Moral Matters

Medical Ethics in Everyday Practice

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What is Medical Ethics?

- Ethics: A theory or system of moral values- what we should do and why; virtue- good being done by good people.
- A philosophical discipline concerned with human obligations, duties and responsibilities.
- The study of standards of conduct and moral judgment.
- More than just a consensus of what is right.
- Bioethics: Ethical dilemmas in health care, medicine and the life sciences.
  - Professional Code of Conduct: example: May doctors advertise?
  - Public debate- who decides when to "pull the plug"?
  - Structure and financing of Health Care System- example: What is a fair system of health insurance?
  - Population level Bioethics- example: When are health inequalities unjust?

What is moral?

- From Latin (*morale*) pertaining to manners (*mores*)
- Conduct or behavior of persons which reveals values or assumptions about good and evil
- In accord with principles or standards of right conduct
- The practical lesson inculcated by a story or incident

How morality works…

Family values, social mores, religious teachings…"be kind," "do good," "do unto others…,"

Some laws- secular and religious

Professional codes, oaths, contracts

Etiquette (ways of showing respect)

Moral ideals—heroes and saints

Stories, fables, maxims…

Gossip

Excuses

Medical Ethics: Some History

- Edinburgh 1774 Adam Smith writes to Prof William Cullen expressing concern about "good science and discretion of medical students"
- John Gregory, chair of Physik Edinburgh 1766-73- lectures on Duties and Qualifications of a physician- Physicians had a positive moral duty to be "ready to acknowledge and rectify his mistakes". Concerned about no central authority and physicians working in private. Lack of openness and transparency. Today looks very far-sighted.
- 1803 Thomas Percival published Code of Institute and Precepts titled "Medical Ethics"- first English book with that title. Strong world-wide influence, especially in US.
- 1847 AMA - first Code of Medical Ethics- strongly based on Percival. Stressed professionalism and self-regulation

Domains of ethics

- Conduct Which Act is Right?
- Character Which Agent is Good?
- Community Which policy or practice is Fair?

Theory and Approaches

Principles- focus on act. Is an act or course of action morally right? Does it obey an agreed moral rule or respects an agreed moral principle?

deontological- to do with duties or rights (thou shall not kill)

consequentialist- concerned with consequences of actions-(always do what will produce more good than harm)

Persons- focus on agent- Focus from act to agent ("Virtue Ethics") Be the best person, rather than do the right thing. How would a role model behave in a certain situation? (What about a bad role model?)

Perspectives- focus on case. What is the case? What is the central issue? Shaped by history and tradition.

(Hermeneutics- interpretation of behaviors, speech and institutions. Positive view of prejudices and prejudging. We can't avoid our prejudices.)

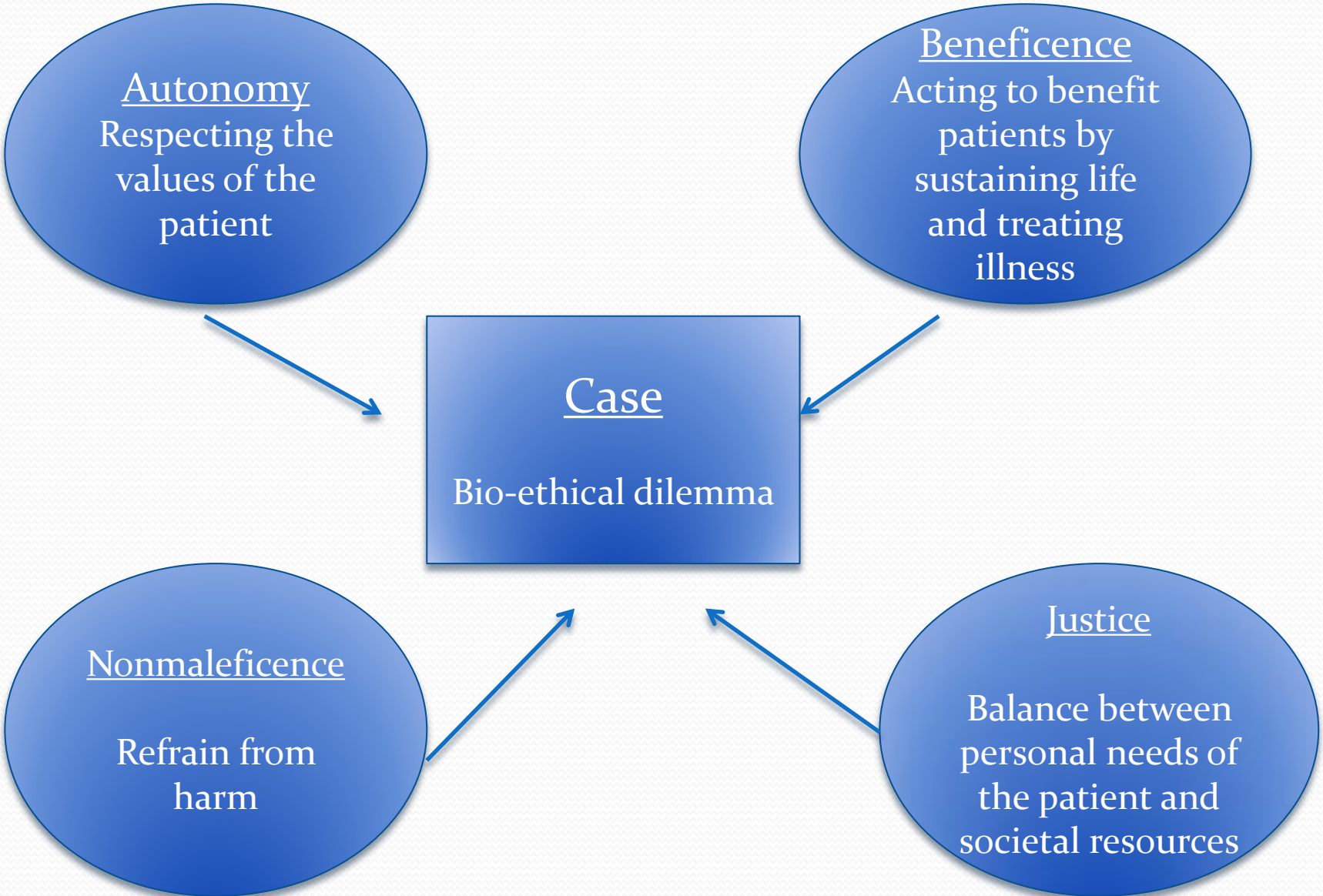
The "Four Principles" of Medical Ethics Today

