CODES OF CONDUCT AND ETHICAL GUIDELINES

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Summary

Codes of conduct have been applied for thousands of years as civilizing instruments to direct and guide behavior among members of human societies. They are distinguishable from requirements of religious observance, which focus on individual spiritual salvation, and from rules of law, which are expressions of political power even when democratically based. Codes and ethical guidelines are sources of cohesion in professions and voluntary associations of people willing to commit themselves to common purposes and values. Violators are liable to expulsion or lesser disciplinary sanctions, and to legal processes when codes are incorporated into legal standards.

Codes of conduct and ethical guidelines are particularly characteristic of medical and health-related professions, where the ancient Hippocratic Oath continues to inspire allegiance to altruistic goals, although details of the Oath have evolved since ancient times. Some codes are consolidations of pre-existing practices that adherents want to profess and maintain, but others are designed to assure common, acceptable responses to novel conditions. Codes or guidelines may thus express core commitments from which adherents to professed common values must not depart. In contrast, however, codes or guidelines may be idealistic, designed to inspire and elevate practice within an area of endeavor to the highest possible level. Thus, codes or guidelines may be pitched at basic, detailed standards, or at high, abstract ideals that group members should strive to achieve even though many will fall short of achieving or maintaining them.

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Codes and guidelines have been particularly influential in setting minimum standards for the ethical conduct of medical research involving human subjects. It may be a requirement of law that a code or guideline be observed, but most are interpreted and applied by committees outside of formal legal systems, such as research ethics review committees.

1. Introduction

Codes of conduct date back to the historic origins of ordered literate societies, when those exercising recognized authority wished to codify in written language what behavior was customarily expected of participants in their given communities, and what behavior would be liable to disciplinary sanctions. The differences between mandatory, permitted and punishable behaviors may be understood by reference to the needs and dangers that particular societies perceived, and are interpretable by studies in the discipline of anthropology. The significance of the emergence of codes is that they transcended the spiritual or religious duties by which individuals considered themselves bound for their own salvation, in their lives and perhaps afterlives, and addressed the duties individuals owed to each other and the communities to which they belonged. The Code of Hammurabi, King of Babylonia (died c. 1750 B.C.), inscribed in cuneiform, is often considered one of the greatest of ancient codes of behavior that was communicated to and enforceable within a civilized society. It strongly prohibited defrauding the helpless, for instance, and is humanitarian in character.

Within ordered societies, practitioners of particular disciplines often established the rules by which they agreed to be bound, or by which they aspired to bind themselves and their colleagues. The Hippocratic Oath, drawn up about four centuries before the Christian era and ascribed to a celebrated physician of Greek antiquity, separated medicine based on observation from philosophy and superstition, and was designed to commit medical practitioners to a particular set of ethical principles. The Oath continues to define the spirit of honorable conduct among physicians, although its pagan invocations and particular prescriptions have now been abandoned in favor of contemporary principles, represented for instance in the World Medical Association's Declaration of Geneva developed in 1948 and the Association's 1949 International Code of Medical Ethics.

Many societies have reduced their historical customs into legal codes. The codes of law developed in the Roman civilization, exemplified in the code of Justinian, completed early in the sixth century, provided the legal foundation of one of the Western world's greatest and most enduring empires. When the part-customary, part-codified laws of the formerly nomadic Germanic tribes of Western Europe proved dysfunctionally uncertain and conflicted as the tribes formed territorially stabilized communities in the fifteenth and sixteenth centuries, their leaders returned to the comprehensively codified system of Roman Law. The French emperor Napoléon instituted a newer full legal code at the beginning of the nineteenth century, the processes of which remain the center of Civil Law legal systems. In contrast to Anglo-Saxon Common Law systems, which retain a basis in unwritten customary law, codified law modeled on the Code Napoléon applies in much of Europe and in the territories in Africa and beyond exposed to continental European colonization, such as in Central and South America.

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2. Codification and Professionalism

Codes of conduct or ethical codes or guidelines are of particular importance to practitioners of disciplines or activities who claim professional status. Indeed, their adherence to and enforcement of such codes or guidelines characterize members of professions, as opposed to members of craft or trade associations. The latter are primarily concerned to promote the interests of their own members; they may offer clients assurances of their integrity in good faith, but expulsion of members who violate the code does not impair their pursuit of their craft or trade. Members of professions are also motivated by self-interest, but they invoke the classical "calling" or vocation of the historic professions of theology, medicine, law and military arms, and recognize responsibilities to those they serve and to their communities to provide services from which they may not personally profit. Further, expulsion from their professional body carries public disgrace and reduced if not terminated capacity to practice.

