PATIENT’S AUTONOMY AND PATERNALISM: TOWARDS A COVENANT MODEL IN MEDICAL ETHICS

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Introduction

➢ Background:

- Patient autonomy is often at the foundation of many class-action lawsuits, when it is perceived that doctors and health care systems take undue advantage of vulnerable patients. Over the years, legal challenges, and financial interests have correspondingly threatened to chase doctors into a reclusive corner. In some Health Care communities, the recourse is to policy schemes that establish “contracts” between the doctor and the patient. These issues force a review of moral principles in medical practice and suggest the expediency of strengthening a new covenant model in the doctor-patient relationship.

- The principle of autonomy of the person, is aligned with principles of beneficence, paternalism and truth-telling and the ethical value of totality and integrity of the person. This principle provides the basis for a defense of a person’s freedom over his or her actions or physical body.
Autonomy and Paternalism

Autonomy – Philosophical Understanding:

“Autonomy” simply understood from its Greek roots: *autos* (self) and *nomos* (rule) – evokes the notions of political self-governance, autonomous individualism, liberty, privacy, free will, rights and responsibilities (Gail Van Norman; 2011, p. 36).

- Philosophers on Autonomy.
  - **Aristotle**: autonomy is embedded in man’s specific attribute, rationality (Gauthier, 1993).
  - **Thomas Aquinas**: autonomy is an aspect of the free will and rationality and is tied to human dignity.
  - **Immanuel Kant**: Autonomy is universal; an agent is obliged to follow the Categorical Imperative because of his/her rational will rather than any outside influence; people should recognize the right of others to act autonomously.
  - **Jurgen Habermas**: in communicative action agreement between parties (and not coercion or manipulation) is crucial for autonomous moral decision to be reached. (Wikipedia. Kantian Ethics; Accessed July 12, 2017).

Patient Autonomy:

- Patients have moral claim to direct the course of their own medical care and to be given reasonably full information in order to make medical decisions (Elias Baumgarten, 1999, p.1).
Paternalism and its Philosophical Basis

- Paternalism simply means playing the role of a father [Latin – pater]; or protection for the weaker person in an asymmetrical or unequal relationship.

- In the period of modernity, paternalism arose out of the socialist conception of the state as a family and the government as the rational instrument for protecting the common good, and securing the rights of individuals within it.

- For Thomas Hobbes, paternalism (by the sovereign) is meant to achieve the benefits of order and security when people voluntarily agree to submit to government, and transfer their natural rights to a sovereign power (Polly Vizard, 2000; p.6).

- Jacques Rousseau held the view that the individual is not autonomous, but is rather subject to the will of his society acting as a “father” in his or her regard (Judith and Joseph Agassi, 1985).
Autonomy and Paternalism Cont’d.

➢ Paternalism in Health Care

▪ When physicians and care-givers regard patients’ decisions as “irrational” or withhold relevant information concerning patients’ conditions, thus disrespecting patients’ autonomy (Gail Van Norman, pp.38-39).

▪ When physicians abuse the vulnerability of patients and give experimental treatment without consent

   Examples: Nazi physicians during World War II, using human beings as research subjects without their consent (Hunter, N.D; p. 105); Tuskegee Syphilis Study carried out on 400 African-American men who were infected with the disease and were deliberately denied treatment; unauthorized performance of hysterectomy on women.

➢ The Weaknesses of the Principle of Paternalism

▪ It can lead to non-consensual experimentation and abuse of the infirm, as well as to the erosion of trust for medical professionals.

➢ Consequences of the Paternalistic Interventions on Patient Autonomy

▪ Frequent and lasting class action suits; and shifting responsibilities which increase the costs of medical care; incessant distrust of medical care givers and Health Management Organizations (HMOs).
The Relevance of the Covenant Model as a New Approach to Medical Practice

- The first intuitive reason for a new paradigm for doctor-patient relationship is the very fact that the relationship is not simply a dyadic one. It involves the patient, the community, professional requirements of the government, the doctor’s colleagues and employer.

- Contracts are weak: they are effective for establishing duties, rewards and stipulating responsibilities and modes of balancing and achieving procedural justice among equals. However, contracts are ineffective in promoting fairness in asymmetrical relationships between the doctor and the patient.

- A contract framework thus denies the fundamental asymmetry between doctor and patient; because the physician’s knowledge exceeds that of his patient that the patient’s knowledgeability alone is not a satisfactory constraint on the physician’s behavior (Pamela Miller 1990, Pp. 121-125).
“Covenant” stipulates responsibilities between unequal persons, arising from asymmetrical relationships and roles in those natural associations of basic family and local community structures (like that between children and their parents, teachers and students, doctors and patients).

Covenant obliges physicians to use their competence in the patient's best interest with the virtues of humility, honesty, intellectual integrity, compassion, and effacement of excessive self-interest (C.K. Cassel; 1996).

Covenant enhances the skills, knowledge and understanding of patients and families about what to expect when receiving care.
The Covenant Model encourages partnerships and integrates the perspectives of patients and their families into relevant aspects of health care.

It promotes shared understanding of expectations among patients and health care professionals and expands the focus beyond the hospital setting to the community in order to find opportunities to improve overall community health.

Covenant model, promotes better health outcomes. In studied hospitals for instance, according to an American Hospital Association (AHA) Report, readmissions fell from 15% to 7%; admissions for pediatric asthma fell by 45% and pediatric emergency department visits fell by 50% in seven years, and the return on investment quadrupled. As well, mortality rate was nearly one-half of the rate for non-enrolled patients with similar characteristics (AHA Report, 2013, pp. 5f).

When patients are informed about their condition and understand the reasons for a course of treatment, they are more likely to follow its prescriptions (Baumgarten, 1999, p. 2).
….. But patients can get turned off when they do not understand paternalistic treatments that deny their autonomy.
CONCLUSION

The covenant model is a more apt and balanced approach that does not legislate-away the place of the family and community as the locus or network within which the person effectively functions in society. It ensures that the person, authentically considered, does not stand alone, but is connected to an existential network of relationships in communion with others.
Questions

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Relevant Bibliography

- Benjamin K. Chu and John G. O’Brien (Co-Chairs); *American Hospital Association 2012 Committee on Research: Engaging Health Care Users: A Framework for Healthy Individuals and Communities*, 2013. PDF.