Understanding Ethics, edited by Vibha Chaturvedi and Pragati Sahni, Macmillan India, 2013

Medical Ethics

"I swear by Apollo the healer,.....that I will fulfill this Oath.....The regimen I adopt shall be for the benefit of the patients according to my ability and judgement, and not for their hurt or for any wrong. I will give no deadly drug to any though it be asked of me, nor will I counsel such…Whatsoever things I see or hear concerning the life of men, in my attendance on the sick or even apart therefrom, which ought not to be noised abroad, I will keep silence thereon, counting such things to be as sacred secrets.....If I fulfill this oath and confound it not, be it mine to enjoy Life,.... If I transgress and violate my oath, may the reverse be my lot."[1] [The Hippocrates Oath]

One may ask whether there are any rules, ethical standards or principles that one can use as guidelines when taking moral decisions in medical practice. The Hippocratic Oath, The Geneva Convention Code of Medical Ethics, The International Code of Nursing Ethics are some of the ethical codes that medical professionals are expected to abide by while discharging their duties. These express ethical commitments on the part of medical professionals. Apart from these however, ethical theories and moral principles supposed to hold in all contexts of human action, can and have been applied while making moral decisions in the field of medicine.

Ethical Theories and Medical Practice

Ethical theories can be said to offer a means to explain and justify actions and provide guidance in situations of moral dilemmas in the field of medical practice. Each ethical theory has significant implications for medical practice.

According to utilitarianism, which focuses on consequences, actions are right in the proportion that they tend to promote greatest happiness of greatest number, wrong as they tend to produce the reverse of happiness i.e., pain. Taking a cue from this theory, the goal of medicine can be said to be palliative care where a doctor's duty is to alleviate the suffering of the patient and to promote health. However in practice a doctor may be faced with situations where it is difficult to decide what is the right thing to do and one may be led to unacceptable consequences. To illustrate this, Ronald Munson has given an example of a case in which there are two patients. The first patient is in coma and is almost near death. Another patient, who has been brought from the scene of an accident, is in need of immediate kidney transplant. His tissue matches with the kidney of the first patient. Munson has argued that utilitarianism would consider the removal of the kidney of the first patient as justified since it is likely to produce more happiness than unhappiness by saving the second patient's life.[2] However, the concept of justice is missing in this perspective.

In stark contrast to utilitarianism, Immanuel Kant considers only those actions as right that are performed for the sake of duty. An agent ought to act on the maxims that satisfy the principle of 'categorical imperative' for which he gave three formulations.

---

[1] Campbell V Alastair, Moral Dilemma in Medicine, Churchill Livingstone publication, New York, 1975, pg 196-197

[2] Ronald Munson, Intervention and Reflection : Basic Issues in Medical Ethics, fourth edition, Wadsworth Publishing Company, Belmont, California, 1992,pg 3

These are the universalizability principle, treating humanity as an end and the formula of kingdom of ends.[3] On this theory, health care professionals act morally only when they do their duty for the sake of duty and not because of the hope of being rewarded by the patient or her family. Further applying the first formulation of the categorical imperative, one can argue that no matter what the consequences may be, it is always wrong to lie and deceive the patient. Applying the second formulation, it can be stated that patients should not be treated merely as a means, therefore, patients cannot be made the subject of medical research without taking their consent even if it is for the benefit of society. Since every human being has dignity and moral worth, medical care should be available to all. Kantian ethics thus seems to be a source of some of the significant ideas of medical ethics. Critics of Kant however, allege that his theory is too rigid.

W.D Ross, who made an attempt to incorporate good aspects of both utilitarianism and Kant's theory, offered a list of prima facie duties outlined as follows: a) duties of fidelity--telling the truth, keeping promises, b) duties of reparation--righting the wrongs we have done to others, c) duties of gratitude--recognizing other's services, d) duties of justice e) duties of beneficence f) duties of self- improvement--improvement with respect to virtue or intelligence and g) duties of non-maleficence--avoiding or preventing an injury to others.[4] Munson has argued that the list of prima facie duties given by Ross can serve an important function in the moral education of physicians, researchers and other medical professionals.

