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Why Physicians Should Not Lie for Their Patients

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BENEFICENCE, AUTONOMY, AND SELF-DECEPTION

In their paper, “Why Physicians Ought to Lie for Their Patients,” Tavaglione and Hurst (T&H) assert that beneficence is “the core principle of medical ethics,” (Taglione and Hurst 2012) but beneficence is only one of several core principles. It is sometimes but not always the overarching principle, and it is never absolute. Another core principle of medical ethics is respect for the patient’s autonomy. The words “autonomy” and its corresponding adjective, “autonomous,” however, appear nowhere in the T&H paper, as if the terms were of no importance or did not exist. Many dilemmas in medical ethics arise from conflicts between autonomy and beneficence; neither automatically prevails over the other. The authors discuss contractual justice, but never mention the fact that the patient, either directly or through an agent, has chosen and paid for the policy/contract that governs his health care insurance. Why the patient’s (direct or indirect) autonomous choice of policy with all its limitations should not be respected by the physician requires an argument, but the authors offer none.

T&H set limits on acceptable instances of lying by permitting only those instances of gaming the system that are done for “altruistic Hippocratic reasons.” Yet, the human capacity for self-deception is deeply embedded in our genetic and cultural heritage, (Rubin 2002, 171) and the games physicians play almost always benefit them in some way, no matter how much they deny any personal gain. For example, whenever an operating surgeon lies to an insurance company, he might be helping a patient, but he also generates a fee that he would not receive without his deception and may deceive himself into believing he derives no personal benefit. (Sade 2001) Wholesale gaming of the third-party payer system by collusion of large numbers of physicians, which the authors favor, would be unavoidably rife with benefits for the physicians, their denials to the contrary notwithstanding.

TELEOLOGICAL ETHICS

T&H describe five objections to gaming third-party payer systems and show why they fail either because they exhibit the idealistic fallacy—applying ideal standards to a non-ideal world—or because they are inconclusive. The authors omit a sixth objection, however, which is teleological: undermining of the physician’s character by repetitive lying to insurance companies, habituating the physician to deceit in a broader range of circumstances.

Although it has similarities to both consequentialist and deontological ethics, teleological ethics is distinguished from them by its possession of two elements: an end or goal to be sought and a standard of success in reaching the goal. (Den Uyl 1991, 56–60) Both elements are present in the ethics underlying a neo-Aristotelian view of human behavior, according to which human beings are animals that possess consciousness and understand the world through concepts derived from perceptions of things as they actually exist; that is, man uses reason to understand reality. (Rasmussen and Den Uyl 1991, 32–40) The natural end or *telos*

of a human being is to live intelligently, and rational decision making is the standard for evaluating human action. Living rationally is the way to a flourishing life and can be achieved only through rationally determined choices and actions of each individual human being. Rational living requires that reason be firmly linked to reality, yet deception in general and lying in particular rupture that link. Lying is a misrepresentation of reality that not only harms others by denying them the truth that enables them to make decisions rationally (including actuarial calculations by insurance companies), but much more importantly in Aristotelian terms, lying harms the liar by undermining his character and leading him away rather than toward a flourishing life.

Falsehood in itself is base and censurable, truth is noble and laudable... A truthful person is truthful both in word and in life, because his moral state is truthful. Such a person would seem to be virtuous; for he who is a lover of truth and truthful where truth is of no importance will be equally true where it is of greater importance. He will avoid falsehood in important matters as involving disgrace; for he avoided it in itself apart from its consequences; but so to avoid it is laudable. (Aristotle 1987, 135–136)

We do not claim that lying to benefit a patient is always wrong, for there may be exceptional circumstances that could justify a lie. The age-old debate about whether you should lie when a murderer asks for the whereabouts of his intended victim, your friend, still goes on, from biblical times to the present. Most commentators disagree with the absolute positions taken by Augustine, Kant, and Wesley, each of whom asserted that one must never lie, even under such dire circumstances. Yet, this classic dilemma is an extraordinary situation that is likely to occur rarely, if ever. Choosing to lie here would have little effect on one's character.

The opposite is the case in lying to insurance companies. Transformation of character takes place through repetition over time. Physicians deal with insurance companies every day, so the opportunities and justifications for lying are not rare, but frequent. Every lie reinforces the habit of lying, destroying the virtue of honesty. "Moral virtue is the outcome of habit ... The causes and means by which any virtue is produced and by which it is destroyed are the same." (Aristotle 1987, 42–43) A contemporary restatement of this observation was made by Sissela Bok:

The most serious miscalculation most people make when weighing lies is to evaluate the costs and benefits of a particular lie in an isolated case, and then to favor lies if the benefits seem to outweigh the costs. In so doing, they risk blinding themselves to the effect that such lying can have on their integrity and self-respect, and to the jeopardy in which they place others." (Bok 1999, xix)

Potential damage to the character of the liar is not merely an abstraction in the minds of philosophers; experimental evidence from the psychology literature support the view that lying damages character. For example, the term "moral disengagement" describes cognitive mechanisms that alleviate the cognitive dissonance that arises from conflicts between beliefs and actions, thus deactivating moral self-regulation and resulting in dishonest actions performed with apparent lack of guilt. (Bandura 1996) Recent evidence from a series of experiments indicates that the arrow of causation may point in both directions—dishonest behaviors not only result from but can also can lead to moral disengagement: "[O]nce people behave dishonestly, they are able to morally disengage, setting off a downward spiral of future bad behavior and ever more lenient moral codes." (Shu 2011) These studies also demonstrate that steps to increase individuals' awareness of ethical standards, such as providing them with codes of ethics or, in the case at hand, simply telling them that deceiving insurance companies is ethically wrong, can reduce dishonesty and reverse the "downward spiral of future bad behavior." Encouraging physicians to lie for their patients

facilitates moral disengagement and helps to increase the likelihood of dishonest practices in the future.

LOOPHOLES, LARGE AND SMALL

T&H find reasons to treat the prohibition against lying as non-absolute, a conclusion with which most commentators on deception in medicine agree, this essayist included. (Sade 2001) Unfortunately, they expand a small loophole that is intended to allow rare exceptions to the proscription of deception into an enormous breach through which entire medical communities can march in unison to a ditty asserting that gaming serves the cause of justice in a non-ideal world. They suggest that coordination of gaming throughout the medical community might be a good idea in order to prevent harm to patients from falsification of medical records, among other goals. They propose creation of a secret code known only to clinicians, which will deceive third party payers. This is pure fantasy, as reviewers of insurance claims are themselves clinicians drawn from clinical practice who would easily recognize secret codes.

T&H assert that their cited five objections to gaming the system are either fallacious or inconclusive. The teleological objection we have added does not suffer from the idealistic fallacy, as it is grounded in the real world with empirical data. It does not absolutely or conclusively prohibit deception, but when added to the other five, it suggests a stronger set of arguments against gaming than the authors appreciate. The teleological objection sharply limits the range of circumstances in which deception would be permissible, so that the opening in the wall that separates truth from deceit is reduced from the authors' large breach to an appropriately minute loophole.

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Biography

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