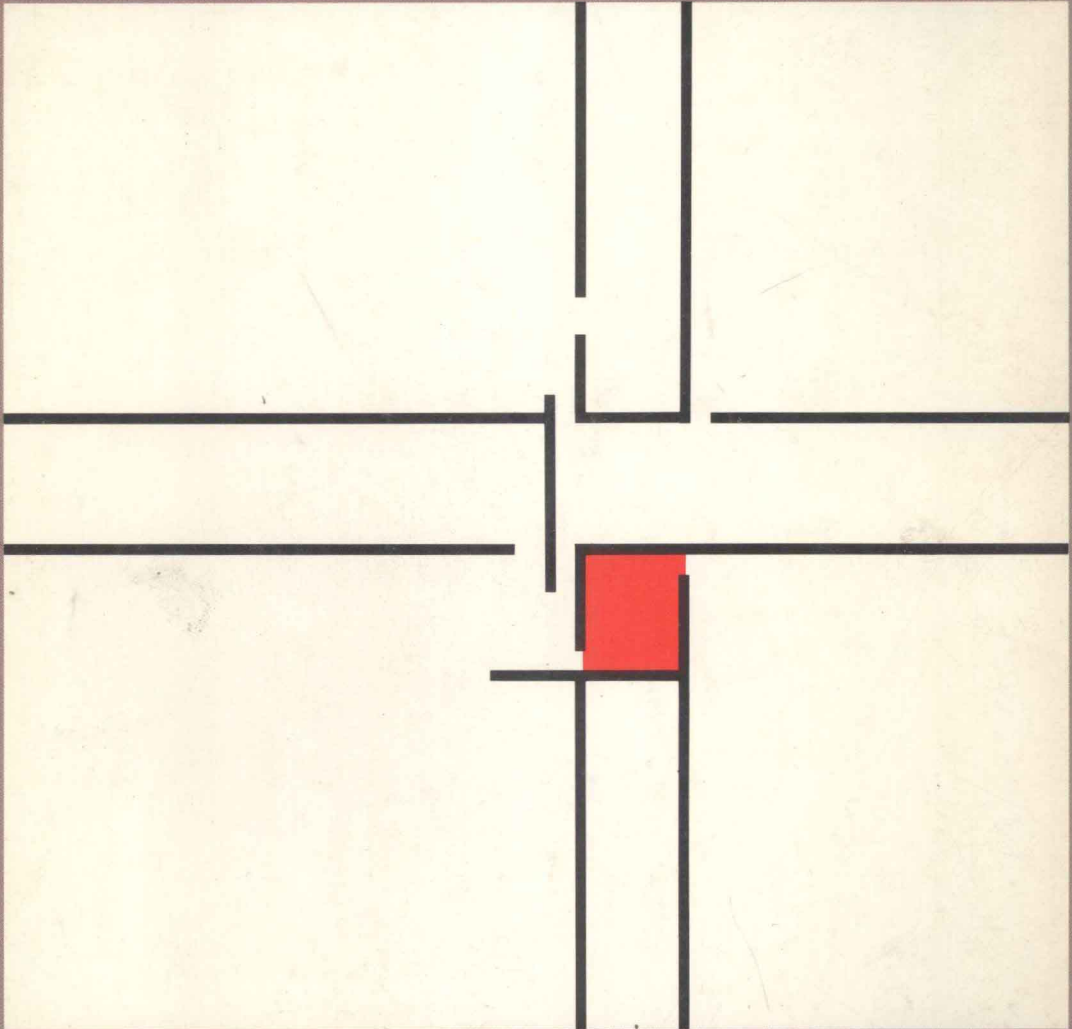


Ethical Issues in Modern Medicine

S E C O N D E D I T I O N



John Arras / Robert Hunt

FOREWORD BY Robert M. Veatch

ETHICAL ISSUES IN MODERN MEDICINE

John Arras

Robert Hunt

With a Foreword by Robert M. Veatch

For Liz, Marina, and Melissa

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FOREWORD

Robert M. Veatch

Much has happened in the study of medical ethics since the first edition of *Ethical Issues in Modern Medicine* appeared in 1977. We might date the current generation of work in medical ethics from about 1970, just after the first heart transplant and just before the onset of the current round of legislation dealing with the right of patients to refuse medical treatment. These initial studies held closely to critical topics of clinical controversy: death and dying, experimentation on human subjects, abortion, genetics, informed consent, and the control of human behavior. It was natural that these topics would also be the themes that dominated Robert Hunt and John Arras' collection.

