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THE ALLEGED INCOMPATIBILITY OF BUSINESS AND MEDICAL ETHICS

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Are business ethics and medical ethics fundamentally incompatible? The question pulls together two different issues: can the tools in the field of business ethics help those doing healthcare ethics? And could health care be conducted as a business and maintain its moral core? In the short, practical run, both questions matter; in principle I believe the answer to both is "yes."

There are two other important questions, one empirical, one moral, which I will not directly address here. One is whether for-profit healthcare *in practice* is morally worse than not-for-profit healthcare. Although this is an empirical question, my comments about the need for regulation are relevant. Without it, although the data are not yet in, it is quite possible that there will be more abuses within for-profit than within not-for-profit systems. The other question (beyond the scope of this discussion) is whether healthcare *should* be a private business, whether for profit or not. I deeply believe that it should not: The United States should instead have universal, national healthcare, as do all democracies in the developed world.

Even if the country should one day adopt national healthcare, questions about the role of business principles - and therefore of business ethics - would remain. Those who believe that business and healthcare are intrinsically at odds put the contrast this way: businesses exist in order to make a profit, with law and ethics serving as side constraints. Healthcare exists to help people; economic considerations are side constraints. On these models, business accomplishes social good *indirectly,* as a side-effect; healthcare accomplishes it *directly.* [1]

In fact, however, this description is simplistic; people in each field have always, and properly, sought a variety of goals. There certainly is a tension between so-called traditional healthcare and for-profit healthcare, and many doctors are suffering intensely from it. It is probably good that they are; I mean that sympathetically and hopefully. Their suffering is a sign of many good habits of mind, and - because doctors are influential - has helped bring about legislative controls over MCOs. The suffering of physicians, however, results not just from new difficulties but also from old, artificially insulated, modes of practice, and from a sentimental ideology about medicine.

(There are far more nurses than doctors in healthcare. But I will confine this discussion to doctors, for whom the changes are more recent and perhaps more drastic. Nurses have always led professional lives of ethical conflict, and they have always known it. Nurses have had so little status, however, that their moral distress has never received much attention. Here I bow to the fact that it is doctors who have been able to make their distress known.)

First, then, the alleged incompatibility between the goals of healthcare and those of business. Before focusing on the ethical question it is useful to ask an empirical one: In practice, what do doctors and business executives actually try to accomplish? Doctors certainly try, often heroically, to help their patients. Most of them also plan to earn a comfortable income, and the two goals can conflict. Although egregious sacrifices of patient welfare to profit are condemned, more mundane tradeoffs occur commonly and without comment. Many doctors today refuse to take medicare or medicaid patients, claiming the reimbursement is inadequate. A doctor can dismiss a patient for nonpayment, if there are other providers in the area. The possibility that the patient is better off under her care than under theirs may not deter her. Under fee-for-service a physician could charge paying patients more in order to provide "free" care to others. In any system a doctor has to decide which patients most need her time - always in scarce supply. There is a further inevitable tradeoff between the needs of her patients and those of her own family. Not all patient needs are dramatic; it could be quite justified to attend her child's recital rather than read the latest issue of the Journal of the AMA. There is no end to what a doctor could do for her patients, but there is a clear limit to the hours in her day.

Why has there been so little awareness of this obvious, necessary need for daily balancing? Perhaps we are in the grip of a misleading picture. Our paradigm of the doctor-patient interaction features the two of them alone in a room, or in a curtained cubicle. No telephone rings and no one interrupts. Other patients, along with people who were denied admission to the hospital or the practice, and involvement in the doctor's life, are outside the picture. They are invisible because the tradeoffs involved had been routinized; what is habitual does not attract attention. Medical certainty, for instance, is rarely achieved, but during training one absorbs decision procedures about how much investigation is enough; at that point one decides, and goes on to the next patient. Doctors and observers alike have been left with the illusion that physicians always gave the patient in that cubicle everything that might conceivably be of benefit.

The conventional picture of business oversimplifies in the opposite direction. People do not go into business simply in order to make money. Most hope they will value and enjoy what they do for a living. Many believe that their products — shoes or software — will make people's lives better, and they are

often right. Others believe that a solid, vigorous business improves the neighborhood - and again, they are often right. Even the large multinational corporations, more insulated from local pressure and sometimes notoriously ruthless, make good use of the ethical buffer their greater resources provide. Johnson and Johnson recalled Tylenol after the first tampering cases, confident that they could absorb the losses. Ben and Jerry's ice cream company has modeled socially responsible business; so does The Body Shop, whose products are "cruelty free." There is a less well known story about Merck, the pharmaceutical firm that produced and made available an efficacious drug to treat river blindness; Merck did this, for little profit and without seeking much publicity.

