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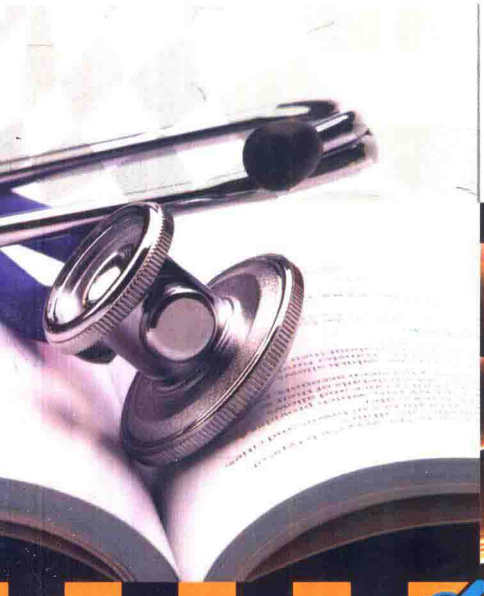

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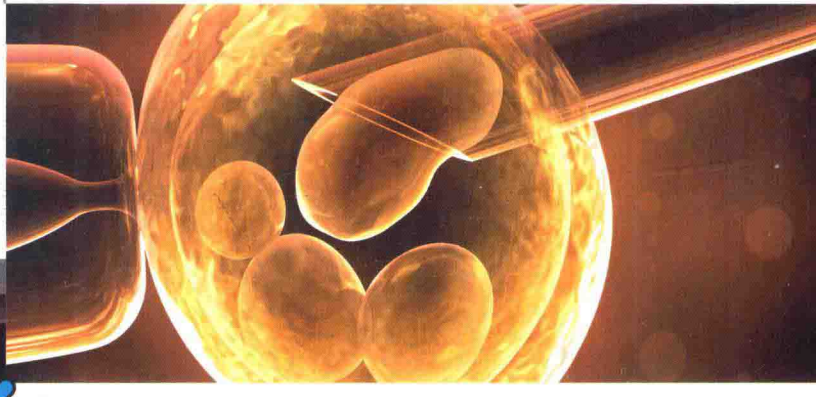

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Medical Ethics and Sociology

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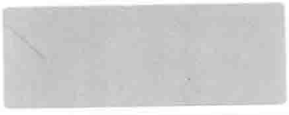

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Medical Ethics and Sociology

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Series editor foreword

The *Crash Course* series was first published in 1997 and now, 16 years on, we are still going strong. Medicine never stands still, and the work of keeping this series relevant for today's students is an ongoing process. These new editions build on the success of the previous titles and incorporate new and revised material, to keep the series up-to-date with current guidelines for best practice, and recent developments in medical research and pharmacology.

We always listen to feedback from our readers, through focus groups and student reviews of the *Crash Course* titles. For the new editions, we have completely re-written our self-assessment material to keep up with today's 'single-best answer' and 'extended-matching question' formats. The artwork and layout of the titles has also been largely re-worked to make it easier on the eye during long sessions of revision.

Despite fully revising the books with each edition, we hold fast to the principles on which we first developed the series. *Crash Course* will always bring you all the information you need to revise in compact, manageable volumes that integrate basic medical science and clinical practice. The books still maintain the balance between clarity and conciseness, and provide sufficient depth for those aiming at distinction. The authors are medical students and junior doctors who have recent experience of the exams you are now facing, and the accuracy of the material is checked by a team of faculty advisors from across the UK.

I wish you all the best for your future careers!

Dr Dan Horton-Szar

Prefaces

Author

Ethics and sociology as applied to medicine can sometimes appear isolated and unimportant in a crowded curriculum. These subjects, however, ***are*** important, not just because they contribute towards qualification as a doctor (they are tested in exams), but because they influence the practice of medicine itself. Medical students cannot hope to experience every dilemma first hand, or to spend time with every single kind of clinician or every single kind of patient. But medical students and junior doctors are expected to deal with new and problematic clinical situations in a reasoned and professional way, whether this is in a clinical examination or a clinic.

There are several ways that medical students (in the UK at least) can experience ethics and sociology. Lectures, self-selected components and intercalated degrees provide opportunities to learn. There has to be a point to learning, however, and as a medical student, a doctor and more recently, as a teacher and OSCE examiner, I have seen the concepts in this book are often tested, whether in extended-matching questions and OSCEs, or out in the real world of clinical practice.

