

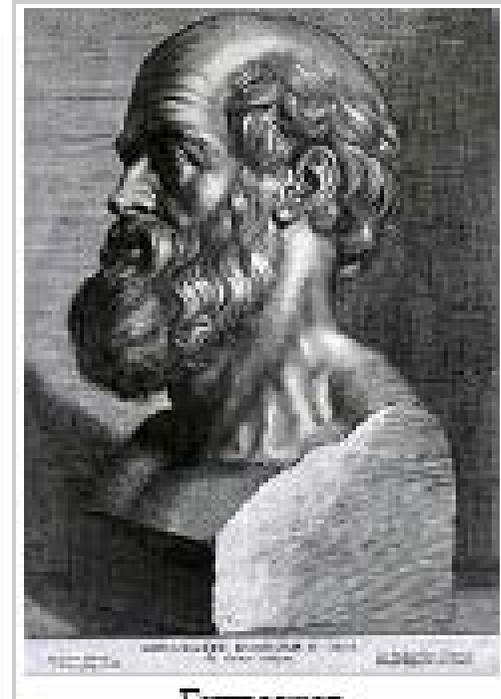
# **Ethical and Legal Regulations of Medical Practice**



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# Ethics vs Bioethics

- # Before the mid-1960s medical ethics had been discussed in the context of the **Hippocratic tradition**. In the mid-60s the paradigm of traditional medical ethics collapsed, and a new type of medical ethics, contemporary bioethics, emerged.
- # shift of the doctor-patient relationship from **paternalistic** approach to recognition of **individual autonomy of patient**.



# 1970

*Van Rensselaer Potter*

*Manifesto*

***“BIOETHICS - BRIDGE TO THE FUTURE”***

word "bioethics" began to be used as the name of a discipline dealing with contemporary ethical issues in medical care such as abortion, euthanasia, IVF, surrogate motherhood, gene manipulation, cloning...



21<sup>st</sup> Century - New Era of Convergent Technologies

# Ethics vs Bioethics

- # This developed into principle-based medical ethics in the 1970s and the early 80s.
- # A good example of this was **Beauchamp** and **Childress's 'Principles of Biomedical Ethics'**
- # They chose four principles, namely,
  - # Non-maleficence
  - # beneficence
  - # autonomy
  - # justice
- # Bioethics sought to resolve actual biomedical problems by systematically applying these principles to each case.

# Bioethics

- # \* **Duty to specific patients**
- \* **Rights of specific individual patients**
- \* **Caregiver duty to professional competence**
- \* **Caregiver compliance with professional codes**

# Bioethics

- # Bioethics guides caregivers.
- # Bioethics asks:
- # What should I do in regard to a patient or patients for which I have some responsibility?

# Four Basic Principles of Biomedical Ethics

## # I. Respect for Autonomy

- Does my action impinge on an individual's personal autonomy?
- Do all relevant parties consent to my action?
- Do I acknowledge and respect that others may choose differently?

## # II. Beneficence

- Who benefits from my action and in what way?

## # III. Non-maleficence

- Which parties may be harmed by my action?
- What steps can I take to minimize this harm?
- Have I communicated risks involved in a truthful and open manner?
- In the event of disaster, how can I avert the possible harm caused?

## # IV. Justice – Fairness

- Have I identified all vulnerable groups that may be affected by my actions?
- Is my proposed action equitable?
- How can I make it more equitable?

# Bioethics

- # It uses 4 principles for framing ethical issues in any case. These are:
- # 1. Autonomy - Individual dignity, self-determination, and rights. Will a particular course of action lead to anyone being used as a means to an end without regard for their individual rights?
- 2. Beneficence - Doing the greatest good and balancing the risks and benefits. Caregivers have an obligation to benefit the patient.
- 3. Non-maleficence - Minimizing harm ("primum non nocere"). Caregivers must avoid causing harm and strive to protect the patient from harm.
- 4. Justice - Fairness, equitable use of resources and equal access to care. Individual need justifies who gets what and how much. Individuals or groups are similarly treated.

# Bioethics

- # There are two approaches in bioethics.
- # Deontology is concerned with duty and the use of principles, especially beneficence, non-maleficence, and justice, to deal with problems.
- # Teleology or utilitarianism is concerned with consequences and uses beneficence in seeking optimal outcomes.

# Ethical Issues

- ✦ Ethics Committees are established in many hospitals to assist health care professionals in making ethical decisions.



# Administrative Ethics

- # \* **Duty to those served**
- \* **Patient rights and provider rights**
- \* **Provider commitment to quality and standards**
- \* **Provider compliance with values and laws**

# Patient Rights

- # All patients have the following rights:
  - The right not to be discriminated against, for race, religion, gender, etc.
  - The right to privacy and confidentiality of medical records and information.
  - The right to have access to his/her own medical records.

# Patient Rights

- The right to understand his/her medical status in his/her own language
- The right to refuse treatment.
- The right to be fully informed about the care and treatment he/she receives and the potential risks and benefits of each.
- The right to be free from verbal, physical, mental, or sexual abuse.
- The right to prompt and prudent care

# Doctors' responsibilities

- # Medicine professionals must act at all times with the highest standards of conduct and integrity. Ethics can be defined as a system of moral principles or standards governing conduct and knowledge of right and wrong.
- # Ethics are held on an individual level. What one person considers right or wrong may not be the same as another person. However, many professional organizations establish ethical guidelines for professionals.