So business people act with a variety of purposes, just as doctors balance the good of each patient against that of others, and of their own. The ethical question remains: *Should* either party be doing this? For doctors the answer can be rather simple: they should because they must. Even Mother Teresa's nuns have to balance demands on their time and resources, which are always limited. For business the ethical picture is more complicated. Milton Friedman and others would argue that the single obligation of a business is to make a profit, abiding by law and a few basic ethical principles like honesty and keeping one's word. Such claims are supported by two kinds of arguments. The first points out that a business has a moral obligation to its stockholders, the second is a consequentialist appeal to the "invisible hand." Both contain some truth; neither is strong enough to support Friedman's absolute claim.[2]

First, a business has a moral responsibility to its stockholders, because of the terms under which it accepts and makes use of their investment. It does not follow that a company's *only* obligation is to its stockholders, or that the only obligation to them is to make a profit. Human beings have some responsibility for the foreseeable results of their actions, and business decisions have foreseeable consequences for employees, its customers, the neighborhood and the environment. Pointing out fiduciary relationships to stockholders is not enough, ethically, to eliminate all obligations to others. Beyond this, however, M. Friedman's claim oversimplifies a business's obligations to its stockholders. Do they want profit at any cost? Do they want money for themselves at the expense of broken neighborhoods, polluted waterways, deceptive advertising, injured workers? Probably not. The nature of investment, so often done through third parties (mutual funds, pension funds, and so on) dilutes these moral concerns, makes it difficult for an investor to express them effectively. Indeed - and again this is a commonplace - the American concentration on short-term profits has many unfortunate results. But this is a matter of economic forces rather than of moral obligation. With most business ethicists, then, I would

argue that businesses have obligations beyond yielding a profit for stockholders.

The other general strategy supporting Friedman's position is an economic one: if each business pursues profit and nothing else, everyone will be better off in the long run. Again the problem is with the "nothing else" proviso. While there are many reasons to believe that the general pursuit of profit is healthy for society, more absolute claims demand stronger arguments; those typically brought to bear cannot do the job.

For one thing, the desirability of the outcome is debatable. Is economic efficiency really the most morally desirable goal? There are moral objections to consequentialism in general and more particular objections to the technical version embodied in the pursuit of "Pareto optimality." In addition there are doubts (some empirical, some conceptual) that markets always bring about their promised results, however we evaluate those results. Here are the familiar problems of externalities, free riders, and prisoners' dilemma.

In other words, the argument that business has only one obligation, to pursue profit, is not well supported. The idea that doctors should, and traditionally have, been concerned only with the patient with whom they are working at any given moment, is equally unsupportable. The reality is more complicated. As I have argued elsewhere (3), the obligations inherent in *any* role are complex, resulting from what people want of us and rely upon our doing, from the implicit and explicit commitments we have made, from obligations of reciprocity and fair play, and from being responsible for the consequences of one's actions. This is true of business, of medicine, and of most other occupations. In ethics as elsewhere we need to resist the call to oversimplify.

That there is no strong, simple incompatibility between ethical business and ethical health care should come as a relief. But there is more operating here than ethical imperatives; there are economic forces as well. These can be overwhelmingly strong, particularly in a highly competitive market. Sometimes the only way to curb them is by regulation. There have already been hundreds of such bills introduced in state legislatures: banning "physician-gag" clauses, mandating coverage of certain breast cancer treatments, and so on.

This political activity will continue, as it should, both practically and morally. In addition, MCOs have internal ways of developing policy, and physicians are often part of this. The result, I would argue, is that physicians have a new and compelling moral obligation: in the era of managed care, the moral physician is politically active, within his own MCO, in his professional organizations (which frequently take public stands on the issues), and in the public arena. If internal policy and external regulations are crucial to keep corporate medicine moral, then professionals must make their voices heard, and

the voices must be informed and reflective. This is not an easy thing to do; everyone is pressured for time, and the pressure is likely to increase. In the end, it may be easier to find the time to speak out then to suffer and grow bitter in silence.

NOTES

1. Wendy Mariner argues roughly to this effect, and includes the disparate legal frameworks for the two fields (1).
2. The points I make here are commonplace in business ethics and in the philosophy of economics. One good place to begin is (2).

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