A Needle in an Ethical Haystack
A Virtue Ethics Analysis

ICCEC VIENNA 2019

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Vienna – mid 1980's

Don Giovanni

Photo of Opera

'…a young, arrogant and sexually promiscuous nobleman, abuses and outrages everyone else in the cast until he encounters something he cannot kill, beat up, dodge, or outwit'…

An unrepentant scoundrel?

Before I studied moral philosophy - Proficient in language of sin but not virtue and vice.

More about vice later…

Session Outline

- The Case & the discussion
- Recap on ethical theories & approaches – conduct-based?
- The turn to virtue/character?
- Virtue self-assessment…
- The ETHICS Deliberative Framework
- Virtues & vices relating to the case
- What follows from this for CEC practice?
- Further reading and resources

Anonymised Case

Patient, Laura, is 40 years old and has end stage ovarian cancer

She is HIV positive – Hepatitis B & C status is unknown

Nurse sustains needlestick injury while giving injection. She became very emotional and wanted a blood sample taken from patient to check hepatitis status

Brother, Paul, is only person in family who knows Laura's HIV status

He reluctantly agrees that doctor (who is pregnant) can take blood sample.

The family leaves the room while the blood is taken. Took some time and doctor unable to get sample.

Staff supported and case taken to CEC where policy is revisited. Occupational health determined risk was low and post-exposure prophylaxis (PEP) not necessary.

What are the ethical considerations?

Sven Sachsalber 2014 – 48 hours looking for a needle in a haystack – Palais de Tokyo in Paris - https://www.youtube.com/watch?v=2tSSYb50Hqk&featur e=youtu.be]

Professional guidance?

GMC – says NO

For patients lacking capacity:

Doctors **cannot** perform a blood test unless in patient's best interest

Rule – duty-based?

For patients who have died:

Doctors need explicit consent from a nominated decision maker i.e. person with highest 'qualifying relationship'

Again, a case by case decision – would the person have wanted to consent if could….

BMA – says YES

For patients lacking capacity:

Doctors **can** perform a blood test , in line with proportionality – little patient harm and HCP benefit

Greater good – utilitarian?

- **General Medical Council**, personal communication, Nov 2018
- **General Medical Council**. Consent: patients and doctors making decisions together. London: GMC, 2008
- **British Medical Association**. Needlestick injuries and blood-borne viruses: decisions about testing adults who lack the capacity to consent. London: BMA, 2016

Other guidance?

Health & Safety Executive

http://www.hse.gov.uk/healthservices/needlesticks/resources.htm

Bedside Approach

Maybe?

Doctors can possibly perform a blood test if the person would have consented for another's benefit (e.g. HCP): a case-by-case decision

Balanced – virtues?

Royal College of Nursing

Focus on prevention –

file://homes.surrey.ac.uk/home/downloads/PUB-003313%20(1).pdf

Royal College of Physicians

- Aligns with BMA – say **YES**
  - Lazarus. Testing for blood-borne viruses after a needle-stick injury in patients who lack the capacity to consent. (letter) p376-377 Clinical Medicine, 2017

Medicolegal

- Aligns GMC – say **NO**
  - MPS, https://www.medicalprotection.org/uk/articles/wal-needlestick-injuries accessed 19/10/18

ETHICS deliberative framework (Gallagher 2008)

- **E**nquire about the facts of the situation/case
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Facts, options & views

Facts – recap

Options?

- To respect request of colleague & take blood sample from dying patient without consent?
- To refuse request, and refuse to even ask?
- To ask ‘permission’ from family i.e. when still alive
- To wait till dead and take without or without family ‘permission’ / consent

Views?

The nurse? – distressed and wanting sample for Hep C

The doctor? – wanting to be collegial, but feeling actions were wrong

The brother? – wanting sister to have good death surrounded by family, without disruption, burden of consent / collusion and without risk / stigma of HIV status being disclosed

Care organisation? – wanting to please all stakeholders, all the time!

Principles and other Values?

