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e-Ethics, 2001 July

Advocate Aurora Health

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Scenario #1: Because of severe pain from metastatic cancer, Dr. Fulton's patient requires doses of medication above the limits lawfully permitted. Aiming to prevent euthanasia, legislators set dosage limits for patients with surgical and other acute pain. Dr. Fulton has no intention of killing his patient, nor does she want to commit suicide. He wants to make her as comfortable as possible. Should he obey the law or increase the medication?

Scenario #2: Nurse Benedict just read about a young boy who is dying from renal disease. Soon he will be too ill to remain on the transplant list. Nurse Benedict tells her friend that she wants to become a living donor for the boy. "As a nurse I give my knowledge and experience to patients. Why not give a real part of myself?"

Should Dr. Fulton break the law in order to provide the best care for his patient? Is Nurse Benedict's altruism required by her profession's ethical code? Answering these questions requires understanding the distinguishable but interrelated concepts of values, ethics, and law.

Values entail what we prize or cherish. They may be imparted in

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a formal way, as through religious instruction, or indirectly—even through popular culture (as in the Superman voice-over describing the Man of Steel as a champion of "truth, justice, and the American way"). We often become most aware of our values when preserving them exacts a cost or when it seems impossible to realize multiple ideals simultaneously. How should we choose, for example, when compassion tells us to lie in order to protect a friend, but justice compels us to tell the truth? Merely articulating values does not instruct us how to order them. We need more explicit guidelines, which ethics may provide.

A branch of philosophy, ethics is concerned with morals and human conduct. Professional codes highlight societal values deemed particularly important for the professional group, and establish standards of ethical behavior. It is not the values themselves, but the special skills, relationships, and duties of a profession that require realizing values in a particular way.

For example, we are apt to have a strong revulsion when we hear that a doctor has molested a patient because we recognize that a specific trust has been violated and a unique vulnerability exploited. The power differential in the physician-patient relationship creates a special duty to refrain from unwanted touching or emotional manipulation.

Authorship of ethical codes distinguishes them from civil or criminal laws. Codes of ethics are compiled primarily by members of the professions to whom they apply, but we "the people" write laws through elected or appointed officials. Another important difference between ethics and law lies in the aspirational quality of the former, contrasted with minimal standards set by the latter.

It is wrong to assume automatically that "if it's legal, it's ethical." A law-abiding physician is not necessarily highly skilled or compassionate. The aspirational nature of ethical codes involves questions such as: "What virtues and actions characterize the best of our profession?" Sometimes one might have to choose between professional ethos and obeying the law. The legislators in Dr. Fulton's state seem not to have taken into account the physiological differences between patients with acute pain and those with chronic or terminal pain.

Values, Ethics, and Law: One and the Same, or Interrelated?

Dr. Fulton's ethical code states that physicians should obey the law and work to change laws they believe impede good medical practice. But what about treating the pain of the patient under his care right now? In its commentary on its code of conduct, the AMA states that there may be instances when physicians must choose between their ethical responsibility and obeying the law. Dr. Fulton will have to sort out where his primary allegiance lies.

While ethics generally sets the bar for conduct at a higher level than law, it would be incorrect to say that the law is unconcerned with values. The adage "you can't legislate morality" is false in that every statute mandates some act or restraint in order to preserve a moral value. The law requires drivers to be licensed as a means of protecting human life. Littering is illegal because of the value we place on conserving a beautiful and healthy environment.

In another sense, however, it is true that morality cannot always be subject to law. Nor should it be. A society in which every good deed or

noble act is mandated by law would be tyranny. Meaningful moral action requires reflection, choice, even failure in order for people to learn and grow. As aspirational documents, ethical codes should not be seen as requiring perfection, but as statements of those purposes toward which one aims throughout the course of professional life. And individuals may ascribe to values that lead them beyond the call of duty as outlined in laws or ethical codes. We may admire Nurse Benedict for her exceptional altruism, though her decision to become a living donor is not compelled by the nurses' code of conduct.

In a just society there should always be interplay and overlap among values, ethics, and law. Some individuals or groups will live out their values in ways that exceed both legal and ethical requirements. Generally speaking, however, values inform both ethics and law: ethics focusing on particular professional values, and law setting minimal standards of conduct to preserve the common good.

e-Ethics provides discussion of important ethical issues in clinical care and organizational life. In specific cases, fuller ethical analysis may be required. The discussions in e-Ethics should not be construed as legal advice and do not necessarily represent official positions of Advocate Health Care.

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