

## REVIEW

## Contemporary ethical considerations in clinical otolaryngology

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**Abstract**

The practice of otolaryngology has been significantly challenged by the constraints of the novel virus pandemic, but the specialty has continued to provide clinical care for patients in a manner consistent with ethical principles and moral leadership. Continued attention to maintaining the ethical foundations for appropriate informed consent, provision of remote health care through telemedicine, and strengthening the patient-physician relationship while role modeling the highest level of professionalism will continue to be challenging for the specialty throughout and beyond the pandemic temporal boundaries. These contemporary elements of ethical clinical care, examined in the context of disruption of the traditional practice of otolaryngology, are foundational to the duties and responsibilities inherent to the profession of medicine.

**Level of Evidence:** 5**KEYWORDS**

clinical otolaryngology, ethics, informed consent, patient-physician relationship, professionalism, SARS-CoV-2, telehealth

Of the numerous topics in bioethics under wide contemporary discussion, three have inter-related considerations for otolaryngologists owing to the impact of the SARS-CoV-2 public health emergency. The pandemic will likely have some lasting effects on the practice of medicine, so it is important to recognize and consider the potential ethical consequences that must be understood, managed, or mitigated as we attempt to provide the best standard of care under the constraints of this global emergency. The ethical issues involved in informed consent, provision of distant health care through telemedicine, and professionalism and maintenance of the patient-physician relationship are all coherent and fundamental to an otolaryngologist's responsibilities in the performance of ethical patient care. These elements represent important trusts that exist between patient and otolaryngologist, and have without question been challenged under the recent, and current, restrictions to the practice of medicine. They will be examined in the context of the ethical principles of autonomy, beneficence, non-maleficence, and social justice and viewed through the lens of duty and honesty. At no time in one's practice will empathy and altruism

likely be more important to this specialty than at this time in the contemporary history of medicine.

## 1 | PROFESSIONALISM AND MAINTENANCE OF THE PATIENT-PHYSICIAN RELATIONSHIP

The most important element of ethical clinical care of importance to otolaryngologists under current discussion during the pandemic is maintaining and ensuring the primacy of the patient-physician relationship as a fundamental part of professional obligation. Professionalism embodies the essence of medicine—all ethical actions are directed toward a duty to patients and profession, with responsibility and accountability having been inculcated into our moral fabric over the course of our lives. Individuals enter the profession of medicine with a commitment to public service in the broadest sense, and with the understanding that it is a profession of virtues (compassion,

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discernment, trustworthiness, integrity, and conscientiousness) as applied to both individual patients and society.<sup>1</sup> Because of the special role physicians have in society, there is an inherent expectation for physicians to serve as lead moral agents, in a sense, during difficult and exceptional circumstances, such as the current pandemic.<sup>2</sup>

