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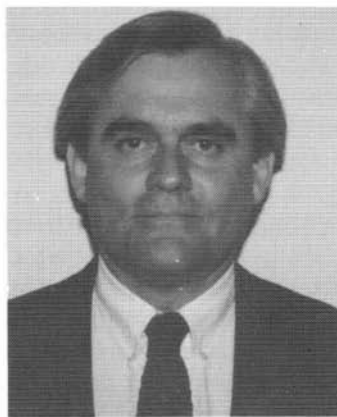
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The Patient's Bill of Rights of the American Hospital Association: A Reflection

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Introduction

The American Hospital Association published the document, "A Patient's Bill of Rights" in 1972.¹ In itself the Bill of Rights does not add anything new to such traditionally-held medical ethical principles as Beneficence, Respect, or Autonomy. In spite of this, the document is very important, because its analysis reveals the identity of the source of authority which the Association must have believed hospitals had, to make such publication. To discover this source of authority is important, for it seems to differ from that of hospitals run for profit.

Hospitals and Hotels

As organizations, there are a number of characteristics which are common to hospitals and hotels: they provide services 24 hours a day, all year round. The basic service provided is a time and a space with the appropriate personnel and installations to bring about events which satisfy a set of vital needs; it is provided to a transient population: travelers, in the

case of hotels, patients, in the case of hospitals.

Beyond these superficial similarities there is a profound difference which becomes evident when one begins to reflect that the American Hospital Association felt it had the authority to publish a bill of rights of patients, whereas associations of hotels do not seem to have felt the need to write a bill of rights of travelers.

The Sources of Authority

Authority has three fundamental sources: rational-legal, tradition and charisma.² The rational-legal authority of hospitals allows and enables them to provide very specialized services through their personnel and within their installations. But just as someone has said that the intellectual capacity and legal permission to build a hydrogen bomb does not give the builders the right to decide when the bomb is detonated, so, it seems, a hospital's authority to provide specialized services does not give to it, or to an association of hospitals, the authority to define the rights of patients.

One may try to find the source of the authority of a hospital, or an association of hospitals, to publish a bill of the rights in tradition. And, although the modern hospital has a long history as a public welfare institution — history which seems to emerge from the *infirmaria* and *hospitale pauperum* associated with medieval monasteries — there seems to be no precedent that authorizes hospitals or their associations to make such pronouncements.³ The precedent for the American Hospital Association seems to be, rather, the Bill of Rights which was proclaimed by the Congress at the beginning of our history as an independent nation. Even the name of the document published by the Association suggests it.

However, upon further analysis, there is something about the Bill of Rights which was proclaimed by our Congress that is entirely different from the Patient's Bill of Rights published by the American Hospital Association.

The Bill of Rights was proclaimed by a Congress which represented the people who had elected its members. But the American Hospital Association was not elected by patients in order to represent them and draft a bill of their rights as patients. It is clear that the people of the American colonies empowered the Congress, but it does not seem that patients delegated authority to the American Hospital Association. If anyone delegated authority in the Association, it may have been its members. But, these members are hospitals, not patients.

If the authority of the American Hospital Association does not seem to have its source in hospitals' technical capacity or in tradition, but the Association feels, nevertheless, that it has authority to publish the Patient's Bill of Rights, then the authority must be based on the belief that hospitals have charisma. Charismatic individuals, and in this case, organizations, have authority because of their moral character. Also, because of their moral character, these individuals or organizations are set apart from

others. And, it is because of their moral character that they can make pronouncements, as in the Patient's Bill of Rights of the American Hospital Association, about what is due to persons.

Hospitals and the Commandment to Love

Within the Judeo-Christian matrix from which our culture emerged, there is a commandment to love one's neighbor as oneself, and one of the manifestations of this love is the care of the sick. As Amundsen and Ferngren have said, "The foundation of Christian hospitals 'was a reasonable consequence of Christian charity.' Christ's commandment to love your neighbor as yourself was a categorical imperative that resulted in, among other things, a strong sense of duty to visit, comfort and care for the sick."⁴

In our culture, hospitals have a long institutional history because of the events of neighborly love through which the sick are cared for within the space and time that they provide. Obedience to the commandment to love has, until very recently, been the reason for the existence of hospitals. It has been the reason that hospitals have been considered as institutions with moral authority. This is in sharp contrast with banks, for instance. Since no one believes that caring for one's money is the manifestation of a commandment, similar to loving one's neighbor and caring for her/him when sick, no one considers banks as institutions which have a moral authority that sets them aside from others. And no one expects banks to proclaim a bill of rights of depositors.

