

# An Ethical Foundation for 21st Century Medicine

Allen R. Dyer, M.D., Ph.D

[dyer@etsu.edu](mailto:dyer@etsu.edu)

<http://faculty.etsu.edu/dyer>

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

- Universal
- Impersonal
- A-cultural
- Timeless
- Rational
- Contextual
- Personal
- Cultural
- Historical
- Emotional

# Failure of Bioethics (Bankruptcy of Bioethics)

**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

1960s-70s	1980s	1990s	2000-
Beneficence	Autonomy	Social justice	?
Autonomy	Beneficence	Autonomy	
	Social justice	Beneficence	
Social justice			

# 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.

# Ethics and the Law

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 of matter-of-fact brutal honesty.

# Ethics Class

*John Lantos Hastings Center Report 2005; 35(3):7*

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.

# Ethics Class 2

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.

# Ethics Class 3

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. . . ."

# Ethics Class 4

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?"



# Ethics Class 5

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."

# Ethics Class 6

---

Identify the conflict here.

# Ethics Class 7

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 indicts 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?”

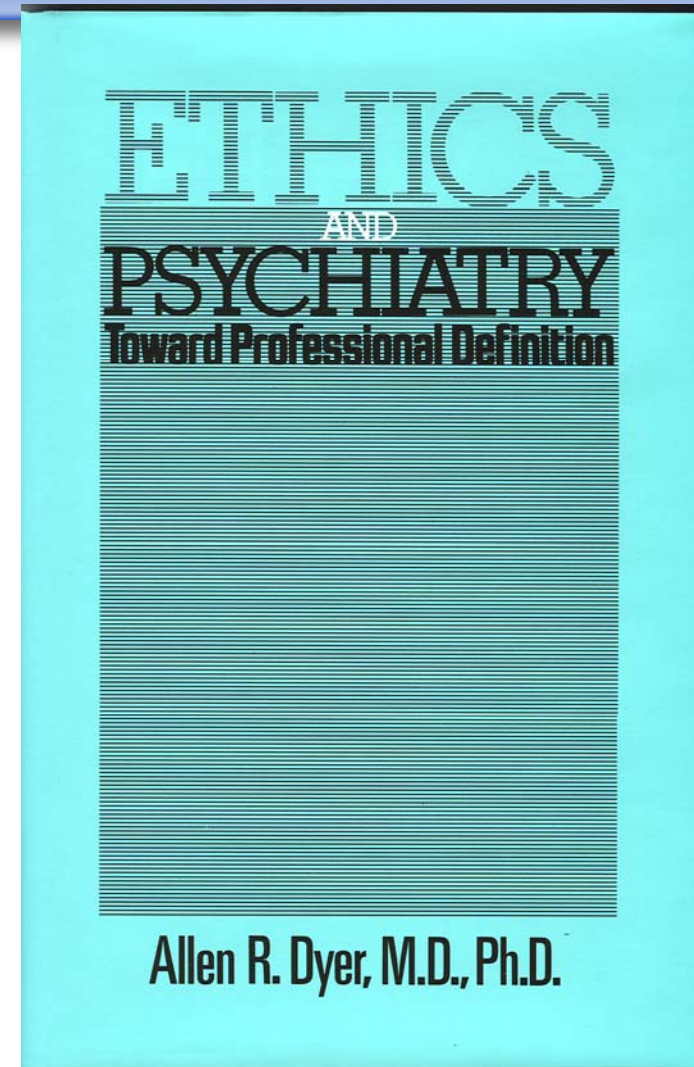
# Ethics committee



*"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.



# Generalization of expertise

“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

# What is Medical Ethics?

“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).

