

Philosophical Issues in Healthcare Notes

Moral theories in health care

Morality: The codes of conduct on behaviour within society

- What is right and what is wrong.
- What is bad and what is good.

Ethics: The *study of* morality in association with philosophy, sociology, anthropology

- Created multiple theories about nature of right and wrong

*Ethics/morality are not just about feeling, emotions and opinions.

*They are not the same as religion- though religion may involve morality.

*Not the same as the law, though sometimes they are closely related

Descriptive Statements: Merely describes the state of something

Descriptive ethics: merely describes accepted moral beliefs

Normative Statements: Gives an *evaluation* of the state of something as good/bad

Normative Ethics: Aims to *evaluate* accepted moral beliefs

- Are they true?
- Is it really right? Or wrong?

*There is a difference between **BELIEVING** that something is right/wrong and it actually **BEING** right/wrong*

Moral standards: Dominant, overriding standards that aren't created or determined by any authoritative figure

Moral Theory: Attempts to completely answer what determines whether an act is right or wrong in association with moral obligation

- The answer may help resolve moral dilemmas and disagreements in health care

- Utilitarianism, Kantian ethics, Ross's ethics, natural law theory, Rawls's theory of justice, virtue ethics, care ethics, feminist ethics
- There are 2 types of moral theory (consequentialism and non-consequentialism)

Consequentialism: One type of moral theory

- Right or wrong of the act depends only on the consequence

Non-consequentialism: second type of moral theory

- Consequences are not the only thing that affects the morality of an act

Utilitarianism: the most prominent form of consequentialism

- Accepted by many philosophers
- There are things that are *instrumentally* good (good as means, e.g. money) and things that are *intrinsically* good (good for its own sake)
- Utilitarians value happiness above all else as happiness is the only intrinsically good thing
- Each person's happiness is of equal value

*Happiness consists of pleasure and the absence of pain

*Pleasure is intellectual, artistic, physical, sensual and more

*pleasure and pain can be roughly quantified

Principle of Utility: An act is only morally permissible when there is no other act that can be done to produce more OVERALL happiness

- Focuses on consequences rather than upon the action itself
- No action is right or wrong itself or by hope or intention
- Utilitarians believe it accounts for all right and wrong as well as underlies our common sense judgments

*utilitarianism was very progressive in...

Abolition of Slavery
Abolition of child labour
Equality for women
Animal welfare

Act Utilitarianism problems: Is it an accurate way to judge? There are examples saying no...

- Too impractical

- Sometimes violates rights
- Sometimes leads to unfairness
- Too demanding, requires too much

***There is an 'Act' utilitarianism and a 'rule' utilitarianism**

ACT Utilitarianism	RULE Utilitarianism
Principle of utility in application to individual acts	Principle of utility in application to rules
You should always try to do particular acts that will produce as much happiness as possible	Determine what rules maximize happiness in society and then follow those rules

Killing a person to use organs and save lives

- Act util might determine yes because result would produce maximum happiness
- Rule util determines no because if there were a rule that permitted such acts everyone would be terrified

Rule utilitarianism: what rules would maximize happiness?

- Don't lie
- Don't steal
- Don't kill
- Without such rules, there would be chaos and happiness would not be maximized
- The existence of society requires such rules
- These rules would protect human rights, include realistic demands and be rational in expectations

Rule Utilitarian problems: There becomes a kind of rule worship

- An act may have a rule against it even though it would produce more happiness than anything else, yet because of the rule we do not do it

Kant's Ethics: Non-consequential moral theory where consequences are not relevant

- Some acts are intrinsically wrong (lying, going back on your word, etc.)
- Involves a single moral principle called the categorical imperative (CI)
A no exception command

- *morality applies equality to everyone
- *only acts done of good will have moral worth
- *morality is connected to rationality

Respect-For-Person Version: A version of categorical imperative. We should always act in such a way that we treat people and ourselves as an end and never just as a means

- There is a difference between how we treat inanimate objects and living beings
- We are rational and autonomous who have free will and are due respect
- Advantages - Simple and plausible, provides moral foundation, provides guidance
- Weaknesses - Somewhat vague and does not account for all right and wrong

