

May 2020

"The object of philosophy is the logical clarification of thoughts. Philosophy is not a theory but an activity."

— Ludwig Wittgenstein

Hot Topic

Duty to Care in a Pandemic

Extreme medical circumstances (such as pandemics, emergencies and crises) highlight previously existing ethical challenges while creating new ethics issues. One of these issues in the United States is access to healthcare. Specially, who receives access to care? And what qualifiers/aspects can create situations in which the patient is no longer eligible to access care? When is it ethically permissible to restrict an individual's access to care?

One situation where restricting access is ethically permissible is when, by doing so, the provider is protecting the health and safety of their patient and themselves. This may be when the patient has a previous history of violence or threatening behavior against either the provider, other patients or the healthcare institution. The obligation of "duty to care" can be ethically nullified if this is the case. The provider cannot be expected to risk their life to care for a patient who is directly trying to harm that provider. However, this becomes more complicated when the patient is not directly – but rather indirectly -- threatening the provider. This can be the situation when a patient has an infectious and contagious disease and is seeking medical care. Does the principle of beneficence uphold the provider's obligation of duty to care?

Healthcare workers have historically had a duty to treat patients. Indeed, most codes of ethics developed over the years have included this duty ([Huber, S. J. and Wynia, M. K. \(2004\)](#)), which arises from the ethical principles of beneficence and nonmaleficence. Physicians do have legal protection to refuse care, but there is a large difference between what is legally permissible and ethically required. This is especially true in a situation where the provider refuses to care because refusing could involve potential discrimination towards patients. It should be understood that, "Even within the narrowest legal view, a right to refuse a patient for no reason whatsoever does not imply a right to refuse a patient for any reason whatsoever. In other words, a right to arbitrary action does not imply a right to invidious discrimination" (Freedman, p. 24).

Obligatory and Ideal Beneficence

But beneficence is a difficult principle to establish, coming to mean actions that are beneficent in a broad sense and in all forms intended to benefit other persons (Beauchamp and Childress, p. 203). Under this principle, medical providers have a duty to do actions that benefit others, especially patients, but having this duty does not outline the details of the obligation.

How much good is the medical provider required to provide? Is benefiting a single patient doing good, or is there expectation of benefiting five, or ten or twenty patients? This distinction is made with two terms: obligatory beneficence and ideal beneficence. Obligatory beneficence is the established amount of benefit required by a morality system, where ideal beneficence is actions that go above and beyond the expectation. The common morality of the United States holds some level of beneficence but "does not contain a principle of beneficence that requires severe sacrifice and extreme altruism – for example, putting one's life in grave danger to provide medical care or giving both of one's kidneys for transplantation. Only ideals of beneficence incorporate such extreme generosity" (Beauchamp and Childress, p. 204). Difficulty comes from that fact that distinguishing the line between obligation and ideal is often unclear.

Respective Responsibilities

Would caring for a patient with an extremely contagious condition be obligatory or ideal beneficence? In 1987, the AMA's Council on Ethical and Judicial Affairs (CEJA) issued a strong statement on the obligatory status of physicians to provide for patients testing positive for HIV/AIDS stating,

A physician may not ethically refuse to treat a patient whose condition is within the physician's current realm of competence solely because the patient is seropositive. The tradition of the American Medical Association, since its organization in 1847, is that: 'when an epidemic prevails, a physician must continue his labors without regard to the risk to his own health'....Physicians should respond to the best of their abilities in cases of emergency where first aid treatment is essential, and physicians should not abandon patients whose care they have undertaken”
[*\(Freedman, p. 24\).*](#)

We have discussed in a previous Ethics Dispatch the concept of *ought* implies *can*, and that for a person to have an obligation that person must realistically have the ability to achieve such obligation. One cannot be expected to uphold a responsibility if one is unable to do so. Medical providers hold an important place within society, and therefore society has a responsibility to medical providers. Therefore, while medical providers still hold an obligation to care during a pandemic and crisis, the society has a responsibility to ensure that the medical providers are able to perform that obligation in a safe manner.