Kramer and colleagues have posited that “the COVID-19 pandemic is swiftly reshaping our medical and societal priorities.”<sup>3</sup> It can likely be agreed that the reshaping is far from over; yet, it can be an opportunity for otolaryngologists to refocus on the important aspects of professionalism and strengthen new and existing patient-physician relationships. Throughout an otolaryngologist's career, no matter how long it may be, the patient-physician relationship has been built primarily within the confines of the clinic, operating room, and emergency department. It is unknown at this time whether or when a return to the pre-SARS-CoV-2 traditional environment will be possible. Practicing medicine within the broader context of a changing health care system will be challenging, particularly with respect to navigating ethical dilemmas.<sup>4</sup> Fortunately, the ethics of professionalism, while grounded in firm concepts, is a “living ethos,” which allows otolaryngologists to adapt to a changing society environment while still maintaining the highest level of moral and ethical dedication. Indeed, the manner in which our specialty is conducting itself during this public health emergency will provide valuable learning opportunities for medical students and resident physicians as they inculcate the principles and values that frame ethical professionalism.<sup>5</sup> A profession is commonly defined as some iteration of prolonged training, formal qualification, and dedication to the standards set by the profession. Upon keener consideration, there are three professions which depend on a formal and socially codified relationship with a person—medicine, law, and the clergy. Without a patient, medicine does not exist; therefore, the patient-physician relationship is at the heart of the profession. In his recent commentary, Dr Andrew Shuman has nicely identified the types of stewardship expected of otolaryngologists during the pandemic, including safety, distributive justice, and non-abandonment, all of which support the responsibilities of a patient-otolaryngologist relationship.<sup>6</sup> He identifies the dual importance of individual patient care and care related to population medicine. There is, indeed, a moral cost to both the otolaryngologist and the patient when “traditional” medical care is significantly disrupted. As otolaryngologists examine how to move forward in caring for their patients, the opportunity to examine and reorient their focus on the patient, using empathy to better understand the patients' perspectives on their illnesses and how they can best be served, should not be lost. Mutual trust, honesty, and effective communication are the cornerstones to the patient relationship, which in turn, is the cornerstone of the profession. Effective communication is an exchange of information and thoughts that foster better understanding for clinical care—listening well is an important contribution by the otolaryngologist to the exchange.

## 2 | INFORMED CONSENT

Informed consent is, in its best form, a series of conversations between patient and surgeon with the intent of exploring the

potential risks, benefits, alternatives, and consequences of a particular procedure or set of procedures.<sup>7</sup> The informed consent process is a unique combination of evidence, experience, communication skills, honesty, respect, empathy, concern, questions and responses, and many other intangible elements that eventually lead to a formal agreement between patient and surgeon that may or may not have incontrovertible legal standing. Its importance to both patient and surgeon cannot be overstated. Any external factor, such as a public health emergency of pandemic magnitude, can raise concerns by the patient regarding potential risk for viral exposure and hospital acquired infection. A patient's belief that the informed consent is as complete as possible is of primary importance; namely that the surgeon is knowledgeable, to the best possible degree, of all of the elements of the surgical procedure, based on education, training, and life-long learning. Yet, in the presence of a pandemic caused by a novel virus, much is unknown about surgical procedures and risks to the patient in the perioperative period, and the climate remains somewhat uncertain in this regard. Some surgeons have recommended adding an “additional, enhanced discussion of potential risks and benefits of proceeding with versus delaying an operation during COVID-19 pandemic,” as well as optional discussions of the various risk scenarios of nosocomial infections.<sup>8</sup> Uncertainty on many levels continues to be a concern for both patient and otolaryngologist, particularly with surgical procedures of some urgency. Understanding the ethical implications of caring for patients with head and neck cancer is particularly important, with a need to evaluate the impact of SARS-CoV-2 on such critical issues as goals of care, standards of care, the patient's risk, the provider's risk, and duty to treat, as described by Gordin and colleagues.<sup>9</sup> Federal, institutional, and specialty clinical guidelines have been developed over several months in a collegial effort of unity heretofore not seen by most otolaryngologists. For the most part, these guidelines are directed toward risk management, patient and provider safety, and best practices. Although ethical considerations are always important in guidelines, it is salutary to identify those ethical principles that may be at risk for subjugation during a public health emergency. One of the first to be affected—patient autonomy—was the result of self-isolation and quarantine orders from national and state governments. Otolaryngology patients no longer had the freedom to see their physician in the clinic for routine care, were forced to cancel or reschedule their surgical procedures for an indefinite period of time, and at least initially, may have been unable to contact their provider for medicine renewals or new concerns. As patient care guidelines for otolaryngology have become more clear and refined, courses of action for patient self-determination, while still somewhat restricted, have become more actionable. It is very important for otolaryngologists to understand the frustrations that patients experience when their health care is nearly completely out of their control. New surges of viral infection have the potential for reverting back to more restrictive patient contact guidelines, which can be both confusing and frustrating for patients.

