

Introduction to ethical analysis

Matjaž Zwitter and Rastko Golouh

Institute of Oncology, Ljubljana, Slovenia

The complexity of modern medicine and of the related ethical issues is reflected in progressively more detailed ethical codes and guidelines. We believe that an equal emphasis should be devoted to ethical analysis, a method which permits every physician to define, analyse, and solve an ethical dilemma. Ethical dilemmas are best approached using the common morality theory with its four principles: autonomy, nonmaleficence, beneficence, and justice. A person, or a group of persons, experience either ethical benefits or ethical costs by an action resulting in a greater or diminished respect of any of the four principles. The same action may bring both ethical benefits and costs: lying about the diagnosis of a serious disease may be occasionally beneficial but violates the principle of patient autonomy. Ethical analysis may be divided into three steps. In the first step, ethical benefits or costs are ascribed to the involved individual or collective subjects before any action is undertaken. In the second step, potential actions of changing the present situation are discussed; for each of these actions, a comparison with the present situation will reveal a net ethical benefit or cost for the affected subjects. The third step is a recommendation for the most appropriate action. This final step of ethical analysis is an interdisciplinary task: a discussion among physicians, psychologists, sociologists, economists, or politicians will hopefully lead to a balanced and realistic proposal.

Key words: medical; ethics, ethical analysis; ethics, institutional; public policy

Introduction

The times when moral dilemmas were resolved by adhering to simple rules do belong to the past. Today's world is one of increasing complexity, of breaking the traditional social structure and of individual responsibility. New information networks and global marketing are reaching the most remote sites of the world; at the same time, however, new technologies remain an illusion for majority of mankind.

Medicine is not an exception to these global social changes and to the related moral dilemmas. We all feel the pressure of a widening gap between technological development on one side, and restric-

tions due to limited resources on the other. Problems of distributive justice are often linked to uncertainties regarding life-sustaining treatments. The declared autonomy of patients in decisions concerning their life, treatment and death may be in sharp contrast with the principles and rules of beneficence and non-maleficence of the medical community. Even preventive medicine is not free of moral dilemmas: to what extent may we limit individual autonomy in order to explore patterns of occurrence of human diseases, and how far should we go in imposing medically beneficial behaviour in society?

The increasing importance of ethical issues in medicine is beyond doubt. Less clear is the way to greater ethical awareness. Should we teach young physicians detailed codes and rules as seems to be the prevailing practice, or should we rather teach them to define, analyse and solve ethical dilemmas? Do we need consultants in medical ethics –

Correspondence to: Matjaž Zwitter, M.D., Institute of Oncology, 1105 Ljubljana, Slovenia. Fax: +386 61 1314 180. E-mail: mzwitter@mail.onko-i.si

UDC: 614.253

yet another discipline of medicine, or is ethics really everybody's business?

First, we will point to a much needed distinction between law, ethical codes, and expert ethical opinions. The main part of our discussion will be devoted to the presentation of ethical rules, principles and theories and to ethical analysis as a method of approaching an ethical dilemma.

Intuition, ethical codes, detailed guidelines and ethical analysis

Any dilemma forces us to choose among mutually exclusive actions. In everyday life, we rarely follow a systematic approach: as Brewin¹ noted, the most caring doctor may be totally ignorant of academic ethics. Intuition functions well on an individual basis and in simple situations. However, intuition is of limited usefulness in complex situations and in arguments between often widely differing views.

From the times of Egyptian papyri, of Hammurabi and Hippocrates² to the present day, physicians, their associations and rulers or representatives of society have tried to codify the guidelines of medical ethics into an obligatory system of rules for members of the medical profession. No other profession has devoted so much attention to ethical issues: this proves how delicate the field of medical ethics is and at the same time reflects an inability to govern physician's behaviour exclusively by law.

Still, centuries-old ethical codes could not provide an answer to many dilemmas from the increasingly complex medical practice of today. A response to this apparent obsolescence of codes and resolutions has been recent trend towards their inclusivity. The result is their progressive complexity and a vanishing distinction between law, ethical code, and expert ethical opinion. In international documents on medical ethics, vague expressions as a reflection of a compromise among distinct cultures are a further limitation to their practical use.

Legislation covers the most obvious and easily defined patterns of our behaviour. In addition, we need a simple code of medical ethics that all physicians will understand and remember and which will not be subject to revision with every new technological development: Hippocrates' oath still remains a beautiful masterpiece of eternal value.

Possibly the most unfortunate consequence of recent trends in medical ethics, with increasingly detailed and hardly understandable guidelines, is the passive role taken by most physicians when approaching an ethical question. In order to alleviate this deficiency in medical education and practice, we here present the tools for ethical analysis and the three-step process of formulating and solving an ethical dilemma.