This second edition has been extensively revised. Not only have many of the sections been updated, but the book also contains a complete set of practice questions. The ethics and law sections take into account the revised core curriculum in Medical Ethics and Law. The book is written to be used as a revision guide and a springboard to further reading and discussion. Every chapter contains suggestions for further reading. There is a 'health warning' that comes with this book, however. While every effort has been made to bring the book up-to-date, laws will change, and like all other disciplines, ethics and sociology are always updating their ideas. If something does not appear to make sense, then do look it up in the most current text you can find, or search online.

In the meantime, I hope this book will be your passport to exam success!

Andrew Papanikitas

Faculty Advisor

Why should medical students open a book on ethics, law and sociology? Practising good medicine requires more than knowledge and application of science and technical skills. An understanding of the principles of medical ethics and law is crucially important in order that doctors know how to identify and deal with ethical dilemmas arising in clinical practice. In 2005 the Royal College of Physicians Working Party report on *Ethics in Practice* noted that, 'medical practitioners are encountering ethical uncertainties and even dilemmas in their daily practice with increasing frequency' (Executive summary, page ix, paragraph 1), so preparedness through study and understanding of ethical concepts is a necessary pre-requisite to the practice of medicine.

In the UK, the General Medical Council (GMC) requires that medical graduates behave according to ethical and legal principles and must know about and comply with the GMC's ethical guidance and standards. In 2010 an updated consensus statement was published outlining core learning outcomes in medical ethics and law for medical students and foundation year doctors (Stirrat et al. 2010 Medical ethics and law for doctors of tomorrow: the 1998 Consensus Statement updated. *Journal of Medical Ethics* 36: 55–60.

Crash Course; Medical Ethics and Sociology builds upon these core learning outcomes and provides accessible and relevant information for students, whether revising for an examination, studying for an assignment, and for those who just want to develop their understanding. I hope you will find the book useful and thought-provoking.

Carolyn Johnston

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I would like to thank Dr Carolyn Johnston and Professor David Armstrong for their invaluable guidance and constructive criticism, as well as Elizabeth Morrow (PhD student, Dept of Political Economy, King's College, London) for her co-revision of Chapter 9. I would like to thank all the people who have commented on sections of the book, especially Dr Catherine Quarini, Dr Catherine Marshall and Dr Nawal Bahal. I would like to thank my PhD Supervisors, Professors Alan Cribb and Sharon Gewirtz, and my family for tolerating my distractedness around the time of manuscript submission, and especially Dr Emma McKenzie-Edwards for providing much needed moral support and inspiration at the finish-line. This edition would not have taken shape as it did without the hard work of Alison Taylor, Ailsa Laing, Andrew Riley, Jeremy Bowes, Barbara McAviney and the team at Elsevier, and editorial comment from Dr Dan Horton-Szar.

Dedication

For my family, my friends and my teachers ...
but also for my students, who make it all worthwhile.

Andrew Papanikitas

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Foundations of medical ethics and law

WHAT IS 'MEDICAL ETHICS' AND WHY IS IT IMPORTANT?

'Ethics' or 'moral philosophy' is the study of morals in human conduct. Like all branches of philosophy, it deals with the critical evaluation of assumptions and arguments. Within the field of philosophy, 'Medical ethics' is the study of morals in the medical arena (Fig. 1.1). In practice this means that medical ethics plays a role wherever the question, 'What ought to be done?' is raised in the medical context. Campbell and Higgs (1982) describe three concepts of 'ethics' held by doctors:

1. Professional etiquette: the accepted conventions of a social role
2. Synonymous with 'morals or morality'
3. Moral philosophy: the critical study of morality.

In the past, many medical schools did not formally teach ethics. It was thought that the student would be able to learn what was considered right and wrong by observation of senior doctors, *and by doing as they did.*

The explicit teaching of ethics aims to help to foster *an ability to make rational, moral decisions* – rather than to simply do things as they have been done before.

The importance of this for the medical student, in real life and in exams, is that it is not just the conclusion you reach that is important. Rather, it is also the strength and coherence of the arguments that lead you to your conclusion, which are important.

HINTS AND TIPS

The strength and coherence of the arguments that lead to your conclusion are just as important as the conclusion itself.

Ethics deals with:

- what is right and wrong
- what is good and bad
- what ought and ought not to be done.

Medical ethics, therefore, critically examines the reasons that underlie any medical decision that involves these concepts. Medical ethics aims to produce and emphasize a rational, coherent and consistent approach to making moral decisions in medicine.

