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REVIEW

Heal or investigate: the ethical dilemma of the duality of roles in legal medicine

Sanar o investigar: el dilema ético de la dualidad de roles en medicina legal

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ABSTRACT

Introduction: medical ethics has evolved from Hippocratic paternalism toward modern «principlism». Its intersection with legal medicine creates a duality of roles where the physician must balance clinical duties with the demands of the justice system. Objective: to describe the historical and contemporary foundations of medical ethics, analyzing the tensions and emerging ethical challenges in forensic practice. Development: unlike the therapeutic role, the forensic expert serves judicial interests, which limits confidentiality and prioritizes principles such as truthfulness and impartiality. Contemporary practice faces challenges in documenting torture, international standardization through protocols like Istanbul or PERFORM-P, and the need for greater ethical support in forensic psychiatry. Conclusions: forensic ethics is viable if based on objectivity and respect for persons. It is imperative to harmonize international standards and strengthen specialized training to ensure justice and scientific credibility.

Keywords: Autonomy; Ethical medicine; Legal medicine.

RESUMEN

Introducción: la ética médica ha evolucionado desde el paternalismo hipocrático hacia el «principialismo» moderno. Su intersección con la medicina legal crea una dualidad de roles donde el médico debe equilibrar los deberes clínicos con las exigencias del sistema de justicia. Objetivo: describir los fundamentos históricos y contemporáneos de la ética médica, analizando las tensiones y desafíos éticos emergentes en la práctica forense. Desarrollo: a diferencia del rol terapéutico, el perito forense sirve a intereses judiciales, lo que limita la confidencialidad y prioriza principios como la veracidad y la imparcialidad. La práctica contemporánea enfrenta retos en la documentación de la tortura, la estandarización internacional mediante protocolos y normas de la Organización Internacional de Normalización, y la necesidad de mayor apoyo ético en psiquiatría forense. Conclusiones: la ética forense es viable si se fundamenta en la objetividad y el respeto por las personas. Es imperativo armonizar estándares internacionales y fortalecer la capacitación especializada para garantizar la justicia y la credibilidad científica.

Palabras clave: Autonomía; Ética médica; Medicina legal.

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INTRODUCTION

Medical ethics constitute a fundamental pillar of the professional practice of medicine, establishing moral principles that guide physicians' conduct in their relationships with patients, colleagues, and society. Its roots date back to the Hippocratic Corpus of ancient Greece, which for more than 2,500 years provided a moral framework based on beneficence, nonmaleficence, and confidentiality.(1)

The historical evolution of medical ethics underwent significant transformations during the 20th century. The horrors revealed in the Nuremberg trials following World War II led to the creation of the Nuremberg Code in 1947, establishing informed consent as a fundamental requirement in medical research. Subsequently, the 1964 Declaration of Helsinki and the 1978 Belmont Report consolidated the modern ethical principles of autonomy, beneficence, nonmaleficence, and justice, known as "principlism."(2,3)

In 2022, the World Medical Association adopted a major revision of the International Code of Medical Ethics, following a four-year process that incorporated the perspectives of more than 10 million physicians worldwide, addressing contemporary challenges such as ethical pluralism, globalization, and health emergencies.(The Declaration of Helsinki was also updated in 2024, emphasizing the active role of research participants and the equitable inclusion of vulnerable groups.(5)

From the perspective of forensic medicine, the relationship between ethics and medical law has historically been close. The term "medical jurisprudence" originally referred to the application of medical knowledge to the needs of justice, a discipline that later evolved into legal and forensic medicine. Thomas Percival, whose 1803 text "Medical Ethics" is considered the most influential treatise on medical ethics of the past two centuries, originally titled it "Medical Jurisprudence."(6)

Contemporary challenges in legal medicine include the need for international standardization of forensic procedures, specialized training in documenting torture and abuse, and the development of specific ethical codes for forensic practice. The European Council of Legal and Forensic Medicine has worked to harmonize international standards for forensic examinations, recognizing that forensic medicine specialists bear significant responsibilities in investigating victims of criminal assault and in presenting independent and impartial findings in court.(7,8)

The following article aims to describe the historical and contemporary foundations of medical ethics, with particular emphasis on its intersection with legal medicine, analyzing the ethical principles that guide forensic practice, the inherent tensions between traditional medical obligations and the requirements of the justice system, and the emerging ethical challenges in the current medico-legal context.

