Are You Ethical?

That May Depend on Who You Are Asking

Steve Dayan, MD

Last week, I was stopped at a red light on a 2-lane street with construction barriers on both sides of my lane. Behind me, approaching fast, was an ambulance with its siren wailing. In the oncoming lane, also stopped at the red light, was a police car. Since I could not pull off to the right because of the barrier, my only choice to get out of the path of the ambulance was to drive into the intersection despite the red light. However, if I did, I would be breaking the law in clear view of a police officer. But if I did not let the ambulance through, I would be violating an ethical norm. After quickly thinking through my options, I made a judgment call and did what I thought best. What would you do?

Ethics can be difficult to define because they are often rooted in unconscious judgments. Yet, ethically judging the actions of others, as individuals and collectively, is imperative, and it touches every aspect of our lives. Most of us live by an ethical code imprinted by our parents, shaped by our religion (or secular humanist outlook), and crystallized among our peers. However, it is essential to recognize that although ethics are formed through years of tradition and discourse, they are also a dynamic set of criteria that may be clouded by ethnocentrism, forever changing and influenced by the current sociopolitical environment and the cultural-religious ethos to which we subscribe. Although medicine has attempted to adhere to the tenets of Hippocrates during the past 2½ millennia, what is considered ethical in medicine continues to be challenged based on the current sociopolitical, cultural, and religious influences of the time. Nazi physicians, such as Josef Mengele, Karl Brandt, and Joachim Mrugowsky, performed acts that grossly violate all senses of ethical behavior. Yet, these physicians justified their actions by claiming that human experimentation would lead to greater gain for society. Mrugowsky even edited a medical ethics book entitled Ethos, to which he later referred during his defense at the Nuremberg Medical Trial.

Often, cultural differences are used to define the boundaries of what is ethical and to influence ethical judgments. For example, the Western perception of appearance modification, whether through traditional acts of beautification common to other cultures, such as Kayan neck elongation and Ethiopian lip plating, or through the modern practice of aesthetic surgery, is often met with disdain and sometimes ethically questioned. Jacques Joseph, the father of modern plastic surgery, was unceremoniously dismissed from his staff position in part because he performed “vanity surgery.” Even in the 21st century, we debate the ethics of cosmetic surgery. Female aesthetic vaginal surgery is one of the fastest growing and most commonly requested procedures for many plastic surgeons and gynecologists, yet, only 3 years ago, the American College of Obstetrics and Gynecology cautioned its members to be wary of any cosmetic vaginal enhancement. However, today, many respectable physicians and gynecologic medical academies are now offering training courses in this area.

Until now, the United States has endowed physicians with perhaps the most freedoms and privileges ever bestowed on any profession, which has
allowed our practice a wide scope. Within this framework, medicine has advanced arguably faster and further than ever before. That which separates physicians from other professionals, and traditionally the reason so many privileges have been granted by society to us, is not that we possess an extraordinary amount of intelligence—many smart individuals in many professions can memorize loads of data. Moreover, it is not that we possess superior hand-eye coordination—many other professions require exceptional manual dexterity. That which distinguishes a physician, and the reason we spend nearly 3 decades in school, is the ability to make educated judgment calls. Every day, physicians must decide, “Should I increase the ventilator settings or leave them where they are? Should I raise the skin flap further or do I risk vascular compromise? Should I operate on this individual or not?” These are the everyday judgment calls we make. Moreover, this is what we are best trained to do. Physicians are not distinguished simply by memorizing masses of information or using our hands to remove a tumor but by synthesizing all the relevant information and using knowledge, experience, and critical judgments to develop a creative plan individualized to each patient.