It is sometimes helpful to distinguish philosophical medical ethics from:

- law and professional codes of practice, which rely on the interpretation of pre-existing legal and professional rules
- religious teaching or theological arguments, which derive from one or more sources of religious scripture
- sociological or psychological explanations for why we behave in certain ways do not necessarily indicate if the behaviour is good or bad
- the discussion of moral decision-making within medicine, in a historical or anthropological light. This does not necessarily answer the question, 'what is the right thing to do?'

However, all of the above disciplines may contribute to the study of medical ethics.

THE CORE CURRICULUM IN MEDICAL ETHICS AND LAW

The core curriculum in medical ethics and law was updated in 2010 (Stirrat et al 2010) and sets out a core content of learning for medical ethics and law in the UK. It has been endorsed by the General Medical Council (GMC), which means it will form a basis for the standards expected from medical schools and hence of medical students.

In Years 1 and 2 medical students are expected to:

- recognize and understand core ethical and legal topics
- apply common ethical arguments using constructed case scenarios
- be able to understand and discuss differing viewpoints
- be aware of the requirements of GMC on student fitness to practice.

In Years 3 and 4 medical students are expected to:

- be familiar with the GMC's professional codes of conduct
- recognize ethical and legal issues and be able to apply common ethical arguments to actual clinical encounters in different specialties and public health interventions
- recognize and conform with professional and legal obligations in practice

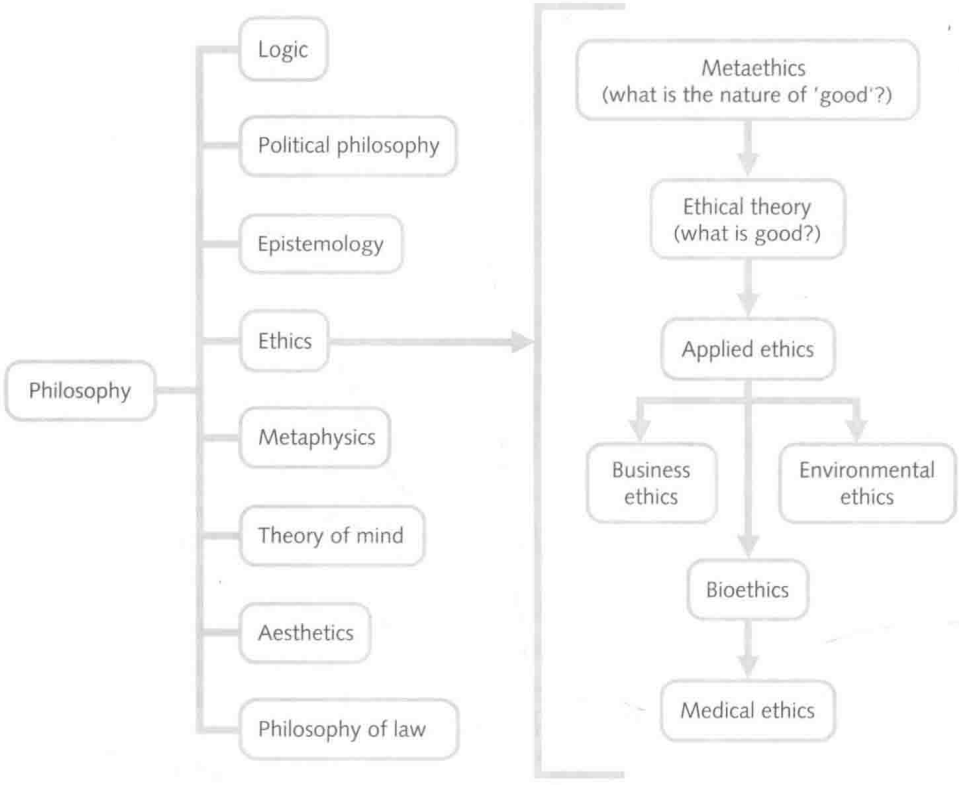

Fig. 1.1 Branches of philosophy and the position of medical ethics.

- demonstrate the ability to reflect on ethical practice of self, peers and teachers.

In Year 5 (and 6 where applicable) medical students are expected to be able to:

- integrate ethical analysis of actual clinical encounters with clinical knowledge and skills and legal obligations
- elaborate on common ethical arguments
- propose action/decision based on this synthesis
- display professional attitudes and behaviours consistent with Good Medical Practice
- be aware of their own values.

In the foundation years and their subsequent careers, doctors should be able to demonstrate increasing competence in how to identify, acknowledge and deal with ethical, legal and professional issues on which good medical practice is based. Teaching and learning should be relevant to both their particular stage of training and relevant specialty-specific ethical issues.