What seems to be lacking in all these theories is the concept of justice, which was brought to the forefront by Rawls' theory. Rawls formulated a hypothetical device called the 'original position' in which people of different sex, racial and ethnic groups, professions etc are placed behind 'a veil of ignorance' whereby it is assumed that each person is ignorant of contingent facts about himself/herself and each person is capable of cooperating with one another. In the original position, people desire what Rawls called 'primary goods', which are worth possessing and are necessary to secure the more specific goods. Rawls' theory can be said to call for a reform to ensure that everyone becomes entitled to health care since health being a primary good needs to be promoted and protected. When the concerned authority is under a veil of ignorance, the just thing for them to do would be to argue for the equal distribution of resources except when by distributing resources unequally one could improve upon the situation. Under the veil of ignorance, measures will be taken to ensure that people's interests are protected if they meet with disabling accident or develop serious mental troubles. Rawls' theory thus can be said to endorse the legitimacy of paternalism whereby doctors and relatives of a patient can take decisions on patients' behalf keeping his/her benefit in mind, if the patient is not in a condition to take decision. However, this is a problematic conclusion.

What seems to be clear from the brief discussion of ethical theories given above is that each theory yields important principles for medical ethics. However, each also faces difficulties.

Moral Principles of Medical Ethics

---

[3] Kant Immanuel, translated by James W. Ellington [1785](1993). Groundwork for the Metaphysics of Morals, 3rd ed,Hackett.pp.30

[4] Ronald Munson, op cit, pg. 18

In the field of the practice of medicine, four moral principles ought to be applied while making moral decisions:

(1).The principle of Non-Maleficence, which is considered to be one of the most important principles, asserts that one ought not to act in ways that causes needless harm or injury to others either through an act of commission or omission. In the medical context, this means that while treating a patient 'physicians should not by carelessness, malice, inadvertence, or avoidable ignorance do anything that will cause injury to the patient'.[5] Clearly this principle affirms and requires medical competence on the part of health care professionals. Though one cannot expect perfection in medical practice, the principle demands a fundamental commitment on the part of health care professionals to protect their patients from harm.

(2).The principle of beneficence demands that 'we should act in ways that promote the welfare of other people'.[6] In the realm of medicine, the duty of health care providers is to benefit the patient and to take positive steps to prevent and save the patient from any kind of harm. The proper goal of medicine is not only to promote the health of the patient but also to prevent disease through appropriate research and employment of vaccine or medicines.

(3).The principle of respect for autonomy is a very important principle in this context. It asserts that 'rational individuals should be permitted to be self- determining.'[7] Treating persons as autonomous agents is to enable them to act in ways, which are the result of their own choices thereby recognizing their inherent worth. In health care decisions, respect for autonomy means that the patient has the capacity to act intentionally, with understanding, and without any controlling influences and doctors have the duty to respect that.

(4).The principle of justice is the fourth important moral principle in this context. Justice is usually defined as a form of fairness whereby everyone is given that which is due to him and his rights are recognized and protected. In the field of medicine, justice requires fair dealing. If two patients in the same condition, for instance each with a broken arm, are brought to hospital, then one who has been brought earlier should be attended first. However, even if two patients come at the same time, the one in more critical condition should be attended first. Justice is not only about fair dealing with patients in terms of giving them what they are entitled to but it is also about fair distribution of medical services.

Many ethical issues arise in the field of medicine pertaining to particular areas. This paper will be dealing with three main issues: issues pertaining to decisions to end life, moral dilemmas which arise in medical research and the ethos of the doctor-patient relation. These issues are of serious concern. Very often these issues come within the ambit of the legal framework also. It is extremely important to look at these issues critically examining all their relevant aspects.

---

[5] Ibid., pg 32
[6] Ibid., pg 34
[7] Ibid., Pg 40

Issues about Decision Making to End Life

Death is an inevitable and intrinsic part of life. Development in the field of medicine, however, has made it possible to prolong life. People who used to earlier die prematurely because of their injuries or some deadly disease can be kept alive by medical intervention. However, in some circumstances, physicians, whose prime responsibility is to conserve life, are called upon to take a decision regarding ending a life. Such decision making with regards to abortion and euthanasia gives rise to serious moral dilemmas for medical professionals, patients, as well as, general public.

