Outline

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Chapter 11

- Lies Protecting Peers and Clients
- Confidentiality
- Fidelity to Colleagues
- Fidelity to Clients
147 “To keep silent regarding a patient’s confidences is to honor one of the oldest obligations in medicine. Lawyers do the same for their clients, as do priests in hearing confessions.”

“Silence is often not sufficient to uphold this obligation.” Sometimes a lie is required.

“Are there limits to this duty of secrecy? …[W]hy is it so binding that it can protect those who have no right to impose their incompetence, their disease, their malevolence on ignorant victims?”
149 “Three separate claims are advanced in support of keeping secrets confidential.

1. We have a right to protect ourselves and those close to us from harm that might flow from disclosure.

2. Fairness requires respect for privacy.

3. Added respect is due for that which one has promised to keep secret.”
Fidelity to Colleagues

153 “Is it ever right to lie to cover up for colleagues who are exposing innocent persons to risk?”

154 “Current codes of ethics require, in principle, that physicians” are responsible “to disclose the risks to those who most need to know them.”

155 “There is no excuse for lying to protect anyone who places patients at such risk.”

155, 156 “No complicated moral dilemmas exist in such extreme cases. Professional loyalty is clearly outweighed by the duty to prevent grievous harm.”
Fidelity to Colleagues

157 Health professionals need to “look closely at the threat which incompetence poses in certain walks of life and at the conflicts between loyalty and responsibility which then arise.”

1. Licensing bodies need adequate powers to protect the public adequately.

2. Find ways to decertify incompetent individuals while supporting them for less risky work.

3. Institute testing to keep certification in work risky to the health of the public.
For a client who lies on the witness stand, is it the lawyer’s obligation to avoid or cover that lie? It has been thought to be a professional responsibility.

1. “Even the most hardened criminal has a right to advice, help and skilled advocacy; the right to a person loyal to him in particular.”

2. “The general level of justice will be raised, it is claimed, if clients can trust their lawyers to keep their secrets.”
161 “In a sense, those who advocate building on perjurious testimony in court then claim that lies can be a mechanism for producing truth. Yet this claim has never… been empirically established.”

162 “The problem here, as with many other deceptive professional practices, is that the questions are too often left up to the professional themselves, whereas the issues obviously touch the public intimately. There is, then, a great need for a wider debate and analysis of these issues.”
Fidelity to Clients

164 “Lawyers themselves might well be grateful for the standards to be publicly discussed and openly established.”

“They could then more easily resist pressure from clients and resolve to their own satisfaction what might otherwise seem to present them with a confusing conflict of personal and professional principle.”
Chapter 12

- Lies for the Public Good
- The Noble Lie
- Examples of Political Corruption
- Deception and Consent
Three circumstances have justified liars:

1. A crisis where deceit can avert harm.
2. “Complete harmlessness and triviality” of the lie.
3. The duty to protect individual’s secrets.

“Where these three… streams flow together… another excuse—a desire to advance the public good—the most dangerous deceit of all emerges.”
167 For Disraeli the gentleman is one who knows when to tell the truth and when not to. It is the high-minded well-bred individual for whom “Lying is excusable when undertaken for ‘noble’ ends by those trained to discern these purposes.”

169 “We can not take for granted the altruism or the good judgment of those who lie to us, no matter how much they intend to benefit us.”

There is always a class distinction inherent in those who justify lies of this sort.
171 Strategies of electioneering where promises are made, do not include the necessity of following the promise after election.

172 Why not tell the people your intentions beforehand?

172, 173 “Deceiving the people for the sake of the people is a self-contradictory notion in a democracy, unless it can be shown that there has been genuine consent to deceit.”
Political Deception

174 The common lies told during a campaign “are so widely suspected that voters are at a loss to know when they can and cannot believe… a candidate…”

175 “Political lies, so often assumed to be trivial by those who tell them, rarely are.”
Deception and Consent

To avoid a panic, the public may agree to allow a government to withhold information, especially with respect to a plague until it is contained.

Black projects may not be understood outside the close group of advisors that funded it, and national security may require this.

But in general, a government that lies to its citizens has lost the trust and respect of the people.
Chapter 13

- Deceptive Social Science Research
- Social Science Experimentation
- Review Committees
- Questions of Professional Responsibility
- Pseudo-patient Studies
Social Science Experimentation

- Read the shock story 183.
- Read 186 bottom.
- What are the alternatives.
- Seek the knowledge non-experimentally through research.
- Retrain students to look for alternative honest ways to get the results.
- For a proposed experiment? Public justification.
190 Evaluate the harmfulness of a proposal, and brief prospective subjects of the risks.

Debrief the subjects to make sure there is no residue of the experiment.
Review Committees

- Use review committees to evaluate the possible harm and possible gain from an experiment.
- This follows the rule of the principle of publicity.
- Psychological experimentation can damage a person and without consent to the risks and a well planned study to reveal possible pitfalls of such experimentation, the danger of damage can outweigh the possible benefits of research.
The professional is responsible not only not to make deceit a way of life which damages himself, but is also responsible not to make deceit in that profession commonplace.
Pseudo-patient Studies

The pseudo-patient goes to a clinic pretending to be ill to gauge the level of care.

Read 198 “Eight investigators…”

Those who have been subjected to… [pseudo-patient] studies have felt injured in two ways:

1. They have been lied to, and the lies caught them off guard, so that their private relationships with patients have been invaded.

2. The deceits are not in an emergency or white lies.
Some investigators feel no compunction about the lying and don’t need to justify the study.