That edition saw the field through its infancy and early adolescence. As the volume appeared, medical ethics was just reaching what might be seen as its age of majority—a time when the young adult begins asking more probing, fundamental questions about the nature and meaning of things. The second edition of *Ethical Issues in Modern Medicine* reflects just such a growth.

I can recall days in the early seventies when medical students returning from a bedside and pondering what to do for a patient would reach for the Hippocratic oath and its modern alternatives in an attempt to find an answer. That oath opens the volume just as it opens the history of Western medical ethics. But with increasing frequency, both medical professionals and lay people are questioning why they should be bound by an oath formulated by a rather idiosyncratic, deviant group of Greek physicians on the Isle of Cos in the Mediterranean some 2400 years ago.

They are beginning to be aware that religious traditions, the rights tradition of modern liberal political philosophy, and, more generally, secular philosophy provide alternative frameworks for answering the ethical dilemmas of modern medicine. It is also becoming increasingly clear that medical ethics is a field that sometimes must address other problems besides simply those at the patient's bedside. An entirely new Part One is included in the present edition to examine some of these issues. In this part the reader will get a chance to explore some alternative models of an ethical foundation for the relationships between health professional and patient.

As medical ethics matures, a growing need is perceived to examine not only the codes and the models for lay-professional relationships, but also the underlying principles used to analyze and justify medical ethical choices in particular problem areas. Only by understanding the principles upon which specific rules of ethical conduct and individual decisions are based will real ethical insight be gained. It is by the use of those principles that a patient, a legislator, a judge, or a health professional is able to move from one specific medical ethical problem to another. Thus, the most sophisticated work in medical ethics consciously incorporates those principles and moves easily from principles to cases and back again. The second edition of *Ethical Issues in Modern Medicine* displays this agility in several ways. Within each part there is a rich presentation of critical case studies along with theoretical discussions whose authors engage in the mental acrobatics of moving up and down from cases to principles and back again. Also new to the present edition: Some of the principles are explored on their own in Part One before the reader is introduced to the more traditional topics of medical ethics.

The oldest, most traditional principle of medical ethics—the idea that the physician's duty is to benefit the patient according to the physician's own judgment—is first introduced in the Hippocratic oath and the accompanying essays. Only as the field began to mature, however, did we realize how inadequate the Hippocratic principle was. We now recognize that no patient would be so foolish as to want a physician to do in every situation whatever he or she thought would be beneficial. That would authorize attempts at beneficence even if, for example, it meant violating the autonomously expressed wishes of the patient, treating against the consent of the patient, or lying to the patient.

Even if the patient were happy with such old-fashioned and paternalistic treatment, society as a whole could not tolerate it, at least not in all situations. There are many important activities that society now routinely expects of its physicians in which physicians are clearly not acting exclusively in the patient's interest: They report gunshot wounds and venereal diseases, do research on humans even when it cannot plausibly help those subjects of the research, and break confidences when the lives of other parties are reasonably expected to be in jeopardy. Moreover, medical ethics deals directly with the allocation of scarce medical resources among patients, among hospitals, and among communities. No Hippocratic ethic that tells us the physician should benefit the patient (in the singular) ever could give the moral guidance necessary to cope with such problems. The conflict between the rights and

welfare of the individual and the good of others is increasingly central to a mature medical ethics.