Four principles approach (4PA) – Beauchamp & Childress, Gillon, Edwards

Respect for autonomy – autos & nomos = self-rule/government

Beneficence & **non-maleficence** = do good and avoid/minimise harm – balance benefits & harm

Justice = treat people fairly

Ethical theory options?
Duties…rights…consequences…narrative…care…existentialist…

So we wondered…. 'what about virtues?....and vices?'

Shift the usual focus from the action/conduct of the moral agent to good character/virtues (and vices) of the hcp?

Revival of virtue…

- Revival/Renaissance – Anscombe 1958 – do ethics without “moral ought”
- Philosophical attention – Foot, Geech, MacIntyre, Crisp, Slote, Statman, Hursthouse
- Professional attention – Armstrong, Sellman, Scott, Carr, Toon, Clark, McBeath and Webb, Terry and Campion-Smith in Leathard and McLaren
- The Jubilee Centre for Character & Virtue - http://www.jubileecentre.ac.uk/

Virtues & nursing

Examples from Nursing Ethics Heritage Collection, University of Surrey

James M. Brogan (1924) *Ethical Principles for The Character of a Nurse*. Brogan writes:

> Character […] is a right attitude of mind, a constancy of will, and does not consist in a mere theory; it embodies an ethical ideal and carries it out in thought, word and action; or more briefly, applies it in all human conduct. This would be a character worth having; a constancy in right conduct that springs from a constant will within. It is ethical. It calls for a harmony or right ordering of human powers, human faculties, a harmony by which the rational will follows supremely the right and the good…(p.27).

Isabel Robb (1894) on receiving a letter listing qualities required for position of Head Nurse of a hospital which ended:

In short, we require an intelligent saint

Features of virtue-based ethics

- Agent-based ethics – focus on character rather than judgements about action - habituation
- Not compartmentalised – how should I live?
- Range of virtues = intellectual, moral, physical and social -'complex network of dispositions' (Goldie 2000 p.57) – modularity (Adams 2006 p.58)
- Significance of *eudaimonia* - flourishing
- Doctrine of the mean & role of the emotions – virtues and vices in triads…one virtue and two vices – one of excess and one of deficiency…(Banks & Gallagher 2009 p. 64)

- **Aspirational….**

Which Virtues?

Cardinal virtues

Courage

Justice

Temperance

Prudence

Theological virtues

Faith

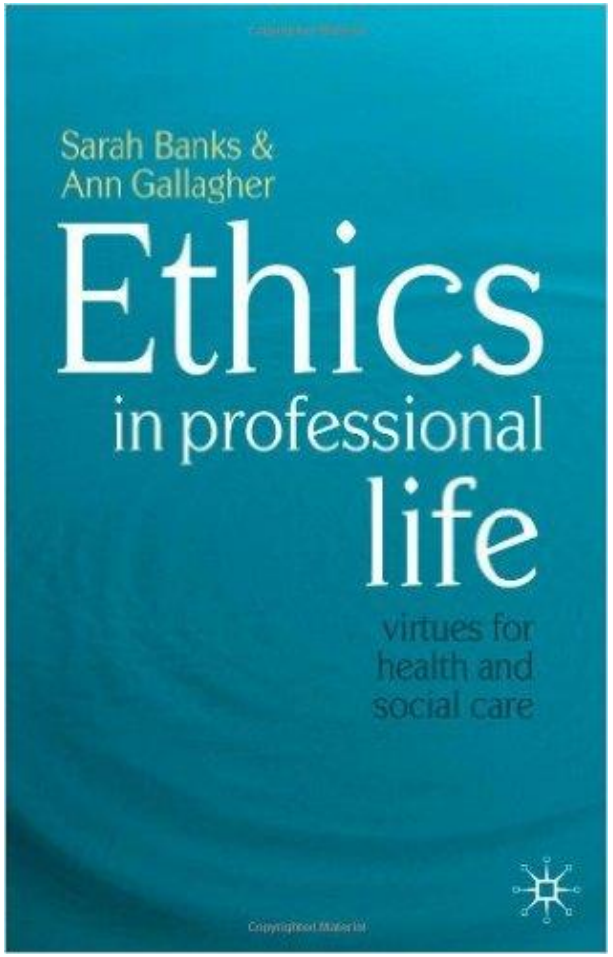
Hope

Charity/love

Others? – humility, obedience

Virtues for caring professionals (Banks & Gallagher 2009)

- Professional wisdom
- Care
- Respectfulness
- Trustworthiness
- Justice
- Integrity
- Courage



Self-assessment?

