

Making sense of ethics and law in the medical curriculum

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Abstract

The moment a patient comes into the treatment room, the medical professional is placed in both an ethical and a legal context. The task for medical teachers is to equip students for this clinical reality in a way that makes sense both to the learners and to the variety of medical educators in the school, all of whom will have their own interpretations of the nature of this subject area.

Ethics and law in the medical curriculum (Dowie and Martin 2011), aims to provide an understanding of how ethics and law can be incorporated into the curriculum in a structured, coherent, and logical manner.

It is essential that we begin with a vision of the primary purpose of our course, and clarify the overall domain of learning to which it relates. Rather than presenting students with a miscellany of ethico-legal topics, their learning can be reinforced by constructing a frame around the key emphases in law and ethics. A professional ethics frame is proposed, highlighting the everyday, theory-based, habits, intentions, consequences and society elements of this approach.

The course also has to be mediated within the wider curriculum, and this benefits from a coherent and communicated course scheme that is directly meaningful within the educational setting of the medical school. Finally, within the Guide, examples of humanistic schemes are presented that centre on aspects of boundary in patient care, themed around body, person and community of practice.

Introduction

The moment a patient comes into the treatment room, the medical professional is instantly placed in both an ethical and a legal context. We seek to prepare our students for this reality by equipping them to make sense of, and respond suitably to, the ethico-legal setting of professional practice.

The AMEE Guide in Medical Education No 53, Ethics and Law in the Medical Curriculum (Dowie & Martin 2011), is a resource for medical teachers as they approach this task. Following the arc through planning, delivering and assessing the course, its starting point is to place the theme co-ordinator in the educationally equivalent position of the clinician in the above treatment room. That is, as educators, we seek to make sense of how the learning domain of medical law and ethics may suitably come into play within the setting of the wider medical school curriculum. Once we do this, the other educators in the school can then be in a position to make sense of our course as well, alongside our students in making sense of it for themselves.

Rather than offering students what Miles et al. (1989) describe wryly as 'a smorgasbord of ethically appropriate topics', making sense of the course means to clarify the nature and purpose of ethics and law in student learning, to construct a workable frame for learning that corresponds with this purpose, and to mediate the course in a manner that coheres with the medical curriculum as a whole.

Practice points

- Students and educators will have different ideas of ethics in medicine.
- Clarifying the relevant domain of ethics is very important.
- Constructing a frame to facilitate learning in ethics and law around key emphases is essential.
- Mediation of ethics and the law within the wider curriculum is through a coherent and communicated scheme that is meaningful within the medical school context.

Clarifying the nature and purpose of ethico-legal learning

When we use the word 'ethics', what do we have in mind, and is it the same as what our colleagues and students have in mind? We often intend very different things by this single word with many shades of meaning! Box 1 offers a summary of various types of 'ethics'.

Sometimes 'ethics' is synonymous with metaethics, or critical thinking relating to ethical concepts and theories in the abstract. Normative ethics, which is the analysis of theoretical dimensions appropriate to ethical situations, is

Box 1. Different domains called 'ethics'.

Metaethics	Critical philosophical ethics
Normative ethics	Analysis of theoretical relevances in ethical situations
'Applied' ethics	Determinative reasoning correlated with normative ethics
'Practical' ethics	Similar to 'applied' ethics
Bioethics	Normative and 'applied' ethics in biological and life sciences
Biomedical ethics	Similar to bioethics, with a focus in scientific medicine
Research ethics	'Applied' ethics and governance in research
Healthcare ethics	'Applied' ethics and governance in health professions

Box 2. UK revised consensus on core learning for medical ethics and law: Key areas.

- (a) Foundations of medical ethics and law
- (b) Professionalism: Good medical practice
- (c) Patients: their values, narratives, rights and responsibilities
- (d) Informed decision-making and valid consent/refusal
- (e) Capacity and incapacity
- (f) Confidentiality
- (g) Justice and public health
- (h) Children and young people
- (i) Mental health
- (j) Beginning of life
- (k) Towards the end of life
- (l) Medical research and audit

Source: Adapted from Stirrat et al. (2010).

closer than metaethics is to the world of policy and protocols. In conjunction with normative ethics, 'applied' or 'practical' ethics brings a determinative mode of reasoning to these ethical situations (Darwall 2003).

The last two domains in Box 1 introduce the added dimension of accountability towards an external authority, such as licensing or monitory boards for standards in research, or regulatory bodies governing professional practice in healthcare. Different professions have, in key respects, their own distinctive ethics, and this takes us finally to professional ethics in medicine. While there will be continuities with biomedical ethics and with healthcare ethics of other professions, the domain of professional ethics in medicine centres on clinical medical ethics relating to the care and treatment of patients within systems of legal jurisdiction and regulatory governance.

