# MEDICAL ETHICS FOR PRIMARY CARE PHYSICIANS

A Laboratory Manual

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### INTRODUCTION

This is a laboratory manual, developed in the Department of Family Practice and Community Health at the University of Minnesota. It is a curriculum in Medical Ethics, written primarily for the primary care physician who is interested in developing sensitivity to the humanizing of life sciences and the challenging is sues we normally speak of as Medical Ethics.

Although the intended use for this handbook is for those who specializing in Family Medicine, it's design can be used for physicians in all primary care medical disciplines.

The faculty has delegated to the author the assignment of research and development of curriculum material that brings life sciences and values into the medical curriculum. The new image of the Family Practitioner includes the sensitization of young physicians to the concept of viewing patients as persons, and valuing life added to years as equally important as years added to life. To begin this task, core material is to be prepared to introduce medical residents, as well as undergraduate medical students, to the social, religious and ethical impact of the biological revolution upon human life.

As survey of contemporary issues in medical ethics has been conducted, including a personal survey of 87 residents currently in

the Department of Family Practice and Community Health. This survey saw the development of a questionnaire that was sent to 87 residents currently in the program. Following the survey, two "brain storming" group discussions were held as an attempt to refine the data as well as secure student input as to what and how this curriculum could be taught. It was decided that team teaching by a physician-educator and a religio-ethicist educator would comprise the team. The assignment of principle investigator and developer of this core curriculum on medical ethics was given to the writer.

Results of residents' survey plus research of materials in literature has culminated in the building of core curriculum in the following pages. Case study presentations and discussion material adequate for optimum problem solving have been developed. Particular concern of both students and faculty, who were also asked for input, was to develop the curriculum relevant to young physicians planning a career in Family Practice.

The writer added one more evaluative concept: what medical issues were foremost concerns of currently practicing family physicians.

A second survey was taken of 75 practicing physicians in the state of Minnesota.

Medical ethics, like any ethics, is more search and tentative discovery than indoctrination. This search involves several steps in a process sometimes involving much anguish for all persons concerned: a descriptive analysis of the hard facts concerning a particular issue, a determination of the values at stake, normative statements about the values and the "why" or vindication of possible judgment. Then a

decision can be made--based on facts, feelings, ethical, social, philosophical, theological and medical relevance in a given context.

Physicians do not practice medicine in a controlled medical milieu. Issues in medicine have concommant factors which relate to all of society. The issues in medical ethics are the problems of human beings in situations where medical care is needed. Birth and death, illness and injury, are not simply events the doctor attends. They are moments in every human life and part of human process in social context. The physician makes decisions as an expert and as a man among men; and his patient and the patient's family are human beings who experience life situations as persons in grave stress. The patient or potential patient lives in a broad social contact that is complex, pluralistic, and involved with multiple systems in juxaposition with the community at large.

Hence, medical issues affect all members of society. A program in the study of medical ethics should attempt to develop in physicians a sensitivity to human values against which decision for the well-being of persons is not only medical, but social, philosophical and theological. Furthermore, the expansion of Federal and State legislation is resulting in an expanded role of consumer and public agencies in the evaluation and regulation of health services.

This writer holds that medical ethics is consonant with the ethics of a wider human community. If one ascribes to the systems theory, then it follows that all systems that may at first seem autonomous and independent have direct bearing on all other systems. One person's decision, pain, problem or polution affects many. So the

physician's decision to act ethically, although it has special connotation because of the role he plays in society and he is valued for expertise in that singular role, is only a particular case of the wider social matrix. Medical decisions, regarding serious issues in the medical well being of persons, relate to all systems in society. In a real sense, there are no real issues that are only medical problems. They are the problems of society. As Robert Veatch has so well pointed out, medical ethics must not be thought of as a special professional ethic, but as a specific application of the universal norms of ethical action.

The chief aim of the chapters to follow is to explore the meaning of human care and to ask the meaning of the sanctity of life.

As Paul Ramsey points out, we are born within covenants of life with life. Canons of loyalty to patients or to joint adventures in medical research are simply manifestations of canons of loyalty of person to person generally. 2

In recent years medicine has developed the reputation of becoming pragmatic, technical and sometimes more concerned with procedural skills. "Human beingness" of persons and the concept of caring for the whole person has been more implicit than explicit.

Also, we have experienced a type of medical dominance and authoritarianism that no longer meets the needs of the social system in our county and perhaps the world.

Robert M. Veatch, "Medical Ethics: Professional as Universal,"
Harvard Theological Review 65 (1972): 558.

Paul Ramsey, The Patient as Person (New Haven: Yale University Press, 1970), p. xii.
This excellent work stresses that man is a sacredness not only in the social and political order but equally, man is a sacredness in the natural biological order.

American culture continually undergoes transition. Pluralism abounds. Major new developments in biology and medicine call for moral and ethical decisions for which there are few precedents. No other generation has had to struggle with the fertilization of human egg cells in the laboratory rather than in a uterus; or struggle with transplantation of vital body organs from one person to another; the prolongation of life or the modification of genetic traits in new life by tampering with human egg cells.

The impact of a revolution in the biological sciences compels us to a sense of urgency. Scientific knowledge is moving so rapidly that the opportunity to apply new procedures in practice often arrives before agreement on the wisdom or morality of the application of the procedures.

Medical ethics is rapidly emerging as an identifiable discipline, a sub-specialty, simultaneously, of medicine, philosophy, ethics, theology, law, and the social sciences.

This manual addresses itself to eight of the basic issues in medical ethics. Further, it concerns itself with those issues that appear to have special relevance for physicians who practice Family Medicine and Community Health in the State of Minnesota. Questions are raised and suggested problem solving guidelines are given.

The chapters following are developed as basic curriculum for a one quarter course in Medical Ethics. It is intended for residents in the specialty of Family Medicine. Residents are young medical doctors who are in a special 3 year study in Family Medicine. Further material is suggested for a one week seminar in Medical Ethics for undergraduate

medical students who are tracking Family Practice.

Finally, a format is established for an intensive two day work-shop for family physicians who are currently in practice.

#### CHAPTER I

#### INTRODUCTION TO THE STUDY OF ETHICS IN MEDICINE

Contemporary man and the complex society he has established are leading an uneasy coexistence. Advancement into a super-industrial era has been so rapid that sometimes machines rather than men seem to be in control. Moreover, the accelerative thrust is so great that technology feeds on itself, creating more of itself before people have time to assimilate earlier innovations.

