Doctors, Patients and Society: Power and Authority in Medical Care

Eds Martin S Staum and Donald E Larsen, Ontario, Wilfrid Laurier University Press, 1982 \$9.50

There was a time, in the not so distant past, when many members of the medical profession appeared to believe that the ethics they absorbed by an immaculate process of osmosis when the mantle of qualification fell upon them were patently unquestionable by right-minded people. Moral certitude reigned supreme. Unethical conduct unfortunately occurred from time to time: it was easily recognised as personal moral turpitude affecting vicariously the reputation or livelihood of other members of the profession. Members guilty of it required the supreme punishment, professional banishment. Moral dilemmas surrounding the objectives or sequelae of medical intervention were fictional or dramatic concoctions, not part of the real everyday, morally uncontaminated business of medicine.

The recent growth of moral sensibility concerning the tasks and role of medicine is a phenomenon which itself could do with socio-historical analysis, and it will undoubtedly get it in the coming years. In the meantime, bookshelves in academic institutions throughout the Western world are filling up with the recorded proceedings of conferences and seminars in which the moral, social, political and economic implications of Western medicine as it is now practised (or as it is likely to be practised in the foreseeable future) are examined and re-examined from a variety of disciplinary perspectives. The medical profession is no longer able, even if it wished, which many of its members clearly do not, to claim that its dilemmas are its concern alone.

The present volume, coming from the Calgary Institute for the Humanities in Alberta, Canada is an example of the genre and a rather good example. It reports what was clearly a well organised workshop and firm editorial control has been exercised. The participants who provided the papers included six medical doctors, one of them the Dean of a medical school, another, Thomas McKeown whose work on the role of medicine is well known in

Britain. There were three bioethicists who I take to be philosophers who have developed a particular interest in ethical principles and their application to the interferences with human bodily and mental functioning which are most likely to be carried out today by doctors. There were also three social historians and one representative of each of the following disciplines: anthropology, economics, law, nursing and sociology.

Nearly all the contributions are lucidly presented. Controversial interpretations and prescriptions are challenged. The editors locate the issues of the power and authority which are vested in the medical care professions today in the social, economic, technological and cultural context of the last two decades. Anyone reading at random should find some nugget to add to his or her store of wisdom. The book as a whole contains many illustrations of the valuable light which other approaches to medicine can throw on the practitioner's inescapable role in the functioning of society. This reviewer, a sociologist, found the historical contributions and those of the lawyer and bioethicists particularly interesting. The book is published in paperback and at the price offered should be within the reach of impoverished academics and their institutions as well as that of postgraduate medical centres.

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The Artificial Family

R Snowden and G D Mitchell
London, George Allen and Unwin Ltd, 1981
£12.50

Robert Snowden is a Senior Lecturer in Sociology at the University of Exeter and also Project Director of the Institute of Population Studies at the University of Exeter. Duncan Mitchell is the Director of the same institute and Professor of Sociology at Exeter. They have written *The Artificial Family* not to offer solutions but to examine the relationship of the Artificial Insemination by Donor (AID) family to society. They are close colleagues of Dr Margaret Jackson who has been one of the pioneers of donor insemination over the last 50 years in this country. Through Margaret Jackson, who has spent her working life in Exeter, they have been able to contact couples who were referred to her for consideration for AID.

Snowden, Mitchell and their team of researchers have managed to interview in depth some of these couples.

The Artificial Family is a stimulating book which reviews the history of AID, beginning with the first recorded case performed in America in 1884, and then discusses the AID couple's desire for a child, the role of the donor, and lastly, the AID child and its family.

They highlight the secrecy which they feel still surrounds AID and discuss whether this should be allowed to continue. They discuss the current legal situation and conclude by asking 59 questions which they feel need answering concerning the AID child, the recipients of AID, the family, the donor, the donor's family, the AID practitioner and contemporary society.

As a medical practitioner working in the field of infertility I am sure this book has an invaluable contribution to make and will stimulate the workers in this field to think about the wider implications of AID. However, I found some of the comments negative rather than constructive.

AID has now been practised for nearly 100 years, has been accepted by society and brings happiness to many childless couples. Adoption is not a present a realistic alternative for childless couples as the demand for infants available for adoption far outstrips the supply.