Whichever of these domains is the focus in the reader's own educational setting, in order to make sense of ethics and law in the curriculum there has to be clarity, for all the stakeholders, on which of the different meanings of ethics is intended.

Constructing a frame for ethics and law in the curriculum

Hafferty and Franks (1994) affirm that 'medical ethics is best framed...as part of one's professional identity'. Similarly, Goldie (2004) recommends that, 'Ethics should be addressed as part of the wider domain of professionalism'. Parker and Dickenson (2001) explain that the professional turn in medical law and ethics is not a recent phenomenon, and can be traced in the southern European professional codes dating from the nineteenth century.

The medical educational literature offers rich resources on the form and content of professional learning (Cruess & Cruess 2006), and on situating ethics education within this context (Campbell et al. 2007). In the United Kingdom, there has been a recent survey of law in medical school curricula (Preston-Shoot & McKimm 2010), and a major development (summarised in Box 2) is the updated consensus statement on core content in medical ethics and law (Stirrat et al. 2010).

Whatever the specific content of professional ethics in medicine that curriculum planners define for their course, Box 3 suggests a possible frame for student learning

identifying some of the intrinsic features that will be ethico-legally significant.

Everyday

It is a common misconception that medical law and ethics is essentially associated with challenges arising from the development of novel treatments and innovative technologies, or with 'issues', 'problems' and 'dilemmas'. Hafferty and Franks (1994) criticise the emphasis on ethical quandaries, and propose instead that, 'the goal is a "routine" and "everyday" place for ethics within the scientific and medical communities'. The everyday ethics experienced by the generality of doctors is highly likely to be in the regular professional obligations of ordinary clinical practice.

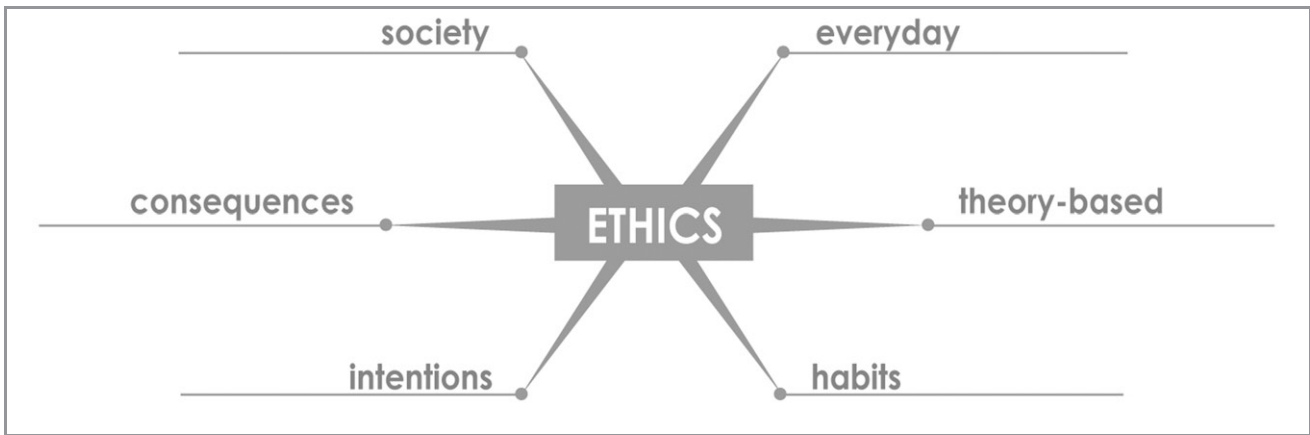
Theory-based

While ethics is not an atheoretical domain, in medical curricula there is at best scope for only a superficial glance at models of law or philosophical theories (Lawlor 2007). However, the course is nevertheless theory-based in principles and obligations deriving from ethics and law, in which awareness education is coupled with analysis education to develop student learning in ethico-legal reasoning, particularly when presented with unfamiliar situations. This is linked to an understanding of ethics as practical reason or *phronesis* (Dowie 2000).

Habits

The etymology of 'ethics' relates to 'ethos', meaning character, disposition or habits. Dyrbye et al. (2007, citing Lee Shulman) articulate this as interdependent habits of the head, habits of the hands and habits of the heart. Burns (2003) gives a historical precedent in William Osler, who appealed to *philosophia* (science and reason in medicine), *philotechnia* (the art of medicine) and *philanthropia* (humanity in medicine). Campbell et al. (2007) place habits at the intermediary level in the pyramid of ethico-legal learning between knowledge (at the base) and action (at the apex), cautioning against projecting onto a given culture the values and criteria of medical practice that originate in a separate culture.

Box 3. One way of framing an account of professional ethics.



