

The physician charter on medical professionalism: a Jewish ethical perspective

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The physician charter on medical professionalism creates standards of ethical behaviour for physicians and has been endorsed by professional organisations worldwide. It is based on the cardinal principles of the primacy of patient welfare, patient autonomy, and social welfare. There has been little discussion in the bioethics community of the doctrine of the charter and none from a Jewish ethical perspective. In this essay the authors discuss the obligations of the charter from a Jewish ethical viewpoint and call on other cultures to develop their own unique perspectives on this important document.

Organised medicine both in Europe and the United States has called for a renewed sense of professionalism among physicians and for an emphasis on this set of attributes in undergraduate and postgraduate medical education. Both the American Board of Internal Medicine¹ and the Association of American Medical Colleges² have in the last decade launched major initiatives promoting professionalism, and the Accreditation Council on Graduate Medical Education in the United States lists professional development as one of the major goals of residency education.³ These efforts have culminated in the European Federation of Internal Medicine, the American College of Physicians/American Society of Internal Medicine, and the American Board of Internal Medicine working together to develop a *Charter on Medical Professionalism*,⁴ which seeks to define better these attributes and mandate physician responsibilities. To date the charter has been accepted and endorsed by over ninety professional societies worldwide.⁵ The charter is based on the overriding principles of primacy of patient welfare, patient autonomy, and social justice.⁴ From these principles a specific set of professional obligations are derived. As Harold Sox has pointed out in an introduction to the charter, the principle of the primacy of patient welfare dates from ancient times and is intuitive to most physicians.⁴ In contrast, the principle of patient autonomy is a product of the past century and is the basis for much of modern Western medical ethics. The almost universally accepted Helsinki code on human experimentation relies heavily on this principle. The obligation to pursue social justice is in a sense the most revolutionary of the principles and for many physicians will represent an expansion of their responsibilities toward their patients and society as medical organisations have in the past often acted more in their self interest than for societal benefit. The impetus for these efforts in the words of the charter's authors is the fact that "the medical profession is confronted by an explosion of technology, changing market forces, problems in healthcare delivery, bioterrorism and globalization. As a result, physicians find it increasingly difficult to meet their responsibilities to patients and society".⁴

The professional responsibilities outlined in the charter are: a commitment to professional competence; honesty with

patients; patient confidentiality; maintaining appropriate relations with patients; improving quality of care; improving access to care; a just distribution of finite resources; scientific knowledge, and maintaining trust by managing conflicts of interest.

Remarkably, for a document of such obvious import there has been little discussion of it in the general bioethics community and to the best of our knowledge none in the Jewish medical ethics world. This may be because of the fact that the principles of the charter are a natural and obvious outgrowth of the basic principles of Western bioethics. Nonetheless, we feel there is value in an analysis of the document from a particular ethical and moral viewpoint.

Critiques of the charter have focused on the fact that no matter how noble the intentions of the charter are, doctors of today no longer have the power to carry out its mandates. "The charter asks physicians to reassert their authority and recapture the medical high ground to improve the welfare of patients. However, this requires engaging the new authorities of health care: corporate health institutions such as insurers, managed care organisations, and health systems run by governments. Now they are in charge. Only by working with them can physicians meet the basic commitments the charter asks them to make."⁶ The charter has also been challenged on the grounds that it is inherently contradictory as it calls for the primacy of patient welfare (individual rights) and the pursuit of social justice (group rights), which are mutually exclusive.⁷ There is also a notable lack of a concurrent set of patient responsibilities: the physician/patient relationship should mandate obligations on both sides.⁸ Also, there has been no serious discussion on the bioethical principles implicit in the document. The purpose of this essay is to provide a Jewish ethical response, grounded in rabbinic tradition, to the principles of the charter, with the caveat that Judaism is far from monolithic in its outlook and other interpretations can be equally valid.

The first fundamental principle, of the primacy of patient welfare, which is based on a "dedication to serving the interests of the patient" is fully consonant with Jewish tradition. The two most famous Jewish physicians' oaths reflect similar concerns. Asaph's oath (from the 6th century) consists of a charge of the physician/teacher to his students.⁹ The students respond: "for it is a command of the Torah and we must do it with all our heart, with all our soul and with all our might".⁹ In other words, the obligations of the oath are just an extension of Jewish legal and ethical mandates. Regarding altruism, Asaph's oath requires that physicians provide care to the indigent: "Do not harden your heart from pitying the poor and healing the needy".⁹ In fact, in Jewish law, the acceptance of payment by a physician was only permitted through the use of a variety of legal manipulations because, in principle, one should not be paid for required good deeds. The obligation of the physician to heal is a biblical commandment and refusal to render care is almost tantamount to murder in Jewish law. The physician's daily prayer, attributed to Maimonides, also emphasises altruism as a requirement for a physician. "Do not allow thirst for

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profit, ambition for renown and admiration, to interfere with my profession for these are the enemies of truth and of love for mankind".¹⁰ This emphasis on the altruistic aspect of patient care is deeply rooted in the ancient biblical commandment "to love your neighbour as yourself", which is the cardinal principle of Judaism.

