
Center Notes

When the first issue of *Midwest Medical Ethics* was circulated four years ago, we referred to it as a "newsletter," and everyone felt comfortable calling it that. But, as long-term readers can attest, *Midwest Medical Ethics* has been changing and the term "newsletter" just doesn't seem to fit any more. We now refer to it as our "publication." Changes have occurred for a number of reasons, but there are two in particular that I want to call to your attention. First, Alan S. Lubert, Ph.D., became editor of *MME* approximately fifteen months ago. Under Alan's direction, the publication has moved in a new and positive direction. Second and more recently, the Francis Families Foundation agreed to provide funding to be used in partially supporting the publication. We greatly appreciate both the commitment the Francis Families Foundation has made to *Midwest Medical Ethics* and their ongoing support of our work.

Although I just said that *Midwest Medical Ethics* is no longer a newsletter, it is our intention to continue using it as a way of communicating with our members and other interested people about special projects and events sponsored by the Center. I hope you will find the following information interesting and helpful.

Heartland Health Decisions Project

In the next five years, Midwest Bioethics Center plans to establish a standing communication network for concerned citizens in both Kansas and Missouri to learn about critical health care policy issues and to share their judgments about how those issues should be resolved with policy makers.

This project is modeled on The Oregon Health Decisions Project, which began in 1983. The Oregon project attempted to bridge the gap between the values of Oregonians and decisions taken by health care policy makers. Based on the success of the Oregon project, more than 10 states have initiated similar projects.

In April, in conjunction with Heartland Health System in St. Joseph, Missouri, Midwest Bioethics Center began a pilot "decisions" project in the northwest corner of Missouri. This project will promote public discussion as well as personal reflection on health

care issues and allied ethical considerations, through a series of carefully planned interactive programs. Participants will be informed of the pressures and dilemmas that shape the present health care delivery system, and they will be provided an opportunity to discuss how these factors influence the attitudes and behavior of both providers and recipients of health care. Though the project does not advocate any particular point of view or system of values, it does seek to encourage citizens to make informed judgments about important health care concerns, to learn about accompanying ethical dilemmas, and to communicate effectively with health care policy makers. In sum, the goal of the Heartland Health Decisions Project is to establish a public conversation about health care policy, the values that shape medical decision making, and the effect these policies have on the character and quality of life in the region.

Living Will Community Education Project

There is a consensus among health care providers, attorneys, ethicists, and consumer advocates that the living will has been tremendously beneficial in protecting the autonomy of dying patients. However, living wills apply *only* to persons who have been diagnosed as terminally ill. Yet, many people are concerned about the use of life-sustaining technology at other times and believe that this restriction denies patients the freedom to make their own treatment decisions. In addition, the benefit of the living will has been limited because most people who support living will legislation have not enacted one themselves. There appears to be a gap between recognizing the value of such legislation and taking appropriate steps to complete such a form for oneself. The major barrier is lack of access to accurate information.

In response to these problems, the Kansas City Metropolitan Bar Association and the Ethics Committee Consortium of Midwest Bioethics Center began a partnership to create a more comprehensive living will document, plus a community-wide educational project about living wills. More than thirty doctors, lawyers, nurses, philosophers, clergy, and community leaders collaborated on this project.

The resulting document is more comprehensive than standard living wills and has two functions. It provides both a basic living will form that is ac-

ceptable in either Missouri or Kansas and an opportunity for individuals to make additional instructions about non-terminal conditions. Besides the new document, a brochure entitled "Making Health Care Decisions For Your Future: Living Wills" has been produced. We have assembled a volunteer speakers bureau to educate religious congregations, civic organizations, senior citizen groups, service clubs, and others about the new living will. Thanks to grant support from the Missouri Lawyer Trust Account Foundation and the Kansas City Metropolitan Bar Foundation, individual copies of the living will and the companion brochure are available at no charge. To obtain the new document and brochure, call Midwest Bioethics Center at (816) 756-2713. To arrange for a speaker, call the Civic Health Foundation at (816) 931-0956.

Withholding/Withdrawing Nutrition and Hydration in Missouri: A Legal and Ethical Quagmire

This fall the United States Supreme Court will hear Missouri's first so-called "right to die" case, the Nancy Cruzan case. The Court will decide whether a state can require that an unconscious person be maintained indefinitely by medical technology when the family believes the patient would want to die. Wednesday evening, October 4, 1989, Midwest Bioethics Center and Trinity Lutheran Hospital will sponsor a public forum on this issue.

Missouri Supreme Court Justice Edward Robertson, author of the majority opinion in the Cruzan case, and Dr. Robert Harmon, Director of the State of Missouri Department of Health, will debate with Dr. JoAnne Lynn, former co-chair of the President's Commission on the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and Dr. Bernard Lo, University of California at San Francisco, about this important subject. Dr. William Bartholome, University of Kansas Medical School, will moderate.

The forum is open to the public at no charge. It will be held in Pierson Auditorium at the University of Missouri-Kansas City, from 7:30-9:30 p.m.