Intentions

The ethico-legal content of our practices is partly constituted by what we consciously set out to do. Medical professionals exercise ethical imagination in envisioning the goal to which a clinical action is oriented, and also the reasons for selecting that course of action as a proper means to the end in question. In certain circumstances, evidence that our intentions at the time arose from the interests and benefit of patients may need substantiation by a contemporaneous record, such as details written in the case notes.

Consequences

Another area that requires ethical imagination is the foreseeable consequences of clinical practice. While our intentions are antecedent (consciously orienting our practices towards an anticipated end), consequences are the ensuing events that are temporally linked to our earlier actions through causation. In order to act ethically, we must also consider the potential sequelae of what we do. While it is necessary that our intentions meet criteria of acceptability, the protest that we did not deliberately intend the untoward outcome caused by our actions may not be legally or ethically enough. The weighing of likely benefit relative to associated risk has been a cornerstone principle of ethical practice in medicine since antiquity, entering modern discourse in the later formulation of 'primum non nocere'.

Society

All professions form a triangle of political partnerships in conjunction with the other two vertices represented by society and the state. However, the exchange of benefits between these partners is contingent and can be endangered. In particular, according to Salter (2001), 'public trust in the medical profession is the key to the political arrangement between medicine, society and the state'. Trust in the medical profession operates at two levels: in ethico-legal practice as performed by individual doctors when treating their patients, and in the governance of doctors as performed by regulatory bodies (Dowie & Martin 2009). Both aspects of trust relate to

Box 4. Humanistic schemes in ethics and law predicated on boundary.

A.	Body:	Organ systems Life cycle
B.	Person:	Humanities Human rights
C.	Community of practice:	Professional studies Clinical learning

professional standards as defined by medical councils, specialty colleges and learned societies. Consonant with this, a further 'S' in the ethico-legal curriculum is the safety of patients.

Mediating ethics and law in the curriculum

Finally, making sense of the ethics and law course involves bringing it to the rest of the curriculum in a coherent and meaningful way. Allied to the intrinsically human context of ethics and law, three broad categories for a humanistic course scheme may be indexed to body, person and community of practice (Box 4). Predicated on aspects of boundary relating to patient care, these suggestions are not mutually exclusive, and indeed belong together. Depending on the best fit with the medical programme as a whole, it may be that some offer greater potential than others for integrating with different curriculum components in the school, and so provide students with better access to learning opportunities in ethics and law.

Body

Curriculum blocks themed on organ systems have substantial scope for ethical-legal input, given its relevance throughout the structural hierarchy of systems from cell science to the societal level. Another scheme premised on human embodiment follows stages of the life cycle. From reproductive

medicine to the duties owed to patients after death, the ethico-legal domain occupies an important place in each phase.

Person

Arts and humanities may be a design feature of the medical school curriculum, and these are powerful resources for engaging the ethical imagination of students. Macnaughton (2001) observes that by responding to creative forms, such as in literary works, students 'discover their own hidden values and prejudices... which is essential for the development of mature human beings who are attuned and sympathetic to the perspectives and values of other people'. Also, responding to the rights of others connects fundamentally with our own humanity. Kennedy and Grubb (2000) note that medical law is 'rich with and informed by human rights notions', allowing a great deal of student learning in ethics and law to be mediated in these terms.

Community of practice

Lave and Wenger (1991) discuss the gradual formation of future professionals through 'situated learning' in proximity with the community of qualified practitioners. Maudsley and Strivens (2004) comment on the importance of this experiential learning combined with reflection for students' development in medical professionalism. Engagement with clinical teachers in both campus-based professional studies and learning in clinical contexts offers a major conduit for ethico-legal education extending far into the medical curriculum.

Summary

Making sense of ethics and law in the curriculum begins with clarifying the purpose of the course in conjunction with the overall domain of learning to which it relates. This is reinforced by constructing a relevant frame around its key emphases. The course also has to be mediated within the wider curriculum, and benefits from a coherent and communicated course scheme that is directly meaningful within the educational setting of the medical school.

Ethics and law have a tremendous plasticity in medical education. To borrow the words of O'Neill (2002), they offer 'a meeting ground' for integration with the range of blocks, themes and clinical specialties in the curriculum. Our task as medical teachers is to ensure our students can make sense of what proceeds from this in their ethico-legal learning.

It is the hope that the AMEE Guide dealing with ethics and law in the medical curriculum (Dowie & Martin 2011) will provide not only a background understanding to those challenged with including the subject into their undergraduate curriculum, but also promote discussion to those already meeting that need.

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Notes on contributor

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Note

1. A full version of Ethics and the law in the medical curriculum: AMEE Guide No. 53 can be purchased in hard copy or in pdf through the AMEE office (www.amee.org).

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