As individual societies and nations move toward a global culture, there continues to be a growing awareness of heightened consciousness. Consensus, unity and absolute thought become more ideal than real. We become more fully aware of the extent of pluralism and concommitant confusion both in American society and the world.

Pluralism abounds in every phase of human activity. Sometimes bordering on anomie, every field of endeavor and every discipline experiences the discontinuity that pluralism brings: religion, education, political endeavor, style of life and the health care professions. Contemporary society, becoming more sensate, dynamic and less disciplined, has begun to phase out absolute conceptualization. Today, more relative and pragmatic concepts seem to be the basic attitudes that prevail in our common value systems. Human life is lived in a society of ongoing value conflicts, augmented by an accelerated pace of change and breakdown of institutions.

Some wonder if there will be any future. Others have developed new vocabulary to describe the resulting illness invoked by change, pluralism and heightened consciousness. Alvin Toffler, for one, has used the term "future shock"—defined as "the dizzying disorientation brought on by the premature arrival of the future." He believes it may well be the most important disease of tomorrow.

Can there be order and meaning in a world that appears to be in perpetual discontinuity? Absolutes once fixed man's values in a static construct, giving a simple priority system. Values went along unquestioned for decades. The goal of "the good life" appears more elusive than ever. Technology leaps along at a bewildering pace, changing the physical conditions of life. Social institutions are becoming increasingly complex and remote from the individual's control.

Today man, feeling dehumanized by technology's advances and lost in the maze of pluralism, lives in vocal, but affluent discontent. Like every other institution and program in American life, the physician's life and work is also affected. Technological science and biological transmutation fix a special cluster of problems for those who practice "medical science."

Biological science, with its prospects for "genetic engineering," forces a reappraisal of such age-old verities as the distinction between life and death, the nature of man, the autonomy of the person,

Alvin Toffler, Future Shock (New York: Random House, Inc., 1970), pp. 11-13.

and the quality of human freedom. A number of national conferences have been held to discuss and seriously grapple with the social and ethical implications of the emotion packed biological revolution.

A few of the biological advances discussed at these conferences have been:

Prolongation of human life through organ transplant or regeneration.

Control through genetic manipulation of human instincts, drives and emotions.

A process called "cloning" that makes it possible to replicate the genetic characteristics of an organism by starting with the cells of a single parent organism. This could become possible with humans within a decade.

The management of dying patients and the possibility of active euthanasia.

Telling patients the truth.

The possibility of making dramatic changes in a person's behavior and personality by psychosurgery and chemical control.

Abortion at the request of the pregnant woman or her family.

One of the grappling questions for medical science throughout these with an improve conference is to what extent can man retain his humanity in the new world of technological science and biological transmutation?

What person, what discipline, what committee shall have the wisdom to decide on these issues? Shall it fall to medical science alone? What guidelines, what values, and what principles will guide biological sciences in decisions about the nature of man and the well being of mankind tomorrow? What medical school, what school of science, or theology, or philosophy will prevail? What committee in law, medicine, or government will have the right to sanction experimentation

on human beings? How does society in all its confusion, anxiety, and near bewildering fears wrestle with these questions?

### Medical Ethics in Contemporary Context

Moral and ethical issues, aided by advances in medical and biological sciences, have hastened an extraordinary movement for conscientious thinking in the nation. Several new agencies have evolved to deal with moral issues in medicine. New principles for guidance are being sought. Agencies currently at work on these are:

The Judicial Council of the American Medical Association
The National Academy of Sciences Committee on Life Sciences
and Social Policy

The National Institute of Health sponsored conferences
The Salk Institute Council on Biology and Human Affairs
The Institute of Society, Ethics and the Life Sciences
The Kennedy Institute for Human Reproduction and Bioethics

Approximately 37 medical schools in the nation have instigated seminars and other course work on Ethics and Medicine. Within a decade it is conceivable that all will provide conferences, seminars, and workshops to meet student needs.

A few decades ago medical ethics was thought of essentially as a code of etiquette among professionals. The issues were simple: fee splitting, the means of advertising, referrals, and whether a physician was obligated to stop and assist an accident victim. But the scientific and behnological breakthroughs of the last few decades present ethical dilemmas which extend from the dramatic to everyday. Physicians in previous generations never had to face such issues. These issues come at a rapid rate, accelerated by the confusion of our times and further complicated by he change in the priorities of man.

Shall a physician seek to transplant a kidney to a 68 year old woman in chronic kidney failure, using the kidney from her 30 year old son who is the sole support of his own young family? Or should she be placed on permanent hemodialysis? What if a renowned young lawyer also needed that same machine? What guidelines, what rules and what moral judgments must be made for her? Is it more ethical for society to build such expensive machines in the first place when the essentials of good primary care to the very elderly and the very poor in our nation are badly needed? Primary care physicians almost daily face the concerns of adolescent girls who request the contraceptive pill without consent of their parents. Shall the family physician make the decision to abort the young school teacher in his community when she is not certain who the father of her child is and there is no commitment to marry? Should a physician prescribe drugs which will help the child with minimal brain dysfunction to be a better and more cooperative student? Should a patient be given mood-altering drugs merely because he thinks he will enjoy life more with them?

How should one decide these issues? Now that the potential exists for making changes in the everyday life of millions of people through the medium of drugs, devices and forms of conscious human intervention, who should make decisions to use these techniques? What is the physician's relationship to the patient in making medical choices? What is the physician's relationship to the patient's family, to his beers in the medical profession and to other health professionals? What is the physician's relationship to society?

#### The Nature of Medical Ethics

We can no longer confuse mere etiquette with an ethic. The word "ethics" can point to the ethos or habits of a given culture.

"Morality" refers to mores, the actual behavior or customs of people.

"Normative" can be linked with the normal or the average. Sahakian defines ethics as the study of the right and the good, ie., the right conduct and the good life: whereas morality is the practice of what one believes to be right and good.

