An Ethical Foundation for 21st Century Medicine

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“Ethics” from Greek “ethos” = character, custom

- Universal
- Impersonal
- A-cultural
- Timeless
- Rational

- Contextual
- Personal
- Cultural
- Historical
- Emotional
Bioethics emerged in the late 1960s and early 1970s to supplant Medical Ethics.

Emerging technologies involved society as a whole -- not just doctors and patients.

Medical ethics was seen as paternalistic: “Doctor knows best”
Brief History of Medical Ethics

- Age of Paternalism - Hippocratic times - 1965
- Age of Autonomy 1965 - 1982
- Age of Regulation 1982 - 1995
Principles of Bioethics

- Beneficence
- Non-maleficence
- Autonomy
- Justice
## Evolution of Ethical Priorities

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- Beneficence
- Autonomy
- Social Justice
- Other
Technological superiority, moral confusion

Medicine’s power to re-conceive such matters as birth, life, and death creates the moral confusion we presently face. Medicine’s reliance on technology and inability to articulate shared values about those interventions are sources of that confusion.

Medicine has shattered conventional ways of knowing the body, the relationships among body, mind, and emotions, the patient and family and communication between doctor and patient.

Sharon R. Kaufman
The Healer’s Tale
Transforming Medicine and Culture 1993
Body parts

-Specialization isolates parts from the whole.

-Organs may be transplanted from one individual to another

-The body may be commodified.

-Inequities may exist in the distribution of scarce organs.

-Controversies exist as to whether cells from aborted fetuses may be transplanted or used for research.
Body-mind emotions

Medicine is unclear about the relationship between mind and body, psyche and soma.

Medicine is unclear about the role of emotion in illness.

This division undercuts the physician’s traditional role as a healer.
Patient and Family

Medicine waffles about the role of the family in understanding the patient and about what information to share with the family.

2 US Supreme Court decisions (1990):

Cruzan: Missouri could continue tube feeding comatose woman because family could not provide evidence about patient’s wishes. (Missouri could ‘legitimately and rationally’ assume that all families of incompetent persons were a danger to them.)

Ohio could ‘legitimately and rationally’ assume that all families are loving and supportive and could therefore require a pregnant teenager to notify her parents before obtaining an abortion.
We need more insightful discussion on boundaries of ethics and the law in such situations as
- right to life
- meaning of life in end of life, beginning of life situations
- rights of autonomous choice and responsibilities that accompany personal choices
- what matters does the state (State) have a legitimate civic interest and what matters should properly be left to religious institutions?
- For physicians, what are the boundaries of medical responsibility and patient choice.
Truth Telling and Disclosure

Attitudes about disclosing terminal illnesses have varied over time.

Physicians used to weigh each case individually; many may have avoided frank discussion.

With newer emphasis on rights of patients to know, physicians may avoid nuance in favor or matter-of-fact brutal honesty.
This year, I once again gave the lecture on truth-telling, or as I have started to call it, "disclosure dilemmas." I try to review all the situations in which doctors have information they might choose not to share. Should they introduce themselves as "doctor"? Should a doctor tell the patient it is their first time doing something? Should informed consent include general outcome statistics, or those of the institution, or those of the individual doctor? We get into mandatory reporting requirements and the tensions they place on confidentiality.

And, of course, we talk about delivering bad news, about giving bleak prognoses. Each area has zones in which things seem relatively black and white, and zones in which there are shades of gray.
During this quarter, I was also attending on the wards. When I came on service, one of the patients was an eight-month-old who was unable to eat by mouth. An ex-preemie, she'd had some birth asphyxia and a moderate intraventricular hemorrhage. Each month, the doctors tried to convince her mother that she would need a G-tube—a feeding tube inserted into her stomach through the stomach wall. At each discussion, the mother adamantly refused. So the baby had a naso-gastric tube in place instead. She got all her nutrition, but it didn't seem like the best long-term solution. I arranged to meet with the baby's mother.
I started the discussion by asking her what she understood about her baby's condition. She looked at me suspiciously.

"My baby was a preemie and had some brain damage. They told me she might never see, hear, walk or talk. But she's been doing better, much better."

"That's great," I said, "Babies are always surprising us. What have you noticed, in particular, as signs of progress?"

"Well, she's more alert, she smiles a lot more when she sees me, she's breathing more off the vent. . . ."
What about her eating by mouth?" "Well, she's doing okay with that."

