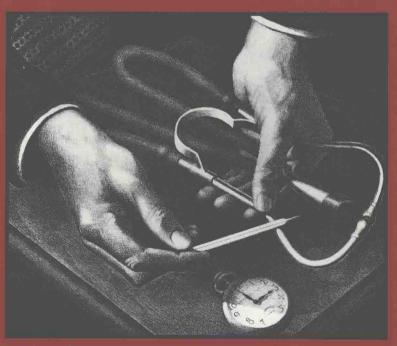
HEALER'S Tale



Transforming Medicine and Culture

Sharon R. Kaufman

The HEALER'S TALE

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In the pages that follow, it is obvious that they are timeless role models in medicine. They are also role models for a good old age. As I write this, they are well into their eighties and remain actively engaged in making the world a better place through their scholarship and their ongoing contributions to their universities, medical and nonmedical organizations, and local and national communities. It has been a great privilege to know them.

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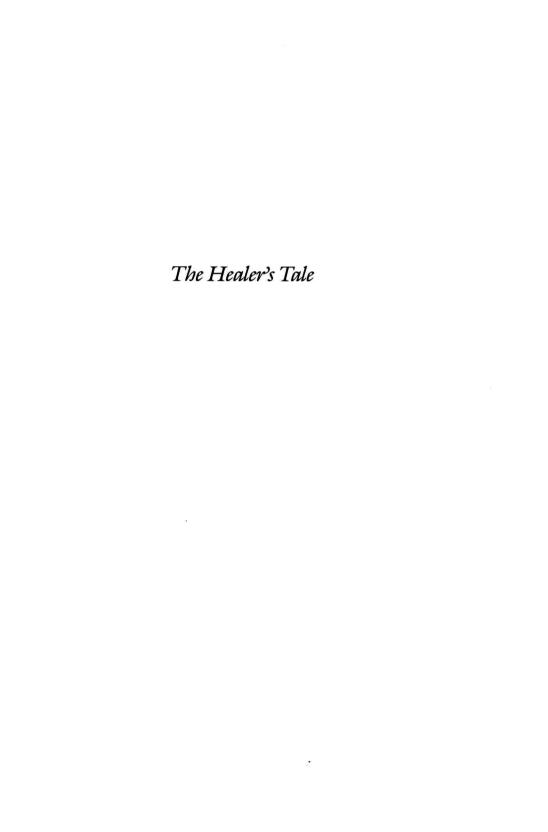
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PROLOGUE

Public Consciousness and Confusion

CONTEMPORARY Western medicine stands between culture and nature and manipulates both. Medicine has traditionally manipulated nature in its attempt to prevent or intervene in the ravages of disease. We continue to expect it to do so. More recently medicine has also begun to transform culture with its increasing power to manipulate natural processes. Such profound transformation makes us uneasy. Our ideas about the beginning of life, the finality of death, and the process and role of motherhood, for example, are deeply held cultural beliefs about human nature itself. The emergence of a baby into the world, the visible and palpable cessation of respiration and heart beat, a woman who conceives, bears, and raises a child—these fundamental matters of life, death, and motherhood are now changing. What we have always considered "natural" is now reconsidered in light of the results of medical technology: "live" twenty-four-week-old fetuses; "brain dead" individuals enabled to breathe through respirators; women who contribute an egg toward or gestate a baby or who nurture one from someone else's egg/gestation. Yet our long-held cultural conceptions of a natural birth, natural death, and natural mother have not been ultimately replaced or superseded by clear, acceptable definitions created by medical possibility. On the contrary, medical advances have forced us to reconsider the boundaries of life and death and have made it unclear when life begins, when death occurs, and what a mother is. The confusion generated by the blurring of traditional boundaries between culture and nature permeates national consciousness. Consider the following news stories.

HOW DO WE DEFINE THE ORIGINS OF LIFE?

San Francisco Chronicle, August 8, 1989 (Associated Press)

Husband vs. Wife

1st Day of Trial in Embryo Dispute

Maryville, Tennessee—Trial began yesterday in a divorce case in which the judge must decide whether seven frozen embryos should go to a husband who does not want children now or to a wife who cannot conceive naturally.

Junior Lewis Davis, 30, sued for divorce from Mary Sue Davis in February and asked that Mrs. Davis, 28, be barred from ever using any of the seven fertilized eggs without his consent. Mrs. Davis contends that she should be able to have the eggs implanted without his consent because the implantation procedure might be her best chance of having a child.

