

CHAPTER 3

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MANAGED CARE AND THE PRACTICE OF THE PROFESSIONS

We owe Professor Pellegrino (2002) and Professor Boisaubin (2002) a debt of gratitude for bringing to light a number of difficulties faced by the medical profession in addressing the new framework of managed care. I have a great deal of sympathy for much of what they say. In this paper, however, I plan to focus not so much on the specifics they address, as on a more general issue. Managed care introduces new moral quandaries into the profession of medicine -- so much so as to put the profession itself in jeopardy, on Dr. Pellegrino's account. In this paper I plan to focus primarily on providing a framework for understanding the professions and professional ethics at a high level of generality. I think the framework I will provide helps us to give conceptual shape to the work of Pellegrino and Boisaubin, and also to raise some critical questions about the relationship between the profession of medicine and its institutional structures. These are questions I will raise at the conclusion of the paper.

A number of ethical theories compete for the favor of professional ethicists, including utilitarianism, Kantianism, and principlism. It would be foolhardy to suggest that such theories have nothing to offer professional ethics. Nevertheless, it is possible to consider an approach that differs in a fundamental way from these. The difference is sometimes characterized as that of an internal, versus an external, approach. Dr. Pellegrino himself has characterized the shifts in medical ethics as moving away from what I would call an internal approach (Pellegrino, 1979).

One way of drawing this distinction would be to say that an internal understanding of a profession must say something about the *point* of the external behaviors, expectations, and roles associated with a profession. And further, that point would have to be, at least normatively, integrated into the *self*-understanding of professionals as a way of making sense, to themselves and others, of why they were engaged in these various forms of behavior, expectations, and roles. Finally, a professional ethics would be developed out of this internal understanding, rather than being imposed on it, as it were, top-down.

I intend to supplement the internal/external distinction with the notion of a *practice*, a notion articulated by Alasdair MacIntyre (1984), and a distinction between goods *internal*, and goods *external*, to a practice. In the end, professional ethics will be understood in terms of the *practice of the professions*.

This approach, beyond articulating the nature of the professions, and the ethical dilemmas peculiar to their domain, will also help to restore a hope once placed in the professions.¹ In the 19th century, as a result of the industrial revolution, philosophers, sociologists, and social reformers all became increasingly concerned for the conditions of the worker. These conditions seemed less and less able to provide workers with the possibility for fulfilling work, and more and more to instrumentalize laborers as mere cogs in a machine. Indeed, Marx argued, the conditions of the modern industrial age encouraged workers to view *themselves* in this merely instrumental way. To some, it was just this instrumentalization of work that the developing professions were equipped to escape. Louis Brandeis, in a graduation speech in 1912, wrote that in a true profession, “the amount of financial return is not the accepted measure of success” (1914, p. 2). He exhorted the graduates to view “excellence of performance in the broadest sense,” including service to the community, as constitutive of a meaningful and successful professional life.

Both the notions of excellence in performance, and service to the community are modes of satisfaction in work that are unavailable under the Marxist paradigm of alienation. Moreover, both notions may be situated within an internal understanding of the professions. For excellence of performance, as we will see in more depth later, is excellence of performance in the service of those goods that constitute the practical point of a profession. And if service to the community bears some intrinsic relation to that practical point, then the goods of service that a professional might offer to the community will themselves be internal to the profession, and hence a constitutive aspect of what makes that profession’s work meaningful.

Unfortunately, Brandeis’s optimism seems undercut by the actual progress of the professions in the past 100 years. Brandeis himself, in an address delivered to the Harvard Ethical Society in 1905, quotes the chairman of that society as suggesting that “People have the impression today that the lawyer has become mercenary” (Brandeis, 1914, p. 317). Instances of the same sentiment may be found in contemporary discourse about lawyers, journalists, and, of course, doctors.

Members of these professions have come to be viewed as motivated solely by the pursuit of what is external to their profession, and thus as mercenaries. A mercenary sells himself to the highest bidder, interested only in what he can get out of what he does. Not only does excellence in performance become diminishingly important; so, we can see, is service to the community marginalized.

But why is it that the professions should lend themselves both to the promise of meaningful work, and to the threat of crisis, of mercenary motives, of “any means to an end” types of thinking? To answer these questions I turn to the work of Alasdair MacIntyre.

After Virtue (1984) is MacIntyre’s story of how the intellectual framework within which the moral discourse of the West makes sense became corrupted, and of the consequences which ensued for our use of moral language. MacIntyre is struck by the “interminable character” of moral argument. In our pluralistic world, all have their moral positions, and arguments, but each such argument goes back to premises

that are both incommensurable with an opponent's premises and rationally undefended by their own proponents. Under such conditions, the use of moral language can be no more than a rhetorically impressive way of emoting, and of attempting to change our opponents' minds non-rationally.

MacIntyre attributes this state of affairs to the Enlightenment's overthrow of the Aristotelian moral paradigm, which possessed a threefold structure. First, there was the natural condition of human persons; second, the *telos* of persons, which constitutes the conditions of human flourishing; and third, the moral precepts intended to bridge the gap between man-as-he-is-now and man-as-he-would-be-if-he-fulfilled-his-*telos*. Upon the rejection of all notions of teleology by the Enlightenment, the moral precepts ceased to be intelligible – what role could they play in relation only to man-as-he-is-now? Moreover, the emphasis placed by the earlier tradition on the virtues likewise ceased to make sense, except as dispositions to follow rules – rules that, as we have seen, MacIntyre no longer thinks play an intelligible role in our moral life.

The question, suggests MacIntyre, is whether the Enlightenment really was justified in its overthrow of Aristotle, and, correspondingly, whether Aristotle might not be rehabilitated without those aspects of Aristotle's views that are most repugnant, especially his metaphysical biology and easy expectation that human life would not be marked by conflict.

It is in his working out of this project of return and rehabilitation that MacIntyre proposes that an understanding of both precepts and virtues must be situated in relation to a threefold conceptual framework. The framework includes the notion of practices, of a narrative structure of human life, and finally the notion of moral tradition. Here, I will be primarily concerned with the notion of a practice, and its relationship to professional life.

For MacIntyre, a practice is "any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended" (1984, p. 187).

An everyday example of a practice would be basketball. In the absence of a certain social setting, and certain social decisions and understandings, there would be no basketball. But, once such a context has been established, the game of basketball creates the possibility for persons to realize a certain kind of good – play – in an entirely new way, a way that to some extent can only be fully understood by those who play (or, perhaps, watch) basketball. Further, the good internal to basketball is sufficiently complex that players come to achieve the good more and more through increased excellence in the play of the game. Moreover, and again because of the complexity of the good, excellence at achieving the good typically opens up new avenues for pursuing the good of basketball, and hence new ways of being excellent. Thus it is that a player's excellence at basketball – the excellence of



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