Our speech therapists had recently evaluated her. They said her suck and swallow reflexes were totally uncoordinated. They thought there was no chance that she would ever be able to eat by mouth.

"One of the things I wanted to talk about," I said, "is getting a G-tube. Our speech therapists think it'll be months or years before she is able to eat by mouth. They're worried that the NG-tube will just cause problems during that time. Have you thought anymore about a G-tube?"
Mom stared at the floor, and her body was tense.

"Look," she finally said, her voice now trembling with emotion, "After my baby was born, I thought she was going to die. When she was in the NICU, I took six months off work and I never left her bedside. My baby had lines, chest tubes, surgery..."

She paused. She seemed to be on the verge of tears. "Now, she's doing fine. I just went back to work. I don't want anybody cuttin' on my baby anymore. She's doing fine."
Identify the conflict here.
Back in ethics class, I described this interaction as an example of a situation where it was difficult to deliver bad news. A student raised his hand.

"But you didn't tell her the truth. Your speech therapists told you the baby would never eat. You told the mom it would take a while till she could eat. I thought you were encouraging us to tell the truth."

He was right. As so often happens when we go back and forth between practice and theory, the cases undermine the principles. We don't practice what we preach. Our behavior indisputes our teaching.
Observations on Ethics Consultations

- Usual approach is to “find common ground”
- This usually means persuade patient that “doctor knows best”
- Useful strategy for understanding: exaggerate the differences.
- Use ethics consultation to “give voice” to those that might not otherwise be heard.
- Identify sources of affect (feelings)
- Always ask “how do we know what we think we know?”
“All right — who stole my gavel?”
De-professionalization of Medicine

- Medicine is defined by its technology or expertise rather than
- by its ethics or values
- “Professionalism” attempts to reclaim medical ethics.
“Physicians have little training in ethics, but are deeply involved in making ethical decisions. This is a ‘generalization of expertise’, the translation of expertise from a technical area to a moral area.”

Robert Veatch
The Hastings Center Studies
1 : 29-40, 1973
“Medical morality is no different than normal, everyday morality . . .
It is just that in medical ethics these familiar moral rules are being applied to situations and relationships.”

K. Danner Clauser
What is Medical Ethics?
*Annals of Internal Medicine*
80;657-660, 1970.
Rule-based ethic
(Deontological)

**Categorical Imperative:** “Act only on that the maxim
[motive] that you would will to be a universal law for all
rational beings.”

Immanuel Kant:
“Fundamental Principles of the Metaphysics of Morals"
(1785) and "Critique of Practical Reason" (1788).
First code of laws 1795-1750 BCE
City of Babylon, Mesopotamia
Invocation of the Gods
Protection of the weak from the strong
Principle of Proportional punishments:
   An Eye for an eye
   A tooth for a tooth (of a free man)
   “Put to death” for heavier intentional crimes
Specific laws for physicians, based on outcomes
   what they should be paid if successful,
   punishments if unsuccessful
End-based Ethic
(Teleological)

Utilitarianism: Act to maximize the greatest good for the greatest number.

Utility = good outcome or happiness

John Stuart Mill, Jeremy Bentham, Aristotle
2 Kinds of Ethics

- **Quandary ethics** asks “How do I decide among competing alternatives?”

- **Character ethics** asks “What kind of person do I want to become?”
Reason vs. Emotion in Ethics

- Reason devoid of emotion
  - Abstract
  - Detached
  - Out-of-context

- Faith (passion) without reason
  - Superstition
  - Magical thinking
  - Supernatural explanations of natural phenomena
How do we distinguish what we know from what we believe?

Objective science suggests a detached knower, value neutral.

I suggest prefacing each declarative sentence with the words, “I believe that. . .”

Michael Polanyi
Personal Knowledge, 1952
Moral inversion occurs when excess of morality result in immoral ends.

We may suspect moral inversion if we find a dynamo-objective coupling =

“Alleged scientific assertions are accepted as fact because they satisfy moral passions and excite these passions further, thus lending increased convincing power to the scientific affirmations in question.”