"The question of how we classify these embryos is vital," Jay Christenberry, Mrs. Davis' attorney, said in his opening statement. "While the couple's rights are important, there are other rights we must consider." . . .

The case is thought to be the first of its type in the United States. Not a Person

A medical ethics expert testified yesterday that the embryos deserve special respect but should not be given the same rights as a person . . .

New York Times, May 27, 1990

New Turn in Couple's Fight over Frozen Embryos

Knoxville, Tennessee, May 26 (Associated Press)—A woman who won custody of seven embryos last September in a widely publicized court ruling now says she plans to donate them to a fertility clinic so that they can be used by a childless couple.

But her former husband, who fertilized the embryos and is her opponent in the continuing legal fight over them, says her decision has no bearing on his appeal . . .

San Francisco Chronicle, September 14, 1990 Tennessee Ruling Grants Joint Custody of Embryos Judges Overturn Ex-Wife's Lower-court Win

Knoxville, Tenn.—The Tennessee Court of Appeals yesterday granted joint custody of seven frozen embryos to a divorced couple, overturning a landmark ruling that had granted custody to the woman . . .

The three appeals court judges made it clear during oral arguments that they wanted to avoid the ethical and philosophical questions of the case—such as whether the embryos are alive and deserving of legal protection—and stick to the issue of what to do with them.

WHAT IS A MOTHER?

New York Times, August 12, 1990 (Carol Lawson) Couple's Own Embryos Used in Birth Surrogacy

... Four years after the Baby M case, which provoked calls for strict regulation of surrogate motherhood, if not an outright ban, surrogacy is not only actively practiced but expanding in a new direction, bringing new hope to some families and, at the same time, highlighting a host of ethical and legal concerns.

Wife's Eggs and Husband's Sperm

The Baby M case involved what physicians now call traditional surrogacy, in which the surrogate mother is impregnated through artifical insemination with the sperm of the husband from the couple who have hired her. The surrogate is thus the genetic mother of the baby.

In contrast, the Venezuelan couple are beneficiaries of what medical and legal experts call gestational surrogacy. The wife's eggs and the husband's sperm were brought together in a petri-dish in a hospital laboratory in Pasadena in the process known as in vitro fertilization . . .

Los Angeles Times, October 25, 1990 (Robert Steinbrook)

Menopausal Pregnancy Becoming a Reality

5 Women with Nonfunctioning Ovaries Give Birth in Researcher's Embryo Implant Study

Physicians using advanced reproductive technologies have enabled some menopausal women in their 40s to bear children, according to a report in today's New England Journal of Medicine.

The achievement, which involves eggs transferred from another woman, hormonal supplements and test-tube fertilization, is the latest in a fast-moving field that has pushed back the limits of pregnancy. It opens up the possibility of childbearing well into middle age but also promises to raise legal questions and debate about the ethics of giving birth late in life.

"The limits on the childbearing years are now anyone's guess," said Dr. Marcia Angell, executive editor of the New England Journal . . .

New York Times, November 4, 1990 (Seth Mydans) Science and the Courts Take a New Look at Motherhood

As advances in technology bring into question basic assumptions about life and death, medical and legal scholars are suggesting that motherhood may in the future be defined less in terms of biology than in terms of intent.

The biological definition of motherhood lost a good deal of its certainty late last month with a court decision and the announcement of a medical advance that presented contrasting new versions of this elemental concept.

In the court case, a judge in California denied parental rights to a surrogate mother who had carried and given birth to an implanted fetus with which she had no genetic connection. Comparing her with a foster parent, he ruled that her womb was little more than a home in which she had sheltered and fed the legal offspring of the genetic parents.

A few days later, an advance in fertility research put the priorities in the opposite order, making it possible for a woman past the age of menopause to carry, give birth to, and claim as her own an implanted embryo that was a genetic stranger to her.

"In these two instances we have exactly the same biological situation, yet we want different legal results," said Lori B. Andrews, the author of two books on surrogate motherhood. "The law has always looked at parenthood in terms of biology. Now it needs to be more creative. You need to move to something like pre-conception intent. It has always been the legal presumption that the mother who gives birth is the legal mother. It made sense. It was the only way, the one certainty. But it's not certain anymore."...

Measures addressing surrogacy were introduced in every state legislature after the highly publicized Baby M case in 1987 and 1988, but few were adopted. Two states, Michigan and Florida, now forbid paid surrogacy arrangements and five other states, while not banning them, have deemed surrogacy contracts legally unenforceable.

None of the states has yet answered, for legal purposes, the newly complicated question: What is a mother? . . .

WHO CONTROLS DEATH?