Others are troubled about researching doctors this way, but feel that the payoff in reduced doctor fraud is an acceptable cost for the deceits.

The reason for the studies is to uncover unequal treatment of patients and deceptive fraudulent charges against the system.

The purposes are important and studies needed.
Pseudo-patient Studies

202 “Until… standards are set for pseudo-patient studies, health professionals should assume that they may become the subjects of surreptitious studies…. The wisest course may yet turn out to be to treat all strangers well. Who knows—they may be princes in disguise.”
Chapter 14

- Paternalistic Lies
- Paternalism
- Paternalistic Deception
- Justification?
204 “When *can* authority be justly exercised—over a child for instance? And the answer given by paternalism is that such authority is at the very least justified when it is exercised over persons for their own good.”

205 “And deception may have outranked force as a means of subjection: duping people to conform, to embrace ideologies and cults—never more zealously perpetrated than by those who believe that the welfare of those deceived is at issue.”
205 “Apart from guidance and persuasion, the paternalist can coerce in two ways: Through violence and deception.”

Paternalistic deception may not arise with the intention of deception. It may arise in the process of evoking an appropriate response from a child.

209 “Children can be wronged by lies as much as, or more than, others. And liars themselves can be as injured by lying to children as to all others.” Read top of 210.
212 “One reason for the appeal of paternalistic lies is that they, unlike so much deception, are felt to be without bias and told in a disinterested wish to be helpful to fellow human beings in need.”

Paternalistic liars are seen as less than benevolent when all the motives (below) are uncovered.

- Fear of confrontation
- Loss of power
- Avoidance of change
213 It is not OK to lie to children, just because they are children.

“Helpful lies are excused by altruism” is much too uncritical.

Is lying justified whenever force is? Certainly when there is immediate threat to life.

214 “Crisis, as we have just seen, should call forth paternalistic deception only if persuasion and force are useless.”
Justification?

“Can implied consent be used as a test of all the paternalistic lies told?”

“The way to tell rightful paternalistic lies from all the others would then be to ask whether the deceived, if completely able to judge his own best interests, would himself want to be duped?”

With respect to groups who are considered the subject of paternalistic lies, the principle of publicity must be brought to bear.
Chapter 15

- Lies to the Sick and Dying
- Deception as Therapy
- The Patient’s Perspective
- Respect and Truthfulness
Deception as Therapy

222 In the case of the individual who has a few months to live, has no symptoms and treatment, which is life prolonging but not life saving, has hazardous side effects, should the doctor reveal the nature of the disease, or let the man go on a long awaited vacation?

224 “Truth, for Meyer, may be important, but not when it endangers the health and well-being of his patients.”
223 “The two fundamental principles of doing good and not doing harm—of beneficence and nonmaleficence—are the most immediately relevant to medical practitioners.”

“The Hippocratic Oath makes no mention of truthfulness to patients about their condition, prognosis or treatment.”

Read E on page 225 and quote following.

Physicians need to work with others to resolve this.
227 “To claim that ‘since telling the truth is impossible, there can be no sharp distinction between what is true and what is false’ is to try to defeat objections to lying before even discussing them. One need only imagine how such an argument would be received, were it made by a car salesman or a real estate dealer, to see how fallacious it is.”

Paternalistic treatment of patients risks turning to contempt.
The Patient’s Perspective

229 Denial is experienced by some patients.

230 Denial is not universal, but even when it exists it can be worked through by the patient.

231 Doctors’ fears about the meaning of life and the inevitability of one’s death condition their behavior.

233 Informed consent (Read)
237 “Modern medicine, in its valiant efforts to defeat disease and to save lives, may be dislocating the conscious as well as the purely organic responses allowing death to come when it is inevitable, thus denying the benefits of the traditional approach to death.”

“There is no evidence that patients in general will be debilitated by truthful information about their condition.”
Respect and Truthfulness

238 “The common view that many patients cannot understand, do not want, and may be harmed by, knowledge of their condition, and that lying to them is either morally neutral or even to be recommended, must be set aside.

“Few patients request not to be given bad news.”

239 Openness and disclosure with attention to the humane treatment of the patient is necessary.
“Is there any way in which they [the patient] can maintain their autonomy, even at a time of great weakness?”

“The perspective of needing care is very different from that of providing it. The first sees the most fundamental question for patients to be whether they can trust their care-takers. It requires a stringent adherence to honesty, in all but a few cases.”

The principle of publicity will help this debate.
Chapter 16

Conclusion
243 “Many who might be able to change the patterns of duplicity in their own lives lack any awareness of the presence of a moral problem.”

244 “What role can the government play” to restore public trust?

1. Look to its practices and the very climate of its dealings with the public.

2. Carry out the existing laws against perjury and fraud.
Conclusion

245

3. The laws and rules of our society must be examined from the point of view of whether they encourage deception needlessly.

“If the incentives for achieving the goals—retaining one’s job, most importantly, but also promotions, bonuses, or salary increases—are felt to be too compelling, the temptation to lie and to cheat can grow intolerable.”
Conclusion

246 “Throughout society, then, all would benefit if the incentive structure associated with deceit were changed: if the gains from deception were lowered, and honesty made more worthwhile even in the short run.”

246 “Economists, in particular, are seeking procedures that reward honesty in such activities as voting, giving expert advice, bargaining, and bidding at auctions.”
Conclusion

248 “These practices (deceitful ones) are not immutable. In an imperfect world, they cannot be wiped out altogether; but surely they can be reduced and counteracted.”

249 “Trust and integrity are precious resources, easily squandered, hard to regain.”

“They can thrive only on a foundation of respect for veracity.”