Tools for ethical analysis: considered judgements, ethical rules, principles and ethical theories

The practical use of ethical analysis by those who have little insight into philosophy or academic ethics demands that we keep the discussion as simple as possible. Nevertheless, we can not avoid a brief and admittedly incomplete presentation of the main elements of ethical discussion.

Considered judgements

These are moral convictions in which we have the highest confidence and believe to have the lowest level of bias.³ Wrongness of racial discrimination, religious intolerance, torture, or slavery are such widely accepted considered judgements. All ethical theories include such considered judgements which are as fundamental to ethics as axioms are to mathematics.

Ethical rules

These appear similar to considered judgements. Such rules are "Speak the truth", "Do not kill", "Help another human being". An important difference from considered judgements is that in a process called *balancing*, reality of life may force us to abandon one rule in order to comply with another. We may decide to override the rule "Speak the truth" and not reveal a positive pregnancy test to an overtly aggressive father of a teenager. The rule "Do not kill" may be disregarded in self-defence or, if ethical analysis permits us to do so, in helping a terminally ill patient to die with dignity. The rule "Help another human being" has its limitations: without them everybody would be obliged to give most of the belongings to the poor and physicians would be obliged to work regardless of working hours and payment.

Ethical principles

These are more abstract than rules and are a bridge between rules and ethical theories. An ethical theory, with its philosophical background defines the number and the list of principles needed for its construction. As we will see when discussing the utilitarian and Kantian ethical theories, a single principle leads to an unrealistic simplification; too many principles do not contribute to explanatory power and clarity of a theory. Following the arguments presented by Beauchamp and Childress⁴ and Gillon⁵, it seems that an ethical dilemma may be defined with four basic principles:

1. *Respect for autonomy*: a principle demanding the respect of the decision-making capacities of autonomous persons. An integral part of this principle is the right to be informed: incomplete understanding of a situation frequently leads to dependence, inferiority and loss of autonomy.

2. *Nonmaleficence*: a principle of avoiding the causation of harm. Although similar to the principle of beneficence, the principle of nonmaleficence covers a broader range of people: we are obliged not to harm unknown people to whom we have no obligations of beneficence.

3. *Beneficence*: a principle of providing benefits and balancing benefits against risks and costs. For its practical application, the principle of beneficence has to be specified: towards whom, in what circumstances and for which personal sacrifices are we obliged to act beneficently? An important element in these specifications are traditional relations: our obligations are much greater towards our own children, parents, or friends than towards unknown persons.

4. *Justice*: a principle for distributing benefits, risks and costs fairly. Limited resources invariably lead to a conflict and a balancing between the principles of beneficence and justice. The principle of justice demands that the rules for such a process of balancing are clearly defined in advance.

Ethical theories

Ethical theories define a system of ethical principles, rules and guidelines. A good theory satisfies eight conditions: ⁴

1. *Clarity*: without obscurity and vagueness.
2. *Coherence*: internal consistency and devoid of contradictory statements.

3. *Completeness and comprehensiveness*: focused to cover all potential dilemmas.

4. *Simplicity*: a few basic norms are preferable to more norms but no additional content.

5. *Explanatory power*: adequate insight to understand moral life.

6. *Justification power*: a good reason for the justification of a decision and also for the rejection of unacceptable options.

7. *Output power*: analysis also for new dilemmas not considered in the construction of the theory.

8. *Practicability*: not demanding actions beyond physical or social capabilities of most normal individuals.

A survey of all theories which have been proposed as a guide through ethical dilemmas, or of related literature would clearly be beyond the scope of this short presentation; the work of Beauchamp and Childress ⁴ is a classical text offering a comprehensive and balanced coverage of the topics. We will only briefly describe three groups of ethical theories: consequence-based utilitarian theories, obligation-based Kantian or deontological theories, and common morality theory based on the four aforementioned ethical principles.

Utilitarian ethical theories

These hold that actions are right or wrong according to the balance of their good and bad consequences. The question of whether we need rules in between the ethical theory and judgement about an action, or whether we should simply skip the rules and follow the end result divides utilitarians into "rule utilitarians" and "act utilitarians". The former strive to identify rules which, if always observed, will lead to overall maximal utility although the result in a particular case may be suboptimal; the latter simply observe each particular action which should produce maximal balance of positive value over disvalue, or the least possible disvalue if only undesirable results can be achieved.

The weakness of utilitarian theories is apparent when we realise that the actions leading to the goal – maximum balance of positive value over disvalue – are ethically unacceptable. For example, torturing prisoners may reveal a network of criminals; medical experiments on mentally incompetent persons may lead to important discoveries; the limitation of nursing care, or even active killing of elderly or incurable patients could save resources for treatment of young patients with curable diseases.