METHODS

A descriptive and narrative literature review was conducted to characterize the historical foundations, inherent tensions, and contemporary challenges of medical ethics in the context of forensic medicine. This study focused on the collection and analysis of up-to-date scientific evidence regarding the dual role of forensic experts, the limits of confidentiality, and the need for international standardization in medico-legal procedures.

Search Strategy

For the information search, recognized academic databases (PubMed, Scopus, Web of Science, SciELO, LILACS) and normative or official documents from international organizations such as the World Medical Association (WMA) and the European Council on Legal and Forensic Medicine were consulted. Standardized descriptors and free-text terms (combined using Boolean operators AND/OR) were used, such as "Medical ethics," "Forensic medicine," "Forensic psychiatry," "Bioethics," "Expert testimony," and "Torture."

The systematic search strategy covered publications from January 1, 2021, to April 30, 2026, with May 5, 2026, set as the exact date of the final search. Theoretical, historical, and key normative texts (such as the Nuremberg Code or the Istanbul Protocol) were included on an exceptional basis because of their high foundational relevance to the topic.

Inclusion and Exclusion Criteria

The inclusion criteria defined for the selection of the literature were as follows:

Original articles, narrative or systematic reviews, and case analyses with ethical-legal relevance.

Studies addressing specific variables and scenarios such as conflicts of interest, forensic evaluation (including victims of abuse and torture), psychiatric capacity, and expert testimony.

Documents, international guidelines, and updated protocols on forensic practice (e.g., PERFORM-P).

The exclusion criteria included non-peer-reviewed literature, publications not available in full text, purely subjective opinion pieces lacking a scientific basis, and studies with limited thematic relevance to the ethical-legal objective of this article.

Study selection process and reproducibility

To ensure the rigor and reproducibility of the study, the selection process was conducted in a standardized manner. The initial screening of titles and abstracts was carried out independently by two reviewers to identify potentially eligible studies. The full texts of these articles were reviewed thoroughly. Any discrepancies between the two primary reviewers were resolved through discussion and consensus, which required the intervention of a third reviewer when necessary. The entire process of identification, screening, eligibility, and inclusion was systematically documented and illustrated using a flowchart adapted for narrative reviews.

Assessment of methodological quality

To ensure the reliability of the synthesized evidence, the quality of the included articles was assessed. For the included reviews, the SANRA scale (Scale for the Assessment of Narrative Review Articles) was applied, which allowed for an evaluation of methodological rigor on the basis of criteria such as the article's rationale, the stated objective, the description of the literature search, and robust reference. For the original articles, the clarity of the design, the risk of bias, and the relevance of the conclusions to the ethical and legal objectives of this review were evaluated.

Analysis of the Information

The information was analyzed through a qualitative synthesis of the findings, organizing the discussion around the intersection of classical medical principles and the demands of the judicial system. Given the narrative methodological design, no meta-analysis or combined statistical estimates were performed. Nevertheless, this standardized analytical approach allowed for the accurate identification of critical tensions between the therapeutic and investigative roles, prioritizing the compilation of fundamental practical and ethical guidelines to ensure justice and scientific objectivity in contemporary expert practice.

DEVELOPMENT

Forensic medicine occupies a unique intersection between two fundamental normative systems: medicine and law. This dual position generates particular ethical tensions not found in conventional medical practice. While traditional medical ethics focuses on the physician–patient relationship and the principles of beneficence, nonmaleficence, autonomy, and justice, forensic medicine must balance these principles with the demands of the judicial system and the interests of society.(7)

The American Medical Association's Code of Ethics states that physicians have a duty to assist in the administration of justice. However, this duty creates a fundamental dilemma: the forensic professional primarily serves the interests of the court, the hiring attorney, or another third party, whose interests may not align with those of the person being evaluated. This duality has generated significant debate in the medical literature regarding whether it is possible to formulate ethical guidelines for forensic practice, with some authors arguing that the role of the forensic physician is so constrained that the formulation of ethical guidelines is impossible.(9)

Paul Appelbaum, a prominent figure in forensic ethics, has countered this position by arguing that the primary goal of forensic medicine is to advance the interests of justice and that ethical practice can be guided by two fundamental principles: truthfulness and respect for individuals. These principles allow for a distinction between therapeutic clinical roles and forensic roles, although balancing the conflicting values of medicine and law remains a formidable task.(10)

One of the most significant ethical tensions in forensic medicine arises from the need to clearly distinguish between the therapeutic role and the evaluative role. In general, in psychiatric practice, the patient presents signs and symptoms to a psychiatrist, who makes a diagnosis and formulates a treatment plan to help the patient resolve their symptoms. In forensic psychiatry, the situation is complicated by the attempt to apply specific signs and symptoms to legal criteria.(10)