Bioethics in the News

[A bioethicist on why reopening states will kill more black people](#)

[We have to know when to let go, says bioethicist](#)

[Bioethicist On State's Guidance For Potentially Rationing Ventilators: Intent Is To Be 'Fair And Equitable'](#)

[Government researchers changed metric to measure coronavirus drug remdesivir during clinical trial](#)

Case Study

Patient is an 82-year old female, who is currently a resident at a long-term care facility. The patient is suffering from severe dementia, COPD and other conditions, and recently tested positive for COVID-19. The patient is a widow and has family out of state, who can be available by phone if necessary but have not visited in many years. She tends to be on a loner, is seemingly happy being alone, and does not appear to enjoy when staff or volunteers spend time in her room with her, either reading and sharing stories. Since being diagnosed with COVID-19, she has been put in isolation, with staff and volunteer encouraged to not spend more time with her than necessary. There are also discussions regarding lack of personal protective equipment, especially for “non-essential” patient interactions. Without family, the patient is appearing to become more depressed, scared and irritable. Ethics has been requested to support the staff and think of potential ways to support the patient. Central ethical question is: What is the obligation to the staff?

Ethical Musings

Circumstances Reveal Society

“Circumstances don't make the man, they only reveal him to himself.”

This is a quote attributed to the Greek philosopher Epictetus. In current circumstances, I would like to propose a slightly modified version of it: Circumstances don't make the society, they only reveal it to itself. It would be safe to say now that the global pandemic of COVID-19 has impacted nearly everyone in the United States and a majority of people across the world. Almost everyone has had their lives changed, some much more than others. But it is in difficult times that the true nature and values of people shine through. It is easy to express sympathy, empathy and compassion for others when times are easy, and it is not a burden. But when the times require true sacrifice to uphold your stated principles, are they still important to you?

When challenging situations present themselves, the true natures of people are revealed. You may enjoy your entertainment device in your house, but if your house was on fire and your family and television are still inside, which would you rush to rescue? Would you risk your life, safety and health to save your television? Seeing the world through this lens helps to add perspective about what is important. But what's important also should remain a personal decision. I am not telling you what you should save from your house, or what your principles and values should be. I am only proposing a thought experiment to add perspective so you can see what is truly valuable to yourself. If you say you would save your television over your family, that is your decision. Not objectively right or wrong, but afterwards you need to understand that you value your television over your family. "Circumstances don't make the man, they only reveal him to himself."

Shift to Public Health Ethics

During a pandemic and crisis situation, medical decision making moves to what is called "Crisis Standards of Care." Crisis standards of care are defined as a substantial change in usual healthcare operations and the level of care it is possible to deliver, which is made necessary by a pervasive (e.g., pandemic influenza) or catastrophic (e.g., earthquake, hurricane) disaster. This change in the level of care delivered is justified by specific circumstances and is formally declared by a state government, in recognition that crisis operations will be in effect for a sustained period." ([Crisis Standards of Care: Summary of a Workshop Series.](#))

During these situations, healthcare tends to shift from an emphasis on individualized ethics to public health ethics. This can be seen as shifting from a more deontology approach to more utilitarianism principles. This is viewed as acceptable, although not ideal, due to the circumstances. But what is lost in the language of this discussion is that a shift in principles does not entail a disregard of the previous principles. Just because in crisis standards of care healthcare shifts to focusing more on the health of the community as a whole does not mean that individual rights are abandoned.

Covid-19 Reveals Principles

During scarce resource triage, care is never withheld; only a particular scarce resource may be unavailable. Healthcare should never ethically justify not caring for patients. But we must also recognize that during crisis times our ability to access all resources may be limited. We are seeing healthcare workers across the country stepping up and sacrificing even more than they normally do to provide as much care as possible during this crisis. Fundamentally, this reveals that the most important principle for all healthcare workers is to care and have compassion for fellow humans.

There have been many responses to COVID-19, some of them troubling but also revealing. Circumstances reveal people's true values more than words in easy times ever can. As conversations change and plans for reopening begin, keep in mind the premise of this musing: "Circumstances don't make the man, they only reveal him to himself."