Moral Lessons of History: What Must We Learn from the German "Euthanasia" Program?

The imagery of the Holocaust is often invoked in current biomedical disputes without carefully understanding what actually happened in

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death of the assailant to secure our right to life, then we are making a charade of analyzing our action through the Principle of Double Effect, because there is no "double effect" in question. We have simply employed the Principle of Efficiency: the end justifies the use of any means. And in such an analysis, we have either (1) affirmed, *a priori*, that our right to life takes precedence over any other's, or (2) affirmed that the assailant "gave up" his/her right to life by the simple act of attacking us.

Doing ethics is not simply exchanging opinions.

Now the first horn of this dilemma (that my right to life is *a priori* sovereign) is either an egoism that cannot be reasonably supported without committing a whole raft of logical fallacies, or is simply not borne out in subsequent situations when I find myself willing to sacrifice my life out of a genuine altruism, for then I would be acting inconsistently.

The second horn (that the assailant "gave up" his right to life) leads one to question how certain actions can, of themselves, contradict inalienable rights which are tied to one's very nature. How can an action, done by a human person, negate that person's very humanity?

To use the Principle of Double Effect here means letting go of both the previous insights, viz., that another person's life can be used to secure one's own and that any action can negate the inherent rights of persons themselves.

The assailant's attack and one's fighting literally for one's life (we are presuming here that no lesser means, such as knocking him out or yelling for the police, will deter the attack) is clearly a conflict between his right to life and one's own. The application of the Principle of Double Effect must entail seeing a hierarchy of rights or values here—not the simple "either his life or mine"—but some value higher than life. Let us call it "the right to security from unprovoked attack," so that when I regrettably (third "moment") kill him, it can be truly said that I am affirming a higher right—and this right would be **his** if the tables were turned and I were the aggressor—

and thus his death does not entail a negation of his being a person, a rights-holder. So if the means were proportionate (fourth "moment"), then the justification of the act of killing may be made without using the assailant's death "merely" as a means to the affirmation of my life.

Now, you might argue: What difference does it all make? The assailant is dead, either way. Have I simply engaged in a semantic argument, one that philosophers by profession are supposed to do well? Is that all that is involved in my hasty, though I hope clear, analysis—just a juggling of words?

I started off my remarks saying that the most important problem I see today is the inability of many people to **do** ethics: to do the sophisticated reasoning that avoids facile conclusions drawn from emotion, that does not overlook implications of choices made, and that does not simply rehearse things learned in grade school. Clearly it is possible for reasonable people to reach contradictory conclusions, and just as clearly we cannot find answers to ethical dilemmas at the back of a book. Nevertheless, at the very least, *reasons* can be posed against reasons, and the debate need not slip into relativism or the inexplicable plunge of . . . "but I *feel* it is right (or wrong)."

The fundamental moral principle is, "Act, so that in every act I do, I respect the unique self-ordering of each person affected by my act!"

I can argue with a utilitarian who would reject my Principle of the Double Effect out of hand because both the utilitarian and I know the problems rooted in that ethical theory. I find it harder to argue with an absolute natural law theorist who would also reject my Principle, because in absolute natural law there are values which are *a priori* sovereign and can never be ranked with "lesser" values; but I can at least understand how such a one is thinking and why, so relativism is avoided. A natural law theorist will never say, "You keep your opinion and I'll keep mine!"

Because the Principle of Double

Effect is a rational principle, it is non-relative. But it is a *formal* principle; it serves as a guide for the analysis of conflict situations and, if one is more interested in truth than in winning, one often sees that one is twisting it in order to justify some previously agreed upon conclusion. The principle can serve as a guide for rational explication, but it cannot determine the individual conclusion.

What the Principle does enable me to do is to justify those times when my actions must negate some rights while affirming others, and to enable me so to act that I still honor the person whose rights are negated in his/her essential dignity as an autonomous subject or self-orderer.

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medicine and the biological sciences in Germany prior to and during the Nazi period. We believe it is important to learn about the behavior of German physicians during the Nazi period. To what extent were medical and scientific professionals involved in establishing policies concerning "euthanasia," racial hygiene, and sterilization? Are there significant parallels between the German experience and current health care policies about euthanasia?

November 29, 30 and December 1, Midwest Bioethics Center will host a two-day community conference which will focus on the meaning of the Holocaust for bioethics. Co-sponsors for this project are Rockhurst College, Congregation Beth Torah, Temple B'nai Jehudah, and the Jewish Community Foundation of Greater Kansas City.

Dr. Robert Jay Lifton, author of *The Nazi Doctors: Medical Killing and the Psychology of Genocide* and the leading scholar of Nazi medicine, and Professor Arthur L. Caplan, one of the country's leading bioethicists, will be featured. The goals of this conference are: (1) to study the origins and evolution of German thinking about "euthanasia" and the idea of "life unworthy of life"; (2) to clarify current analysis and practice of euthanasia in American medicine; (3) to ask if there are moral lessons we should learn from the German experience as we make life and death medical decisions today.

Information about these projects or other activities of the Center may be obtained by calling (816) 756-2713.

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