Universalizability version: Always act in such a way that the maxim of your act could be a universal law

- A maxim is a rule of action that tells you to do a certain act
- Universal law is a law or rule that everyone must follow
- A.K.A whenever you do something, make sure that it would at least be *possible* for everybody else to act in the same way, to do the same type of act you did
- Objections - too rigid

*The connection between the 2 is the institution of promising depends on the fact that most people go to the trouble of keeping their promises

Kant's universalizability test: the test of the right action

1. Identify the rule of act
2. Suppose everyone follows same rule
3. Consider what result would be
 - If result is contradiction - wrong
 - If no contradiction - permissible

Ross's ethics: W.D Ross rejects the whole idea of a single moral theory

- no belief that a *single* moral theory can explain all right and wrong

- there is not a single property that all right or wrong acts have in common other than being right and wrong
- Viewed as moral pluralism

Prima Facie moral principles: Doing the right thing involves following a set of principles

- Not absolute
- We should follow rules, unless there is a good reason not to
- When the rules conflict, we try to decide with intuition which should override the other
- Examples - tell the truth, keep promises, do not harm others, help others, promote fairness and justice

Virtue Ethics: skepticism within moral rules and principles

- Morality is embedded in social and cultural practices and institutions
- Goal of ethics should be to become a virtuous person
- Being virtuous will lead one to do right
- Morality is skill - requires education, training and practice

Care Ethics: focus attention on role of morality in close personal relationships

- Emphasizes important of sympathy, compassion, kindness
- Similar to virtue ethics
- Criticizes traditional moral theory

Feminist Ethics: Carol Gilligan argues that there is a distinctly female approach to ethics

- Male ethics emphasizes reason, rules, abstraction, objectivity and impartiality...
- Female ethics emphasizes involvement, attachment, solidarity, caring, concern...
- Criticism of traditional ethics
 - not enough concern for women
 - overlooks some moral problems
 - undervalues community, peace, solidarity
 - overvalues theory, rules, concepts at expense

Moral principles in health care

The 'Five Principles' approach to HC Ethics:

Utility
Autonomy
Non-maleficence
Beneficence
Justice

Moral theories: A complete description and explanation of right and wrong

- Can never be overridden

Moral principles: Are less comprehensive than moral theories

- They are relevant considerations in a broad range of situation
- May be overridden by some other principle or value

Moral rules: They are strict, but simple

- 'tell the truth'
- 'keep a promise'

Ross and the Five Principles: There is a similarity between the five principles approach and Ross's Ethics

- Both reject idea of a single characteristic that all right/wrong acts share

Autonomy: The extent to which people have control over their lives and actions

- Main issues - why is it good, valuable, important? It has instrumental value, intrinsic value and human rights

Instrumental Value(utilitarian): A view of autonomy

- Each person has better control over happiness in their lives
- Satisfaction from their control over their lives
- Individuality leads to new ideas, knowledge etc...

Intrinsic value (Kantian): A second autonomy view

- The ability to be autonomous is good in itself

- Character traits we see as virtuous turn to autonomous

Human rights: A third autonomy view

- Regardless of value or importance, people have a fundamental, human right to control their own lives
- This is libertarian political philosophy - liberty is most important value

Autonomy has three different theories...

Negative concept of freedom theory: Freedom has been defined as absence of external constraints

- External constraints intervene between beliefs/desires and or actions (prevents us from doing what we want)
- If something prevents you from doing something you want to do, then you are not free
- External restraints do not affect the freedom of a person's will

Double Decker (hierarchical) theory: We have 2 orders of desires and by excreting them we define our nature and give meaning to our lives

- 1st order desires are ordinary and for things in the world
- 2nd order desires are in some way about other desires (desires to satisfy other desires or even to not have other desires)

The idealistic Theory: We must be exceptionally authentic, self-possessed, consistent, independent

