Medical Profession's Autonomy Challenge

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Any problem ?

Any Problem ?

Sanctity of life & human body Hamurabi

- 215. If a physician make a large incision with an operating knife and cure it, or if he open a tumor (over the eye) with an operating knife, and saves the eye, he shall receive ten shekels in money.
- 218. If a physician make a large incision with the operating knife, and kill him, or open a tumor with the operating knife, and cut out the eye, his hands shall be cut off.
- 219. If a physician make a large incision in the slave of a freed man, and kill him, he shall replace the slave with another slave.

Regulating Behavior

- What
  - Intrinsic vs extrinsic factors
  - Self "interests" vs External "controls"
- Who
  - Self -> Morality
  - Guild -> Profession
  - Society -> Law

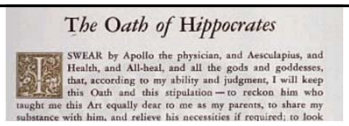
Professionalism

- Professionalism is the conduct, aims or qualities that characterize a profession or a professional person (Merriam Webster Dictionary)
- A moral code is often the basis of professionalism
- It involves "professing" [VOWING] openly that you are that type of person, usually by taking an oath

Internal regulation – autonomy

- Medical Professional codes
  - Imhotep
  - Hippocrates
  - Ibn Maymoun
  - Geneva oath

Imhotep



The Oath of Hippocrates

I SWEAR by Apollo the physician, and Aesculapius, and Health, and All-heal, and all the gods and goddesses, that, according to my ability and judgment, I will keep this Oath and this stipulation — to reckon him who taught me this Art equally dear to me as my parents, to share my substance with him, and relieve his necessities if required; to look

- To hold him who has taught me this art as equal to my parents .....
- I will apply dietic **measures for the benefit of the sick** according **to my ability** and judgment; I will keep them from harm and injustice.
- I will **neither give a deadly drug** to anybody if asked for it, nor will I make a suggestion to this effect. **In purity and holiness** I will guard my life and my art.
- I will not use the knife, not even on sufferers from stone, but will **withdraw in favor of such men as are engaged** in this work.
- Whatever houses I may visit, I will come for the benefit of the sick, **remaining free of all intentional injustice**, of all mischief and in particular of sexual relations with both female and male persons, be they free or slaves.
- **What I may see or hear** in the course of treatment or even outside of the treatment in regard to the life of men, which on no account one must spread abroad, I will keep myself holding such things shameful to be spoken about.
- If I fulfill this oath and do not violate it, may it be granted to me to enjoy life and art, being honoured with fame among all men for all time to come; if I transgress it and swear falsely, may the opposite of all this be my lot.

Abu Imran Musa ibn Maymun ibn 'Ubayd Allah (Maimonides)

The eternal providence has **appointed me** to watch over the life and health of Thy creatures.

May the **love for my art actuate me** at all time;

May neither avarice nor miserliness, nor thirst for glory or for a great reputation **engage my mind**; for the enemies of truth and philanthropy could easily deceive me and make me forgetful of my lofty aim of doing good to Thy children.

May I never see in the patient anything but **a fellow creature** in pain.

Grant me the strength, time and opportunity **always to correct** what I have acquired, **always to extend** its domain; for **knowledge** is immense and the spirit of man can extend indefinitely to enrich itself daily with new requirements.

Today he can discover his **errors** of yesterday and tomorrow he can obtain a new light on what he thinks himself sure of today.

Oh, God, Thou has appointed me to watch over the life and death of Thy creatures; here am I **ready for my vocation** and now I turn unto my calling."

Self-regulation held by an oath

- The "Oath" is a **personal individual commitment** and does not entail any external regulation or control.
- Medicine continued as an **unregulated market** with the **entrepreneurial** attitudes and **practices** dominating medical practice for centuries
- The **tension** that existed in the **Hippocratic** text between a life of service to patients **and** entrepreneurial **self-interest** was resolved in practice usually in favor of self-interest.

Threats to autonomy

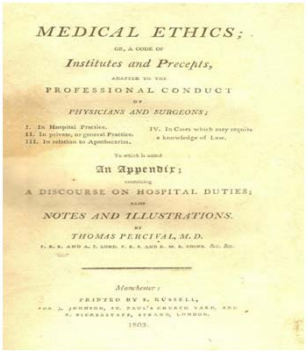
- Gregory's problem list - 1700
  - Abuse of Power
  - Arrogance
  - Greed
  - Misrepresentation
  - Impairment
  - Lack of conscientiousness
  - Conflict of interest

Public image

Ils savent, mon frère, ce que je vous ai dit, **qui ne guérit pas de grand'chose**: et toute l'excellence de leur art consiste en un **pompeux galimatias**, en un **spécieux babil**, qui vous donne des mots pour des raisons, et des promesses pour des effets.