Micahel Polanyi

How do we reason appropriately about our emotions?
Psychiatry’s contribution to Ethics

Freud’s Structural Theory

Superego S
Ego E
Id I

Social
Psychological
Biological

Guilt and shame as regulators of morality

Eric Berne

P A C
Veronese: Wedding Feast at Cana
Eugène Burnand (1850-1921):
Les disciples Pierre et Jean courant au sépulcre le matin de la Résurrection
Eruditio et Religio

Erudition + Religion
Science ≠ Religion
Knowledge = Reason and Faith (or belief)

Those who know don’t tell; Those who tell don’t know.
Lao Tzu, Tao Te Ching (4th C. BCE)

Nisi crederitis non intelligitis: Unless you believe you cannot understand. (It it a rare soul who knows what he is talking about when he is speaking of it.)
Augustine, Confessions (ca. 400 CE)

“We know more than we can tell.”
Michael Polanyi: The Tacit Dimension (1967)
Billy Budd, a handsome, but inarticulate seaman, is provoked to rage by Claggart, a mean-spirited officer, who taunts him. Though “innocent” in the sense of naïve, martial law requires the death penalty for striking an officer.

As Captain of the ship, you (Captain Vere) must decide whether to enforce martial law in this instance.
• 4th Century BCE  Hippocratic Oath
• 1804  Percival’s *Medical Ethics*
• 1847  AMA Founded
• 1890  Sherman Antitrust Act
• 1975  *Goldfarb* decision ends “learned professions exemption”
• 1975  FTC v. AMA
• 1982  Supreme Court decides for FTC
“Every contract, combination, . . . or conspiracy in restraint of trade is illegal.”
1975 FTC v. AMA

FTC held that the AMA was in restraint of trade because its code of ethics prohibited advertising.
A profession is defined by

- Its knowledge, technology or expertise
- Its ethics or values
A profession controls

- Entry
- Education > Ethics
- Exit
The Oath of Hippocrates

1. Invocation of Gods
2. Professional organization of medical “family”
3. Dietetic measures for the benefit of the sick
4. No euthanasia or abortion
5. I will not use the knife.
6. Sexual relations with patients proscribed
7. Confidentiality
8. Supplication to enjoy life and art
Paragraph 1
I swear by Apollo Physician and Asclepius and Hygieia and Panaceia and all the gods and goddesses, making them my witnesses, that I will fulfill this oath according to my ability and judgment this oath and this covenant:
Paragraph 2

To hold him who has taught me this art as equal to my parents and to live my life in partnership with him, and if he is in need of money to give him a share of mine, and to regard his offspring as equal to my brothers and to teach them this art--if they desire to learn it--without fee and covenant, to give a share of precepts and oral instruction and all the other learning to my sons and to the sons of him who has instructed me and to pupils who have signed the covenant and have taken an oath according to the medical law, but no one else.
Paragraph 3

I will apply dietetic measures for the benefit of the sick according to my ability and judgment; I will keep them from harm and injustice.
Paragraph 4

I will neither give a deadly drug to anybody if asked for it, nor will I make a suggestion to this effect. Similarly I will not give to a woman an abortive remedy. I purity and holiness I will guard my life and my art.
Paragraph 5

I will not use the knife, not even on sufferers of the stone, but will withdraw in favor of such men as are engaged in this work.
Paragraph 6

Whatever houses I may visit, I will come for the benefit of the sick, remaining free of all intentional injustice, of all mischief and in particular of sexual relations with both female and male persons, be they free or slaves.
Oath of Hippocrates

Paragraph 7

What I may see or hear in the course of the treatment or even outside of the treatment in regard to the life of men, which on no account one must spread abroad, I will keep to myself holding such things shameful to be spoken about.
Oath of Hippocrates

Paragraph 8

If I fulfill this oath and do not violate it, may it be granted to me to enjoy life and art, being honored with fame among all men for all time to come; if I transgress it and swear falsely, may the opposite of all this be my lot.
Confucian Ethic of Virtue

- Humaneness (jen)
- Compassion (tz’u)
- Filial piety (hsiaso)
"I swear by Apollo Physician, by Asclepius, by Health, by Panaea, and by all the gods and goddesses, making them my true witnesses, that I will carry out, according to my ability and judgment, this oath and this incantation. To hold my teacher in this as equal to my own parents; to make him partner in my livelihood; when he is in need of money to share mine with him; to consider his family as my own brothers, and to teach them this art, if they want to learn it, without fee or indenture. I will not practice medicine to help the sick according to my ability and judgment, but never with a view to injury and wrongdoing. I will keep pure and holy both my life and my art. In whatsoever house I enter, I will enter to help the sick, and I will abstain from every intemperate course of food. And whatsoever I shall see or hear in the course of my profession in my intercourse with men, if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets. Now if I should ever fail to keep this oath and break it, may I be forever excluded from the company of men, and may no one give me the fruits of the earth or the best of the drink of men, but may it be the opposite befall me. 'Now may I examine you!'"
Brief History of Bioethics

