

What is Conscience?

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Conscience in Healthcare

We can point to two extreme views (Wicclair, 2011)



We will be arguing for a compromise position that takes context and harms into account. One that also differentiates between professional and private appeals to conscience.

Tonight's talk

- 1) What is medical professionalism?
- 2) What is conscience?
- 3) Why do doctors need a conscience?
- 4) What does it mean to have a professional conscience and why is it important for medicine in 2020?**
- 5) How should doctors appeal to conscience? What are the balances that need to be in place to ensure patients receive care?**



Conscience in medicine

- Before looking at the contemporary issue of conscience in medicine it is important to take a quick look back at the history of medicine and our evolution as a profession.
- Within this history is an understanding of how our moral code and professional standards of conduct helped pave the way for the existence of medicine as a profession.
- Also this history gives insights into how we can maintain ourselves as a profession through our adherence to a professional standard of moral conduct.

Codes of Professional Behavior: Historical Beginnings

Hippocratic Tradition



THE
APHORISMES
OF
HIPPOCRATES
PRINCE OF
PHYSICIANS.

WITH
An exact Table shewing the substance of every Aphorism,

AND
A short Comment on each one, taken out of those larger Notes of

{GALEN.
{HEURNIUS
{FUCHSIUS, &c.

LONDON,
Printed for *Humphrey Moseley*, at
the Princes Arms in *St. Pauls*
Church yard. 1655.

The Middle Ages

Public health and social obligations during the plague



The early 19th Century

Dr. Thomas Percival (1803)

MEDICAL ETHICS;

OR, A CODE OF

Institutes and Precepts,

ADAPTED TO THE

PROFESSIONAL CONDUCT

OF

PHYSICIANS AND SURGEONS;

- | | |
|--------------------------------------|--------------------------------|
| I. In Hospital Practice. | IV. In Cases which may require |
| II. In private, or general Practice. | a knowledge of Law. |
| III. In relation to Apothecaries. | |

To which is added

An Appendix;

containing

A DISCOURSE ON HOSPITAL DUTIES;

ALSO

NOTES AND ILLUSTRATIONS.

BY

THOMAS PERCIVAL, M.D.

F. R. S. AND A. S. LOND. F. R. S. AND R. M. S. EDINB. SC. &c.

Manchester:

PRINTED BY S. RUSSELL,

FOR J. JOHNSON, ST. PAUL'S CHURCH YARD, AND
S. BICKERSTAFF, STRAND, LONDON.


1803.

Professions: An outgrowth of artisan and trade guilds



Guilds ensured quality by setting standards, controlling production, and requiring a long apprenticeship.

Advancement was limited in part to control size of the workforce; ensuring that guild members were busy and well paid.



Medical profession: A long time in coming

- The guild powers of medicine took a while to develop as healers of all types really existed on more or less equal footing until the advance of medical science.
- Because of this it wasn't until mid 19th century that medicine as a profession really began to be established both for practitioners and the public.

American Medical Association

Code of Medical Ethics 1847

**Skills to be used in trust for the
general good**





Profession: One definition

“An occupation that regulates itself through ...required training and collegial discipline; that has a base in technical, specialized knowledge; and **that has a service rather than profit orientation enshrined in its code of ethics.**” (Starr, 1982)

It is the presence of moral code of conduct that arguably differentiates the profession from the guild but also helps to reinforce the social contract that preserves the guild powers embedded in the profession.

What is conscience?

- what sense does it make?
 - Philosophical
 - Legal

Thomas Aquinas 1274d

Natural Law Tradition – Conscience is emerges as a function of two elements

- Synderesis (innate instinct to do good and avoid evil)
- Conscientia (reason-guided correct decision)

Thomas Aquinas 1274d

Natural Law Tradition – Conscience is emerges as a function of two elements

- *Synderesis* (innate instinct to do good and avoid evil)
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Conscience forms through multiple iterations of these interactions and manifests in the virtue of *Prudence* (Wisdom)

law

It seems to me, therefore, that in a free and democratic society 'freedom of conscience and religion' should be broadly construed to extend to conscientiously-held beliefs, whether grounded in religion or in a secular morality. Indeed, as a matter of statutory interpretation, 'conscience' and 'religion' should not be treated as tautologous if capable of independent, although related, meaning.

Justice Wilson

R v Big M Drug Mart Ltd., [1985] 1 SCR 295.

The Anthropomorphizing Problem

- Prescribing Non-human entities the rights of human-beings

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See **The Corporation: The Pathological Pursuit of Profit and Power**

by Joel Bakan

The Anthropomorphizing Problem

- Prescribing Non-human entities the rights of human-beings
- (c) “conscientious beliefs”, of a health care provider or a religious health care organization, means the beliefs of the health care provider or religious health care organization that are protected as fundamental freedoms under section 2(a) of the Charter, including religious beliefs, moral and ethical values and cultural traditions;

Bill 207

The Anthropomorphizing Problem

- Prescribing Non-human entities the rights of human-beings

Ultimately, the effort to extend conscience rights to entities devoid of conscience undermines the concept itself.

Why conscience in healthcare?

Revisiting the spectrum

Incompatibility thesis  **Conscience absolutism**

Should doctors be morally neutral and simply provide the legal services that society deems within the scope of their professional obligations?

NO...because society doesn't always get it right, what is legal is not always what is ethical.

Why Conscience? Lessons from our past

We can identify a number of examples in our recent history where doctors have lost sight of their professional obligations and have been directly culpable for the harms that have occurred.

The Holocaust

Tuskegee Syphilis Experiments

Willowbrook Hepatitis Trials

Alberta's own eugenic past



Alberta's eugenic past

Alberta's 1928 [Sexual Sterilization Act](#) created a Eugenics Board.

- It was empowered to recommend sterilization for patients being released from mental health institutions and through an amendment in 1937, inclusion criteria was expanded to “mental defectives”.
- Physicians were members of the board and physicians carried out the sterilizations.
- **In 1972 the Peter Lougheed government eliminated the act.**



eugenics archives

What sorts of people should there be?

One story

- Leilani Muir

Professional versus private conscience

- Our history tells us that doctors need to act with a professional conscience that guides their conduct.
- One can ask if it is possible to have a strong moral compass that underscores our professional conscience without the coexistence of a private conscience.

The Charter of Rights and Freedoms and our own regulatory bodies support rights of conscience.



The question for us to discuss is how to balance the private and professional conscience when they come into conflict.



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CONSCIENCE RIGHTS (HEALTH CARE PROVIDERS)
PROTECTION ACT

MR. WILLIAMS

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