The updated curriculum also specifies a core content of learning for medical ethics and law:

- Foundations of medical ethics and law (see Ch. 1)
- Professionalism: 'good medical practice' (see Ch. 2)
- Patients: their values, narratives, rights and responsibilities (see Ch. 3)
- Informed decision-making and valid consent or refusal (see Ch. 3)
- Capacity and incapacity (see Ch. 3)
- Confidentiality (see Ch. 2)
- Justice and public health (see Ch. 5)
- Children and young people (see Ch. 3)
- Mental health (see Ch. 3)
- Beginning of life (see Ch. 4)
- Towards the end of life (see Ch. 4)
- Medical research and audit (see Chs 2 and 11).

ETHICAL ARGUMENTS

Medical students and indeed qualified doctors often find it disheartening that medical ethics asks questions more often than it provides answers. You *could* argue that abortion (or euthanasia, cloning, dating patients and so on) is right or wrong – there seem to be arguments either way.

Fig. 1.2 How to write an ethics essay:

Make an outline/plan of the essay before writing a first draft

Answer the question: Work out what the question is asking and make sure that everything you say is relevant to the essay title. Ways to help you to do this include:
- Define how you interpret any unclear terms at the beginning of your essay
- State in your own words what the problem is and the issues you plan to address in your essay
- Briefly state the scope of the question.

When making your arguments in the body of the essay, try and develop points in a logical way by:
- Stating your perspective and reasons for holding it
- Looking at opposing arguments: you must use other people's ideas as well as your own to show that you are aware of the major arguments in a certain area. Don't forget to reference ideas you have read (especially important in coursework essays)
- Saying why your arguments are better/more convincing.

When you re-read your first draft, decide what the 'purpose' of each paragraph is, and whether what you have written is achieving that purpose.

When concluding, sum-up the reasons for your argument that you have already outlined: don't include new arguments in the conclusion.

No-one expects a definitive right answer: ethical debates have raged for millennia without resolution. Conclude your essay, however. You should say why you believe one argument is better than another, while still acknowledging that both have their merits.

However, it is important to use arguments that are valid or justifiable (Fig. 1.2). Having a structure can help to make an argument logical and relevant. Ethical theory can provide this structure.

ETHICAL THEORIES

Ethical theories attempt to provide an over-arching theoretical framework for addressing the problem of how human beings should behave with one another in the world. There are three key theories which have historically dominated medical ethics teaching: *Utilitarianism, Deontology and Virtue Ethics*. More recent frameworks attempt to reconcile different theories and values. The widely taught four principles of biomedical ethics attributed to Beauchamp and Childress is one such attempt. 'Values-Based Practice' or 'Values in Medicine' has recently gained prominence in psychiatry and general practice, and is taught on some undergraduate medical degrees (these theories are considered below). Rights-based approaches to ethics are often used in public debates, and particularly around the availability of healthcare services.

Why should we bother with these theories? Can we not rely on some 'Golden principle' such as 'Do unto others as you would have them do unto you?' Perhaps such a principle is sufficient to help to guide our moral decisions on a day-to-day basis, but often it falters on the ethical dilemmas where there is no obvious path to take. In addition, we need to provide reasons why any such golden principle is right and why others might be wrong. The purpose of ethical theory is to help us to think more clearly about ethical problems.

HINTS AND TIPS

There are three key theories which have dominated medical ethics: Utilitarianism, Deontology and Virtue Ethics. You must have a basic idea of what these theories say.

Utilitarianism

Utilitarianism is founded on the work of Jeremy Bentham (1748–1832) and John Stuart Mill (1806–1873). It is based on a single principle of what is good: the principle of utility. The morally correct decision or course of action is often summed up as that which promotes *'the greatest good for the greatest number'*. The principle of good holds that we ought to produce the maximum amount of good. It is a *consequentialist* theory, as it holds that the predicted outcomes (i.e. the consequences) of an action are the most morally important component of that action.

What then is 'utility'? Bentham and Mill thought that utility was pleasure or happiness. Others have considered utility to include values such as friendship, knowledge, health and beauty. Still others believe that the concept of utility is best applied to the satisfaction of preferences rather than any intrinsic values.