The second edition of *Ethical Issues in Modern Medicine* catches this spirit and focuses directly on the limits of the old, individualistic Hippocratic ethic. It emerges in the Introduction, in the last section of Part One, and especially in the parts dealing with experimentation on human subjects and on social justice and health policy. The basic principles of autonomy, truth telling, and justice developed in this volume provide a framework for the reader of these essays to begin to understand the limits on the idea that the physician simply has to do what he or she thinks will be helpful to the patient. Only by a full exploration of these principles and perhaps a few more (the principles of promise keeping and of avoiding the killing of humans are good candidates for a master list of medical ethical principles) will we eventually overcome the constraints posed by traditional professional ethics.

In this way, and this way only, will we move beyond the outmoded view of medical ethics—the view that only health professionals (usually physicians) had ethical problems to solve, that the problems always dealt with individual, isolated patients, and that they could be solved by applying the Hippocratic formula. The full array of principles presented here permits us for the first time to move beyond the exclusive emphasis on the individual patient without being trapped by the equally unacceptable and uncompromising focus on the aggregate good produced for society by alternative courses of action. When more complex, more sophisticated ethical principles are available—principles such as autonomy and justice—there is some opportunity to open the door and explore the terrain beyond individual rights without becoming lost in the wilderness of social utility calculations. The readings of the second edition of *Ethical Issues in Modern Medicine* invite each of us to begin exploring the topography of a richly variegated, exciting world of medical ethics. The project is bigger and more complicated now than it was even a few years ago, but more rewarding. These essays give us a good sample of the richness of the terrain.

PREFACE

In preparing the second edition of *Ethical Issues in Modern Medicine*, I have attempted to preserve the distinctive features of the original while responding to new developments both in the field and in my own thinking about the issues. The keystone of this anthology remains the introductory essay, "Ethical Theory in the Medical Context." The purpose of the essay is to acquaint students, many of whom have had no formal training in ethics, with sufficient knowledge of ethical theory so that they can apply the ethicist's perspectives to the moral problems of contemporary medicine. Although it is not a substitute for a course on basic ethics, the introductory essay does provide students with the conceptual tools needed to proceed with the work at hand. Judging from the enthusiastic responses of teachers and students who used the first edition of this book, the essay served its purpose well. I have made only one significant addition to it: a section that challenges the regnant "individualism" of most contemporary ethics and invites the reader to reexamine the psychological, social, and economic context of bioethical issues.

I have also retained the basic strategy of introducing issues (whenever possible) through short case studies and then probing more deeply into problems through longer, more reflective pieces. I have tried in the present volume to furnish many more case studies and to achieve greater continuity with the longer essays that follow them.

Finally, I have again attempted to offer the reader a healthy balance of viewpoints and specializations. The essays have been selected with an eye not only to quality but also to their potential for generating fruitful

controversies. As before, the protagonists in these debates include physicians, nurses, philosophers, theologians, lawyers, journalists, and political theorists. Even though these parties all agree on the importance of interdisciplinary dialogue, it is their disagreements that lend an aura of tension and intellectual excitement to these pages.

In addition to those features, which have since become standard for bioethics anthologies, the new edition has several new strengths. (And here I must pause to thank the scores of teachers who took the time to share their experiences with the earlier text and offer numerous helpful suggestions for its revision.) The parts on special topics in bioethics are now preceded by a new section devoted to the moral foundations of the health professional–patient relationship. The book thus begins with an examination of themes that cut across the entire field of bioethics—such as autonomy, paternalism, informed consent, and truth telling—before venturing into more specialized topics.

In addition, new controversies that have arisen since the publication of the first edition have been included in each of the six parts. For example, Part Two, “Abortion,” now includes a section on the public funding of abortions for the poor; Part Five, “Human Genetics,” features a debate over the morality of choosing our children’s sex; and Part Six, “Social Justice and Health Policy,” raises the issue of health care vouchers for the poor.