Hospitals and the Realms of Meaning

In his writings, Bernard Lonergan has defined the notions of Realms of Meaning and of Differentiated Awareness. He distinguished four basic realms: common sense, theory, interiority and transcendence. The realm of common sense is that in which one relates things to one's intentions. The realm of theory is that in which things are understood in relation to each other. The realm of interiority is that in which one discovers the dynamisms of one's being. And the realm of transcendence is that in which one discovers an otherworldly concern and otherworldly love. A differentiated awareness is one which recognizes within which realm it is speaking, and easily moves from one realm to another.⁵

It is perhaps a differentiated consciousness which will find, in the argument that I have summarily presented above, something that will persuade it to consider the point which I now make: that hospitals, and the association which represents them, the American Hospital Association, have the charisma, that is, the moral authority to proclaim "A Bill of Rights of Patients" because what goes on inside them, although meaningful within other realms, acquires its ultimate meaning when enframed within the realm of transcendence, the realm in which the commandment to be in love is encountered, the realm which one enters

when the commandment is obeyed.

When the motions through which health care is delivered in a hospital are acted out in obedience to the commandment to love, they measure a transcendental time, and occur in a transcendental space, which are different from the times and spaces encountered in the realm of common sense or in the realm of theory.

Christian Hospitals and Hospitals Run for Profit

A very interesting event of our time is the emergence of the hospital that is “for a return on the stockholders’ investment”. It seems that an organization which owes its existence to the profit motive cannot have the same charisma, that is, moral authority, as a hospital whose existence is due to Christian charity. What was done as a sign of love in the Christian hospital, in the for-profit hospital is done so that in the last analysis it results in the economic gain of groups of investors. Under this light, there seems to be no difference between a hospital which is run for profit and the booths that physicians set up in the marketplaces of Classical Antiquity.⁶ Such an institution has no more moral authority than a hotel. Although within the space and time that the hospital which is run for profit provides, individual acts of love, between patients and physicians may occur, these acts have no more than an accidental relation to the ultimate objective of the institution, just as within the rooms which hotels provide for travelers many acts of love occur, that are accidentally related to the aims of the owners.

As our culture attempts to transform the care of all “the aches and pains that the flesh is heir to” into economic gain for, the prophetic role that can be played by hospitals with a Christian affiliation becomes evident. But as more and more of these hospitals, with names that suggest a tie with a Christian community, turn their administration to the for-profit corporations or themselves become the members of corporations which use the same economic and administrative tools as the for-profit corporations in order to ensure their survival, one must conclude that ours is a moment of cultural decline, for even men and women who are personally in touch with the transcendental realm of meaning bring about organizations which cannot be distinguished from those which have emerged without any concern for the realm of transcendence.

Economics of the Christian Hospital

In one of his later writings, Lonergan raises the question about the relation between economic process and moral precepts. According to Lonergan, if we are to avoid the fate of living “. . . in a dark and barbarous age in which, as a contemporary reported, men devoured one another as fishes in the sea”, it is necessary that we demand from economic theorists “. . . along with as many other analyses as they please, a new and specific type that reveals how moral precepts have both a basis in economic process

and so an effective application to it.”⁷ And, “from moral theorists we have to demand, along with their other various forms of wisdom and prudence, specifically economic precepts that arise out of economic process itself and promote its proper functioning.”⁸

It is to be hoped that hospitals with Christian affiliation will continue to believe that they are an expression of the commandment to love, that they are transcendental places in relation with transcendental times as they attempt to assure their survival in what has come to be known as the health market. And to survive in this market without losing their charismatic identity, it seems desirable that these hospitals demand, from their economic analysts and moral theologians, what Lonergan suggests: a new economic and moral analysis on which to base their survival.

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