According to Robert Veatch, there is no complete agreement among professionals as to what medical ethics is. There is agreement among them that medical ethics is more than etiquette. But a concise definition is not clear. Veatch goes on to say that medical ethics must not be thought of as a special "professional ethic", but as a specific application of the universal norms of ethical action. Therefore, no special type of ethics exists in medicine. If medical ethics is to emerge as an independent discipline, it does so as a special case of the universal norms of the ethical behavior of a society and not as a special professional ethic.

The author has chosen the descriptive definition of Paul .\_\_ Ramsey for general usage of the meaning of normative ethics throughout

William S. Sahakian, <u>Systems of Ethics and Value Theory</u> (Totowa, New Jersey: Littlefield Adams & Co., 1968), p. 533.

Robert Veatch, "Medical Ethics: Professional or Universal," Harvard Theological Review, 65 (1972): 533.

<sup>4</sup> Tbid., p. 538.

<sup>&</sup>lt;sup>5</sup>Ibid., p. 539.

this manuscript. Ramsey stated:

I shall mean by 'ethics" the science of right or wrong conduct, praise—or blameworthy behavior. Thus, to engage in normative medical ethics means to reflect upon what should be done, whether this is actually the case or an ideal or action—guide to be espoused.

Ethics means making rationally defendable judgments about "morality." For our purposes, the word "normative" simply adds force to this meaning of the ethical. Normative medical ethics, then, means the application of evaluative norms of some sort in appraisal of practices in medicine.

Medical ethics is an intellectual inquiry in the science of right and wrong conduct or behavior. It is normative medical ethics which reflects upon what should be done morally for the well being of a person, or a family with respect to an issue that has medical implications. To be normative, medical education should be more literate. That is, medical students need exposure to more than "blood and guts" organ systems of the body and procedural skills.

More than all of this, physicians need an awareness of religious phenomenology, social perspectives and philosophical conceptualization.

Mormative ethics are the ethics of social, religious, and cultural norms. They have a universal appeal and are a basic set of rules and guidelines that most rational men would agree to as moral rules and could urge everyone to follow.

Personal beliefs are very likely the motivation for many men to be moral, since personal values provides the motivation, inspiration and reward for one's morality. This is perhaps one reason

<sup>6</sup> Paul Ramsey, "The Nature of Medical Ethics," The Teaching of Medical Ethics, ed. Robert Veatch et al. (New York: Institute of Society, Ethics and the Life Sciences, 1973), p. 14.

why religion and ethics are popularly lumped together. Yet ethics per se should be more like principles of justice and less acts above and beyond what could be reasonably required of all people.

New issues in biology, medicine, and moral crisis in culture generally suggest to the physician the need to be prepared to seek the guidelines, attitudes and value orientation necessary to personalize and humanize the decisions in his practice. He needs to be a good physician as well as a good man to comfort and counsel patients and their families. His ethics will be his awareness and appreciation for normative ethics. He recognizes that ethics is a discipline in and of itself, with its own conceptual framework and its own methods of strategies and purposes. Further, that in developing an appreciation for ethics, one develops sensitivity to moral issues and skill in determining the morally right course. Basic moral rules must be universal and will generally proscribe rather than prescribe. 7

#### Codes and Rules on Medical Practice and Research

Recognition of the practice of medicine as a fundamental moral undertaking is apparently universal. For many centuries it has been the practice of entrants into the profession to recite a pledge of selfless service to humanity. Medical oaths and pledges go back to ancient times. Most famous of these is the Hippocratic Oath attributed to the ancient Greek physician Hippocrates. Some medical schools

<sup>7</sup>K. Damer Clouser, "Some Things Medical Ethics is Not,"

Journal of the American Medical Association, 223, No. 7 (February 12, 1973): 789.

revived the use of a short prayer composed by the 12th century rabbiphysician, Maimonides. Long before Hippocrates, the Babylonian Code
of Hammurabi contained several hundred regulations governing the practice
of medicine. Similar vows were taken by physicians in India, China and
Japan. In Japan, until World War II, an oath of service was included
in the Shinto religious rite for medical students.

In more recent years the original Hippocratic use is declining, partly because of the invocation to pagan gods and partly because of its absolute stricture against abortion. There is no doubt, however, that this oath has had indelible impact upon the course of medical ethics through the ages and in all cultures.

While these oaths are more centered in guild rules than with values, these codes give us insight into the seriousness of the medical profession. One is impressed with the sense of responsibility placed upon people who are permitted to be called physicians.

In modern times, the Oath of Geneva has updated the Old Hippocratic Oath. The Oath of Geneva was drafted by the World Medical Association in 1948, and is now used by the majority of American medical schools and others throughout the world.

Richard Hill, "The Medical Oath: Empty Ritual or Wellspring of Dedication?" Spectrum, (Winter 1965-66), 6-8.

<sup>9</sup>M. B. Etziony, <u>The Physician's Creed</u> (Springfield: Charles C. Thomas, 1970), p. 13.

#### Declaration of Geneva

Adopted by the General Assembly of the World Medical Association in Geneva, September, 1948

At that time of being admitted as Member of the Medical Profession.

I solemnly pledge myself to consecrate my life to the service of humanity.

I will give to my teachers the respect and gratitude which is their due;

I will practice my profession with conscience and dignity; The health of my patient will be my first consideration;

I will respect the secrets which are confided in me;

I will maintain by all the means in my power, the honor and the noble traditions of the medical profession;

My colleagues will be my brothers;

I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient;

I will maintain the utmost respect for human life, from the time of conception; even under threat, I will not use my medical knowledge contrary to the laws of humanity.

I make these promises solemnly, freely and upon my honor. 10

The American Medical Society, through the work of its Judicial Council, attempts to set the pace for the reestablishment of codes of ethics in the practice of medicine. Codes are important in assisting patients to develop trust in their physician, realizing that he is a man of ethical and moral standards. But codes today seek to serve as a cluster of rules and guidelines that interpret the principles generally recognized as universal norms in man's relationship to man. The A.M.A. Judicial Council has conducted four national symposiums over the past eight years, giving attention to its constituents and society that contemporary medicine is now aware that technical competence in medical skills does not make the physician an expert in medical ethics. Nor are codes capable of settling all issues in medical ethics.

<sup>10</sup> Etiziony, p. 89.

Yet, codes are valuable as the keystones to developing and supporting the ethical conscience of an entire profession.