Informed consent has recently been, and continues to be to some degree, primarily about paternal considerations of beneficence and non-maleficence. Patients initially shared the confusion and lack of credible information about this novel virus with the physicians whom

they trusted to care for them. As the otolaryngology specialty began to sort through available data, patient care guidelines were designed and initiated to protect patients from the risks of viral infection, which were at once benevolent and prevention from harm. In effect, patients had to trust their otolaryngologists to look out for their best interests, not to place them at risk, and to care for their disorders in the best possible manner, under the prevailing circumstances. Patient self-determination remains intact with respect to the informed consent for procedures, but the “informing” portion of the process needs to include known risks, while still acknowledging the uncertainty of the virus’ impact on perioperative health. Most importantly, the patient looks to the otolaryngologist for honesty, transparency, and empathy.

### 3 | TELEMEDICINE IN OTOLARYNGOLOGY

Perhaps one of the most potential salutary effects of the pandemic on otolaryngology practices has been the enhanced utilization of virtual patient visits. One of the earliest articles on telemedicine in otolaryngology was authored by Syms and Syms in 2001, where the hypothesis was presented that “telemedicine has the potential to change radically the way otolaryngology-head and neck surgery is practiced.”<sup>10</sup> This prescient article identifies the potential for use in tele-consults, speech therapy, and reaching patients in underserved areas. SARS-CoV-2 has dramatically brought this technology into prominence during the pandemic, as in-person patient clinic visits were nearly all cancelled, save for urgent problems.

When the federal government issued the Notification of Enforcement Discretion regarding COVID-19 and remote telehealth communications, and reimbursement for this form of patient care was implemented, a wide swath of patient care interventions was saved.<sup>11</sup> Physician judgment was encouraged to determine which patients could be engaged through virtual visits, and many restrictions were set aside to ease the burden for both physicians and patients. New patient-physician relationships could be established virtually, and established patients could be contacted for maintenance of health and addressing new or ongoing issues. However, professional conduct was still expected, with requirements for informed consent to utilize this form of contact, continued use of accepted standards of care, security and acceptability of the remote mode of contact, and security of patient privacy and personal health information. Although a game-changer for both patient and physician, potential ethical breaches and consequences remain factors. Except for those facilities with capabilities for on-site remote procedures, virtual visits are primarily for history-taking, review of systems, discussion of patient concerns, and limited prescribing of medications. If the otolaryngologist determines through a virtual visit that the patient requires a physical examination, including diagnostic procedures in-person, then that becomes an a priori responsibility to discharge as soon as feasible.

According to the AMA Code of Medical Ethics, Opinion 1.2.12, “although physicians’ fundamental ethical responsibilities do not change, the continuum of possible patient-physician interactions in telehealth/telemedicine give rise to differing levels of accountability

for physicians.”<sup>12</sup> Otolaryngologists provide a wide range of medical and surgical services to patients, but are not primary care providers—therefore, there is an obligation to coordinate care with the patient’s medical home and apprise their primary physician about any interventions of which they should be aware. The dyad of beneficence/non-maleficence must be part of the otolaryngologist’s awareness of the limitations of virtual patient visits, and result in maintaining narrow guidelines for what can be accomplished during the virtual visit. Although much can be accomplished with a video visit, less with a telephone visit, regardless of the extent of the bilateral technology available, it does not rise to the standard of an in-person visit with the patient. Ethically speaking, the patient should be made aware of the limitations of the virtual visit, and well-defined goals should be discussed with the patient. Reassurances should be given, within the confines of accuracy, regarding the steps taken to ensure privacy and protection of personal health information. Exposure of a patient’s health information is an ethical breach of the highest level, and the patient should know the otolaryngologist’s commitment to security.