New York Times, January 10, 1991 (Lisa Belkin)

Reverse Right-to-Die Case in Minnesota

Minneapolis—In a case that medical ethicists and legal experts say is apparently a first, a Minneapolis hospital plans to go to court for permis-

sion to turn off a patient's life support system against her family's wishes.

For eight months, 87-year-old Helga Wanglie has lain in Hennepin County Medical Center dependent on a ventilator for oxygen and a feeding tube for nutrition, unaware of and unresponsive to her surroundings. Her doctors say that she will never recover and that they do not want to give medical care that they describe as futile.

But Mrs. Wanglie's husband and two children describe her as an extremely religious woman who would prefer even this life to death.

"This is the opposite of Cruzan," said Arthur Caplan, director of the Center for Biomedical Ethics at the University of Minnesota, referring to Nancy Cruzan, the Missouri woman whose family fought for years to remove her from the feeding tube that was keeping her alive . . .

New York Times, July 19, 1989 (Martin Tolchin)

When Long Life Is Too Much: Suicide Rises among Elderly

Washington, July 18—Reversing a half-century trend, the suicide rate among elderly Americans steadily increased in the 1980's, according to Government records.

The 25 percent increase from 1981 to 1986, the last year for which the Government has records, brought the suicide rate among those 65 and older to 21.6 per 100,000 people, as against an overall national rate of 12.8. The trend perplexes health care experts, who note that the elderly are generally more financially secure and healthier, and they live longer than their forebears . . .

But some experts speculate that the technological advances extending the lives of the elderly sometimes bring a quality of life that they cannot accept . . .

New York Times, May 23, 1989 (Lisa Belkin)

Doctors Debate Helping Terminally Ill Die

Houston, May 23—With medicine preoccupied by AIDS, a question that doctors once only whispered has emerged as a subject of open medical debate: should doctors be allowed to help their patients kill themselves?

Leading medical journals give space to advocates of doctor-assisted suicide for terminally ill patients and to others who argue against what is also being called voluntary euthanasia. And efforts are under way in four states to put the question to the voters.

Doctors Willing to Help

"The discussion has shifted," said Earl E. Shelp, a Southern Baptist minister in Houston who is teaching a seminar on AIDS and a course

on medical ethics at Dartmouth College this semester. "It is being discussed now not as an absolute prohibition, but as a question of under what circumstances should it be allowed," he said.

The issue is not merely theoretical. Terminally ill patients often ask their doctors to help them die. And though such help is illegal, there are doctors who agree to assist their patients . . .

New York Times, December 3, 1990 (Isabel Wilkerson)

Murder Charge Filed against 'Suicide Doctor'

Women Died after Using Physician's Death Machine

Chicago—A Michigan doctor who connected a woman suffering from Alzheimer's disease to a homemade suicide device and watched as she pushed a button and died was charged yesterday with first degree murder.

The case is being closely watched as a watershed in the debate over whether physicians should be allowed to assist terminally ill patients who want to take their own lives . . .

New York Times, December 14, 1990 (Tamar Lewin)

Judge Clears Doctor of Murdering Woman with a Suicide Machine

A Michigan judge threw out murder charges yesterday against Dr. Jack Kevorkian, who touched off a bitter nationwide debate over euthanasia in June when he connected a 54-year-old woman with Alzheimer's disease to his homemade suicide machine, then watched as she pushed a button and died.

After a two-day preliminary hearing on the case in Clarkston, Mich., Judge Gerald McNally of Oakland County District Court ruled that the prosecutors had failed to prove that Dr. Kevorkian, 62, had planned and carried out the death of the woman, Janet Adkins. Judge McNally said it was Mrs. Adkins and not Dr. Kevorkian who had caused her death . . .

Dr. Kevorkian said yesterday that while he was convinced that he had done the right thing, he had been taken aback by the magnitude of the response to Mrs. Adkins' death and was pleasantly surprised by the judge's decision.

His lawyers praised the ruling, and said they were heartened by the debate the case had inspired . . .

San Francisco Chronicle, August 9, 1991

Book with Advice on Suicide Hits Top of a Best-Seller List

New York—A new book that advises terminally ill people on how to

take their own lives has surged to No. 1 on the hard-cover advice category on the New York Times best-seller list . . .

The book is "Final Exit" by Derek Humphry, executive director of the Hemlock Society, an organization in Eugene, Ore., that advises on how to commit suicide . . .

Humphry said in a telephone interview yesterday that people are "tired of ethical debate among theologians and philosophers."

"There's tremendous desire for personal control and choice over one's dying."