Contemporary leaders in the concern for practice of the right kind of ethics in medicine are foremost in their recognition that they need assistance from other disciplines in reaching their goals. Medical conferences devoted to the study and discussion of contemporary medical ethics include philosophers and theologians and lawyers. These non-medical disciplines bring attention to the fact that medicine is concerned not only with its public image, but concerned that medical authoritarianism also be dealt with. Through the work of the American Medical Association and other institutions, disciplines of philosophy, religion, sociology and law are brought to bear on the tensions in medical ethics. Persons are more than body systems. Medicine is acutely aware of its need for vital assistance in the current task of caring for persons.

### Medical Care is a Process

To conceive of a physician practicing his profession without ethical decision-making is to conceive of a physician working in a cultural vacuum. It is seeing a physician caring for an aggregate of static facts wrapped in a human body, reducing medicine as technical-empirical decision making, systematic application of treatment and management of humans as organ systems.

Medicine is inherently moral. The practice of medicine is a "doing" function. It is <u>caring</u> for the sick. It takes facts and data and analyzes the presumed facts about body systems and disease and treats persons. Care is a process. That is, effective medical care

of persons envelops a relationship oriented process of physician as person relating to patient as person. In the process of care, especially cases that lead to difficult moral decisions, minor yet relevant ethical matters are encountered along the way. In this process, physician, patient and the patient's family interact in making decisions. In this process, all persons responsible need to communicate to each other their feelings and understanding of what is transpiring. Understanding, communicating feelings, assessment of risk-benefit factors, help to develop the interaction which is a necessary basis for the next decision.

The caring process needs to be a relationship of mutual caring and mutual trust. We cannot negate the need for patient, family and community to care for its physicians. Process is a two way street. Physicians and patients play different roles, have different responsibilities and different needs, but the care of this concept is relationship. We have no illusions about the struggle with all the doubts and dilemmas that exist in the ethical-moral category in a medical-personal relationship. The contracts can be complex, ambiguous and hidden. But the rational foundation is seen in the characteristics of relationship.

One way of understanding responsibility is to see its history in modern theological ethics through giants like Martin Buber, Emil Brunner, Karl Barth, Dietrich Bonhoeffer and Nicolas Berdyaev. Buber, a Jew, saw that the core of response to persons was in a relationship.

Responsibility to others is a covenant of human caring. It is more than responsibility in a forensic way, ie., answerability to laws, or rules, regulations and the like. A covenant of trust is caring about people's needs; it is serving man in a process of shared meanings. In such a process, all persons have the potential to become transformed. Love, justice and concern are actualized. Like Karl Barth, Paul Ramsey reiterates that:

Physicians function in a special context in medical care.

What is the meaning of care, the sanctity of human life and faithfulness to another person in physician-patient relationship? Our task is to assess special moral claims for selecting crucial medical situations in which decisions need be reached for respecting, caring, honoring the life of another. No simple panaceas exist. Social, religious and moral pluralism creates agony of choice. Where do we go for help?

<sup>12</sup> Ramsey. pp. xii, xiii.

#### Ethical Theory

For purposes of seeking answers to normative questions on ethical issues in medicine, two diametrically opposed positions of ethical thought will be briefly outlined. These two extreme positions are <a href="Ethical Intuitionism">Ethical Intuitionism</a>, or the Immanuel Kant system of ethics, and <a href="Ideal Utilitarianism">Ideal Utilitarianism</a>, the position of John Stuart Mill. Simply stated, Kant proposed that what is right for one person is right for all, a principle like the principle of the Golden Rule. For Kant, man has intrinsic value and infinite worth; man is an end in himself. Mill proposed that happiness is the only thing desirable in life, and the greatest benefit for mankind is the maximum of happiness for the greatest number of people. Let us develop these two theories in order to understand their opposite ethical viewpoints.

Immanuel Kant (1724-1804) called moral imperatives <u>categorical</u>, in contrast to <u>hypothetical</u>. For Kant, the categorical imperative is limited by no conditions. It represents a theory of moral duty of responsibility to do the good for man without conditions. Kant's concept of morality detaches the notion of duty from the notion of ends, purposes, and wants the action serves. In Kant's theory of doing good, the bearer of the moral law is the person and not the community. However, while the person is free to manifest moral law in an autonomous legalized ethic, the moral law is determined by society. Kant's

<sup>13</sup> Alasdair MacIntyre, A Short History of Ethics (New York: The MacMillan Company, 1966), p. 194.

<sup>14</sup> Ibid. p. 193.

Nicolas Berdyaev, The Destiny of Man (New York: Harper and Row, 1960), p. 92.

moral maxim is that every person must be regarded as an end in himself without any conditions. For Kant, the truly human being is a rational free agent; and man's actions are rational and free for the proper good of man.

The rationale for respecting persons is that persons are beings whose freedom we must respect (categorically) as an element of valuing our own freedom. Valuing freedom involves valuing the basis for obligations of mutual respect. It makes possible a moral order in which people can never be treated as means to the pleasure or use of others, since the basis of that moral order is the value of each member determining its own ends. As Kant put it:

Beings . . . . . . . . if they are not rational beings have only a relative worth as means and are therefore called "things"; on the other hand, rational beings are designated "persons," because their nature indicates that they are ends in themselves . . . . Such beings are not merely subjective ends whose existence as a result of our action has a worth for us, but are objective ends; ie., beings whose existence in itself is an end. Such an end is one for which no other end can be substituted, to which these beings should serve merely as means. For, without them, nothing of absolute worth could be found, and if all worth is conditional and thus contingent, no supreme practical principle for reason could be found anywhere. 16

value on the person as an end in himself. And the essence of morality is found in the fact of doing one's duty for duty's sake and for no other reason. Kant's theory is a rational legalistic morality. It would dispense with the quest for happiness or satisfaction as a criterion of the morally right. It might coincide with pleasure or

<sup>16</sup> Immanuel Kant, Foundations of the Metaphysics of Morals (Indianapolis: Bobbs-Merrill, 1968), p. 53. Transl. by L. W. Beck; Kants Wweke, A Kademe-Testausgabe, vol. 4, Grundlegung zur Metaphysik der Sitten (Walter de Gruyter and Co., 1969), p. 428.

