

'general practitioners'. The fear of these 'regular' practitioners was that their claims to professionalism were being undermined by 'irregular competitors' such as midwives. This early account of intra-professional rivalry will be of great interest to those who view doctors' fraternal spirit as a significant barrier to an increase in their public accountability (1). In the second aspect to his thesis, Keown is indicating a tendency for social problems to be medicalised by placing decision-making authority in the hands of doctors rather than say the courts. For Keown, this amounts to the 'medicalisation of deviance'.

By way of criticism, the book insufficiently examines an explanation of medicalisation mentioned briefly on p 165: the State's desire to avoid criminalising those who sought and provided abortion. This 'side-stepping' policy is shown by Keown to have a long pedigree, stemming from the days when common law courts used procedural technicalities to avoid prosecution for abortion, and indeed is found in many contemporary areas in the medico-legal field, such as neonaticide and mercy killing. While not conducive to certainty, such a policy permits both legal condemnation of these practices and flexibility in appropriate circumstances. Secondly, I would have found interesting an examination of the relation between the decisions of the early courts (common law and ecclesiastical) and biblical injunctions. Like much discussion of abortion, the book assumes such a relation is straightforward (2). Lastly, it is regrettable that the book could not have examined the motives for significant post-1982 legislative proposals in an era where change to abortion law seems unavoidable. These however are trivial criticisms and cannot detract from a work which hopefully will act as a catalyst for similar socio-historical inquiries in medical law.

References

- (1) See Jacob J M. *Doctors and rules: a sociology of professional values*. London and New York: Routledge, 1988.
- (2) For a consideration of biblical authority see Dunstan R G and Seller M J, eds. *The status of the human embryo: perspectives from moral tradition*. Oxford: Oxford University Press, 1988.

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Ethics and Regulation of Clinical Research

(2nd edition), Robert J Levine,
452 pages, New Haven and London,
£12.95, Yale University Press, 1986

This 'survey of the ethical and legal duties of clinical researchers' is firmly embedded in the framework of American reports and regulations. Levine is a professor of medicine at Yale and his book bears the stamp of the practising clinician and the experienced investigator rather than the moral philosopher. He wants to provide workable solutions to practical problems. Philosophical questions about underlying ethical principles are not relentlessly pursued to the point of analytical or speculative exhaustion. Indeed, Levine accepts that most of the answers have been provided by the National Commission for the Protection of Human Subjects of Biomedical and Behavioural Research. Arguments about the justification of clinical research with human subjects are referred to rather than discussed (the book has an ample 724 references for the more enquiring and disputatious reader). In short, this is a kind of handbook showing how principles, regulations and guidelines are and should be applied in practice. The fact that the regulations are exclusively American should not deter British readers. The flimsiness of the regulatory framework in this country is sufficient to ensure that they will find it extremely useful. As with any reference work it should be judged not by the way the arguments are developed (these are few and far between) but by the extent of its coverage and the lucidity of its organisation. In both respects it is an excellent work. Levine has set himself a specific task and has carried it out admirably. Critical comments on the book are therefore likely to read either as quibbles or as recommendations for an expanded third edition. Mine fall into the latter category and arise only from a sense of disappointment that some issues or questions were not explored further. Those on the edge of scientific literacy would benefit from a fuller discussion of good and bad research design, and the relationship between the scientific and ethical evaluation of research. Anyone looking for guidance on one of the 'hot topics' in clinical research – when to end controlled trials – will also find this

book disappointing. Levine gives short shrift to the idea that the views of anyone other than the scientific community are relevant to such questions. They and they alone should decide what levels of probability should be attached to the determination of risk and efficacy. The rules of evidence are, in his view, determined solely by the requirements of good science.

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New Prospects for Medicine

Edited by Jonathan M Austyn, 131
pages, New York, £12.50, Oxford
University Press, 1987

If you are the sort of person who enjoys succinct well-written essays on topical medical matters, then you will undoubtedly enjoy this slim collection. Let me say at the outset, please do not be put off by the title or the cover.

The Wolfson College lectures have been a regular event at the University of Oxford since 1970. These essays record those delivered in 1987.

The work is introduced by an expert transplant immunologist. To a medical latecomer like myself it is astounding that it was only in the 1970s that it became evident that one might actually be able to isolate genes from any organism, let alone man. Further, it is equally hard to believe that as late as the 1950s, lymphocytes had no known purpose!

In one essay, which is my personal favourite, Sir Raymond Hoffenberg, President of the Royal College of Physicians discusses the problems and prospects for modern medicine. I do not suppose many people realise that a 50 per cent reduction in the four major high cost techniques – CT scans, renal dialysis, fetal monitoring and coronary artery bypass grafts would save less than 1 per cent of the annual costs of health care.

