### Medically Assisted Death: Consequences for Medical Morality & the Doctor-Patient Relationship

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# Rejecting Euthanasia and Assisted Suicide

`Euthanasia is a false solution to the drama of suffering, a solution unworthy of man. Indeed, the true response cannot be to put someone to death, however 'kindly' but rather to witness to the love that helps people to face their pain and agony in a human way"

(Pope Benedict XVI, February, 2009)



## The Supreme Court of Canada Decriminalized PAD

- for competent adults with a
  - "grievous medical condition including an illness, disease or disability)
  - that is irremediable (cannot be relieved by means acceptable to the individual)
  - causes enduring suffering that is intolerable to the individual in the circumstances of his or her condition."

#### Supreme Court of Canada

 Nothing in this declaration would compel physicians to provide assistance in dying. The *Charter* rights of patients and physicians will need to be reconciled in any regulatory or legislative response."

#### Bill C-14 Preamble

• "Physicians can follow their conscience when deciding whether or not to provide assisted dying without discrimination. This must not result in undue delay for the patient to access these services. No one should be compelled to provide assistance in dying."



 Why has medicine accepted to be the agents of assisted death?

- What are the consequences for:
  - Medical morality and personal and professional conscience
  - The doctor-patient relationship
  - Educating for professionalism
  - Bioethics

### Acceptance of Agency and Three Historical Movements:

 The rejection of medical morality and rise of bioethics dominated by "principlism"

 Commercialization and commodification of medicine and health care

 The pervasive power of technology and belief in a technical and bureaucratic fix for all human issues, including suffering.

### The Rejection of Medical Morality

- "The metamorphosis of medical ethics"
  - Pellegrino, 1993

### The Hippocratic Tradition

The Oath

- The Corpus
  - Character-based ethic
  - Duties to patients:
    - Commitment to patient welfare
    - o"do no harm"
    - Confidentiality
  - Duties to peers & profession

#### Medical Professionalism

- 18C Medicine
  - "The sick experienced entrepreneurial medicine as a crisis of intellectual and moral trust" (Porter & Porter, 1989)
- John Gregory and 1803 Code of Ethics
  - Communal standards
  - Scientific (allopathic) and technical excellence
  - Commitment to patient welfare
  - Medicine as a public trust

## The History Recognized Medicine is a Moral Profession

 brings the advances of science and technology to those who are sick

- assesses benefit, risk and harms, recognizes limits
- is concerned with the 'good' of health
- acknowledges the inherent conflicts of interest in earning a living from serving the sick and dying

#### The Ends & Goals of Medicine

o "...medicine is not a morally neutral technique, Rather, it is a professional practice governed by a moral framework consisting of goals proper to medicine, role-specific duties, and clinical virtues."

 Miller et al, 2000 Cosmetic Surgery and the Internal Morality of Medicine, CQ 9: 354.

### Philosophers Enter the Field and Differ

- "The end of medicine is a right and good healing action."
  - Pellegrino, E.D., Thomasma, D.C. 1981. A philosophical basis of medical practice. NY: Oxford University Press

- The "impossibility of a morality internal to medicine"
  - Veatch,R. 2001, The impossibility of a morality internal to medicine. *Journal of Medicine and Philosophy* 26 (6)

### The Emergence of Bioethics

- Initial variety of robust methods and approaches
  - religious, philosophy and medicine
- Early leadership in feminist ethics and ethics of care and revival of casuistry
- Rapid dominance of 'principlism' with erroneous priorizing of patient "autonomy"

## The Commercialization and Commodification of Medicine

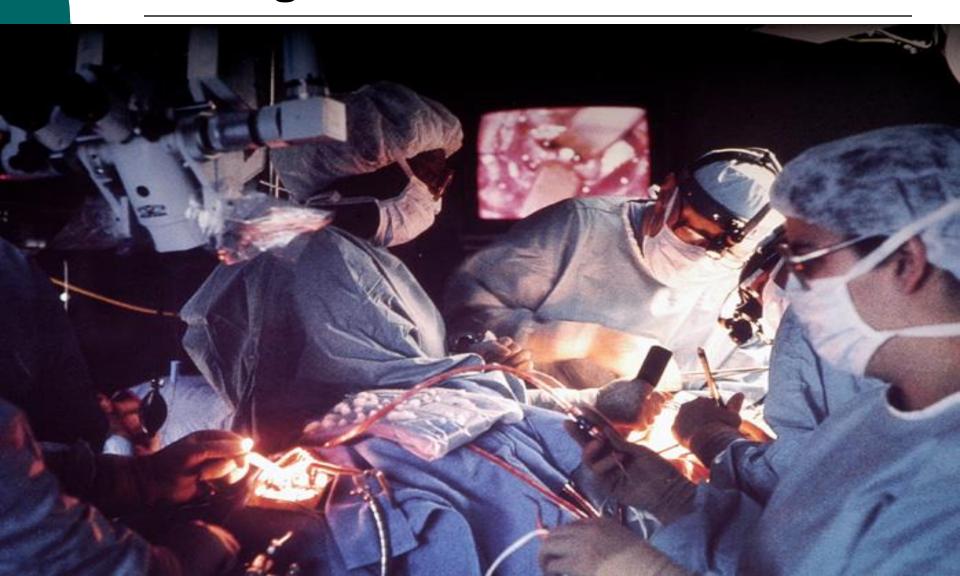
- From small business to 'big business"
  - P. Starr 1982 The Social Transformation of American Medicine