# Code of Hammurabi



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

# Knowledge and Belief

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*

# Beware the Moral Inversion

**Moral inversion** occurs when excess of morality result in immoral ends.

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

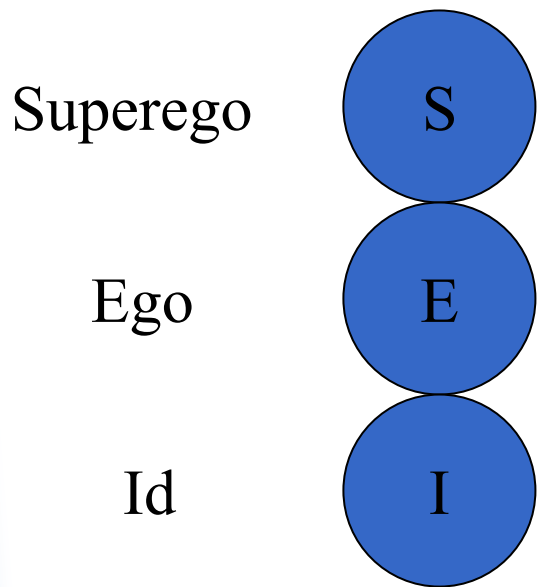
“Alleged scientific assertions are accepted as fact because they satisfy moral passions and excite these passions further, thus lending increased convincing power to the scientific affirmations in question.”

Michaël Polanyi

How do we reason appropriately about our emotions?

# Psychiatry's contribution to Ethics

## Freud's Structural Theory

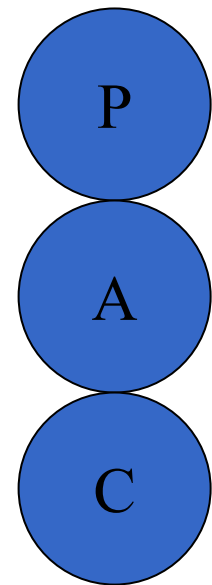


Social

Psychological

Biological

## Eric Berne



Guilt and shame as regulators of morality



# 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 is 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)*

## Case Study: Billy Budd, a Sailor

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

# 1890 Sherman Anti-trust Act

---

“Every contract, combination, . . .  
or conspiracy in restraint of trade  
is illegal.”

# MONOPOLY

REGISTERED IN U.S. PATENT OFFICE  
 TRADE MARKS  
 THE INVENTIVE DESIGN OF THE BOARD GAME AND  
 BOARD AS WELL AS THE NAME "MONOPOLY" ARE  
 THE TRADEMARKS OF PARKS RECREATION CO., LTD.  
 THE NEW YORK COMPANY, NEW YORK  
 © 1984, 1986, 1988, 1991 BY PARKS RECREATION CO.  
 MADE IN U.S.A.



PRICE \$100	PENNSYLVANIA AVENUE
PRICE \$100	SHORT LINE 
PRICE \$100	CHANCE 
PRICE \$100	PARIS PLACE
PRICE \$100	LUXURY TAX  PAY \$1000
PRICE \$100	BOARDWALK

PRICE \$100	CONNECTICUT AVENUE
PRICE \$100	VERMONT AVENUE
PRICE \$100	CHANCE 
PRICE \$100	ORIENTAL AVENUE
PRICE \$200	READING RAILROAD 
PRICE \$100	INCOME TAX + PAY 10% OR \$200
PRICE \$100	BALTIK AVENUE
PRICE \$100	COMMUNITY CHEST  FOLLOW INSTRUCTIONS ON TOP CARD
PRICE \$40	MEDITER. BARRAN AVENUE

COLLECT  
 THROUGH SALARY  
 BY YOU PASS  


# 1975 FTC v. AMA

---

FTC held that the AMA was in restraint of trade because its code of ethics prohibited advertising.