Kantian, obligation-based or deontological theory

This theory views and judges actions as right or wrong exclusively through moral obligations on which these actions are based. According to the categorical imperative of Immanuel Kant, "I ought never to act except in such a way that I can also will that my maxim become a universal law." The consequences of our actions are irrelevant; our desires or reasoning based on emotions may indeed annihilate the moral value of an action. In addition, Kant stressed the unique value and respect for every human being: "One must act to treat every person as an end and never as a means only."

Critics of Kantian deontological ethics maintain that the theory cannot offer advice in practical life, where we often have to choose among several mutually exclusive obligations. Beyond responsibility to a single patient, a physician's obligations may include the institution, the rules of a health insurance company and to his or her family. The stress on law and obligations on one side, and ignoring motivation originating from emotions, friendship, or family relations on the other, is the weak part of Kantian ethics.

Principle-based, common morality theories

These are not based on a single ethical principle. While the principle of beneficence is a basis for utilitarian ethics, and the principle of autonomy may be regarded as fundamental to Kantian ethics, the common morality theory seeks a maximal practically achievable balance among the four principles: autonomy, nonmaleficence, beneficence and justice. No priority is attributed to any of these principles; rather, we try to balance between ethical "costs" and "benefits" of each of the prospective possibilities for action.

A weakness of the common morality theory is its latitude: by choosing appropriate ethical principles, many opposing actions may be ethically defensible. The common morality theory is somehow in between a true, philosophical ethical theory and a method of ethical analysis. While this theory will be unsatisfactory for those who are seeking the deep philosophical foundations of morality, it may be very helpful in solving practical dilemmas.

The three steps of ethical analysis

We believe that the common morality theory, with its four principles, offers the best background in

ethical analysis, and we will refer to it in this section. However, the three steps which we now describe are applicable also in conjunction with any other ethical theory.

1. Ethical assessment of the situation prior to action

This is the first step. All individual and collective subjects who are affected by the problem are recorded. For each subject, an assessment is made of a balance between *ethical benefits* resulting from respect of the principles of autonomy, nonmaleficence, beneficence and justice, and the *ethical costs* as a result of the violation of these principles. The same action may bring both ethical benefits and costs to the same individual: lying about the diagnosis of a serious disease may be sometimes beneficial but violates the principle of patient autonomy.

2. Possible actions with their ethical implications

It is important that all actions (here including a choice of no action) which could influence the present situation are recorded. In preparing such a list, advice from an expert may be needed. For each action, its influence upon the respect or violation of the four principles for all subjects involved is assessed. Some actions may bring new individuals under consideration.

3. Balancing among ethical costs and benefits and recommendation for action

The third step is often interdisciplinary. A discussion between physicians and such people as philosophers, psychologists, technical experts, economists, ecologists, or politicians will hopefully lead to a consensus regarding the best course of action.

Ethical analysis frequently begins with a question regarding the ethical acceptability of a certain action. Even in such a case, however, all three steps can not be avoided. One can not judge the ethical consequences of a certain action without an insight into the present state, a state which is often not ideal. A proposal for the strict control of private clubs advertising sexual pleasures may be easily rejected on the grounds of limitation of personal autonomy. Nevertheless, such a proposal can only be properly assessed in view of the costs of a liberal policy on the sexual abuse of children or adolescents. Likewise, the ethical acceptability of animal experiments in the screening of new drugs depends

on the weight of the problem to be solved, and on the existence of alternative methods. The serious clinical problem of an incurable disease will find more support than an initiative motivated solely from commercial interests, or the more so if the same results could be obtained from cell cultures.

Our recent discussion on the ethics of genetic screening for breast cancer illustrates how ethical analysis is applied to a particular problem.⁶

Conclusion

Our aim was to present ethical analysis in a way understandable to a professional without training or a deep interest in philosophy. The narrowing of our professional interests should not lead us to leave medical ethics to a few specialists in yet another medical speciality. It is critical that we all participate in discussions which play a decisive role in the shaping our future as professionals and as citizens.

References

1. Brewin TB. How much ethics is needed to make a good doctor? *Lancet* 1993; **341**: 161-63.
2. Ad Hoc Committee of Medical Ethics, American College of Physicians. American College of Physicians Ethics Manual. Part I: History of medical ethics. The physician and the patient, The physician's relationship to other physicians, The physician and society. *Ann Intern Med* 1984; **101**: 129-37.
3. Rawls J. The independence of moral theory. *Proceedings and Addresses of the American Philosophical Association* 1974-1975; **48**: 8.
4. Beauchamp TL, Childress JF. *Principles of biomedical ethics*, 4th ed. New York: Oxford University Press, 1994.
5. Gillon R. Medical ethics: four principles plus attention to scope. *Br Med J* 1994; **309**: 184-88.
6. Zwitter M, Nilstun T, Golouh R. Ethical principles of autonomy and beneficence in genetic screening for breast cancer. *Radiol Oncol* 1996; **30**: 310-13.