Whenever a more recent article marked a clear improvement over its counterpart in the first edition, I usually did not hesitate to include it here. In fact, only half of the original articles survived the cut, even though the overall size of the book doubled in the course of revision. In other words, 75 percent of the material in this volume is new. Each section has been rethought, restructured, reintroduced, and doubled in size. Given the magnitude of these changes, it is probably more appropriate to speak of this as a new anthology rather than as a revision of an earlier one.

In addition to these structural changes, this edition manifests a shift in orientation away from liberal individualism and toward a reassertion of the relatedness of individuals to other people and to their socioeconomic conditions. I have certainly not repudiated the usefulness of certain concepts of liberal individualism—such as the right to self-determination—but I have appreciated the necessity of rooting them in definite psychological, political, and economic settings. Thus, Part Two features an article challenging the individualism of current “pro-choice” abortion rhetoric; Part Three culminates in the claim that in many life or death situations (and especially in those involving severe disfigurement) the boundaries that usually separate the personal identities of doctor, patient, and judge are hopelessly blurred; and Part Six includes a discussion of alternative economic settings for the abstract right to health care.

In keeping with this shift of focus away from the individual as right-bearer, I have also tried to cast some doubt on the popular conception of the isolated individual as the party primarily responsible for most illness and much social unrest. Thus, Part Five includes a debate on the alleged genetic causes of social violence, and Part Six contains a critical

discussion of the concept of individual responsibility for health. In both parts, at least one selection suggests that the primary causes of social violence and disease are rooted in the unjust social and economic conditions that surround the autonomous individuals of contemporary ethical theory.

The second edition of *Ethical Issues in Modern Medicine* has been in the works for a long time, and I have accumulated many debts along the way. Preliminary part outlines were sketched during my tenure as a National Endowment for the Humanities Postdoctoral Fellow at the Hastings Center (Institute of Society, Ethics, and the Life Sciences). Robert Veatch, Arthur Caplan, and James Muyskens (Hunter College) reviewed the entire project and made many valuable suggestions. Margaret Steinfels, Tabitha Powledge, Ronald Bayer, Tom Murray, and Nancy Rhoden advised me on individual sections. Daniel Callahan was most gracious in making the resources of the Hastings Center available to me after my departure in 1980. The new part introductions were written during two memorable years at the State University of New York, College at Purchase, and at the Department of Social Medicine, Montefiore Medical Center. I am especially grateful to Bennett Rosner, Chair of the Montefiore Bioethics Committee, and to Victor Sidel for providing me with a congenial departmental home at Montefiore, and to my colleague Nancy Dubler, whose astute comments improved this book and whose indefatigable working habits have forever altered my previously mellow metabolism.

Throughout this revision I have received cheerful and enormously helpful research assistance from Marna Howarth, librarian at the Hastings Center, and the secretarial help of Julie Henderson, Bonnie Baya, and Rosalie Reutershan. If this book succeeds as a pedagogical tool, most of the credit will be due to my students at the University of Redlands, SUNY at Purchase, and the Albert Einstein College of Medicine. In a very real sense, my students were the primary inspirers and editors of this text. Credit is also due, of course, to my expert professional editors, Vicki Nelson, Pat Herbst of Mayfield Publishing Company, and Chuck Murphy, also of Mayfield, whose enthusiasm and encouragement sustained the entire project. Chuck is also responsible for having commissioned several extremely thorough and trenchant reviews of the first edition of this book. Had I been blessed with the requisite time, energy, and will to implement half of the reviewers' excellent suggestions, this edition would have been even better than the text you now hold in your hands.

As always, my wife, Liz Emrey, has been a good listener, a good critic, and a good sport. Our children, Melissa and Marina—together with their soon-to-be-appointed orthodontist—thank the purchasers of this book for underwriting their future smiles. Finally, I must say that the philosophical acumen, good critical sense, and unfailing laughter of Bob Hunt, my friend and former collaborator, have been sorely missed during the preparation of this volume. The business world's gain has been philosophy's loss, and mine too.

John Arras

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