<sup>17</sup> Alastair V. Cempbell, Moral Dilemmas in Medicine (Edinburgh: Churchhill Livingston, 1975), p. 87.

happiness, but duty must always be done. It is imperative that man be treated and cared for with utmost esteem. The patient is a being who values himself and who takes himself to be the kind of being who cannot be treated as a means to securing the good of others. He is a being who is non expendable for the common good of others. For example, Kant would abhor a medical experiment of subjecting prisoners to the anopheles mosquito to study the effects of how malaria acts upon man.

Man tholds that the categorical imperative is a basic presupposition of moral agency. Man must respect all other men. Without mutual respect for each other as ends in ourselves and as free agents, morality and moral responsibility break down.

For Kant, rational autonomy of the human being dominates his ethics. Every person has a free will. Since morality is to be found in the inner personality and is exclusively a matter of motive or will, Kent would say that the only intrinsic good must reside within the person. The moral good within a human being is attributed to the will, for only the will has the capacity and liberty to make moral choices. 18

The human being, as an end in himself, is a free being. He is free to make choices because he possesses a will. And the autonomy of the will is the <u>raison d'etre</u> of morality. 19

John Stuart Mill (1805-1873) proposed an ethical theory taking the form of a utilitarian tradition. Mill, basing his ethics on the

<sup>18</sup> Sahakian, Systems of Ethics and Value Theory, p. 46.

<sup>&</sup>lt;sup>19</sup>Ibid., p. 47.

Jeremy Bentham, namely, "that morality consisted in obtaining the maximum amount of happiness for the greatest number of people. On the essence of the utilitarian doctrine is that man be useful and happy. Happiness, for Mill, is qualitatively distinct; that is, there are modes of happiness of greater worth than sensual pleasure. Therefore, the right ethical act is that act which promotes happiness, for happiness is the sole end of human action and the test of moral good.

Since the average person is not intellectually capable of qualitatively assessing lower and higher values of pleasure, usefulness and happiness, Mill proposed that experts be contracted to give computerlike opinions on distinctions of pleasure. Experts were to be selected for their high intelligence, objectivity and hedonic experiences. 22

For Mill, everyone has a right to happiness and each person's happiness is of equal value to another. But the utilitarian standard is "not the agent's own happiness, but the greatest amount of happiness altogether." Sacrifice of personal happiness is expected in order to attain the greatest happiness for others.

When exponents of a utilitarian theory speak of the greatest happiness, they do not refer to Epicurean pleasure. For them, reference is made to a specific goal for action. This goal is primarily for public welfare. J. S. Mill was interested in prisons, hospitals, penal

<sup>20</sup> Campbell, Moral Dilemmas in Medicine, p. 48.

<sup>21</sup> Sahakian, Systems of Ethics and Value Theory, p. 123.

<sup>&</sup>lt;sup>22</sup>Ibid., p. 126.

<sup>&</sup>lt;sup>23</sup>Ibid., p. 126.

codes and constitutional processes. His concern was the question of how many people will be helped, how many will be hindered from obtaining happiness by certain decisions and procedures in social life.

which impresses us with the ethical concept of the greatest happiness for the greatest number and the concept of human usefulness. In theory, these were the ultimate test of rightness. Yet to practice these theories created moral dilemmas. Human perception of happiness vacillates and is often tainted with capricious beliefs and wants. In a society as pluralistically complex as ours, rights of the individual can easily be drowned. Man's inhumanity to man has been visibly demonstrated on more than one continent. If we adhere to utilitarian theory, what happens to our understanding of the meaning of the person and the concept of individual integrity? What happens to the concept of the sanctity of of life?

<sup>24</sup> Campbell, Moral Dilemmas in Medicine, p. 51.

#### CHAPTER II

### HUMAN RIGHTS AND THE CONCEPT OF PERSONHOOD

In every issue for study in this curriculum there looms repeatedly the searching question: what is Man? If medicine is for the good of human beings, then physicians need to have some sense of the value of human beings. Who and what are human beings? What is the value of a person? How do we understand humanity and humanness?

Doing the ethical, medically, forces us to look closely at philosophical and religious perspectives of the nature and the value of persons. If it is true, as Von Oppen states, we are in the age of the person. Neat scientific categorical systems about human beings can no longer be isolated in scientific boxes. Our real subject in ethics, as it is in all of life, is man. What does it meen to be a person, to have life, to have human rights? Who is not a person? To what degree can we be said to have lack of personhood? We need to look, therefore, at concepts that assist us in determining a profile of "humanness." They should be basic to our understanding of what medical ethics is.

# Man As A Unity

We begin with ancient history in the wisdom literature. Human beings, as defined by the Old Testament are a unity of body, mind, soul,

Dietrich Von Oppen, The Age of the Person (Philadelphia: Fortress Press, 1969), p. 39.

### and social. A unity endowned by uniqueness.

What is man that thou art mindful of him, and the son of man that thou dost care for him? Yet thou hast made him little less than God. And dost crown him with glory and honor. Thou hast given him dominion over the works of thy hand; thou hast put all things under his feet.<sup>2</sup>

For centuries, the church has become accustomed to separating the body from the soul, creating a dichotomy of man. One clue to misunderstanding the fact of man's unity is found in the Platonic view of man which became extremely powerful in the church from its earliest days. The Platonic view of man stressed man as consisting of two different parts: a divine, immortal, invisible soul, and an outward, visible, mortal body.

For some, this meant a veneration of the spirit of man, and mere tolerance of man as body. Still present in some sections of most Christian nations, this dualism continues to confuse people as to man's true created nature. It is reflected in how one basically understands onesown self. Yet, a Biblical fact is that man is a unity. And the essence of his unity—body, mind, social and spirit, are uniquely harnessed together. Man is the Creator's masterpiece.

More than lymphocytes and leucocytes, organ systems and disease, man has spirit and depth of being. For man in his created potential has human consciousness. He has a sense of the self. In the biblical

Psalr 8:4-6 (RSV).

Pieter de Jong, "Christian Anthropology: A Biblical View of Man," in Sex, Family, and Society, ed. J. C. Wynn (New York: Association press, 1965), p. 65.

<sup>4</sup> Ibid., p. 65.

narrative of creation, the creatures, stars, plants and animals are only objects of the creative "Let there be." Man, on the other hand, is addressed in the second person, as "you." He is entrusted with a commission to be fulfilled, a self to be actualized, a destiny to be realized. Man is called into a partnership with his creator, and to this call he must respond in a pilgrimmage of caring. Man can experience his own self in a conscious relationship of his self in relation to other selves, and to his creator. Man's anxiety and hope have a future reference, whereas animals, not having consciousness of self, remain a prisoner of the present.