Those evaluated in forensic contexts may exaggerate or minimize their symptoms for various reasons, for example, to maximize their injury in civil cases or to minimize their involvement or guilt in criminal cases. Consequently, forensic psychiatrists are particularly concerned with the concealment and feigning of symptoms and disorders. Because the accuracy of the information received improves the validity of the physicians' conclusions, the forensic psychiatrist has been compared to an investigative journalist, with the recommendation that third-party information be obtained from various sources.(11,12)

Confidentiality and Consent in Forensic Practice

The flow of information in a forensic evaluation is a central concern and represents a significant departure from traditional medical practice. As noted in the Ethical Guidelines of the American Academy of Psychiatry and Law, "the practice of forensic psychiatry often presents significant problems regarding confidentiality" because information is always disclosed to the contracting party and may be disclosed to other parties.(13)

Those being evaluated must always be informed about the limits of confidentiality, the individuals with whom the information will be shared, and the purpose of the interview. Many individuals undergoing evaluation are accustomed to interacting with healthcare professionals under a set of expectations appropriate for a therapeutic relationship. Although a limited doctor–patient relationship may exist even in forensic evaluations, the forensic expert must clarify that the evaluation is not for therapeutic purposes and that the rules of confidentiality are different and governed by the requirements of the legal system.(The limits of confidentiality are determined, in part, by which of the legal participants in the matter has retained the physician, with different caveats being appropriate depending on whether the physician works for the defense, the prosecution, or the court.

To illustrate these differences, Table 1 summarizes the main tensions and the adaptations of ethical principles in the forensic context.

Table 1. Ethical tensions and adaptation of principles in forensic practice

Scenario/Tension	Traditional Clinical Approach	Forensic and Medicolegal Approach
Primary Objective	Patient well-being and treatment (Beneficence).	Assistance to the administration of justice (Truthfulness and Objectivity).
Confidentiality	Absolute, except in cases of imminent danger to life.	Limited; findings are reported to the contracting party or the court.
Professional Relationship	Doctor–patient (based on trust and support).	Evaluator-evaluated (analytical, investigative, and impartial stance).
Consent	To authorize therapeutic interventions.	To understand the limits of privacy and the purpose of the expert evaluation.
Impact of the Outcome	Aimed at improving the individual's health.	May have punitive or restrictive consequences for the person being evaluated.

Professional Responsibilities of the Medical Examiner

Specialists and practitioners in forensic medicine and pathology have demanding duties and responsibilities in examining both deceased and living victims of alleged criminal assault and injury, as well as in examining the alleged perpetrators of criminal acts. Forensic physicians and pathologists work closely with scientific colleagues and law enforcement agencies and present their independent and impartial findings to criminal, civil, and coroner courts to assist in the administration of justice.(7)

Approved and established forensic standards for reporting and certifying investigations and conclusions are fundamental prerequisites for maintaining evidentiary credibility and the scrutiny of justice. Judges, investigating magistrates, forensic pathologists, and attorneys for prosecution and defense, as well as government departments of justice and health, rely on such reports and expert testimony, as they carry out their respective duties for society within the legal frameworks of their countries.(14)

The European Council of Legal and Forensic Medicine has published collaborative articles on international standards and guidelines for forensic examinations by medical and forensic pathologists of deaths and injuries in the areas of the accreditation of pathology services, crime scenes and in situ cadaver investigations; the examination of victims of sexual assault and elder abuse; and undergraduate and graduate forensic education and training in pursuit of international harmonization.

Medical examiners and forensic pathologists are responsible for promoting public health and safety by creating accurate death certificate records, which allow for the tracking of incidence and prevalence trends in natural causes of death, as well as “unnatural” deaths, defined as those resulting from violence (accidents, homicides, or suicides) or other public health threats. The data in these legal documents significantly influence the allocation of resources for public health efforts. (15) Although consent from the next of kin is not required to perform an autopsy under the medical examiner’s jurisdiction, these professionals make every effort to accommodate family wishes or cultural or religious norms when there are objections to performing an autopsy.