Beneficence- the duty to do good and to act in the best interests of others

Non-maleficence- the duty to do no harm

Respect for Autonomy- the individual's right of bodily self-determination. (reciprocal: professional autonomy)

Justice- focus on considerations of fair treatment and distribution of resources


Autonomy
Respecting the values of the patient
Beneficence
Acting to benefit patients by sustaining life and treating illness
Case
Bio-ethical dilemma
Nonmaleficence
Refrain from harm
Justice
Balance between personal needs of the patient and societal resources

More on Justice

- Distributive justice- patient in similar situations should have access to the same health care; health care given to one set of patients must take into account the effect of such a use of resources on other patients. Use resources fairly. (For whom?)

Justice- cont.

- Respect for the Law- laws have moral force if they are created through a reasonable democratic process.
- Rights- If person has a right, it should be respected even if the overall social good is diminished.
- Retributive justice- Concerns fitting punishment to the crime. In medical context when a person with a mental disorder commits a crime.

Respecting Autonomy

- Not just “doing what patient says”
- Rather, help the patient make a maximally autonomous choice
- Remember that people are not isolated atoms, independent of all others, and they may care intensely about benefits/burdens, and other atoms in their molecules

Clinical Decision-making: KISS*

- FUNDAMENTAL PRINCIPLE:

"A clinical intervention (diagnostic or therapeutic) is justified if and only if the *expected benefits* outweigh the *expected burdens* from the perspective fo the patient."

*Keep It Simple, Stupid

Making ethical decisions

- What is the ethical conflict, problem or choice?
- Gather relevant facts and perspectives
- Identify beliefs
- Consider alternative choices or actions
- Apply ethical principles, concepts, rules
- Identify responsible moral agents and their responsibilities
- ***…do the right (or good, or virtuous) thing***

Triad for Ethical Decision Making

Relationship amongst individuals

Laws, rules, regulations and codes of conduct

Values and cultural influences

Common Ethical Issues in Primary Care

Privacy and confidentiality- who has access to patient information; how is the information used; electronic records.

Tarasoff decision- Duty to report.

Informed consent- transparency of the utmost importance. No longer is paternalism accepted. What does patient understand about their condition? Risk, benefits, and alternatives. (Corollary is the right to informed refusal of treatment- **IC is meaningless without this**.)

Communication: marked attitude change in last 30 years:

- 1953 69% of MDs favored **not** telling pts bad news
- 1961 88% favored **not** telling
- 1979 90% of MDs **favored giving** pt bad news

1980 AMA: "Patients right of self-decision can be effectively exercised only if they possess enough information to enable an intelligent choice"

Common Ethical Issues in Primary Care

Incompetent patients-

-who decides?

-what standards or principles should be the guide

- Children and adolescents
- Children and adolescents cannot participate in informed consent in the same way as adults
  - Lack cognitive and emotional maturity
  - Lack legal standing to fully participate

Competence 101

- A competent patient has the right to refuse ANY treatment, even if life-saving

"Competent"= Patient's authority trumps

"Not Competent"= Someone else has the authority

Assessing Competence

- Capacities needed for competence.
  - Communication and understanding
  - Reasoning and deliberation
  - Aims and values

- In borderline cases, the competence evaluation should focus on the process of the patient's reasoning.
  - The necessity of understanding the reasons for the patient's choice

Surrogate Decision-Making 101

Not:

"What do you want us to do?"

Rather:

"What do you think your loved one would want us to do?"

What do "Preferences" *Mean*?