Man can fail in his response. As a being, he is free to make choices. Man's freedom allows him capacity to make choices since man is a being who has a consciousness of the self with a reference toward the future.

### Man As A Conscious Self

Much of what we know of today in terms of man's consciousness is owed to Martin Heidegger. He is one of the most creative of twentieth century philosophers whose influence has been directed toward theologians, historiographers, and psychotherapists.

It is Heidegger who distinguishes human existence from all other beings by the fact that it involves a consciousness of self, a laying hold of one's own being.

Helmut Thielicke, "The Doctor as Judge of Who Shall Live and Who Shall Die," in Who Shall Live?, ed. by Kenneth Vaux (Philadelphia: Fortress Press, 1970), p. 161.

John Macquarrie, in discussing Heidegger's most profound work, Being and Time, focuses his work around four main topics:

- 1. The doctrine of man
- 2. The problems of language and hermeneutics
- 3. Thinking
- 4. The notion of Being

Heidegger's remarkable achievement is to have provided an account of man that bursts out of the old metaphysical categories, still doing justice to the spiritual (existential) constitution of man as person. Man as person is a Being among all other beings. Yet he has awareness of self. He is spiritual; that is, he has existence as possibility, facility, falling, being-toward-death concepts which are similar to St. Augustine, Luther and Kierkegaard as prime examples of Christian thinkers.

Man has an autonomy, however, quite different from biblical doctrines of creation and redemption. Heidegger's concept of falling and the biblical idea of the fall of man are different.

But it is Heidegger's contribution to man as Being that is most significant. To quote John Macquarrie:

Being has something of a holy, divine character. Being has the attributes that have been traditionally assigned to God, and Being seems to perform most of the functions that have belonged to God. Being both transcends the world and is immanent in it; Being is not static but includes becoming and perhaps even has a history. Being takes the initiative in addressing man, in giving him speech,

John MacQuarrie, Martin Heidegger (Richmond: John Knox Press, 1965), p. 52.

<sup>7&</sup>lt;sub>Toid., p. 53.</sub>

<sup>8</sup> Ibid., p. 53.

John Macquarrie, An Existentialist Theology (London: SCM Press, 1955), pp. 100-111.

in setting him in the light and openness. Being is graciousness toward man and constitutes him its guardian.

Man as a unique creation has the capacity to transcent himself. He is a conscious free being, a person who organizes his communities as a thinking, feeling, sensate and intuitive being. He can draw logical conclusions, is conscious of his own history and anticipates the future.

Man is a creature among all creatures. But his life is unique. Human beings have the freedom of choice. Persons have the potential for altering moods of consciousness as well as achieving transcendental meaning to their life's experiences.

Paul Tillich talked about men's capacity to develop a tight integrating center of ultimate concern. 11 Within that conscious awareness and experience of ultimate concern, man can from within himself leap to an experience of conscious decision to active courage and love. Courage takes into itself all of man's fear and shortcoming, anxiety and doubts. In so doing, man can end his separateness achieving wholeness. In wholeness there is a restoration of function, of spirit laying hold of his own being. This consciousness of self allows him to

<sup>10</sup> Ibid., pp. 57-58.

Paul Tillich, Dynamics of Faith (New York: Harper and Brothers, 1957), p. 99.

have knowledge about what lies ahead, even to the knowledge about death. Man is finite, limited to space-time. He understands that he moves and lives within a finite understanding of Being. 12

Consciousness of self is thus the critical sign of human existence. It is only because of self consciousness that suffering has meaning. Connected to the gift of self consciousness is the duty, and also the possibility, of reacting to suffering. For an animal, suffering is nothing but burden and tragedy, something to be attended to quickly as possible, ending its life with a swift bullet. But man's suffering can become an ethical act. Man can integrate suffering into his life. He has the capacity to search for meaning in the circumstance of suffering and an experience of further consciousness. Man's prime task is to enhance heightened consciousness, expand ethical responsibility, and respond to life with positive attitudes and action. He can say "yes" to life--even through his suffering.

To end man's suffering with a bullet would be a crime. Since the bullet would destroy all possibility for man to experience meaning in a phenomenological and existential manner. Meaning to life is what can give man the capacity to transcend the vicissitudes of his life, ending his separateness, overcoming the obstacles that mar his pathways to reasonable fulfillment in life. Meanings can enable growth, and heightened potential creates personal fulfillment. Meaning allows man to Become, and to allow him to experience levels of personal becoming.

William Barrett, <u>Irrational Man</u> (New York: Doubleday, 1958), p. 227.

<sup>13</sup> Thielicke, Who Shall Live?, pp. 163-164.

Meaning and wisdom are given to enhance life, aiding man to test life's realities, even the reality of man's final human act--death.

# Man As Person

When we look again at the descriptive view of man as recorded in Psalm 8, we see two principle ways of deciding the value of the person.

One is in the view of capacity for transcendental experiences.

The other view is a horizontal view; that is, in recognizing man in terms of his relation to other people and "all trings under his feet." For Thielicke, all action regarding man is derided with reference to one of these two alternatives to interpreting life.

Man is seen either in relation to that which he is subject to, in man is measured with reference to that which is beside him or below him.

If he is measured by transcendental values, then he has about him an unimpeachable quality which cannot be violated. Assessing measured pragmatic concept. As a personal being, we act in both perspectives.

Both are interrelated.

Each one of us speaks as a person, from a context of personal experience and personal awareness and leanings. What does it mean, then, when we speak of human beings as persons? We are person, we have personality, we possess one or multiple personas and we own a person-hood. We cannot be anyone else but our own personal selves, yet one of life's most difficult tasks is to be our selves.

<sup>15</sup> Ibid., p. 194.

As a human being man partakes of psychic reality. He exists as a human among others. Human nature connotes a substantive and even fixed nature, as something "given in the nature of things." It is a nature with past, present and future perspective.