Abortion can be said to be one of the most intractable problems in medical ethics. Abortion has generally been defined as any deliberate termination of pregnancy by medical or surgical means.[8] Termination of pregnancy can also happen from natural causes but abortion in which there is deliberate termination by medical means (known as induced abortion) is the kind of direct abortion that raises moral problems because it is an intentional act of an agent.

The opponents of abortion are referred to as 'prolife' advocates who maintain that the fetus has the same right to life as any individual and abortion amounts to murdering of an innocent person. On the other hand, those who support abortion are referred to as 'pro choice' advocates. They believe that women are entitled to control their bodies and have the right to exercise their choice regarding their unique ability to bear children.

The status of the fetus is a significant question in this context. Can one legitimately consider the fetus as a person? The term 'person', however, is an ambiguous term having legal, descriptive and normative senses. The claim that killing a fetus is morally wrong can be justified when the fetus qualifies as a person in the normative sense. Being a person normatively means being a bearer of moral rights, including the right to life.[9] The crucial question is whether and when during its process of development, a fetus can be said to be a person in the normative sense. One position is that fetus can aptly be considered a person from the beginning, i.e., from the moment of conception. This view is taken by most of the religions across the world, and they condemn direct abortion.

When one looks at the issue of abortion purely from scientific perspective, it becomes quite clear that in the field of medicine also the fetus is considered to be more than merely a bundle of cells. In the development process of the child, "during the fourth and fifth week, organ systems begin to develop, and external features take on a definite human shape. During the eighth week, brain activity usually becomes detectable. At this time embryo comes to be known as fetus."[10] It must also be borne in mind that abortion performed after twelve weeks of pregnancy can cause serious medical harm to the woman.

One may ask whether abortion can ever be considered to be morally right? Some of the grounds given to justify abortion are as follows:

---

[8] Stephen G Post(ed) , Encyclopaedia of Bioethics , 3rd edition, Volume 1, Macmillan reference, USA,2004, pg 5
[9] Ibid. pg 8
[10] Ronald Munson, op cit, pg 55

* “Therapeutic - the life of a mother may be at risk should she carry a child to full term

* Eugenic - the baby is retarded, deformed, or handicapped in some way.

* Psychiatric - the mother’s mental health does not allow child birth.

* Socio-economic - to ease economic pressures on an individual/family.

* Violation - in cases where the pregnancy resulted from rape or incest.

* On demand - for any reason important to the mother”[11]

In many countries across the world abortion has been legalised and ‘four conditions are generally listed in which a medical practitioner is allowed to perform abortion: risk to the life of the mother; risk to the health of the mother; risk to the health of other children in pregnant woman’s family; risk of abnormality in child.’[12] Thus, abortion raises important questions about both definition and value of life. In some cases, it becomes very difficult to decide about the right course of action. There are cases in which the patient wishes to have an abortion but the doctor thinks that it should not be permitted as it cannot be justified. What should a doctor do in such situations? Should he respect his patient’s wish and perform abortion or should he take necessary step to prevent the patient to go for abortion? Medical practitioners thus face serious moral dilemmas while taking decision regarding abortion.

Analogous to the issue of abortion, the issue of euthanasia raises serious moral problems. The term ‘euthanasia’ literally means a ‘good’ or ‘easy’ death. Euthanasia involves a death, which is sought and intended for the benefit of the person who dies as a result of an act by some other person (for instance, a physician). It is not considered to be a case of euthanasia, if death results because of an action performed by patient himself/herself or if some ulterior motive like relieving the burden of suffering or cost which family bears in the form of medical service is the cause of induced death.

One can distinguish between different kinds of euthanasia. Firstly, there is a distinction made between active and passive euthanasia. Active euthanasia is the intentional killing of a person (for his sake), while passive euthanasia is the intentional allowing of a person to die (for his sake). Secondly, there is a three-part distinction made between voluntary, involuntary and non-voluntary euthanasia. Voluntary euthanasia (whether active or passive) is undertaken at the expressed request of the person who wishes to die. Involuntary euthanasia is undertaken contrary to the expressed wish of the person who dies. And non-voluntary euthanasia occurs without the expressed request of the person who dies, either because he is not asked about his wish or because he is unable to give an answer for some reason.