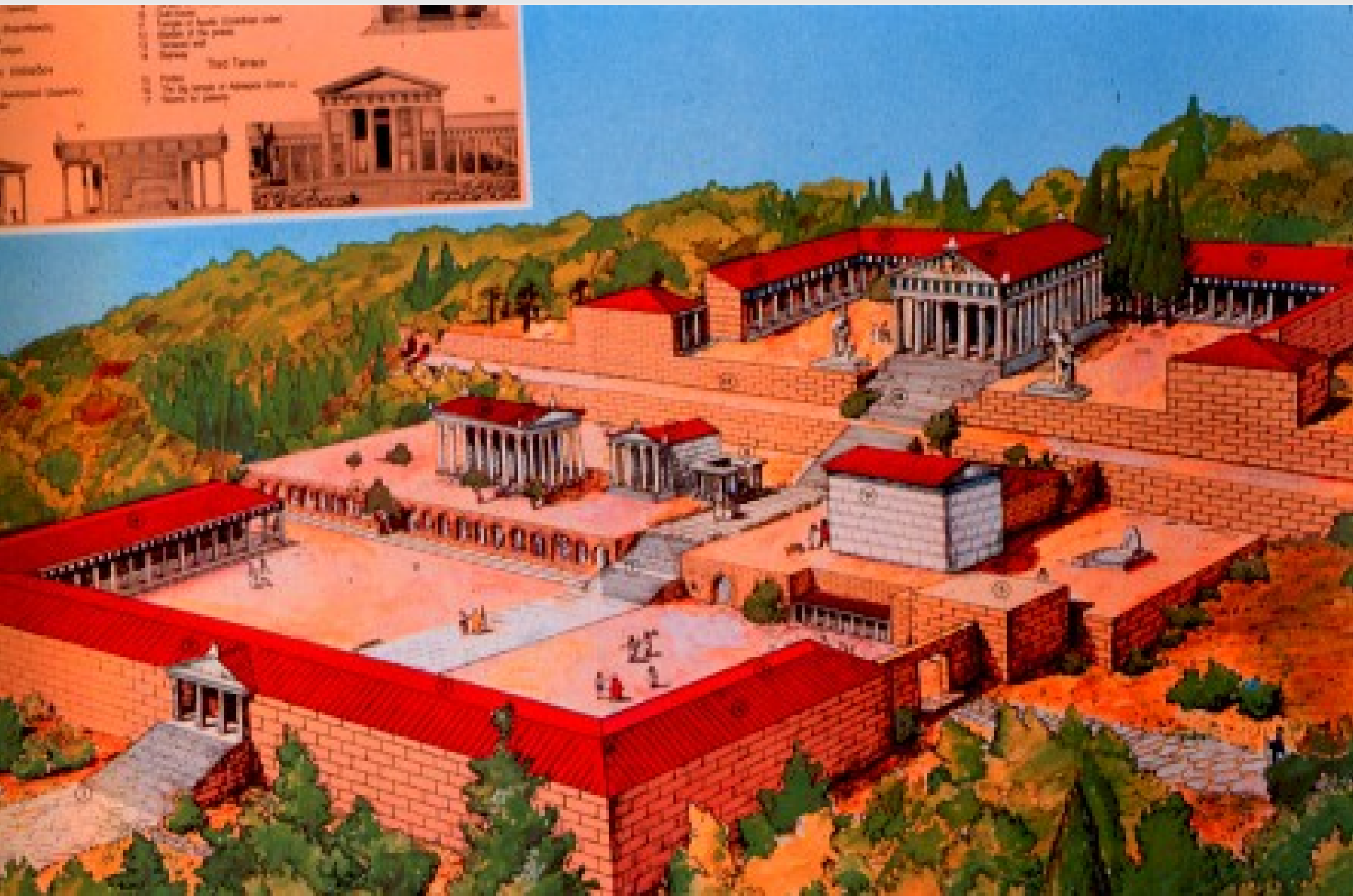
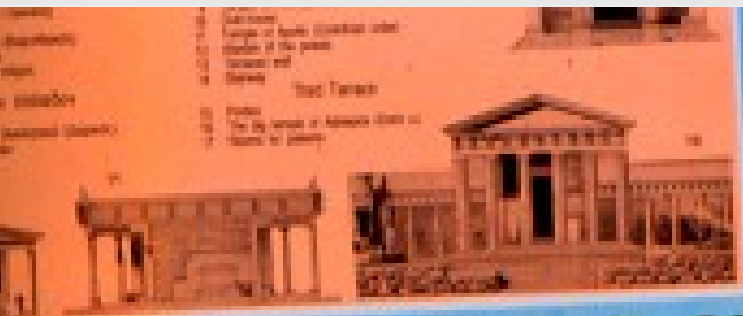
# A profession is defined by

---

- 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

# Oath of Hippocrates

## Paragraph 1

I swear by Apollo Physician and Asclepius and Hygieia and Panaceaia 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:



# Oath of Hippocrates

## 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.

# Oath of Hippocrates

---

## 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.

# Oath of Hippocrates

## 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.

# Oath of Hippocrates

---

## 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.

# Oath of Hippocrates

## 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 Panacea, and by all the gods and goddesses, making them my witnesses, that I will carry out, according to my ability and judgment, this oath and this indenture. 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 give treatment 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 houses I enter, I will enter to help the sick, and I will abstain from all intentional wrongdoing and harm. 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 can out this oath, and break it not, may I gain forever reputation among all men for my life and for my art; but if I transgress and forswear myself, may the opposite befall me!" *Thus 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