Further essays, all by leading academics and clinicians, cover topics as varied and as fascinating as modern approaches to cancer, the future of transplantation and the new genetics; there is even a brave discussion of where the next breakthroughs are likely to be. One interesting point, which again I think few people are aware of, is that the estimate of cancer deaths (USA) from diet is higher than those from smoking.

For the final few words, I would like

to return to Sir Raymond Hoffenberg, who puts forward some of the problems of the Third World, and explains how over the next ten years, if nothing new is done, we shall see 25 million deaths from measles, and four million cases of paralytic poliomyelitis. He reminds us, in a sobering conclusion to his essay that the six WHO killer scourges of the Third World – diphtheria, measles, poliomyelitis, tetanus, TB and whooping cough – could all be eliminated if we diverted annually to their eradication what we spend on armaments every three hours.

I would have liked to have seen more on the Third World and felt that this could have been covered more fully. It is a shame that such a chapter was not included, perhaps at the expense of the one on information and medical journals, which was very dry.

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AIDS: Professional Secrecy

Edited by Paolo Cattorini, xvi + 71,
Padua, Italy, price unavailable, Liviana
Editrice, 1989

This book is a collection of essays, written by authors with different qualifications and expertise (medical, legal and theological) and dealing with the attitude that health-care professionals should take towards the AIDS patient.

The authors examine the problem starting from a specific point of view consisting of the following premises: on the one hand there is the duty of doctors and other health-care professionals to keep secret that which they come to know in the exercise of their profession; on the other hand there is a need to protect society from infection and a need to protect patients from the hysterical and disproportionate reactions caused by this particular disease.

M Cuyas sj tries to balance these contrasting issues by stressing the importance of the duty of secrecy. According to him, this duty is a

consequence of the individual's right to privacy. Even though Cuyas gives a strong foundation to the secrecy requirement he thinks that in certain circumstances, for example in the case of AIDS infection, it can be overridden by other requirements.

H E Emson explains the 'descending parabola' of the professional secret and asserts that it has been more and more exhausted. He takes an example from English common law in order to show that it permits several cases of infringement of secrecy in order to protect the common interest. Thus, he concludes, the duty to secrecy is only a conditional duty. According to Emson in the case of AIDS the infringement of the professional secret is related not only (as other authors assert) to the safety of the partner, but also to the safety of health-care professionals in hospitals.

M Kottow's position is absolutely contrary to that of Emson. He says that doctors have an absolute duty to maintain secrecy. This duty is absolute not 'as such' but as a matter of history, since it is necessary to the patient-doctor relationship. Other people who are not doctors, are in charge of the safety of innocent third parties.

C Lega tries to find an answer to the dilemma by resorting to medical deontology and its principles. He asserts a principle of concealment, which admits some exceptions in certain circumstances, specified by Italian criminal law. Lega thinks that AIDS constitutes another justified exception, since society must protect third parties who live with sick persons.

A Farneti, as well as Lega, holds that doctors have a stronger duty to prevent the risk that other people are infected by a sick person who does not tell those other people about his condition.

L Tornotti does not stress the problem of communicating the risk to a relative or to a partner. She underlines the problem of patient privacy in the bureaucratic processes, as in the case of social insurance. This loss of privacy is injurious for the sick person and of no value to society.

Cattorini concludes by considering the question of communication to the cohabiting partner. He remarks that from an ethical point of view we must

take into account both the consequences of a single act and those of a rule envisaged as a condition of greater benefit. This appears to be like rule-utilitarian reasoning, but it is not. It is a consideration developed in the framework of a teleological model, in which the end (and Cattorini quotes Sgreccia) is the achievement of fundamental values according to Catholic teaching.

The conclusion of the reasoning is the assertion of a principle of concealment as a value having the right to priority but only *prima facie*. This principle can be infringed when it conflicts with other duties.

The issues discussed in the book are therefore the following: the respect towards the patient seen as a person in his value, in his essence and eventually in his privacy; the value of the patient-doctor relationship founded on reciprocal trust; the conflicts between individual rights and community interests; the question of the equilibrium between the respect of the person from the point of view of the tradition of the personalistic anthropology (the tradition that authors adopt in the first part of the book) and the danger for society.

The global answer to this question is that when there is excessive danger for society, respect for the sick person (ie the requirement to keep his disease secret) can be infringed.

The authors therefore recognise two *prima facie* duties, but they do not succeed in giving a clear hierarchy between these duties. In fact the reasoning of authors who recognise a priority, such as Kottow or Emson (who recognise the absolute value of professional secrecy or its relativity, respectively) are out of step with the rest of the text and they are diluted in Cattorini's introduction.

The book, after all, is more a collection of questions than of answers. The right questions are posed even if this is done by using only a specifically ethical approach that invalidates the universal value of the questions.

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