Moral issues with regards to euthanasia do not arise in vacuum. Life is almost universally supposed to be good and valuable and all societies believe in the sanctity

---

[11] Michael A Grisanti, The Abortion Dilemma,The Master’s Seminary Journal,TMSJ 11/2 (Fall 2000), pg 178

[12] Campbell V Alastair ,op cit, pg151

of life. There is, however, a limit to which doctors can perform their duty of sustaining life. In some circumstances it becomes a part of their duty to take a decision to end the patient's life. One such situation is where life of a patient can be sustained only at a vegetative level. Patients in some cases are in persistent vegetative state either because they are born with mental and physical defects or because they meet with a severe accident. Even though there are means of sustaining their life, nothing can be done to restore the patient to that minimum level of function where he/she can experience or be aware of anything, or lead a decent life. Graeme R Mcleane has argued that the treatment, which sustains life at the persistent vegetative state, can be called as a futile treatment because to sustain life in this way is to do nothing beneficial for the patient. It would just be a matter of prolonging the death of the patient.[13]

Another challenge to the duty of sustaining life occurs when the treatment required to sustain life imposes upon the patient a burden of harm or suffering, which outweighs the proportion of good it can provide. There are cases, for instance, in which doctors are able to prolong the life of a patient for a short duration, but this comes at the cost of harm and suffering of a highly distressing resuscitation, whose outcome is uncertain or of a massive surgical operation, with all its trauma and after effect. 'The Case of Maria' is an example. Maria, an 82 year old woman in a state of semi-coma, was being given artificial nutrition and hydration by means of naso-gastric treatment, but she used to express her wish to be allowed to die through some signals like by removing the feeding tube. Maria's children approached her physician regarding the possibility of withdrawing treatment and allowing her to die. In this case physicians allowed the withdrawal of nutrition but refused to withdraw the supply of hydration. Maria survived for two weeks but then died suddenly. Maria's son complained arguing that had the physician agreed for withdrawal of all kinds of treatment, his mother would have died sooner and would have suffered great deal lesser. The doctor's view, however, was that withdrawal of hydration and allowing the patient to die would have violated the goal of medicine and duty of care to patient.[14]

When one performs euthanasia, one acts with the intention of bringing about the patient's death. A paradigm case of euthanasia would be either of administering a lethal injection thereby unambiguously displaying this intention or to fail to give medicine to the patient intentionally, which would result in the patients' death. This brings forth the distinction between active and passive euthanasia, between the act of killing and letting die. There is a general agreement among thinkers that active euthanasia is morally wrong but passive euthanasia is morally legitimate. Some philosophers, however, are of the opinion that this active-passive distinction is not relevant; both kind of euthanasia are cases of causing death. The circumstances in which the death is caused and not the manner of causing it is of moral importance here.

Euthanasia, some argue, is easier to justify when it is requested by the patient. Justification for voluntary active euthanasia is given by taking recourse to the principle of beneficence and autonomy. If the person is suffering terribly and the

---

[13] Graeme R Mcleane, Euthanasia A Problem for Psychiatrist, South African Psychiatry review, 200;7:10-18, feb 2004,pg 18

[14] Parker Donna Dickinson , The Cambridge Medical Ethics Workbook: Case Studies, Commentaries and Activities, Cambridge University Press, United Kingdom,2001,pg4

suffering would sooner or later result in death, then for the benefit of the patient, euthanasia should be permitted. Human beings as autonomous moral agents should be given the right to decide about their life and death. Advocates of voluntary euthanasia argue that in some situations, killing does not cause harm but minimizes the incessant suffering of the patient and, therefore, cannot be considered to be a breach of the principle of non-maleficence. To permit voluntary active euthanasia according to them is to permit death with dignity.