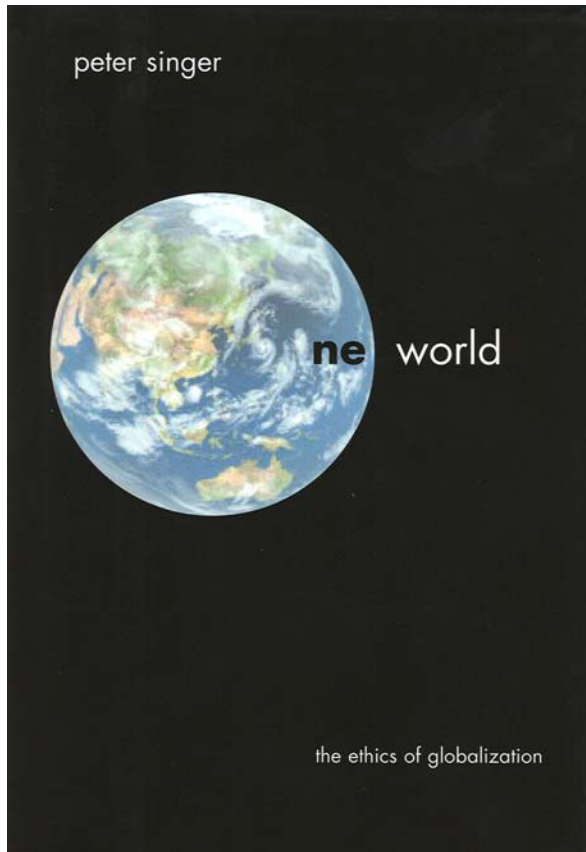
- OLD PARADIGM
  - (Modern)
  - Acute illness
  - Hospital based
  - Curative
  - Doctor centered
- Prototype:
  - White male
- NEW PARADIGM
  - (Post-modern)
  - Chronic illness
  - Community based
  - Preventative
  - Dr-patient partnership
- Multi-cultural

# 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



QuickTime™ and a  
TIFF (Uncompressed) decompressor  
are needed to see this picture.



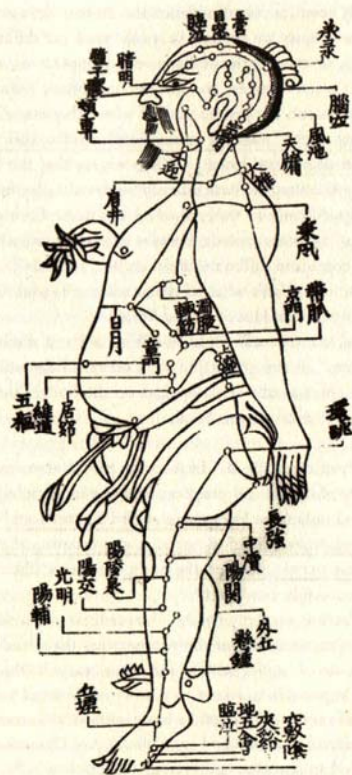


Figure 1. Hua Shou, *Shisijing fahui*, 1341, Fujikawa Collection, Kyoto University Library.



Figure 2. Vesalius, *Fabrica*, 1543, Wellcome Institute, London.

# Non-Western Sources

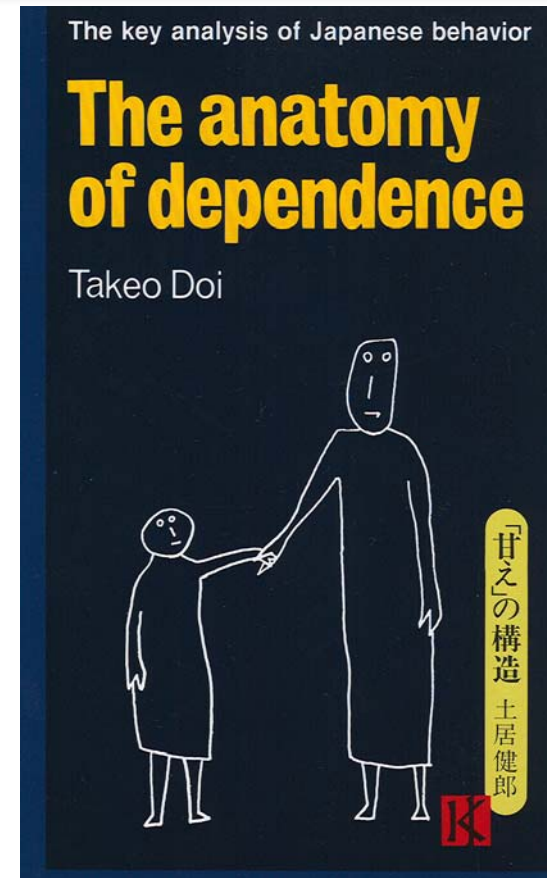
## Japanese:

