

## Ethico-Legal Dilemmas in Clinical Service Delivery: Continuity, Recognition and Relationships in Clinical Service Delivery

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### Introduction

The relationships between health care professionals and patients are evolving under the joint influence – of biomedical ethics and health law – from doctors being seen as authorities and patients as needy individuals to a more effective sharing of power. Patients used to do as they were told but the concept of patient autonomy has become prominent in ethics and medical law to the point where some would lament the passing of the role of the doctor as a wise and benevolent care-giver. Therefore the current ethical perspective plays the four principles relatively *piano* and the doctor patient relationship relatively *forte*. It implies that medical jurisprudence should distil an evolved set of expectations of health care delivery based on the experience of patients rather than abstract ideals formulated within either a paternalistic or quasi-contractual framework.

Some argue, given the rise in emphasis on autonomy, that doctors are technicians, using their skills to meet the demands of patients on the one hand, and certain non-Hippocratic demands – either from a bureaucratic system or from a commercial domain in which profits or yields on investment become part of a dominant business model governing health care – on the other. Arguably, however, the needs and vulnerabilities of patients are more or less the same as are the virtues characteristic of a good health care professional so that there are significant continuities with ancient writings and contexts in the need for care and concern for the patient and a continuity of care during the illness journey. In the changing clinical world where medical values seem to respond to political and social forces beyond our control, it is hard to keep a head and heart attuned to those enduring professional virtues in the midst of dynamic and shifting tensions of the type found in contemporary health care. That continuity calls for even more clarity of mind about the professional-patient relationship than we have shown to date in our ethical and medico-legal thinking, and makes the current ethical analysis closely relevant to certain aspects of health law: (i) the duty of care; (ii) joint decision-making and responsiveness to the patient's illness journey; (iii) confidentiality and the proper inclusion of others in a care network; (iv) disclosure and adversarialism; and (v) end-of-life decision-making. Each fits within a framework of virtue as the basis of a professional life in the clinic.

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