a giant, rare, illegal act of one person, but the minor, common, unethical acts of countless surgeons. It is important for OSSI and its members to be able to work comfortably within a highly ethical and yet practical code of values.

An organisation like OSSI is a voluntary association of professionals who have common goals of working in a healthy and progressive community. If any member works actively against the interests of the other members, it stands to reason for the organisation to discipline him or her. When this kind of activity (that is antithetical to the interests of the organisation or its members) is noted, it would be spineless of the organisation not to take cognisance and respond appropriately. In any serious situation like this, it is incumbent on us to ensure fairness to all the parties concerned.

At the risk of repetition, **we state that OSSI cannot police any member, but if there is a clear violation of these codes that is reported to the Ethics Committee, a warning would be issued privately or publicly to the member (depending on the severity of the violation). A second violation would invite a one year disqualification from being invited as a Faculty in OSSI endorsed (or organised) courses, and a third violation punished by suspension for three years. Such a suspension would be**

searchable on Google and seen in public domain in the OSSI website. Major breach of ethics would not be given the benefit of 3 strikes, as above. It would lead, subsequent to the Ethics Committee majority decision, to immediate penalisation or suspension.

While ethics cannot be enforced, major violations (especially consciously made policy decisions) will be dealt with strongly by the organisation. In the absence of serious consequences, one unscrupulous member may imperil the reputation of all. It is our position that any person is free to practice his or her brand of values but spare the rest of us from being stigmatised by association. The organisation should be free to choose who it allows to remain in its protective fold. Failure to do so would be detrimental to OSSI's interests.

The subjects to be covered include:

- 1. Professional conduct with patients and relatives**
- 2. Professional conduct with other colleagues**
- 3. Professional conduct with a patient suffering from a complication created in a surgery done elsewhere.**
- 4. Professional dealings with companies**
- 5. Insurance related commitments**
- 6. Data keeping and reporting**
- 7. Doing novel procedures**
- 8. Handling complications**
- 9. Conflicts of interest**
- 10. Dealing with members of the opposite sex**
- 11. Fee sharing**
- 12. Advertising and marketing**
- 13. Social media posting**
- 14. Pricing**

Professional conduct with patients and relatives:

The patient is at the Center of our Universe. We should be clear that our self interest lies in promoting and safeguarding the interest of the patient over all else. Therefore, it is in our self interest that we should place the patient first on all clinical decisions. Decisions that compromise this fundamental principle is likely to be unethical, at the least. While it is not our job to police the actions of our members, we would strongly caution surgeons from being adventurous with patient safety issues. While lucky ones can escape medicolegal or **social** disasters, on a given

day a surgeon caught in the act (even in the absence of overt *malafide* intentions) may find himself in an indefensible position. We cannot attempt protection of that individual in that situation.

Unacceptable actions in this respect include:

- Doing a bariatric procedure on a sick patient with obvious contraindications, or not in the acceptable BMI or age limits that we recommend.
- Failing to adequately counsel a patient about the pros and cons of the procedure he/she is to undergo.
- Failing to address the concerns of the patient or family about any aspect of the procedure.
- Failing to obtain a detailed informed consent before the operation, listing all the important facts that are usually detailed in standard consent forms in Indian centres.
- Trivialising the operation, comparing it to an appendectomy, for example.
- Fat shaming the patient.
- Overtly soliciting a bariatric procedure while offering inducements or discounts.
- Touching the private parts of the patient without prior permission, due cause and a chaperon.
- Claiming to be the best surgeon, while berating or otherwise undermining the status of a colleague.

Professional conduct with other colleagues

There is nothing exceptional here that we at OSSI need to exercise over. We strongly encourage the culture of being polite, respectful and honest with respect to all human beings, especially colleagues in the medical profession.

Unacceptable behaviour includes:

1. Publicly insulting, abusing or assaulting a colleague.
2. Publicly undermining the reputation of a colleague.
3. Maliciously undermining the status of a surgeon or physician in his hospital by spreading rumours or by political activities.
4. Seeking sexual or other favours while leveraging one's position or power against the victim.