Beralde the brother of Argan the patient

Thomas Percival - 1803



MEDICAL ETHICS;
OR, A CODE OF
Institutes and Precepts,
ADAPTED TO THE
PROFESSIONAL CONDUCT
OF
PHYSICIANS AND SURGEONS;
To which is added
An Appendix;
containing
A DISCOURSE ON HOSPITAL DUTIES;
AND
NOTES AND ILLUSTRATIONS.
BY
THOMAS PERCIVAL, M.D.

Gregory & Percival Code

Physicians should commit to:

1. Maintain scientific and clinical competence
2. Primacy of patient welfare
3. Maintain and pass on medicine as a public trust

(not a private guild, that is, group self-interest should be kept systematically secondary in the care of patients)

Health Professionals are Fiduciaries

وكيل \ مؤتمن

- A fiduciary is one who:
  - holds a specialized knowledge or expertise
  - holds the trust of others
  - is held to high standards of conduct
  - avoids conflicts of interest
  - does not seek personal gain
  - is objective
  - is accountable or obligated (ethically and legally)

Threats to autonomy

- Technology – 1970s
- Managed Care – 1980s
- Variations in practice – 1990s

Managed Care: Techniques

- Managing demand
  - Capitation
  - Gate keeping
  - Consumer education
- Managing delivery of care
  - Non-physician use
  - Home care
  - Telemedicine
- Managing medical care
  - Utilization review
  - Disease management
  - Guidelines for care

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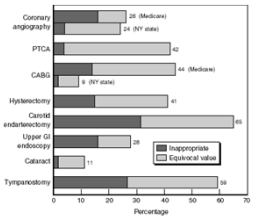
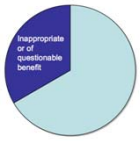
Variations in practice

- RAND reports: more than a third of medical care may be unnecessary or of little benefit





Medical and surgical procedures

Assessing the Appropriateness of Care RAND 1998 RB-4522

"System" Causes of Unwarranted Variation

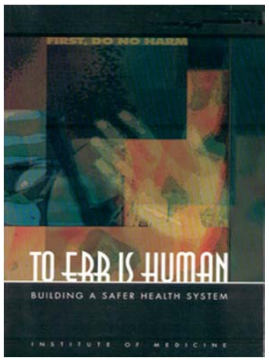
- Under-use of effective care.
- Misuse of preference-sensitive care
- Overuse of supply-sensitive care

Regulating the Profession 1950 - 1980

- Oaths are good but also medical codes should be adhered to and rules placed to define
- Specialties
- Privileges
- Licensing
- Continuing education

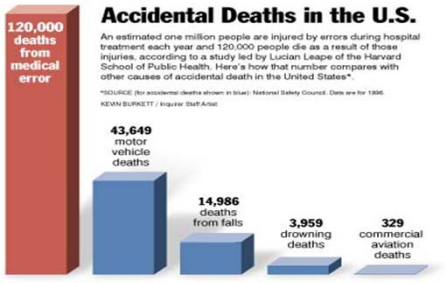
Doubts about Quality of Care

- Became an issue in the US in 1990s
- Consumer distrust of health providers
  - Institute of Medicine Reports
    - To Err is Human: IOM report in 1999
    - Crossing the quality chasm: IOM report in 2002
  - Managed Care Organizations excessive control
    - Referrals to specialists, Utilization management
- Employers activism
  - Reacting to rising health care costs (10% a year), employers shifted costs to patients and educated them about how to chose "better" care (consumerism)

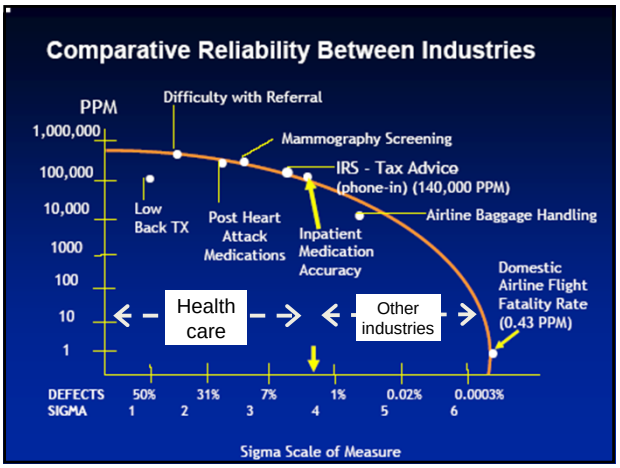


National Institute of Medicine report 1999

Estimated Deaths Due to Medical Error



Source – The Philadelphia Inquirer



1999: The 1st IOM Report To Err is Human

- The challenge
  - reduce medical errors by 50% in five years
- The call to action
  - non-punitive error reporting systems
  - legislation for peer review protections
  - performance standards for safety assurance
  - visible commitments to safety improvement
  - attention to medication safety

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2001: The 2nd IOM Report Crossing the Quality Chasm

- Safety is a key dimension of quality
- Systems approach to safety improvement
  - simply trying harder will not work
  - stepwise correction of problems in the system is the key to success
  - overcome the culture of blame and shame:
    - Human error is to be expected!