- We must be in command, and resistant to control

***To be fully autonomous...**

Must be aware of options

Must be free

Must be competent

Must be empowered

***Conditions that can reduce autonomy...**

External restraints

Extreme poverty

Overpowering desires

Overpowering emotions

Illness
Injury
Ignorance
Emotional dependence

Beneficence (non-maleficence): Has 2 senses of meanings

- Broad sense means helping *and* not harming others
- Narrow sense means *just* helping others

Beneficence	Non-maleficence
Giving to charity Saving someone Offering assistance Providing treatment Giving advice	Not killing Not stealing Not assaulting Not lying

*Balancing the 2 is a common dilemma in HC

*If risks are too great - could be accused of harming patient

*Yet sometimes, risks are worth taking

Distinction: Specific beneficence and general beneficence are two different ways of looking at it

- Specific - directed toward those that have special relationship with subject
- General - directed toward other people in general
- Do we have a strong duty of general beneficence? It is strongly argued

*Is the duty not to harm other stronger than the duty to help others?

*Is it morally worse to harm someone than to fail to help them?

*Harming is worse than not helping...

Greater moral stigma attached to harming

Wrong to seriously had to benefit others

Accepting greater risk to self to avoid harming someone rather than help

Harming is more often illegal than not helping

*Why harming could be worse than not helping...

Not harming others is important to society

Not harming others is usually easier than not helping
Rules of non-maleficence are easier to *enforce* than rules of beneficence

Taking risks in Health care: Do HC workers have obligation to take significant risks? There are 2 theories say yes - reciprocity and contractual

Reciprocity theory: Society provides benefits to workers, therefore they should reciprocate

Contractual theory: When HC workers enter their profession they implicitly agree to take risks

Justice: justice is a very important principle

- Allocating scarce health care resources is a task with great importance of justice
- Main issue - how they should be distributed so it is just and fair treatment

Distinction: there are 2 ways of seeing justice

- Retributive justice - punishment appropriate for wrongdoing
- Distributive justice - how benefits and burdens should be distributed to be just and fair to everyone concerned
- Our concern in HC is mainly distributive justice

What is just or fair: There are multiple theories that include properties of fairness

- The desert theory - everyone gets what they deserve
- Utilitarianism - things should be divided up in a way to maximize happiness
- John Rawls' theory - things should be divided equally unless inequalities is better
- Libertarianism - inequalities are ok as long as no one's rights are violated

Moral virtues: There are qualities, attitudes, dispositions and character traits within us

- Contribute to being a good person
- Help us to do what is right and avoid doing wrong
- Can only be acquired through training and practice

*Some Important moral virtues in HC...

Honesty
Sensitivity
Integrity
Patience
Compassion

Confidentiality in health care

Importance of confidentiality: the nature of HC means sensitive information must often be provided

- HC workers therefore have a strong obligation to be confidential with info
- Strict regulations and laws are placed to protect confidentiality

*There may be circumstance, in the extreme, that it is permissible or obligatory to disclose information

*Two common mistakes about confidentiality...

Overestimating: Believing strength of the obligation to maintain confidentiality is more than it is

Underestimating: Believing the strength of the obligation to maintain confidentiality to be more than it is

Edwards' 'justifications' of confidentiality: There are 7 justifications to maintain confidentiality

1. Protect privacy
2. Protect social status
3. Protect economic interests
4. Promote communication
5. Encourage medical help seeking
6. Promote trust
7. Protect autonomy

Importance of privacy: privacy has intrinsic value and without it, life could not exist how it is today

- We behave differently in private than in public

Promise of confidentiality: The promise is tacit (unstated, but very real)

- HC provider promises to keep information private unless there is a threat to others

Siegler's point: Siegler is not opposed to confidentiality, but thinks its very important

- How do we protect confidentiality?
- There is a large number of people today who can have access to this kind of information
- However, we should emphasize the duty applies to all
- Patient's records could be divided and only relevant information accessed
- Accessibly could be reviewed and determined

Breached confidentiality: There are times and situations where confidentiality must be breached and times when you may believe they should be breached

- When we have a responsibility to the law
- When there is substantial car to others or to the patient
- If the patient is incompetent