The second principle of the charter requires physicians to respect patient autonomy and to be honest with their patients. We have previously pointed out that the principle of unlimited autonomy might reflect a Western liberal bias not shared by other cultures or religions.¹¹ As a matter of fact, more voices in the West are questioning the overemphasis on autonomy, particularly in view of the fact that many patients are not always fully competent decision makers.¹² In an insightful analysis of the concept of autonomy and informed consent from a Jewish perspective, Benjamin Freedman has pointed out that the obligation for a person to seek medical attention stems from the fact that he is the guardian of his body.¹³ The patient is biblically obligated to safeguard his body and is entrusted with the primary responsibility. This mandate is a reflection of the covenantal nature of Judaism, which is based on obligations and commandments and views man as a "charged" being. From this perspective the concept of autonomy flows from the patient's responsibilities and is not a result of any inherent human rights. The one who has the primary obligation to watch over his body naturally becomes the primary decision maker. There are, however, limits to this formulation. As opposed to the "rights" concept, when there is a clear unambiguous conflict between beneficence and autonomy, Jewish law mandates that even coercion may at times be appropriate in order to extend the life of the patient. Most Jewish authorities would—for example—mandate that we feed a hunger striker even against his or her will¹⁴ in clear contradiction to accepted Western ethical consensus. We acknowledge the paternalistic nature of our position and its dissonance with modern concepts of patient self determination but submission to a higher authority, even against human will, is a feature of many religions.

We would also extend this formulation to the issue of truth telling and full disclosure. Traditionally, Jewish law has been reluctant to fully disclose bad news to the patient for fear of harming him or her. As Lord Rabbi Immanuel Jakobovits, the pioneer of modern Jewish medical ethics, declared: "the Rabbis insisted on maintaining the patient's hopefulness not merely by withholding information of his imminent death, but by positive means to encourage his confidence in recovery".¹⁵

We beg to differ from this traditional approach, which is based on the primacy of beneficence, for two reasons. The fear of the danger in receiving the bad news does not seem to be supported by the current medical evidence. The fear of the unknown is often more disconcerting to the patient than the bad news itself. However, an emphasis should be placed on the information being given in a compassionate manner and in such a way that the patient may be left with hope. In addition, based on our previous analysis, the patient is the one primarily responsible for his or her welfare and can best decide how he or she will react to the information. From our experience as physicians, one can learn to grasp from a patient how, to what degree, and when the patient wants a physician to disclose bad news. In summary, the charter's principle of autonomy can be consonant with a Jewish medical ethical approach in a limited manner.

The third principle of the charter, and in a sense the most revolutionary, calls for physicians to promote justice in the healthcare system, including a commitment to the fair distribution of healthcare resources. Jewish tradition does not specifically mandate doctors to play this role but certainly this requirement would broadly fall under the responsibility

of all citizens to be involved in *Tikun Olam* (to speak out against injustice, evil, poverty, and to act accordingly) and charitable works. From a Jewish ethical perspective this requirement should be lauded and a healthcare system should be built on these principles.

Jewish ethicists have addressed the contradiction alluded to previously in the charter between the primacy of patient welfare and the commitment to a just distribution of healthcare resources. Recent authorities have ruled that from a public policy standpoint, in an environment of limited resources, a body politic can decide to limit expenditures to individual patients and instead spend money on health prevention in an attempt to save as many lives as possible.¹⁶ According to this position the needs of the community come before the individual and a healthcare system built on the principle of a just distribution of resources would be looked upon favourably.

This brief essay addresses only one community's response to the physician charter. As the charter is meant to be a universal document we call on other cultures to respond to it and to initiate a global dialogue on the important issues it raises between patients, physicians, ethicists, and religious leaders. The commitment to a fair distribution of limited healthcare resources is not—for example—a local issue and has important global ethical and policy ramifications for both developed and developing countries. In addition, as we have argued, the emphasis on patient autonomy in an international charter needs to be further explored. However, by expressing a universal desire for basic health care and empathetic physicians the charter can also serve as a bridge between divergent societies.

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