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Medical Beneficence

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摘要

在本文作者的用法裏，『原則主義』(principlism)是指這樣的做法，即以「原則」取代道德理論、特殊的道德規則和理想，來處理源自醫務中的道德問題。作者的論點是，這些「原則」並未發揮原則主義主張的那種功能，而其使用在實踐和理論上都是誤導的。實際上，「原則」並非行為的指導，毋寧說，它們只是名目，指涉處理道德問題時，一組有的待考慮，但關係卻慮淺的事項。每一「原則」之間，未有系統性關係，且往往相互衝突。而這樣的衝突是無法解決的，蓋因未有統一化的道德理論，據之而推導出所有原則。為了作一比較，作者勾勒出使用一個統一化道德理論的優點。

摘要

中國古代醫學道德具有悠久的傳統。中國醫學史上“醫乃仁術”的命題，充份體現了中國醫學傳統十分重視醫療實踐的倫理價值。該文基於中國傳統文化的背景從四個方面討論了醫療行善的思想基礎和實踐意義。首先，文章追溯了中國古代儒、道、佛思想對醫療行善觀念的重要影響，指出中國傳統醫學的醫療行善觀念是以儒家仁愛思想為核心，融合了道家和佛家的仁慈、慈悲觀念而形成的一種多元價值取向的框架體系。其次，該文闡述了中國傳統醫學非常重視醫療實踐的道德價值，其中主要包括強調醫療活動以病人而不是疾病為中心；將病人視為一個整體的人而不是損傷的機器；主張關懷病人、尊重病人；重視醫患之間的合作關係；重義輕利、捨利取義的理想人格成為醫生的追求目標；反對義醫射利。再次，文章評述了在以儒家文化背景下醫療行善的社會道德價值，表現在：知識分子因各種原因不能治國安邦時，將行醫治病成為實現個人價值的重要途徑；將行醫治病作為增進家族或家庭和睦的有效手段；將行醫治病作為傳播宗教思想的重要途徑；將行醫治病作為政府舒緩民怨的良方。最後，該文簡要地比較了中西方醫療實踐中醫療行善觀念的異同，指出醫療行善作為醫療實踐的一項最基本原則在中西方得到普遍的認同，但是，在具體的實踐過程中，中西方對於醫療行善的理解和解釋依然存在著一定的差異。西方醫學倫理學認為醫療行善應服從於尊重病人的自主權，醫療行為的善體現在以病人利益為目的，而中國醫學倫理學則更強調醫生救死扶傷的義務，主張醫療行為在注重病人利益的同時也應兼顧家庭的利益。

放棄知情同意：一個尚未成熟的看法

Becky Cox White and Joel Zimbelman

摘要

在晚近對知情同意的批判裏，Robert Veatch 論證，這種實踐之發展目標，在原則上是無法達成的。筆者則認為，Veatch 以病人最佳利益之決定在理論不可能性為焦點，被誤用到醫療的實踐學科裏，而且，他誤以為病人/醫生的溝通，無法提供確保病人最佳利益的知識。筆者亦將推斷，Veatch 倡議的那種以價值為基礎的專業配對，根據他自己的標準來看，是不可能落實的。最後，我們要重新檢視知情同意在哲學和實踐上的成立理由，並歸結該實踐應該留下來。

目錄

病人自主決定與醫療行善

崔紅

摘要

通過對“喉梗阻”患者案例的分析和感受，本文試圖分別從醫生、患者和哲學研究者的角度進行較客觀的思考。從醫生的角度看：“自主決定”和醫療行善存在矛盾，削弱了醫生的“自主”決定，醫生的角色是單純的醫療技術掌握者還是用此技術全心全意為病人服務的行善者？從患者的角度看：患者是否都有“自主決定”的能力？若醫生只是單純的醫療技術的掌握者，與患者無情感的溝通，患者在醫院是否有心理上的安全感？從思考者角度看：在前面論述的基礎上，提出了“善”是相對的，“自主”是適度的，任何絕對的病人自主和醫生自主都行不通。總之，醫療行善，不能拘泥於某一形式。