Edward's conditions: Edward believed that confidentiality can be broken when/if one of these 5 things occur

1. Patient permission given
2. A law requires disclosure
3. Threat to life
4. Threat to serious harm
5. Threat to psychological harm

[Consent in Health Care](#)

*Traditional medicine (paternalistic) is to do what is in the patient's best interest

*contemporary medicine emphasizes value of autonomy - Consent based health care

Consent- based HC: It is the means to ensure that patients have autonomy

- It provides a atmosphere where more information may be divulged and best interests will be at the front
- There is trust in the system
- Abuse is avoided

The right to refuse: Everyone has the right to life, liberty and security of the person and the right to not be deprived, but also to refuse if they so wish

Valid consent: There are certain conditions that go along with giving valid consent

1. Subject must be competent
2. Consent must be informed
3. Consent must be voluntary

Competence: To consent to something, one must understand that they are consenting to something

- Only those with complete understanding of their decision may consent
- The ability to give genuine, informed consent to treatments

*Determining competence can sometimes be very difficult

*Merely rejecting something does not demonstrate competence

*Competence does not mean rational - competent people can still be irrational

Competence determined: It is determined by a few conditions

1. Understanding of the situation - being informed
2. Basic rationality, ability to reason
3. Capacity for judgement, to draw conclusions
4. Awareness of consequences

Informed consent: Patients must be informed of multiple things to be able to consent

1. Nature of treatment
2. Expected benefits
3. Risks
4. Side effects

5. Alternatives
6. Consequences

*Is informed consent really possible?

*How can patients make informed decisions with no medical expertise

*Informed consent does not require *all* information to be provide, only the information that is reasonable or appropriate

Reasonable physician standard: Patients are informed when provided with information a typical physician would provide

Reasonable patient standard: Patients are informed when information provided is what a reasonable patient would want to have

Subjective standard: Patients are informed only when they have been provided with information they want in this situation

Problems with approach: There is a problem that goes along with each approach

- Physician - what is a reasonable physician?
- Patient - is there such thing as a reasonable patient?
- Subjective - some demand more information should be given, some think less

Alternative approach: genuine consent dos not require patients necessarily be provided with all information

- As long as it is feasible

Voluntary consent: Coercion, threats, manipulation, deception are not compatible with genuine, voluntary consent

Possible exceptions: There are exceptions to the requirement of consent

1. Patient waiver of consent
2. Incompetent patients
3. Emergencies - presumed consent
4. Therapeutic privilege -controversial

Obstacles: There are sometimes barriers to consent

1. Lack of time from HC worker
2. Confusion
3. Concerns about too much info
4. Perception
5. Lack of awareness on patient's part
6. Language and culture
7. Special circumstances (stress, timing)
8. Poor quality of materials
9. Misunderstandings
10. Lack of comprehension not noticed

Challenges: There are challenges that go along with consent

1. The paternalistic state is still somewhat prevalent
2. Serious illness undermines autonomy
3. May not serve the best interests
4. Cultural bias

State paternalism: carried out by the state or gov't as opposed to individuals (doctors)

- For example - seat belt law, drug law, etc.
- Given the amount of paternalistic laws, it is a good thing and justified
- But why are so many people opposed to it being in HC

Ackerman's critique: Serious illness tends to undermine the autonomy of patients

Illness: Serious illness is often physically debilitating

- Often accompanied by intense emotional states
- May reduce patient's ability to engage in normal activities

Implications: The nature of illness reduces autonomy

- Is it now justified to intervene paternalistically in order to restore autonomy?

Critique: Does serious illness undermine autonomy to this extent?

- Does it prevent patients from making rational decisions
- Even if reduced, steps can be taken to assist patients

Gawande's critique of consent: He believes there are certain circumstances that reveal weaknesses and disadvantages of a consent-based HC

- When a patient is given options and they choose the extreme where chances are very slim, should you do what the patient says?
Orthodoxy says yes. But maybe he should have been steered in the other directions
- Doctors can't just simply stand aside when patients make bad decisions