"People do not always mean what they say; they do not always say what they want; and they do not always want what they say they want. That much is, if not exactly clear, at least uncontroversial. What *is* controversial is, recognizing this, how to proceed."

--Carl Elliott

"Meaning What You Say"
J. Clin Ethics 4(1):61 (1993)

Ethical Issues in End-of-Life Care

- Ethical issues around how end-of-life decisions are made
- Ethical issues around how end-of-life care is provided
- Ethical issues after death

End-of-life care- changing goals of care from cure to palliation. Emotionally and clinically challenging. Clear prognosis and effective communication are key. (**Suffering**: the state of severe distress associated with events that threaten the intactness of the person)

-Hospice- all terminal illnesses

-Palliative care- all illnesses

Death and dying

Definition of death: irreversible cessation of circulatory and respiratory functions, or irreversible cessation of all functions of the entre brain, including the brainstem. What about consciousness and self-awareness?

Persistent vegetative state:

Karen Ann Quinlan 1975- persistent vegetative state requiring mechanical ventilation. NJ Supreme Court recognized right to withdrawal of extraordinary life-sustaining technology if no longer desired by pt or surrogate. (She died 7 years after removal from ventilator)

Nancy Cruzan 1983- US Supreme Court ruled tube feedings could be withheld if parents demonstrated "clear and convincing evidence" that Nancy would have rejected the treatment. (principle of autonomy) Court found no distinction between ordinary and extraordinary life sustaining therapies. Burdens of the medical intervention should outweigh its benefits (principles of beneficence and non-maleficence.)

- Comfort care: values uniqueness of each human being. No preset formula.

Principles of End-of-Life Care

- Withholding treatments is morally and legally equivalent to withdrawing them.
- Any treatment can be withdrawn including nutrition and hydration
- Withdrawal of life sustaining treatment requires the same degree of physician participation and expertise as other procedure

Sedatives & Analgesics at the End-of-Life

- Administering sedatives or analgesics with the intention of killing the patient (euthanasia) is currently illegal (except in Oregon)
- Administering sedatives or analgesics with the intention of comforting the patient is morally and legally acceptable, even if it hastens death

  -(principle of double effect)

The Principle of Double Effect

- The action itself must not be intrinsically wrong
- The agent must intend only the good effect
- The bad effect must not be a means to achieving the good effect
- The good must outweigh the evil permitted

Medical Error

- **Institute of Medicine 2000:** 98,000 deaths/year in US from medical error
  - Equivalent to 3 jumbo jet crashes every 4 days
  - Twice the number of US automobile fatalities each year
- Complex systems are prone to error. Not a character flaw. Openness about admitting mistakes(hard to do). Maintain relationship and restore trust. Failure to disclose can be more serious than error itself. Systems approach to correct flaws: root cause analysis. Avoid “shame and blame.”

Apology

"An effective apology is one of the most profound healing processes between individuals, groups, or nations"

Lazare, JAMA 2006; 296:1401

Some Common Ethical Issues

- Reproductive issues
  - Abortion- controversial and socially divisive. (And political). Health of the mother versus life of fetus.
  - Reproductive technologies- have increased in complexity and used more frequently. Dehumanization a major hazard. Feminist perspective- are women just vessel? Surrogate motherhood; donor eggs; donor sperm. Who is the mother? Who is the father?
- **Impaired colleague**- primary goal- protect patients from harm.
- organ procurement

Dangers of Medical Ethics

-Needs to be more scientific. More than just personal dilemmas, but a conflict between ethical duty and self-interest.

-Use ordinary language; avoid jargon. Issues need to be framed in terms the ordinary person can understand.

Ethics Committees

- Purposes
  - Deliberate and educate about ethical questions in specific cases and general policies
  - Bring varied views and values to bear
  - Enhance sense of moral agency and responsibility
  - Foster multidisciplinary communication
  - Demonstrate respect, collaboration, and moral reasoning
  - Offer distinctions between facts and values
  - Promote ethical culture and community

Ethics Committees

- Activities
  - Draft DNR policies
    - DNR in the OR
  - Other policies
    - Organ donation protocols
  - Educational programs
    - Self education
    - Monthly bioethics case conference
    - Ethics forums

Medical Ethics Consultation Service

- Not a review board or morbidity and mortality committee
- Purpose: Ethics consultation is a service to address the ethical issues involved in a specific clinical case. It's central purpose is to improve the process and outcomes of patients' care by helping to identify, analyze, and resolve ethical conflicts
- Survey 2007 of 600 US General Hospitals: (84.7% response rate); 81% had Ethics Consultation Service (ECS) 100% with >400 beds.

Goals of Ethics Consultation

- To promote an ethical resolution of the case at hand
- To establish comfortable and respectful communication among the parties involved
- To help those involved learn to work through ethical uncertainties and disagreements on their own
- To help the Hospital ethics Committee recognize patterns within the hospital and consider reviewing policies

Hope

"Hope has *nothing* to do with probabilities."

--Eric Cassell, MD

Ethics and Skills: Words as Scalpels

"Any doctor who can't be truthful without leaving the patient badly scarred shouldn't be taking care of very sick people."

--Eric Cassell, MD