The recent crisis of opioid overdose deaths in the United States and elsewhere poses a substantial threat to public health and safety. The responsibility for investigating potentially drug-related deaths places medical examiners on the front lines of this outbreak, which has claimed more than 100,000 American lives annually since 2021. Rather, the epidemiological data derived from death certificates generated by medical examiners are used to measure overall trends involving drug-related deaths and to identify the specific drugs and combinations that cause these deaths.(15)

Forensic Evaluation of Victims of Torture and Abuse

The medico-legal assessment of alleged victims of torture presents particular ethical and technical challenges. The Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) constitutes the gold standard for medico-legal documentation of torture.(The duties and obligations of physicians regarding torture are clearly defined in international human rights instruments, including the Tokyo Declaration adopted by the World Medical Association in 1975.(8)

A four-year retrospective study conducted in Montpellier, France, and published in 2025 documented self-reported histories of torture and other forms of abuse among asylum seekers, along with physical evidence and the degree of consistency observed during examinations. The study included 495 asylum seekers, with blunt force trauma being the most common method of torture/abuse, followed by incised wounds, burns, and the use of firearms. Female genital mutilation was reported by 34.0% of female asylum seekers who came almost exclusively from sub-Saharan Africa.(17)

A 2021 study on the forensic evaluation of suspected wrist restraint/handcuff injuries among torture survivors revealed that despite being a common form of abuse, few studies have described injuries from shackles and wrist restraints. The forensic evaluation of these injuries presents challenges to the examiner, especially if the injuries are old and leave no lasting marks or neurological deficits. Thorough history-taking and physical examination are critical for effective forensic documentation.(16)

A troubling finding from a 2003 study conducted in Mexico revealed that 17% of the federal forensic physicians surveyed believed it was appropriate for law enforcement officials to be present during a medical examination, and 8% agreed with the statement that torture or ill-treatment can help uncover the truth. These findings reinforce the need for three specific measures: a specialized training program for forensic doctors that focuses on investigating and documenting evidence of physical and psychological torture; the development and use of standardized forms; and the reinforcement of international standards regarding the privacy of forensic examinations and norms against the use of torture for any reason.(8)

International Standards for Forensic Documentation and Testimony

The need for international standardization of forensic procedures has been recognized as fundamental to ensuring evidentiary credibility and justice. In 2021, PERFORM-P (Principles of Evidence-Based Reporting in Forensic Medicine–Pathology Version) was developed, and an international consensus study was conducted in three phases with the participation of 106 forensic pathologists/forensic medicine practitioners from 41 countries. PERFORM-P consists of a list of 61 elements to be included in a forensic pathology report, accompanied by its Explanation and Elaboration document.(18)

The European Council of Legal Medicine has developed on-site inspection forms for forensic pathology, anthropology, dentistry, genetics, entomology, and toxicology for medico-legal and forensic scene and cadaver investigations, known as the Parma Form, published in 2022. This inspection form provides a checklist to be used onsite for the examination of a body present at a crime scene or scene of suspicious death, enabling the collection of all relevant data not only for the pathologist but also for forensic anthropologists, dentists, geneticists, entomologists, and toxicologists, thereby supporting a collaborative approach.(19)

The International Organization for Standardization (ISO) has developed specific standards for forensic science through Technical Committee TC272. These standards establish specifications and procedures designed to ensure that products, services, and systems are safe and reliable and that they perform consistently as intended. These standards can be used in the accreditation of forensic laboratories or facilities and in the certification of products and services.(19)

Risk Assessment and Adverse Consequences

In risk assessment, a psychiatric opinion may affect the interests of the person being assessed. Courts sometimes increase the length of a prison sentence, for example, in response to the content of a forensic report. Ethical guidelines do not preclude assessments that may contribute to an outcome that the person being assessed would consider unfavorable, provided that the purpose of the assessment has been explained to the person in advance.(7)

Two broad justifications have been offered for the provision of risk assessments by mental health professionals in these circumstances. First, when working for attorneys and courts, psychiatrists and psychologists do not serve as clinicians but as evaluators, guided by an alternative ethic based on respect for others, truthfulness, and justice. Second, mental health professionals have a duty, not only to their patients but also to the medical profession and society as a whole, as exemplified by assisting in the administration of justice.(20)

Expert Testimony and Conflicts of Interest

The role of expert witnesses in forensic medicine entails specific ethical responsibilities. Approaches to the drafting of forensic reports in psychiatry, psychology, and related mental health disciplines have shifted from an organizational, content-based, and stylistic framework toward the consideration of ethical and other codes, evidentiary standards, and practice considerations. A primary ethical principle particularly applicable to the drafting of forensic reports is to be comprehensive, scientific, and impartial.(21)