Atkins C.A. (1923) **Studies in Ethics for Nursing**

‘Your friends who will write your recommendations will mention your ability and your good points. You yourself should be able to state with a fair degree of accuracy the other side of your character. Most people, even the best, will find that in some qualities of heart and mind there is much to be desired, though in other ways they may be nearly perfect. If you were given a score card and required to rate yourself on the following list with 10 as a perfect score for each, what would your rating be on each point?’

Fair in judgement	**Oversensitive**
Self-reliant	**Egotistic**
Courteous	**A good loser**
Honest	**Kind**
Tactful	**Dependable**
Truthful	**Jealous**
Discreet	**Accurate**
Industrious	**Loyal**
Conscientious	**Respect for other’s rights**
Teachable	**Punctuality**
Charitable	
Ambitious	
Obedient	
Even-tempered	

Virtues of CEC members?

Core competencies for clinical ethics committees – Larcher, Watson & Slowther - UK 2007

http://www.ukcen.net/uploads/docs/education_resources/consensus.pdf

'**Personal characteristics'** =

- Tolerance, patience and compassion;
- Honesty, fairmindedness, self-knowledge and reflection;
- Courage;
- Prudence, humility; and
- Integrity.

Health care ethics consultation?

- Wisdom
- Justice
- Courage
- Compassion
- Humility

(Baylis 'Training in virtue' - 1999 - https://link.springer.com/chapter/10.1007/978-94-017-2556-9_4)

Other virtues?

Returning to the case…

Virtues of practitioners?

Balancing concern for patient & family Versus for colleague.

- Prudence
- Courage – right amount towards right object…
- Integrity
- Compassion & empathy

Vices?

- Imprudence
- Cowardice Vs recklessness/foolhardiness
- Disintegrity? [https://www.lexology.com/library/detail.aspx?g=681e0adb-5dc2-4a6e-8d3d-64b89de3f368]
- Lack of ‘feeling with’ Vs over involvement – too much focus on self or imbalance?

Understanding the series of unfortunate events in case study

Micro - individual factors – fear, lack of knowledge, lack of stoicism and moral resilience? moral distress when knowing right thing to do but not wishing to disregard pressure from colleague? Losing focus on professional values?

Meso - organisational – organisational responses to such situations and support for staff – [i] CECs, [ii] Schwartz rounds, [iii] Reflective Practice and [iv] Clinical Supervision (Gannon C, 'The "Support of Care Cycle" BMJ Supportive & Palliative Care, 2018)

Macro – government/political/societal – policies exist to provide guidance relating to needlestick injury, however, still work to be done by professional bodies and regulators to alleviate distress and balance patient/family interests with those of staff.

What progress have we made with the ETHICS framework?

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Concluding comments

Action & Arguments

- Beneficence – do good
- Non-maleficence – do no harm
- Justice – treat people fairly

Virtues to be aspired to? – prudence, courage, integrity, moral resilience, compassion…

Role of CEC? Not to blame, berate or humiliate but rather to work to an understanding of what happened/ is happening with a view to guiding and facilitating the flourishing of patients, families and practitioners.

A need for Slow Ethics…

The needle in the ethical haystack - Did we find it?

Photo of Haystack

‘Found it!’

Perhaps more…

Photo of

Swampy Lowland

Donald Schon 1983

‘In the varied topography of professional practice, there is high, hard ground where practitioners can make effective use of research-based theory and technique, and there is swampy lowland where situations are confusing ‘messes’ incapable of technical solution…’

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Thank You for Your Attention

Questions? Comments?

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