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A Few Simple Rules for Health Care in the 21st Century

Current Approach	New Approach
• Do no harm is an individual responsibility	• Safety is a system property
• Information is a record	• Knowledge is shared and information flows freely
• Secrecy is necessary	• Transparency is necessary
• The system reacts to needs	• Needs are anticipated
• Professional autonomy drives variability	• Decision-making is evidence-based

Crossing the Quality Chasm

Quality

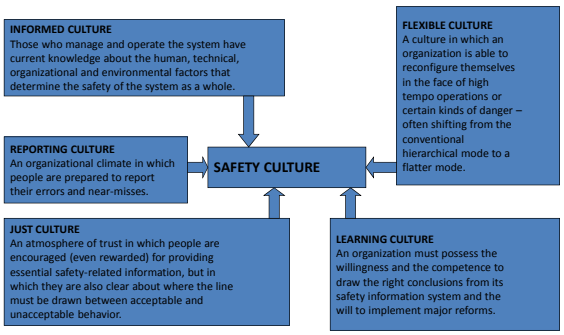
Donabedian

- Three faces of quality
  - Process of care
    - CQI, TQM, Process Improvement
  - Outcome of care
    - Outcomes management, disease management, profiling
  - Standardization of care
    - Clinical guidelines, EBM, protocols, case management

Regulating the Profession 1980 – 2000…

- Guidelines / standards of care based on epidemiologically sound evidence
- Patient Safety as a core value
  - The reduction and mitigation of unsafe acts within the health-care system, as well as through the use of best practices shown to lead to optimal patient outcomes.
- Error disclosure
- Just culture

Safety Culture Components*



*Based on Reason (1997) The Components of Safety Culture: Definitions of Informed, Reporting, Just, Flexible and Learning Cultures

Culture of Blame

The single greatest impediment to error prevention in the medical industry is "that we punish people for making mistakes."

Dr. Lucian Leape
Professor, Harvard School of Public Health
Testimony before Congress on
Health Care Quality Improvement

A Just Culture

Reconcile the public interest of reducing errors with sanctity of life and human body

A Set of Beliefs

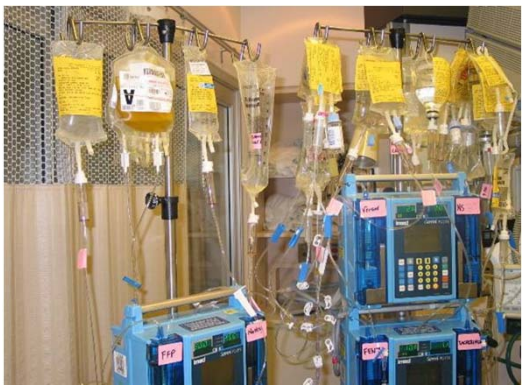
- A recognition that professionals will make mistakes
- A recognition that even professionals will develop unhealthy norms
- A fierce intolerance for reckless conduct

A Set of Duties

- To raise your hand and say "I've made a mistake"
- To raise your hand when you see risk
- To resist the growth of at-risk behavior
- To participate in the learning culture
- To absolutely avoid reckless conduct

Just culture Issues

1. Who in the society gets to draw the line between acceptable and unacceptable behavior?
2. What and where should the role of domain expertise be in judging whether behavior is acceptable or unacceptable?
3. How protected against judicial interference are safety and quality improvement data ?



Summary

- **Medical profession** has **particularities** leading to unique **responsibilities** for physicians:
  - Sanctity of life and human body
  - Privileged Information
  - Privileged scientific knowledge
  - Inexact science
- The "fiduciary" nature of the patient-physician relationship requires physicians to act according to **high standards of conduct**.
  - Implicit individual contractual relationship related to performance and not outcome
- The consequences of unprofessional behavior are destruction of **public trust** and worse outcomes for people with illness
- A **culture of safety is imperative** to maintain professional autonomy

Responsibility and Accountability

- Ethical – Accountable to self
  - Maximize good
  - Do what is "right"
- Professional – Accountable to "Guild"
  - Standards
  - Cohesion
- Legal – Accountable to Society
  - Civil
  - Penal

"We can't change the human condition, but we can change the conditions under which humans work"

James Reason

Any Problem ?