Likewise, the ethical decisions by which we choose to practice are based on knowledge, experience, and critical judgment calls. Until now, the boundaries of acceptability in which our treatment and ethical decisions are made mostly have been managed within our profession. Those who step out of bounds are at risk of losing hospital privileges, being dismissed from academies and board affiliations, or losing their license. Only when the violations are grossly unethical do we call on the legal authorities of the state. Although, no doubt, abuse has occurred in this system, I have yet to meet a physician who would jeopardize the health of a patient by prescribing an inappropriate treatment because of receiving a pen provided to him or her by a third party. Despite the reasoning for restricting fraternization between pharmaceutical sales representatives and physicians, I would not consider any of my colleagues to be committing a criminal offense if they brought their spouse to a dinner hosted by their local pharmaceutical representative.

The consequences of an action ought to be examined when considering the degree of ethical violation of that action. In the legal profession, the criminality of violating the speed limit is not the same as that of first-degree murder, and the consequences are different as well. Should the same be true for medicine? In medicine, we are guided by the decree “do no harm,” but how is harm identified and who defines it? Is Dr. Kevorkian doing harm when performing active euthanasia on a patient who is terminally ill with cancer? How does this action compare with that of a surgeon who carves the initials of his or her alma mater into the abdomen of an otherwise healthy woman after hysterectomy? Is the cosmetic physician doing harm by recommending the more profitable filler despite its similarity to a less expensive alternative? And how do these offenses compare in scale to the act of the physician who advertises on the Web that he or she is the best in town, which does not directly affect any particular patient? All these acts can be considered ethical violations, but it would be difficult to argue that they are all unethical actions to the same degree because the consequences of these acts result in different degrees of harm. A physician peer group likely would be the most qualified to evaluate and decide to what degree each of these acts do harm, but the state has a responsibility to protect its population. When is it appropriate for the state to decide to what degree harm has been inflicted and whether the act is criminal?

As regulatory bodies outside of medicine are continuing to evaluate and determine the best ways for medicine to be practiced, our treatment plans, ethics, and judgment calls are being scrutinized more closely. Seemingly, the values of the state and the physician, at times, conflict. In their everyday decisions, physicians value the individual patient, but the state is entrusted to protect the collective good. Occasions may arise in which advocating an expensive or experimental treatment option for the individual may be perceived by the state as questionable ethically because it is not cost-effective or appropriate for society. Such decisions leave the state in a difficult position regarding the ways to manage care for a large population. The state can choose not to recognize such a treatment as standard, discourage insurance reimbursement, or create a cumbersome process to determine the validity of a procedure. However, if physicians are mandated or highly encouraged to follow a specified treatment protocol and the judgment of a physician is thereby devalued, what does the physician bring to society? Is it cost-effective to spend hundreds of thousands of dollars training physicians only to dampen their ability to make judgment calls? Perhaps, in such a case, it would be more favorable to train technicians to perform surgical procedures and protocol experts to provide medicines according to regimented guidelines. This course of action likely would be more cost-effective and conservative in the short term, but one wonders if it would stifle the creativity that has fueled medical advancements.

Society has bestowed on us the greatest amount of privileges known to any profession, but those privileges may now be subjected to significant restrictions. The question we must ask ourselves, individually and collectively, is who decides if our judgment calls are ethical—us, the government, our peers, or God? It is up to us as a profession to develop ethical standards that are acceptable to each of us but also applicable to our current sociopolitical and cultural environment. Otherwise, we risk transforming our profession into one of automatons, mechanically following procedural codes with diminishing regard to the condition of the individual patient. We have a fiduciary responsibility to put the patient first. Few who have endured years of medical training would ever doubt that ethos, but also, we have a responsibility to practice medicine within a standard mandated by our state government. Ideally, our background, coupled with our training and experiences, allows us to make the most ethical decisions. However, when ethical standards are dynamic and based on perspective, it is up to us to make important
The cephalic tuck procedure. The cephalic portion of the alar cartilage is tucked under the lateral crus to achieve tip refinement and strengthen the lower lateral cartilage.

Author Affiliations: Department of Otolaryngology–Head and Neck Surgery, University of Michigan, Alfred Taubman Health Care Center, Ann Arbor.