Man as person has the potential of becoming. He can reflect upon himself, understand himself apart from other persons. Man acquires traits and characteristics that give him an authentic selfhood called personality. Man as person is capable of a personal life. That is, he can own a self consciousness that is subjective, individual and real for himself as a self. Man as person can know himself, possess self esteem, or lack of it, be self assertive, self or other directed. Man as person can act selflessly or selfishly. Man is body, mind, social and spirit—but he is more than the sum of all his parts. He can know himself in a personal conscious awareness of self understanding.

#### The Concern for Persons in Medical Ethics

Joseph Fletcher argues that it is not human life we are so concerned about in medical ethics as it is personal life. What is critical is personal status, not merely human status, 17 says Fletcher. We know of human beings; but we do not know them as persons. That is, we do not know them as individuals with an authentic awareness of themselves as personal beings, set apart from others, persons who have

Joseph Fletcher, "Medicine and the Nature of Man," in The Teaching of Medical Ethics, eds. Veatch et al (Hastings-on-Hudson: Institute of Society, Ethics and the Life Sciences, 1973), p. 50.

<sup>17</sup> Ibid., p. 194.

feelings, personal needs, hopes, dreams and expectations.

Unquestionably all physicians, clergy and the like know of human beings who have never become or have ceased to be individuated. Tragically, some people never "become"—that is, they never develop the continuity of "putting it all together." They exist as humans yet do not seem to become true persons. Selfhood is not actualized and meaning does not fill their lives. Human protoplasm has the unique potential of becoming far more—that of experiencing peak experiences colored by owning order and meaning in one's life. All this is given unique shape and direction by one's own experienced reference frame called person.

The sum total of all personal experiences in the flair of one's own personal traits gives to the person a personality. Expressing this further, Fletcher gives us a profile of man that creates depth and sensitivity to what has been described above. His points are listed as the personal capacity of man:

- 1. Minimal intelligence
- 2. Self awareness
- 3. Self control
- 4. A sense of time
- 5. A sense of futurity
- 6. A sense of the past
- 7. The capability to relate to others
- 8. Concern for others
- 9. Communication
- 10. Control of existence
- 11. Curiosity
- 12. Change and changeability
- 13. Balance of rationality and feelings
- 14. Idiosyncrasy
- 15. Neo-cortical function 18

Fletcher suggests that these are not in rank order. Nor are they by any means "the final" say on a profile of man. They merely

<sup>&</sup>lt;sup>18</sup>Ibid., pp. 52-55.

represent varieties which one may use to rethink one's concept of man and personhood. He gives us no clues as to which are optimal or which are essential.

Having considered objections and replies to his original list and upon further reflection, Fletcher adduces a list of four "Indicators of Humanhood" instead of the original list of fifteen. These are: neocortical function, self consciousness, relational ability, and happiness. 19 Fletcher contends that these four are the sine qua non of humanhood. Neocortical function, as in the original list is the sine qua non for humanhood. The struggle for redefining person is a continuing challenge. These concepts are open to polemical discussion and are by no means final. We may wish to create our own structure for a workable definition for characterizing humanhood.

#### Man as Physician and Person

We interpret these and others like them in the light of our own values. No one can practice medicine, think scientifically and rationally in a value-free pattern. Part of the complexity of doing the ethical in medicine is the fact that there exists a multiplicity of competing sets of values. The individual practitioner's values are not to be diminished. Values which the physician as person operates under are part of the social and cultural construct. They are universal values and are not mere etiquette. For the physician as person develops a personal life style like all other persons in society. He is not value free, operating out of a stance of pure scientific perspective.

Joseph Fletcher, "Four Indicators of Humanhood- the Enquiry Matures," The Hastings Center Report, 4 (December, 1974), 4-7.

<sup>20</sup> Ibid., 4-7.

His feelings, personal experiences and life style give weights and strengths to color the perspective of his own life. He moves into the task of his medical management of people, therefore, with a value orientation and a consciousness about the value of life and value of persons. As in all people, his sensitivity to the personal in others is in need of becoming heightened. It is clear that medical education in the past has been pointedly technical and scientific. Many practitioners are unaware of the person in the patient. We need to place the value of the person in the center of all we do scientifically—a growing fact in our expanding awareness of what is ethical in the care of persons.

Value orientations are part of the ethical dilemma of any practitioner. The dilemma exists because the physician as a scientist cannot always be sure to which of his own complex cluster of values he should be faithful. Perhaps many practitioners have not assessed their personal hierarchy of values. We often assume our values to be self evident. In ignorance it is a simple task to project values onto others—insensitive to personal values as well as those of others.

We may generally assemble our values about man into four main orientations: <a href="mainto:naturalism">naturalism</a>, <a href="mainto:culturalism">culturalism</a>, <a href="https://humanism</a> and <a href="mainto:theism">theism</a>. The physician as person may view his concept of person in one or all of these orientations. But he must be pointedly aware of what values he is personally faithful to.

Maturalism generally assumes that scientific laws can account for all phenomena and that the natural world is the whole of reality.

It would oppose supernatural or spiritual values. Culturalism sees man's values arising from the social world. It would state that concepts,

institutions, habits, arts and all social vehicles create the values by which we live. Therefore, man's problems essentially arise more from his social needs than from his physical wants. Humanism suggests that the criteria for ethical values lies within certain native human characteristics. Humanists claim that the ultimate value is the dignity of man and a belief in his own self sufficiency and capacity to control his own destiny. To the humanist, man's final moral obligation is to strive continually to actualize all the unique potentialities inherent in human nature. Theism generally states that man's loyalty in life is to God. Man is dependent upon God who is personal, absolute, alive and participating in every fabric of cosmic process. Theism is distinctive in its belief that man is lost until he has found God.

All of these orientations are much more complex than briefly outlined in the above. Nevertheless, they represent basic categories out of which we understand our place in the world and value it and our existence as a person among other persons. Most people own values in all four orientations, yet we seem to claim one as the center of our existence and as a focus for ultimate concern.

In a society as pluralistic as American culture, we are often unable to recognize or identify which values we personally hold. It has been possible to practice medicine in a manner which excludes a keen awareness of the value of the person. Insensitivity of physicians as objective medical decision makers has not been an uncommon fact. Current anger in consumerism points to the lack of accurate empathy and positive regard for patients as persons so characteristic of some physicians.

It is our concern in this curriculum to speak pointedly to this

issue. Concern is directed toward making the physician a better person.