# Doctors' responsibilities

- # In health care, ethical principles include:
  - Never compromise the health and safety of any patient
  - Respect the rights, welfare, and dignity of all individuals
  - Comply with the laws and regulations governing the practice of the profession
  - Accept responsibility for sound judgment
  - Maintain and promote high standards in the provision of services
  - Do not engage in any form of conduct that constitutes a conflict of interest or that adversely reflects on the profession

# RESPONSIBILITIES OF MEDICAL PROFESSIONALS

- # It is important that medicine professionals be aware that they are legally obligated in carrying out their professional responsibilities.

# MEDICAL LAW VS. MEDICAL JURISPRUDENCE

- # **Medical law** is the branch of law which concerns the (1) prerogatives and responsibilities of medical professionals and the (2) rights of the patient.
- # **Medical law** should not be confused with **medical jurisprudence**, which is a branch of medicine, rather than a branch of law.
- # The main branches of **medical law** are the (1) law on confidentiality, negligence and torts in relation to medical treatment, and (2) criminal law in the field of medical practice and treatment.
- # **Ethics** and medical practice is a growing field.

# Medical Jurisprudence

- # **Medical jurisprudence** has been defined as that branch of state medicine which treats of the application of medical knowledge to certain questions of civil and criminal law.
- # In its widest sense, **medical jurisprudence** also includes **forensic medicine**.

# Medical jurisprudence, vs. *forensic medicine*

# Embraces all matters which may bring the physician into contact with the law.

It includes:

- # (1), questions of the legal and ethical duties of physicians;
- # (2), questions affecting the civil rights of individuals with respect to medicine;
- # (3), medico-legal assessment of injuries to the person.

# Medico-legal assessment of injuries to the person

- # (a) assessment of illness or injuries that may be work-related (see workers' compensation or occupational safety and health) or otherwise compensable;
- # (b) assessment of injuries of minors that may relate to neglect or abuse; and
- # (c), certification of death or else the assessment of possible causes of death — this is the falsely narrow meaning of forensic medicine as commonly understood.

# Medical jurisprudence

- # Though relatively few are aware of it, from birth to death almost every aspect of life in a modern western society is touched by **medical jurisprudence**.



# Documentation

- # One of the most important responsibilities medicine professionals must do is develop and implement a comprehensive record-keeping system. Accurate records are critical in litigation and serve to improve communication between all members of the medicine team.

# Documentation

- # In a legal situation, “if it wasn’t written down, it didn’t happen”!

# Legal Terminology

- # **Informed Consent:** being informed of all procedures and the potential risks and benefits of each
- # **Improper Release of Medical Information:** releasing any medical information without written permission

# Legal Terminology

- # **Duty to Act**: a legal obligation
- # **Failure to Warn**: failing to inform a participant of potential risks and dangers; when dealing with minors, failing to warn parents and obtain parental consent
- # **Assumption of Risk**: a person who voluntarily exposes him / herself to a known and obvious danger.
- # **Risk Management**: management of potential dangers, preventing loss

# Legal Terminology

- # **Tort**: a civil wrong, intentional or unintentional; anything a person can be sued for.
- # **Civil**: a private right as opposed to a criminal action
- # **Criminal**: act that is punishable by written state or national laws

# Legal Terminology

- # **Malpractice**: when an individual commits a negligent act while providing care
- # **Negligence**: doing something (commission) or failing to do something (omission) a reasonable person would or would not do under similar circumstances

# Legal Issues

✚ **Negligence** – in order to prove negligence, four basic elements must be shown

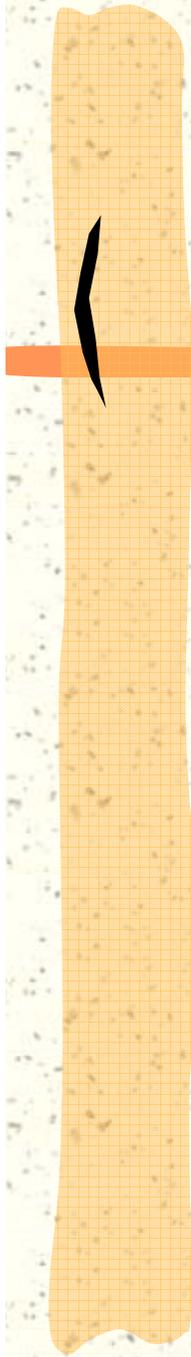
- There must be legal duty of care.
- There must be a breach of that duty.
- There must be some injury. The mere threat of harm is not sufficient.
- That breach of duty must be the proximal cause (the direct result) of the resulting injury.

# Legal Issues

- ✦ **Assumption of Risk** – the law recognizes that there are some risks inherent in all activities. It is assumed that an individual who participates in an activity and is injured as a result of the ordinary risk associated with the activity will not have grounds for negligence. However, if another individual's negligence contributed to that injury, then liability is still a possibility.

# Legal Issues

- ✦ **Foreseability of Harm** – exists when danger is apparent, or should have been apparent, resulting in an unreasonably safe condition. Equipment, facilities, and conditions should be regularly inspected for threats to safety. Unsafe conditions should be identified, reported in writing to appropriate personnel, restricted from use, and repaired or replaced as soon as possible.



# The End

# Any Questions???