- Medicalization from doctor-driven to patient and indistry-driven
  - P. Conrad 2005 "The Shifting Engines of Medicalization", Jour Health Soc Behavior (46)
- Medicalization Meets Commercialization
  - Patents, advertising, specialization

# Relevance of Models of the Doctor-Patient Relationship

- Different models in modern medicine
  - Emmanuel, E.J., Emanuel, L.L. 1992 "Four Models of the Physician Patient Relationship" JAMA vol 267 no. 16
- Implications for the relationship
  - Childress, J.F., Siegler, M. 1984 "Metaphors and Models of Doctor-Patient Relationships: Their Implications for Autonomy" Theoretical Medicine 5
  - Blustein, J. 1993 "Doing What the Patient Orders: Maintaining Integrity in the Doctor-Patient Relationship" *Bioethics* vol 7 no 4

# **Belief in Technology to 'Fix' Suffering**



## The Types of Suffering The Role of Medicine

- Neuro-cognitive suffering
  - Direct causal relationship with condition
- Agent- narrative suffering
  - Indirect relationship
    - Loneliness, loss of dignity and meaning, fear of future, rejection, guilt, despair
  - A total human experience in all life

Jansen L.A., D.P. Sulmasy 2002 "Proportionality, terminal suffering, and the restorative goals of medicine" *Theoretical Medicine* 23: 321-337

# A Perfect Storm: Consumerism, Medical Morality and the Role of Conscience



### Conceptions of Conscience

- Conscience:
  - is essential to the moral life and is formed in communities
- Oconscience has two parts:
  - a commitment to morality
  - the activity of judging past or future acts as violating that commitment
  - Sulmasy, D. 2008 What is conscience and why is respect for it so important? Theor Med and Bioethics 29:135-149

### Integrity

- "The recognition of physician conscience is necessary to recognize the physician as a moral agent engaged in a practice that is morally significant"
  - Wicclair, M (2013) The International Encyclopedia of Ethics La Follette, H. (ed) Blackwell: 1021-1029
- "A coherent sense of moral agency requires a unified moral agent who carries with her some fundamental moral commitments that inform the conscience across role-specific boundaries."
  - Hardt, J.J. (2008) "The conscience debate: resources for rapprochement" Theor Med Bioeth 29:151-160.

### Competing Conceptions of Conscience

 Conscience is a private and religious claim that has no place in the doctorpatient relationship.

 Conscience is a conflict between the physician's right to conscience and the patient's right to PAD.

 Refusal based on conscience is seen as selfish of abuse of power.

### The Harshest Judgments

- "If people are not prepared to offer legally permitted, efficient, and beneficial care to a patient because it conflicts with their values, they should not be doctors. Doctors should not offer partial medical services or partially discharge their obligations to care for their patients."
  - Savalescu BMJ 2006: 332:294
- "professional societies should declare conscientious objection unethical"
  - Stahl & Emanuel NEJM 2017; 376:1380-1385

# Lessons We Have Learned: Acting Against Conscience

#### Moral distress

- A. Jameton, 1984 Nursing Practice: The Ethical Issues
- P. Rodney, 1988 "Moral distress in critical care nursing" Critical Care Nursing Journal
- B.M. Pauly, C. Varcoe, J.Storch 2012
   "Framing the issues: Moral distress in health care" HEC Forum (24)

#### Moral residue

 G. Webster & F. Baylis, 2000 in S.Rubin & L. Zoloth Margin of Error: The Ethics of Mistakes in the Practice of Medicine: 217-230.



# Consequences for Medicine & The Doctor-Patient Relationship

- An identity crisis for the profession because of loss of its moral core
- Rejection of any role for personal or professional conscience
- No role for clinical judgment
- Death as a treatment

- Capitulation to a market model of medicine and health care
- Patients are customers



 If medically assisted death is a remedy for human suffering and most suffering occurs without a grievous medical condition, why require the medical criteria at all?

## Consequences for Educating New Health Professionals

- What are "the fundamental and universal principles of medical professionalism" today?
- Can professionalism be revitalized without a normative core?
- Is professionalism today simply technique and etiquette?
- O How do we promote "reflective practice" and ethical sensitivity?



### Implications for Catholic Bioethics

 Differences between bioethics, theological bioethics and moral theology

 Differences in approach, especially re conscience & cooperation

Marginalization in the public space