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

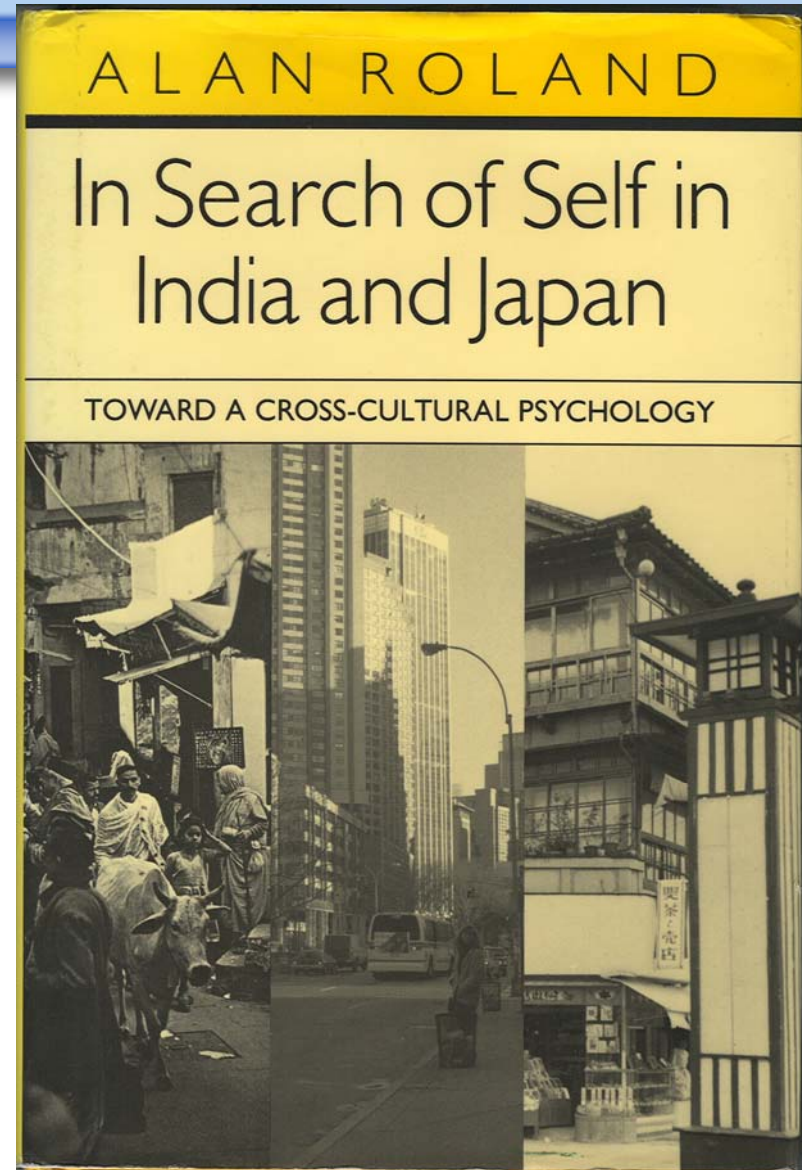
Cycle of life: All life is eternal suffering.  
Goal of nirvana (enlightenment) is not eternal life, but to get off the endless cycle.

# 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

## Traditional societies

- Family and Group oriented

Extended family

- Status determined by age, position in family, and care of elderly

Relationship between kin obligatory

- Arranged marriage

Family decision-making

- External locus of control

## Western societies

Individual oriented

Nuclear family

Status achieved by own efforts

Relationships between kin matter of choice

Individual choice

Individual autonomy

Internal locus of control

# 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



*People Caring...People Sharing*

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

Please e-mail comments or observations

[dyer@etsu.edu](mailto:dyer@etsu.edu)