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Medical Law for the Attending Physician, a Case-oriented Analysis

Salvatore Francis Fiscina
Southern Illinois University Press, 1982
\$40.00

This is an American book and the advance notice of its publication begins with the question: 'Will the doctor be sued?' and this could very well be the title. Dr Fiscina sees every doctor as a suit for medical negligence waiting to happen. In his preface he states:

'The impact and effect of law on medical practice have created suspicion and confusion among physicians concerned with their professional legal obligations. This book is intended to guide the practitioner through a journey which highlights medicolegal landmarks by illustrating professional conduct in the clinical context.'

And he is as good as his word! As a lawyer as well as a doctor – he is Deputy Chairman, Department of Legal Medicine, Armed Forces Institute of Pathology, and Professional Lecturer at the George Washington University National Law Center – he is conscious of the problem of teaching law to doctors (try putting it the other way round) or whether indeed such a feat would be necessary even if it were possible. But he does see that in the face of increasing pressure from patients on their doctors through the courts, a recognisable standard of professional behaviour is needed. Such a standard must come less from a sense of what the doctor believes his duty to be than from what the law prescribes as reasonable conduct under the circumstances of each particular case.

This book is not therefore a legal textbook in the strict sense of the word, but a collection of nearly 300 illustrations taken from cases in medical negligence decided in the American courts, most of them in the last ten years; a series of cautionary tales, if you will, against which readers may measure their own standards and maybe pick up a good deal of information on matters which up to the time of reading they had never thought could lay themselves open to criticism.

Most of the cases selected are for private reading and the rest are for group discussion, but the presentation is uniform; the facts are followed by the decision and the reason for the decision. The cases are not quoted verbatim, neither in whole nor in part, but are described in Dr Fiscina's own words. He eschews legal terminology, and makes no formal attempt to include matters of a procedural nature, such as the quantum of damages. But since he provides an index of the cases with references to the law reports, they may be followed up by anyone with the mind to do it, and with access to the American sources.

The selection covers a wide variety of medical circumstances, demonstrating an equally wide spectrum of conduct, from the outrageous to the highly commendable. They centre mainly on matters arising out of an individual doctor's behaviour, but they also relate, for example, to interlocking responsibilities in hospitals. They are arranged under specific headings covering all aspects of the doctor-patient relationship.

The lawyer wishing to dip his toe into the turbid waters of medical negligence may find this book useful as an introduction to the nature and scope of the matters in contention, which in America would seem to have reached a degree of sophistication not yet manifested here. He will also be interested to note how legal concepts in contract and tort revive with a transfusion of medical ethics.

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Philosophy in Medicine: Conceptual and Ethical Issues in Medicine and Psychiatry

Charles M Culver and Bernard Gert
New York, Oxford University Press,
1982
£15.50

Doctors are more cautious than they were in the nineteen-sixties, in the hubristic era, but the humility that has developed, although welcome, is for most a scientific humility, an increase in respect for the complexity of the human body and mind and the difficulties in trying to improve its function. Scientific humility, and the resultant caution, though welcome, are however, not sufficient. Doctors also need a much

broader perspective than the scientific perspective. A higher proportion of doctors are now aware of the social and political implications of medicine but only a few are particularly well educated in more abstract issues.

The growth of interest in medical ethics has been welcome but ethics is only one aspect of philosophy and this book attempts to cover certain other aspects, although it is not a comprehensive text on philosophy in medicine. Four principal subjects are discussed. The first is the definition of rationality and the consequent implications for the assessment of competence. Related to this subject is a consideration of paternalistic behaviour and involuntary hospitalisation.

The third is a discussion of the nature and classification of 'maladies', focusing in particular on 'mental maladies' and 'volitional disabilities'. The fourth subject is 'the definition and criterion of death'.

The authors both work in Dartmouth College and Medical School, one as a professor of psychiatry, the other as a professor of philosophy, and the text is based on the teaching they have done. It is clearly written and makes good use of case studies but its applicability to problems in other countries is limited. Philosophical principles, of course, should transcend all cultural barriers but many of the issues they discuss are in the context of the American legal system or the classification of diagnoses published by the American Psychiatric Association and thus relate to the way in which philosophical problems manifest themselves in American society.

Nevertheless, any British reader interested in any of the four subjects discussed in the book would find it worth consulting.

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