目錄

摘要

Warren and Brandeis 有關侵犯隱私權之訴訟，有一個主要是社會性目標：獲得法院的同情，強化文明的規範。多年以後，在 Griswold v. Connecticut (1965) 的案例裏，最高法院宣示以個人為焦點的一項隱私的憲法權利。在這個及往後有關墮胎及「死之權利」的判例裏，即顯然看出，Warren and Brandeis 那種維多利亞的「不受打擾的權利」(the right to be let alone) 已變形為自主的權利，其多種變形使得加以預測甚至是描述，都成為棘手的事。然而，隱私及是自主的一項不充分的代理(an unsatisfactory proxy for autonomy)，也許正因為如此，其作為這些領域中的根據之重要性，已然縮減。

目錄

手術由誰簽字？—醫療行為中的家屬意見

樊民勝

摘要

面對由於拒絕簽字而引發的醫療事件，使一些人對特殊醫療實施前的病人簽字制度產生懷疑，認為這是不必要的。但事實上制定這項制度是醫療的必須，它既保護了病人權利不受侵犯，也為醫生從事高風險職業提供了保障，因此可以在倫理上得到辯護。由於中西方不同的文化傳統導致在簽字上有患者本人和家屬之分。家屬簽字有其合理部分，但也存在弊端，應從維護病人最大利益出發，區別對待。

目錄

Abstract

China has a long standing of a dominant medical ethical tradition. This tradition can be characterized a medial beneficence. The physician, within this tradition, is morally required to pursue the best interest of the patient rather than the best interest of himself. The practice of this tradition is characteristic of the Chinese culture of family determination on medical issues and is also closely related to the basic virtues approved in the Chinese community.

This tradition is rooted in three primary Chinese religions. First, Confucianism sets the basis of Chinese medical beneficence. Confucianism emphasizes humanity (ren) as the fundamental principle of human life. Humanity represents a specific human heart-mind that has been invested to every human by Heaven, the ultimate reality. The human heart-mind includes the potential of loving, respecting others, and distinguishing right and wrong. Accordingly, humanity, in its very basic sense, requires loving humans. Medicine provides a good means in practicing humanity. Thus in Chinese culture medicine is termed "the art of humanity." In addition, the Confucian virtue of filial piety has often been the impetus to push the Chinese physician to study and practice medicine effectively.

Daoism cherishes human life and seeks to gain longevity in terms of Daoist techniques, such as doing physical exercise and making chemical drugs. It includes a strong idea of retribution. Heaven, earth, and man co-exist in a vast field of qi (flowing energy), where qi of each part influences others through the influence of the qi field. Good moral behavior, according to Daoism, becomes a necessary condition for one to be able to gain longevity or even immortality. Thus, Daoism joins Confucianism in stressing that the physician ought to do his best to help the patient improve health, both bodily and mentally.

Chinese Buddhism is similar in this regard. A crucial idea involved here is the Buddhist concept of karma. Karma is literally "action," "doing," or "deed." It says that one reaps what one sowed. Until one is entirely enlightened, everyone goes through an infinite process of rebirth and the result of one's rebirth depends upon one's accumulated karma. Hence one must do as much good as possible in order to obtain a better next life. Practicing medicine is an effective tool to achieve this goal. Besides, the Buddhist precepts such as "no killing" also plays an important role in Chinese medical practice.

In short, Confucian, Daoist, and Buddhist teachings have shaped the Chinese

tradition of medical beneficence. This tradition requires the physician to place the patient's benefit first and the physician's interest second. For Confucianism, this is the requirement of human appropriateness, fairness, or justice. This tradition also shows a closely-knit team work between the physician and the family to seek the best interest for the patient. The consideration of truth-telling to the patient and the patient's right to medical decision has never been emphasized.

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It is important to respect for patients' rights. The patient should be informed of medical interference and the physician must obtain the patient's consent to perform serious treatment. This is a sense of patients' self-determination in contemporary medical practice. This paper argues that, granted its importance, patients' self-determination should not be given unique emphasis independent of physicians' medical beneficence.