One argument, which is usually advanced against active voluntary euthanasia, is that it violates the duty not to kill innocent human beings. Concerns have also been raised regarding the possibilities of abuse of a policy permitting euthanasia. Philippa Foot has remarked: "Many people want, and want very badly, to be rid of their elderly relatives and even of their ailing husbands or wives. Would any safeguards ever be able to stop them describing as euthanasia what was really for their own benefit?"[15] Further it is also possible that under the policy of euthanasia some patients may issue a request for euthanasia, not because they really want it, but because they feel pressure from somewhere else - for instance, pressure from their family or others. What might look like voluntary euthanasia might not be truly voluntary. It has also been argued that euthanasia is incompatible with the very aim and ethos of medicine of protecting life. 'Policies permitting euthanasia would diminish patients' trust in their doctors - the trust on which good health care so critically relies.'[16]

Ethics of Medical Research

Medical research also raises many moral issues. Medical research is generally defined as the scientific enterprise in which the "aim is to acquire a better understanding of the chemical and physiological process that are involved in human functioning. It is concerned with the effectiveness of therapies in ending disease processes and restoring functioning. But this concern is not for the patient as an individual. Rather it is directed towards establishing theories."[17] The fact that knowledge gained through medical research has been and will be at the heart of the most of the significant development in the improvement of medicine cannot be denied. Notwithstanding the benefits in the form of insights gained through medical research, it remains a fact that history has been witness to the most horrific human experiments carried by medical fraternity in the name of medical research. During the Second World War, Nazi doctors conducted such human experiments as throwing of people into freezing cold water in an attempt to see how long pilots who bailed out of airplanes into the sea could be expected to survive.[18] The international community took notice of such atrocities carried out in the name of medical research and an ethical code called 'Nuremberg Code' was formulated, which is to be observed by medical researchers. Some of the basic principles according to this code to be observed by medical practitioners are as follows:

(a) Voluntary informed consent of the human subject: the person involved in the medical research should be in a position to give consent and should also be able to exercise their free choice. The nature, duration, purpose, method of experiment,

---

[15] Foot P, Euthanasia , *In Virtues and Vices*, Oxford, Blackwell: 1978, pg 33
[16] Graeme R Mcleane, op cit, pg 18
[17] Ronald Munson, op cit,1992,pg 324
[18] Michael Parker, Donna Dickenson, op cit, pg 81

inconvenience and hazards reasonably to be expected should all be known to the human subject.

(b) The experiment should be for the good of the society and not for some unnecessary and random reason.

(c) The degree of risk involved in the experiment should not be more than as determined by the importance of the problem to be solved by the experiment. During the course of the experiment, human subject should be given the liberty to withdraw from the experiment.[19]

It will be useful to look at some of the real life cases of medical research and see how these have raised moral issues. Take the case called 'The Willow Brook Hepatitis Experiment'. In this experiment mentally retarded children staying at Willow Brook were made the experimental subjects of the study of viral hepatitis. Though the research conducted was recognized as significant for understanding the nature of the disease, yet serious doubts were raised whether it is ever right to use a vulnerable group as experimental subject. Critics have argued that children should never be used as experimental subjects especially in non- therapeutic experiments. In the history of medical research, vulnerable groups like children, retarded people, poor people and prisoners as also animals have been used as experimental subjects in many instances. Most of the time, in such cases, either the subjects are not competent (children, retarded people, animals) enough to give the consent or if they are competent (prisoners, poor people etc) taking consent from them is not considered to be relevant.[20]

In some cases the physician plays the role of both researcher and therapist and a moral issue arises when the physician compromises with the welfare of the patient to further research interest. For example the 'Case of Baby Foe'. In this case, baby Foe, whose heart was underdeveloped underwent heart transplantation and became the first infant to receive a baboon heart. After 20 days of the operation, however, the baby died. An enquiry into this case revealed that no efforts were made by the physicians to look for a human donor. It seemed that in this case research interests were given more priority.

Some critics also raised objection against the sacrificing of a healthy animal as a part of an experiment, which produced no benefit for the patient.[21]

K.W.M Fulfort has outlined four principles, which can provide a structural framework for good research namely: (a) Knowledge (b) Necessity (c) Benefit (d) Consent.[22] Though medical research plays an important role in paving the way for development in the field of medicine and contributes in prolonging life, it should nevertheless, be conducted strictly following ethical norms and without putting innocent human life at stake.