The potential for a conflict of interest, or even the appearance of one, can compromise objectivity. Conflicts can be legal (when the expert has participated in a case for the opposing party), financial (when the expert has a financial interest in the outcome), administrative (when the expert serves in an official capacity that may create an interest in the outcome), educational (when the expert is a member of a training program and therefore may have access to information about the case from multiple perspectives), and personal (when the expert has a relationship with an individual involved in the case). An examiner may also have political or ideological conflicts of interest.(9,21)

The 2024 ethical guidelines of the American College of Medical Genetics and Genomics for providing expert witness testimony state that the expert witness must conduct a thorough and impartial review of the relevant case documents and issue an opinion or testimony only in cases where they have relevant knowledge and experience. The expert witness must provide complete and impartial testimony and state whether their opinions are based on personal experience, scientific evidence, evidence-based guidelines, and/or generally accepted standards of practice.(9)

Assessment of Competence and Capacity

Forensic psychiatrists are frequently hired to assess an individual's psychiatric competence or capacity to participate in a specific act. In general, competence, there are essential elements that must be considered, including the subject's awareness of the situation, factual understanding of the issues involved, appreciation of the likely consequences, ability to process information rationally, ability to function in their own environment, and ability to perform the tasks required of them.(22,23)

Specific competence involves four elements: communication of a choice sustained long enough to implement it, factual understanding of the issues involved, appreciation of the situation and its consequences, and rational manipulation of information. Some of these specific competence assessments may involve consent to treatment, guardianship evaluations, testamentary capacity, financial competence, and competence to enter into a contract.(24)

Forensic Medicine in the Emergency Department

Clinical forensic medicine is a unique medical discipline concerned with the provision of forensic medical services, primarily to living people. A 2025 article on forensic medicine in the emergency department highlighted that emergency physicians require not only clinical acumen but also familiarity with legal frameworks to ensure that their practice supports both medical and judicial outcomes. Forensic medicine is particularly important in the emergency department, where physicians frequently encounter cases with medico-legal implications.(25)

The acute care and examination of a victim of sexual violence must be conducted by a competent forensic examiner in an environment appropriate for crisis intervention, forensic evidence collection, and medical follow-up. The purpose of collecting forensic evidence and biological material is to document alleged physical or sexual contact between individuals and to corroborate the victim's and perpetrator's accounts. For this reason, the forensic examiner is expected to be objective and possess specialized technical and scientific skills.(26)

The findings of this review highlight a fundamental transformation in medical practice when it is transferred to the forensic setting. While traditional clinical practice operates under a therapeutic alliance model grounded in beneficence and absolute confidentiality, forensic medicine reformulates these principles to align with the objectives of justice, prioritizing truthfulness, impartiality, and scientific objectivity. The analyzed evidence consistently demonstrates that dual roles are not an impediment to ethical practice but rather a call to adopt specific alternative ethical frameworks. However, the systematized quantitative data reveal a concerning institutional asymmetry: ethical support and specialized training in the forensic field lag significantly behind those in general medicine, leaving experts in a vulnerable position when faced with judicial, institutional, or coercive pressures.

Study Limitations

The results of this review should be interpreted considering several implicit methodological limitations. First, as this is a narrative design, there is an inherent risk of selection and publication bias, given that no formalized statistical methods or meta-analysis were used to quantitatively assess the combined effects of the analyzed variables. Similarly, the search strategy was subject to a linguistic restriction by limiting itself to the selection and analysis of literature published exclusively in Spanish and English; consequently, the exclusion of relevant studies in other languages could limit the global generalizability of the findings regarding international standards and ethics committees. The geographical availability bias of the evidence represents a considerable limitation, since much of the empirical and statistical data on institutional ethical support and standardization processes come from European and North American contexts, which may not fully reflect the operational, legal, and budgetary reality of forensic medical services in developing regions.

CONCLUSIONS

The transition from a clinical to a forensic role does not negate moral commitment; rather, it requires a distinct ethical framework based on truthfulness and objectivity. However, there is a critical gap between theory and practice: the current challenge does not lie in the conceptual validity of forensic ethics but rather in its lack of operational implementation and the marked scarcity of specialized support committees in forensic and correctional settings.

Therefore, it is urgent to implement concrete regulatory actions: integrate mandatory ethics committees into all forensic services, implement continuous methodological audits using tools such as the SANRA scale, and harmonize national regulations with international standards (PERFORM-P and the Istanbul Protocol) in a binding manner. Only the establishment of these operational structures will guarantee the scientific independence of the expert and the effective protection of the rights of those being evaluated.

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