Although telephone visits with patients, especially to give diagnostic test information and check on post-care progress, have long been used by otolaryngologists, and the limitations well understood, the video format for a virtual visit has both advantages and disadvantages in patient-physician communications. For most patients, being in front of a video screen with their physician is a new and unique experience, one which requires getting used to. The patient may be shy or reticent, and the otolaryngologist must sense any barriers to effective communication. Even with in-person visits, there will be communication difficulties—these may be exaggerated with video visits. Language barriers are difficult with telephone consults, using translators, and having a three-way translated video visit can be frustrating for all parties. Patience and consideration are required on the part of the otolaryngologist.

Two recent retrospective studies on telemedicine in otolaryngology have highlighted the considerations, advantages, and disadvantages of this form of patient care technology.<sup>13,14</sup> Both studies found that determining the appropriateness of patient selection for virtual visits was very important. In corollary, patient expectations for a virtual visit may be different than what the otolaryngologist can provide, so in fairness to the patient, the guidelines for the visit should be set initially, if guidelines are necessary. The ultimate goals for a virtual visit are to provide information, receive information, discuss assessments and plans, and reassure the patient—essentially a positive experience. Because of the ease of in-person visits in the past, most otolaryngologists have not previously utilized virtual visits to the extent that is now the case. A good part of being a physician is the notion of “bedside medicine,” where we connect with the patient through a laying on of hands, and verbal and nonverbal interaction. Although effective in many ways, telemedicine is not bedside medicine—therefore, it is important to convey one’s concern and empathy in whatever ways possible during a virtual visit. In other words, put oneself in the patient’s position and interact with them in the manner one would

wish to be interacted, for the constraints of this pandemic have already taken a toll on patients.

There is a significant ethical issue of social justice in telemedicine. Unfortunately, there seems to be a “two-tiered” stratification of patients—those who have internet access and smart phones/computers, and those who do not. For the latter, most do have a telephone, so real-time communication may still be possible. Social justice, as an ethical principle, requires equity of care and access, equal distribution of resources, and similar rights and dignity across all society members, especially vulnerable persons. As a professional obligation, physicians must do everything possible to provide similar virtual care to all patients. This can be challenging in the face of public health restrictions during the pandemic, adding an additional level of difficulty for patients who already have difficulties with health care access. Otolaryngologists may need to utilize novel efforts to provide care to vulnerable populations.

Nittari and colleagues, in a systematic review, have identified a number of ethical and legal challenges in the use of telemedicine in patient care.<sup>15</sup> Among these are new concepts of medical liability, standards for quality care, training of medical professionals, virtual visits with minor patients, and cultural issues that can confound the interaction if not taken into consideration. Both the nature of telemedicine and its rapid utilization during the ongoing pandemic create potential ethical pitfalls for otolaryngologists unless forewarned and prepared. Delayed or missed diagnoses may occur in the absence of a confirming physical examination, so this gold standard of care should be accomplished at the earliest, and safest, time. If a procedure in the office is determined to be the next course of action for the patient, the virtual visit does afford an opportunity to explain the procedure and prepare the patient; but may have limitations as the proper format for obtaining an informed consent.

## 4 | CONCLUSION

The practice of otolaryngology has been significantly challenged by the constraints of the novel virus pandemic, but the specialty has continued to provide clinical care for patients in a manner consistent with ethical principles and moral leadership. Continued attention to maintaining the ethical foundations for proper informed consent and patient reassurance, provision of appropriate remote health care through telemedicine, maintaining a strong patient-physician relationship in the face of social distancing, and role modeling the highest level of professional commitment to patients will continue to be challenging for the specialty throughout and beyond the pandemic temporal boundaries. These contemporary elements of ethical clinical care, examined in the context of a disruption in the traditional practice of otolaryngology, are foundational to the duties and responsibilities inherent to the profession of medicine.

## CONFLICT OF INTEREST

The author declared no potential conflicts of interest.

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**How to cite this article:** Holt GR. Contemporary ethical considerations in clinical otolaryngology. *Laryngoscope Investigative Otolaryngology*. 2020;5:778–781. <https://doi.org/10.1002/lio2.438>