Doctor-Patient Relationship

---

[19] Ibid., pg 115-116
[20] Ronald Munson, op cit, pg 312
[21] Ibid, pg 311
[22] Michael Parker, Donna Dickenson, op cit, pg 90

The issue of doctor-patient relationship is at the core of almost all other issues in medicine. This relationship is central to the practice of medicine and forms the foundation of effective delivery of high quality health care. A patient must have confidence in the competence of her doctor and for the effective diagnosis and treatment of the disease. It is equally important for the doctor to establish a good rapport with the patient. Autonomy, paternalism, confidentiality, truth telling are some of the key concepts which play a pivotal role in understanding doctor patient relationship.

Doctors are expected to respect the autonomy of their patients. Acting against the wishes of his/her patient or withholding some vital information from the patient violates the autonomy of the patient. For example, suppose a pregnant woman who meets with an accident requests for an abortion after being told by her physician that her chance of recovery would have been more if she wasn't pregnant. The physician disagrees with her decision and gets a court order forbidding her. In this case, doctor acts against the wish of his/her patient and thereby violates the patient's autonomy.[23]

By virtue of being autonomous agents, patients have the freedom to make a choice. In medical ethics, the only limits to this freedom are the cases in which one person's freedom comes in conflict with another person's freedom. Suppose Mr. Mehra who suffers from Alzheimer's disease has a poor traffic sense and a tendency to wander, is given the freedom to wander without any restraint, his actions can harm him and the general public. Therefore, in the best interest of the patient as well as others, it would be wise to put some restraints on Mr. Mehra's wandering.[24]

Munson rightly observes, "that patients occupy a dependent role with respect to their physicians seems to be true historically, sociologically and psychologically. The patient is sick, the physician is well. The patient is in need of the knowledge and skills the physician possesses, but the physician does not need those possessed by the patient".[25] In such a relationship of dependence, the principle of paternalism plays an important role in justification of the doctor's right of limiting autonomy of the patient. It is pertinent to note, however, that there has to be a limit to this right of the physicians. A patient cannot be allowed to become a slave of the doctor.

The notion of truth telling also gives rise to problems. Does the physician always owe it to the patient to tell the truth?[26] In many circumstances it is in the best interest of the patients that they should not be told the truth. For instance in cases of terminal illness, telling the truth regarding the patient's condition is likely to worsen his or her condition. Advocates of autonomy, however, object to lying and insist that the patient should be told the truth. Various kinds of reasons are advanced to show the therapeutic benefits of telling the truth to patients.

The notion of confidentiality also occupies a very important place in doctor patient relationship. If doctors were to reveal intimate and personal information about the patients, then the patients won't feel comfortable in disclosing such information to doctors. Good quality healthcare requires that the patient places her trust in the doctor.

---

[23] Ronald Munson, op cit, pg 263
[24] Michael Parker, Donna Dickenson, op cit, pg 131
[25] Ronald Munson, op cit, pg 263
[26] Ibid., pg 268

However sometimes a doctor's duty of protecting the confidentiality of the patient comes in conflict with her duty to act in the best interest of the society. For instance law may require disclosing the name of the patients who have some communicable disease or injuries, which are the result of a criminal action. It becomes important, therefore, to outline the conditions in which relevant information regarding a patient can be disclosed by the doctor. Three conditions can be outlined here: "There must be a real and serious danger to the public. Disclosure must be to a person or body with a legitimate interest in receiving the information. Disclosure must be strictly limited to the information about risk, not all the patient's detail."[27]

To conclude, the field of medicine gives rise to a wide range of moral issues. I have briefly outlined some of these. There are, however, many other important moral issues relating to the use of medical technology for sex determination, sex selective abortion, stem cell research, cloning, commercialisation of the medical profession, etc that are rife with ethical questions and moral dilemmas. It is very difficult to find definite answers despite much debate and discussion. The debate thus remains ongoing and unanimous answers or general agreements are not available. The overriding consideration in this context remains the best interest of the patient as well as society.

Further readings:

Parker Michael and Donna Dickenson, *The Cambridge Medical Ethics Workbook, Case Studies, Commentaries and Activities,* Cambridge university press, U.K., 2001

Munson Ronald, *Intervention and Reflection: Basic Issues in Medical Ethics*, 4th edition, Wadsworth Publishing Company, Belmont, California, 1992

Campbell, Alastair, *Modern Dilemmas in Medicine*, Churchill, Livingstone, Longman Group ltd., New York, 1975

[27] Ibid.,pg 133