The above is a mere, short list of instances that every right-thinking surgeon should find offensive. We cannot identify every situation. As an organisation, it is not our interest or goal to control interpersonal relationships. However, this segment is mentioned to state the obvious,

so that in the rare instance of a major violation under this heading, we would be able to warn anyone going astray.

Professional conduct with a patient suffering from a complication created in a surgery done elsewhere

This is another instance where we are hard-pressed to say anything new or exceptional. We know most surgeons would be kind, empathetic and pro-active in helping a patient and the family in distress. Unacceptable behaviour includes:

1. Going AWOL without informing the patient and family
2. Blatantly lying to the patient or family about the nature, cause or outcome of the complication.
3. Concealing or attempting to conceal an iatrogenic complication by fraudulent means. While one may, in the interest of collegiality, be tempted to conceal an iatrogenic complication by a colleague, it is not legal or professional. Falsifying data is not defensible. The best course of action in such circumstances may be to record oneself counselling the family, outlining the case according to one's perception, and underlining the possibility of such an error happening with any surgeon. Difficult, emotional situations like these are impossible to control in advance, and we merely urge our members to be extremely vigilant not to err in either direction- letting a colleague down, or the patient down by defending someone falsely.
4. Impinging on the goodwill and reputation of the original surgeon by casting aspersions on his/her motives, rubbishing his credentials, or criticising the procedure done.

Professional dealings with companies:

While the current scenario in India is highly regulated in terms of what companies may legitimately do for promotion of surgical advances or a surgeon's professional goals, it is possibly overdone and problematic.

We believe that there is a proper role for device or pharmaceutical companies to work symbiotically with the surgical community.

This role should be transparent and amenable to disclosure when indicated. This preparedness on the part of the surgical community to reveal commercial ties would go a long way to remove the notion of underhand dealings from the minds of the lay populace.

It is unnecessary for us to detail what would constitute inappropriate dealings with corporates, as they are strictly regulated by law. In short, we advise all to abide by the law.

Insurance related commitments:

Surgeons should strictly avoid (and refuse) falsification of records to give the patient the benefit of insurance coverage for Bariatric surgery. Such attempts may lead to exposure and reveal the surgeon as culpable and a party to fraud.

Data keeping and reporting

Most bariatric surgeons have started keeping their data. OSSI demands that it's members necessarily maintain their records and outcomes in the official Registry. Such a collective effort will go a long way in ensuring credibility of publications. Failure to participate in the Registry may lead to ineligibility of a member to be considered as faculty in OSSI-endorsed courses, or its own conferences. Such a member will also not be eligible to hold an Executive position.

In terms of ethics, falsifying data, wilfully cherry picking data (by removing adverse cases from one's series, for example), plagiarising scientific material and "salami slicing" are some of the important examples of unethical actions. The revelation of these may be condemned officially by OSSI.

Doing novel procedures

While scientific progress in bariatric surgery is certainly our collective aim, doing untested new procedures as a commercial practice is potentially troublesome and dangerous. Negative outcomes could bring the entire bariatric community to disrepute.

We have defined standard bariatric procedures to include only the following:

1. LAGB
2. Sleeve gastrectomy
3. RNYGB
4. BPD-DS
5. MGB

Any other procedure is presently considered as a "novel procedure".

Should any surgeon have the freedom to preform novel procedures on his patients?

Should OSSI have any jurisdiction in such matters?

While it is not a regulatory body, OSSI certainly has a responsibility to the public and to other surgeons practising bariatric surgery. To this end, we recommend that the following be fulfilled by any surgeon doing novel procedures:

1. The procedures should be entered in the Registry.
2. The procedures should be done under the ambit of a trial, whether prospective or otherwise.
3. There should be strictly no advertising for novel procedures.
4. Patients must be clearly counselled about the untested and relatively raw nature of the evidence favouring the novel procedure being considered. The enthusiastic selling of a novel procedure that lacks longer term data or wide testing in research needs to be condemned. Any evidence of such acts, if brought to the notice of OSSI, would lead to a notice being sent to the errant surgeon, and potential penalisation within the limits of the organisation (see Introduction). Any medicolegal or media story on a complication would lead to a clear statement from OSSI about our stand on novel procedures, and this may be embarrassing or uncomfortable for the surgeon whose judgment and action is under the scanner.