Person conveys that we possess a center of aliveness. As Ross Snyder says, aliveness enables man to care and feel deeply, to understand and make value judgments in relationships to other persons. 21 We might add to this that the person also has freedom and responsibility both to himself, to others, and to the social order. The physician as person has personal knowledge of himself and personal knowledge of another—knowing others as persons. It involves entering into personal relationship. Personal knowledge contrasts to objective knowledge. The former assumes that men have meaningful freedom and responsibility, whereas, the latter assumes that behavior follows from predetermined patterns of causation.

Personal can be contrasted with impersonal as well as with objective. If I treat another impersonally, I regard him not as a personal being but as a thing, an object with certain characteristics, often useful to my own selfish ends. In treating this "object", I may choose any means to justify my goals. Man, being a rational creature, can justify the means in countless ways. This fact has relevance for us in our task of learning to use rational discourse (ethics) to prescribe for ethical decisions in biological medicine. The value oriented physician will not rationalize any means to justify the end, since he is keenly aware of the personhood of his patient.

The physician is an arbiter between the person and his body.

The physician is also the representative of society and its values.

Ross Snyder, On Becoming Human, Section II (Mashville: Abing-don Press, 1967), pp. 27-66.

He stands in a unique place among men in his responsible task of caring for people. For centuries he has been the symbol of healing, power, knowledge and wisdom. The responsibility given him is awesome. Has society given him too great a responsibility?

The relationship of person to body is a crucial concern for us in medical ethics. The body-person relationship is at the center of the distinctions between pain and suffering. It is perhaps at the heart of medical ethics avoiding the ultimate resolution of the relationship of person to body. We are asking a great deal of the physician when we stress the important fact that in all his patient and patient-family encounters he reflect seriously on the patient as subject-object. It will take more time, more reflective thought, more patience, and it will call for a religio-philosophical stance that continuously raises questions for which he cannot always have the answers. It is difficult, but in the patient's best interests, to see patients as persons.

This creates an authenticity and integrity for the dignity and sanctity of life. It makes one's own ethics personal and sharpened, giving us a clearer perception for ethical decision making. It will continue to heighten sensitivity to the personal within the physician's own sense of self. One becomes far more open to the pain in human life as well as more free to celebrate life's great moments.

#### Man as Body-Person

The human person identifies himself with his body; he knows that he is his body. He can see, feel, touch and occupy his body. His primary relation to the outside world depends on his body and its capabilities. In illness, the patient himself, not just some

extraneous interest, is threatened. The physician's role in healing is placed in a special category. He intervenes at a special point in the system which is the person. Since the person is his body, and the body's health is the integrity of the person, the physician ministers to the basic unity which is the person.

The patient has a right to effective and caring treatment. His rights are guarded by virtue of his personhood, as we have addressed them previously. These rights in medical care are outlined so well by Charles Fried: lucidity, autonomy, fidelity and humanity. Fried defines these four concepts as follows:

- lucidity The patient has a right to know all relevant details about the situation in which he finds himself. This is crucial to a fully human process of choosing one's good and to the process of choosing what kind of person one will be. To deny the patient an opportunity for lucidity is to treat him not as a person but as a means to an end. Further, to deny lucidity is to violate the human to human contract—making of the doctor a dominant creature who can often violate the right of the patient as person.
- autonomy The patient has the right to be his own person. Imposition of others upon the patient against his free choice is a violation against rights. In the relation of medical care this means that both patient and doctor fully establish their relation with each other, neither one imposing upon the other or at the command of one or the other. In the concept of doctor-patient covenant, autonomy cannot be violated.
- fidelity Reliance and trust are also peak values in our exploraation of human rights. Not telling the truth is a violation of fidelity, for lying is a form of faithlessness.
- humanity Fried's fourth point has been explained in detail in previous pages. Simply stated here, humanity gives a person the right to have his full humanness taken into account by the physician, as well as all who deal with the patient. The physician is asked to recognize the personhood of the patient. 22

Charles Fried, Medical Experimentations (New York: American Elsevier Publishing Co., 1974), pp. 101-103.

The physician traditionally has seen himself as a person who stands in a relationship to his patients that is at least analogous to that of friend or lover. Certainly the relation is less intense and pervasive, but it is analogous because it has its own integrity and demanding devotion. Since it is a relationship its value is a value for both parties—physician and patient. Both parties have rights that arise out of it. While we have stressed more strongly the rights of patients, it is important to stress the rights of the physician as well.

He has the right to maintain integrity in his work. He has the right to work under his own jurisdiction, not as a tool of society or any sub-system of society. He needs to be his own man, hopefully a man who cares about patients as persons—one who cares about those values central to heightened consciousness and the expansion of ethical or moral responsibility. In a real sense he ministers to the total person while in a more limited sense he practices medicine.

# Reading Suggestions for Chapter II

- 1. Alasdair MacIntire, A Short History of Ethics (New York: The MacMillan Co., 1973). Chapters 14, 16, 17, 18.
- 2. James Nelson, Human Medicine (Minneapolis: Augsburg Pub., 1973). Chapter 1.
- 3. William Sahakian, Systems of Ethics and Value Theory (Totows, N.J.: Littlefield, Adams & Co., 1968).
  - 1. Immanuel Kant "Deontological Ethics", pp. 44-75.
  - 2. John Stuart Mill "Ethical Hedonism", pp. 121-137.
- 4. The Hastings Center Studies, Volume 1, No. 2:1973.

  Values, expertise and responsibility in the life sciences.

# Questions for Ethical and Philosophical Pondering

- 1. Meocortical function appears clearly to be our operational criterion. Does it seem to be a <u>necessary</u> condition or a <u>sufficient</u> condition for humanhood?
- 2. Do the other three characteristics function as a conceptual or as an operational definition?
- J. Do Fletcher's "Indicators of Humanhood" characterize human personal life or human biological life?
- 4. What is the nature and role of self criticism as a theological ethical principle?
- 5. You are a physician on the staff of a large metropolitan hospital.

  Because the medical staff knows of your special interests in religion-human-medical concerns, you are appointed chairman of the Ethics (sometimes called Tissue) Committee. What concrete proposal can you develop in terms of specific action to promote sensitivity of the health care team professionals in respecting the patient as a person? What obligations does your committee have to the patient?

  Does the patient become a member of your health care team?