Bentham believed that law and morality could be made rational by a scientific study of human nature. He thought that humans were governed by two factors: 'pleasure and pain', and that it was in their nature to seek pleasure and avoid pain. For Bentham, laws were only 'good' if they maximized pleasure and minimized pain for the majority of people. The 'scientific' foundation of utilitarianism comes from the requirement to do 'happiness sums'. Bentham thought it was possible to classify how good an action is by measuring how much pleasure or pain was brought about by that action. He called this process 'felicific calculus'.

Mill differed from Bentham in two important ways:

1. He thought that cultural and spiritual pleasures should be sought in preference to physical pleasures.
2. He thought that people should ordinarily stick to moral rules rather than calculate the balance of utility for each ethical problem.

Even though Mill advocated moral rules, he is still a utilitarian, because he held that these moral rules should be calculated using the principle of utility. This is what is known as *rule utilitarianism*. For example, lying in general might produce less utility than telling the truth. Therefore, there is a rule that says 'Do not lie!' However, we could imagine a scenario where telling a particular lie might produce more utility than telling the truth would. The rule utilitarian would still tell the truth. Other utilitarians, known as *act utilitarians*, would appeal directly to the principle of utility and lie (Fig. 1.3).

The advantages of utilitarianism are that:

- it fits with two strong intuitions, i.e.
  - morality is about promotion of well-being
  - we should maximize well-being
- it is a single principle that tries to deal with appropriateness of other principles, such as a principle of *always* telling the truth or of *always* acting to prevent suffering
- it incorporates a principle of equality: each person's happiness is equal
- it can be extended to the animal kingdom: some utilitarians have argued that the capacity to suffer (and feel pain) means our treatment of animals also ought to be subject to moral scrutiny.

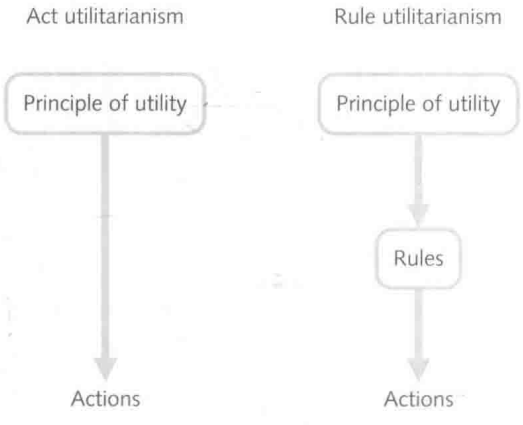

Fig. 1.3 Act vs rule utilitarianism. In 'act utilitarianism', the principle of utility is directly used to guide actions. In 'rule utilitarianism', the principle of utility is used to formulate general rules which in turn are used to guide actions.

The disadvantages of utilitarianism are that:

- there are problems dealing with intuitively immoral actions: is it right to kill one patient in order to harvest their organs and perhaps save five lives?
- utilitarianism demands too much: in always asking us to do the *best* action, everyone is expected to be both heroic and saintly. For example, it could be argued that 'maximizing utility' demands that not only should we donate blood and bone marrow as often as we can, but also that we may well be morally obliged to donate one of our kidneys as well
- the equality principle is overly impersonal in demanding that we treat the well-being of our friends and family as equivalent to that of strangers
- in principle, a small increase in pleasure for the majority will override a vast degree of pain for a minority.

Deontology

Deontology covers those theories that emphasize moral *duties* and *rules*, rather than consequences (from the Greek *deon*, meaning 'duty'). Perhaps the best *known* deontological principles are those set down in the *Ten Commandments*.

Deontology is associated with Immanuel Kant (1724–1804). He believed that morality was not dependent on how much happiness resulted from particular actions. Rather, he thought morality was something humans imposed upon themselves because they are rational beings. Although Christian, Kant did not believe that God was necessary for moral law.

Kant argued that we can find out which moral rules to obey by using our powers of reason. He said that by seeing whether our desires can be applied universally, we can tell whether or not they follow rational moral principles. This 'universalizability' test is called the 'categorical imperative'. It states:

> Act only on that maxim through which you can at the same time will that it should become a universal law.

This means that we should behave in such a way that we can imagine everyone can behave. For example, if our 'maxim' or 'desire' is to 'steal other people's things when we want them', we need to consider whether or not this maxim could be held for everyone. Kant said that if everyone stole things whenever they wanted, the whole notion of theft and personal property would collapse; if this happens, the concept of 'stealing' becomes illogical. The same holds for the idea of lying. Telling a lie only 'works' if people generally tell the truth. If everyone lied whenever it might benefit them, then this general belief in truth-telling would collapse and lying would itself become pointless. Therefore, Kant said that the moral law obliges us not to steal and not to lie.

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