Conflicts of interest:

Surgeons receiving funds or material support from any company should reveal the same in his/her presentations in meetings. There should be no shyness or shame in this.

Dealing with patients of the opposite sex:

Nothing exceptional need be said in this respect. All surgeons should know the perils of examining a patient of the opposite sex without a chaperone, examining or touching private parts of the patient without consent or a chaperone, or acting in a way that leads to charges of sexual harassment being laid against him/her. Proven instances of such offences by a member may lead to expulsion.

Fee sharing:

While fee splitting is widely condemned, it remains an important problem in Indian surgical practice. We believe economic activities by professionals should be acceptable, if there is no malafide intent and unnecessary procedures are avoided (for example). As such, we leave it to each individual member to decide on his/her stance on this issue.

Advertising and marketing:

Currently, while all medical organisations proscribe advertising by medical professionals, it is a common activity by many bariatric surgeons and centres. This includes both the best among us as well as those who are not well known in the community. Several instances of wrongdoing have been alleged in recent times in the country, and the community needs to accept some standards and limits, failing which we would be forced to accept those set by the society and State.

The organisation believes that ethical advertising is desirable for certain reasons:

1. It educates the lay population.
2. It helps the local community to be aware of relatively newer surgeons.
3. It helps the surgeon to highlight to the public whatever his area of interest is.
4. It helps to reduce the importance of middlemen in important decisions like surgery.
5. It is an exercise in the Constitutional freedom of expression guaranteed to all Indian citizens.

The following are examples of things no surgeon should do in his efforts to popularise his brand:

1. Use boastful terms like “best surgeon”
2. Announce discounts or prices
3. Act against the larger interest of OSSI
4. Use patient details without their explicit, written consent
5. Sell bariatric surgery as a magic weight loss method without any risk
6. Equate bariatric surgery with procedures like appendectomy
7. Sell a cure for obesity and/or diabetes
8. Publicise novel procedures for commercial purposes
9. Deliberately mislead the public in any way

Social media posting:

Surgeons should be careful in what they post in social media.

Specifically, things not to do would include:

1. Being overly boastful and using superlatives to describe oneself.
This holds true for bariatric centres.
2. Attacking other surgeons or centre by name.
3. Getting into lengthy online arguments that lead to name-calling, trolling and abuse.

4. Offering surgery packages mentioning predatory pricing. This includes websites and advertisements in Google, etc.
5. Advertising novel procedures to patients and selling them as superior ones.

Most other social media content, whether posted by a surgeon or someone designated by him/her, should be acceptable to all. This includes services offered, information about bariatric surgery and obesity, workshops, patient success stories and testimonials, and professional achievements. It must be repeated here that while each surgeon decides the standards of his own professional behaviour, as an organisation we need to define which actions are inimical to the interests of the larger community and the profession at large. As such, OSSI would not like to be identified as condoning or approving unethical activities.

Pricing:

Each surgeon and hospital has the freedom to decide the price of services offered. However, attempts at monopolising the market by predatory pricing (defined as sale price that is below the cost price) is contrary to the interests of the association members. While we recommend that no bariatric procedure in the private sector should be done at costs below that in the Government-run hospitals (the CGHS scheme has costs that are currently considered to represent a sensible minimum), we cannot control pricing. As such, we can only state that advertising or publicising predatory prices is unacceptable and would invite action by the EC. Each surgeon and hospital is free in every other way to charge as they deem fit.

In summary, each of us should practice in a way where we reflect well on ourselves:

“Every living moment, be the surgeon your mother and daughter think you are!”

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