

A history of the regulation of the medical profession in Britain

Professor Sir Terence Stephenson

Before legal regulation, there was 'self-regulation' as typified by the Hippocratic oath (460–370 BC): "I will abstain from all intentional wrong-doing and harm, especially from abusing the bodies of man or woman, bond or free." The oath also states: "I will impart precept, oral instruction, and all other instruction to my own sons, the sons of my teacher, and to indentured pupils who have taken the Healer's oath, but to nobody else" - creating the medical 'closed shop', restricted to a selected group [1]. It was to be over 2000 years before a law introduced modern medical regulation to Britain.

Medieval Britain

The 'closed shop' became formalised with the rise of the guilds [2], associations of specialist workers who oversaw the practice of their trade and determined who could join. Barber-surgeons' guilds emerged in Paris and London in the 1300s, as both trades used sharp instruments. The incorporation of the Barber-Surgeons of Edinburgh followed in 1505. The Apothecaries were originally allied with Grocers' guilds because they both used and sold spices.

From the thirteenth century, female health workers faced intense opposition from the all-male guilds, which saw themselves as the exclusive practitioners of medicine. Women were barred from medical training. Women herbalists practising in secret without licenses were often called witches and drowned [3].

The Renaissance

In the 1500s, many 'physicians' were working with no formal training or knowledge. The leading physicians of the early 16th century wanted the power to grant licences to those with qualifications, and to punish unqualified practitioners and those engaging in malpractice. The Royal College of Physicians of London was granted a Royal Charter in 1518, followed by the Royal College of Physicians and Surgeons of Glasgow (1599), Royal Colleges of Physicians of Ireland (1654) and Edinburgh (1681).

The 18th Century

The apothecaries were the lowest category of doctor, originating from general shopkeepers, gaining a separate identity from 1617 and establishing a right to treat the sick during the plague of 1665, when many physicians fled London. In 1704, William Rose of the Worshipful Society of Apothecaries appealed to the House of Lords against his prosecution by the Royal College of Physicians. Rose admitted that he had not only been paid to dispense a medicine, which as an apothecary he was allowed to do, but had also prescribed it. The House of Lords judgment upheld Rose's right to prescribe and established the legal recognition of apothecaries as practising doctors.

In 1745, a Bill was passed forming the Royal College of Surgeons of England, and thus the medical profession was now officially divided into three classes: physicians, surgeons, and apothecaries.

The 19th Century

The 1815 Apothecaries Act created an examination in medicine and surgery – the first British qualification covering the whole of medical practice – conducted by the Society of Apothecaries. The term 'General Practitioner' for apothecaries was unknown before 1800 but by 1840 had become firmly established [4].

The title 'mister' for surgeons derived from their origins as barbers, not physicians. Of the three groups of doctors, physicians could most often pass for 'gentlemen' who came from affluent families

and whose career choice was not driven by financial necessity. Most went to Oxford or Cambridge. Their education was almost without practical training. Indeed, a physician's course of study involved lessons in Greek and Latin, but few in anatomy. Surgeons and apothecaries did the work - and were not considered gentlemen. They did not attend University but trained as apprentices. Surgeons did the cutting, pulling teeth, and bandaging wounds. Apothecaries dispensed medicines and salves.

In the census of 1851, two-thirds of 'doctors' remained unlicensed, with 'training' varying from sweeping an apothecary's floor for three years to 'apprenticeships' at London teaching hospitals. The Archbishop of Canterbury could award a medical licence. The Victorian public were understandably confused about whether their 'doctor' was a dispenser, bone-setter, physician, surgeon, apothecary, barber, druggist or charlatan. Thus the pressure for medical regulation increased.

The Royal Colleges saw legal regulation as an assault on the independence of the medical profession. The physicians, however, eventually accepted the idea on one condition: that surgeons weren't admitted to the new register! Thomas Wakley, a surgeon, MP and editor of *The Lancet*, railed against the "feeble exclusiveness" and "tyranny and ineptitude" of the medical royal colleges. It took 16 bills and two select committees over 18 years for the 1858 Medical Act of Parliament to be passed [5]. The UK General Medical Council (GMC) was finally established with four functions: to create a register of all licensed medical practitioners; oversee undergraduate medical schools; provide professional guidance; remove practitioners from the register if their peers decided. Over 2000 years after Hippocrates, doctors could no longer "live uncurbed by law" [6].

The 20th Century

Four reports by Flexner (1910), Haldane (1913), Beveridge (1942) and Goodenough (1944) revolutionised medical care and training before the creation of the NHS in 1948. A preregistration year became mandatory from 1953 (Medical Act 1950) and vocational training of three years for general practitioners from 1976 (NHS Vocational Training Act). In the 1990s, some medical schools turned to problem-based learning curricula and graduate entry medicine, and in 2010 the GMC took over the functions of the Postgraduate Medical Education and Training Board.

The 21st Century

The Inquiries led by Dame Janet Smith into at least 218 deaths caused by Dr Harold Shipman led to revalidation (re-licensing of doctors every 5 years), introduced in 2012. In addition, all doctors must now comply with annual mandatory training requirements, covering everything from fire extinguishers to infection control. In 2012, the Medical Practitioners Tribunal Service was introduced, ending the GMC's role as 'investigator, judge and jury' by creating independent tribunals that conduct medical 'fitness to practise' hearings.

The Advent of Specialty-Specific Regulation

Prior to the late 20th century, regulation of medical practitioners was fairly generic, but ethical issues, such as those arising around assisted reproduction, consent and mental capacity, and the increasing recognition of child abuse, led to additional regulation relevant to certain specialties. These included regulation of fertility practice by the UK Human Fertilisation and Embryology Authority, and regulation of mental illness, learning disability and incapacity by the Mental Capacity Act (2005) and the Care Act (2014).

For paediatricians, the Cleveland Inquiry into child sexual abuse led to the Children Act (1989) to ensure that children are safeguarded and their welfare is promoted. 'Working Together to Safeguard Children' in 2018 placed a statutory duty on practitioners working with children to ensure that children remained safe from harm. In 2002, the Criminal Records Bureau was established to record

people unsuitable to work with children. Since 2012 all doctors seeing children need a Disclosure and Barring Service certificate in addition to a GMC licence to practise.

The future

Over the last 200 years, the regulation of doctors in the UK has moved from self-regulation to legal regulation, but the latest version of the Medical Act was passed in 1983. So the GMC is a 'creature of statute' but a very out-of-date statute, written before the internet and mobile phones. A new Medical Act is needed to enable swifter, proportionate regulation. The GMC has requested this but successive UK governments have failed to find parliamentary time rather than there being any principled objection.

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