Ethical codes and guidelines are most possible to establish and most effective to enforce among communities with shared values. In contrast, legal codes are enforceable by political, policing and comparable governmental power. Ethical codes express colleagues' common commitments and aspirations, and can broaden the base of collegiality by attracting those who wish to show their voluntary assumption of ethical responsibility. They may be proposed unilaterally, but may gain sufficiently widespread support and become such cohesive bonds among otherwise disparate practitioners as to serve as a symbol of common purpose and integrity. That is, codes may show existing unity of purpose, but may also create unity by gaining allegiance of persons and institutions willing to pledge a common commitment. In health-care professions, ethical guidelines may be comparable to practice guidelines, which are regarded as systematically developed advisory statements created according to validated methodologies. Ethical guidelines are different in that they may have no empirical basis, but comparable in representing responsible advice from respected agencies.

3. Codes, Guidelines and Pre-Existing Practice

In some legal traditions, a "code" is a legally binding document that must be strictly observed, in contrast to a "guideline," which guides and influences a decision that has to be made, perhaps on ethical grounds, but does not predetermine what the decision should be. Accordingly, those equally bound to follow the same guidelines may do so conscientiously, but reach different resolutions to the same problem. For instance, a physician bound by an ethical guideline that prohibits practice with a conflict of interest may hold shares in the profits of a drug company whose products the practitioner may prescribe for patients. A physician governed by the guideline may decide to dispose of the shares before prescribing products of that company, retain the shares but prescribe only other manufacturers' products, or inform patients of the commercial interest and let them select products of that drug company or of other companies. Similarly, when a practitioner who has been consultant to a particular company is invited by a journal editor to prepare an article for publication that reviews the state of development in the field in which the company's products compete, the practitioner may decline, on grounds of conflict of interest. Alternatively, the practitioner may inform the editor of the journal of the consultancy, and let the editor decide whether to maintain the

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invitation and publish the article with acknowledgment of the consultancy, or withdraw the invitation and seek another author who appears more independent. An ethical guideline on conflict of interest may be met by prevention or termination of an interest, or by due disclosure.

In practice in ethics, as opposed to law, the titles of "code," "guideline," "declaration" and, for instance, "statement" are used synonymously. More significant than the chosen title is what a document is intended to achieve.

A code or guideline may propose to embody and give expression to pre-existing practice that those bound by the document pledge to uphold against deviant practices. Such a document would be a conservative instrument, to maintain the status quo.

Preparation of such a code or guideline is vulnerable to a tendency to idealize what previous practice has been, however, so that the resulting document expresses more the idea of what practice should be rather than the practice that is actually followed. Written expressions of acceptable practice may therefore identify superior practice, and have the potential, when enforced, to become an instrument of reform.

Many codes or guidelines are directly inspired by a purpose to improve upon prevailing practice, and remedy its defects. This is particularly so when a novel practice has emerged that drafters of ethical documents want to prohibit or at least to make subject to independent review.

Several organizations' documents on medically assisted reproduction, human cloning, applications of genetic knowledge and xenotransplantation are of this nature. Responses to a movement favoring patients' rights to medical assistance in committing suicide or in achieving premature death have included statements on medically assisted death that are generally negative, but may contrast medical induction of death, which is prohibited, with withdrawal of care patients oppose and allowance of natural death.

Practitioners who feel they cannot passively allow the death of patients who request withdrawal of care must transfer care of such patients to other practitioners who feel able to comply with the patients' requests.

Another distinction is between codes, or parts of codes, that establish minimum standards that no practitioner can be tolerated to violate, such as against sexual abuse or exploitation of patients, and codes or parts that set the highest standards to which practitioners may aspire. These may concern, for instance, rendering charitable care to the poor and their children, and volunteering time and energy to serving in honorary offices in professional associations. Practitioners who do not satisfy these standards are not unethical, but dedication to satisfy these standards is considered admirable, and is acknowledged as ethically exemplary. Minimum standards usually codify existing criteria of what constitutes disgraceful behavior and professional misconduct, or at least conduct that is professionally unbecoming. In contrast, high aspirational standards may be modeled on an idealized vision of the best of professional dedication and self-sacrifice, but not be demanded or expected of any individual practitioner.

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Biographical Sketch

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