• Age of paternalism  
  Hippocratic times - 1965

• Age of autonomy  
  1965 - 1982

• Age of regulation  
  1982 - 1995

• Age of partnership  
  1995 - 2000

• Age of community health  
  2000 +  ?
Informed Consent and the non-autonomous person

- Children
- The mentally infirm elderly
- Comatose persons
- Psychotic persons
- Prisoners
- Subjects of research involving deception
- Patients
- The poor
Medical practice

OLD PARADIGM (Modern)
- Acute illness
- Hospital based
- Curative
- Doctor centered

Prototype:
- White male

NEW PARADIGM (Post-modern)
- Chronic illness
- Community based
- Preventative
- Dr-patient partnership
- Multi-cultural
Paradigm Shift:
Focus on Populations instead of Individuals
Ethics for the New Millennium

- One atmosphere
- One economy
- One law
- One community
- A Better World?
The Ethics of Globalization and the Globalization of Bioethics

- International codes of ethics
- Global pandemics
- Health burden of poverty
- Health disparities
- Use of new technologies, eg stem cell
- Role of physicians in war, torture
The smallest unit of health is

- The cell
- The individual
- The community
- The nation
- The planet

- The smallest unit of health is the community --
  Wendell Berry,
  American (Kentucky) agrarian philosopher
In the Wake of the Tsunami
Psychosocial Care of Disaster Victims

Tsunami survivors
P. Sabarinathan, 9 years, IV standard at
Government Middle School, Akkaraipettai

‘I am very scared to sleep. I get nightmares.
I want to play with friends all the time so that I feel better.’
Non-Western Sources of Value

Native American:
Healing is understood in terms of man’s relationship with his environment and his traditions (Ancient Asian traditions):
“We believe in the land bridge.”

Linwood Tall Bull,
Cheyenne Medicine Man
Non-Western sources

Traditional Chinese Medicine:

Confucian virtues similar to Hippocratic

Based on restoring Qi or energy flow (similar to Galenic view of body humors)

Balance between Yin and Yang, the Chinese way of life

Techniques such as acupuncture, acupressure, moxibustion
Complimentary to Western Medicine
Japanese:

Network of familial interdependencies

Individual is seen as part of a larger whole

Reciprocal responsibilities

_Amae_, to indulge and care for
Giri, (voluntary) social obligation
Non-western sources

India / Nepal / Tibet

Spirituality is part of all aspects of life.

Nepali / Tibetan lamaism: 
healing rests on relationship with the natural and spiritual world.

Ayurvedic principles: all life is directed more to living well and living healthful lives, rather than elimination of illness/disease

Cycle of life: All life is eternal suffering. Goal of nirvana (enlightenment) is not eternal life, but to get off the endless cycle.
Indian philosophy and religion

• Indian philosophy is spiritual
• Neither humanity nor the universe is looked on as merely physical
• Philosophy is not just an intellectual exercise, but embodied in the spirit
• Introspective approach to reality: Internal not external approach to physical reality
• Reason (necessary but insufficient) with intuition and experience of reality
• Synthetic outlook: “God is one, but men call him by many names.”
Self-psychology

• Individual Self
• Familial Self
• Spiritual Self
Non-Western Sources

Islam:

First public hospital: Baghdad, AD 809
Islamic virtue: Free medical care at point of need
Small pox vaccination (Sina’s *Canons of Medicine*. 1037)
Direct relationship between worldview and health
  (e.g. transformation of herpes from minor illness to major contagion through sexual transmission)
## Contrasting relationships

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Contrasting medical relationships

Traditional societies
• Physician’s decision respected
• Malpractice suing rare
• Deference to God’s will
• Individual can be replaced
• Pride in family relationship
• Family care of mentally ill

Western societies
• Doubt in dr-pt relationship
• Malpractice suing common
• Self-determination
• Individual irreplaceable
• Pride in self
• Community care of mentally ill
Ethics for the New Millennium

- Dynamic contract: Patient - Doctor - Community
- Sacred conversation
- Multicultural
- Bio - psycho - social and Spiritual
If there be righteousness in the heart,  
there will be beauty in the character.  
If there be beauty in the character,  
there will be harmony in the home.  
If there be harmony in the home,  
there will be order in the nation.  
If there is order in the nation,  
there will be peace in the world.

Confucius, 4th BCE
I am …

- Post call
- Post colonial
- Post modern

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