The paper considers this issue from both Chinese physicians' and patients' perspectives. First, from the physician's perspective, the role of the physician as a professional ought not to be overlooked. Should the physician play a role no more than that of an ordinary salesman by displaying everything for the customer to choose? Traditionally Chinese medicine has always insisted that the physician should do more than that. Having studied both human and technical values, the physician should play an active function to help the patient make the right decision. He should not passively follow whatever the patient chooses on the excuse of respecting for the patient's self-determination.

Instead, being physician, he is naturally determined to do medical beneficence toward the patient. Of course, there may be fundamental value conflicts between the patient and the physician. For instance, they may believe in different religions. This difference may sometimes lead the patient to want or refuse something that the physician takes to be against the patient's interest. In such cases the physician and patient may best respect each other's fundamental values. However, most medical cases are unlike this. They don't involve any fundamental value conflict. The physician should do his best to persuade the patient to make the right decision, rather than passively to accept whatever the patients chooses.

Moreover, Chinese patients' perspective also supports physicians' beneficence. The patient would say this. Look, the physician has been trained specially in their work. Technically they should know better regarding what the patient should do. Being sick is a weak time in the patient's life. The patient does not want to confront it lonely. On the one hand, the patient wants the family to take care of her and take the burden of making the decision in her best interest. On the other hand, the patient wants the physician to help the family in this difficult process of decision making. It is not appropriate for the physician to play a role of salesman and leaves everything in my hands. This is against the nature of physicians as the beneficent healers.

In short, both Chinese physicians' and patients' perspectives support the combination of patients' determination and physicians' beneficence. It is inappropriate simply to stress the importance of patients' rights or self-determination without giving significant weight to the role of medical beneficence that physicians should play in medical practice.

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Abstract

The physician must obtain the patient's consent in order to make medical interference with the patient's body. For instance, the physician may not perform a surgical operation if the patient does not permit the operation. This is generally termed the practice of informed consent. However, there are different patterns of the practice of informed consent between the West and China. In the West the physician directly informs the patient and the patient signs the consent form for an operation. But in China the physician usually informs a family representative and the family representative signs the consent form. This paper argues that the familialistic pattern of informed consent is defensible in the Chinese moral and cultural context.

In the first place, it is necessary to clarify a mistaken view. Some argue that sign for operation is not necessary because it may prevent the physician from doing beneficent acts on the patient. For them, since the physician is doing good to the patient by performing an operation, the patient should have agreed and actually have agreed to such procedures generally. Therefore, it is not necessary for the patient to sign a consent form. There are a number of problems with this view. The primary issue is that it overlooks the sovereignty of the patient over his/her body. It is the right of the patient to control his/her own body, regardless of whether the physician is doing good or bad on him/her. It is true that the physician, as a medical professional, is generally to do good to the patient. But it is still the patient that should be the master of his/her own body and keeps the power of deciding what he/her wants to do with it. Even if the practice of this type of patient rights may not always lead to the best interest to the patient, the cost is worthwhile to pay.

Nevertheless, whether it should be the patient him/herself or a family representative that is to sign for an operation is a different issue. The Western answer is that it certainly should be the patient to sign the form. It is, after all, his/her own body, health, and life that are at stake. But there are different moral and cultural assumptions between the East and the West regarding this issue. Chinese people understand the family as an autonomous unit from the rest of society. They keep a clear distinction between intra- and extra-familial issues. When a family member falls ill, the whole family, rather than the patient alone, faces the physician regarding medical options. So the final authority of decision

making is in the hands of the entire family, rather the single patient. The moral and cultural assumption is that all family members should take care of the sick and make the best medical choice on the behalf of the sick. In this practice it is not that the patient's right to self-determination is deprived of by family; rather, it is the healthy members of the family exempt the burden of the patient to struggle for such decisions or sign forms. Hence, in the Chinese cultural and moral contest, the practice of signing a consent form by a family representative is morally defensible.

However, there should be some limitations on this practice. For instance, in emergency saving life should become the first priority of the physician regardless of whether the physician can get a signature or not. Second, the cultural assumption for the family to sign is to provide treatment to the patient for the patient's interest. If the problem is whether to give up medical treatment, the family should not make such a decision without consulting the patient as long as the patient is competent.