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Controversy between Patient's Autonomy and Economics

Im Spannungsfeld zwischen Patientinnenautonomie und Ökonomie
Comment concilier l'autonomie du patient et l'économie

1. Introduction....2

2. On My Study of Guiding Principles of Hospitals....2

3. Ethical Aspects in Guiding Principles of Enterprises....3

4. Ethical Aspects in Guiding Principles of Hospitals....3

4.1 The Four Moral Principles of Beauchamp and Childress....4

4.2 The Principle of Beauchamp and Childress in Selected Guiding Principles of Hospitals...5

4.2.1 The Principle of Respect for Autonomy....5

4.2.2 The Principle of Nonmaleficence....7

4.2.3 The Principle of Well-Doing....8

4.2.4 The Principle of Justice....8

5. Economic Aspects in the Selected Guiding Principles of Hospitals....9

6. A Summary of the Results....9

7. Conclusion....10

1. Introduction

Valvular aortic stenosis is the most common heart valve disease in Europe and North America. It mainly occurs as a calcification of the valve in people aged 65 and older in 2,7% of the population. Therefore I encountered this disease frequently in my cardiology practice. The characteristic muffled thump that I felt with one hand on the rib cage and heard with the stethoscope, always raised my suspicion of a significant stenosis. After check-ups, that included an echocardiography among other things, which evaluate the degree of severity of the valve stenosis quickly, long conversations about future treatment ensued with the patients. The guidelines clearly speak of a severe valvular aortic stenosis, when the valve opening area is at 0.8 cm^2, index-based related to the body surface area of 0,6 cm^2/m^2 BSA. In the case of a severe valvular aortic stenosis the recommended therapy is an aortic valve replacement. This procedure promises a prolonged and qualitatively improved life. Therefore, the procedure is clear – is it really? How does the patient react and decide? What are his preferences? Patients will have different wishes according to age.
These kind of questions were on my mind during my work in my practice. They motivated me to complete postgraduate studies in Applied Ethics after I had given up my practice. Apart from philosophical foundations, we studied ethical questions on bioethics, clinical ethics and nursing ethics, economic ethics, environmental ethics as well as political ethics in diverse modules. I wrote my master thesis in the area of bioethics, which I would like to present now. My special attention is directed towards the theme of our conference “Who decides on the treatment? Physician, patient, or...?”

2. On My Study of Guiding Principles of Hospitals

After SwissDRG (Swiss Diagnosis Related Groups) – the Swiss case rate system- is introduced and deficit guaranties are abolished by the cantons, more competition between the hospitals is to be expected. A study on changes in Swiss university hospitals describes the new situation as follows: “Business strategy is a new topic for the board of directors of public hospitals. It adds to traditional efforts for infrastructure, further training and medical capability. The reason for this are justified worries that that, which is medically possible can no longer be financed and therefore not all hospitals, clinics and wards can survive.” Hospitals will accordingly solicit patients with fortified public relations activities -among other things in their guiding principles. Patients and the public should be able to abstract from the guiding principles what they can expect from the respective institutions.

Guiding principles of hospitals must account for converse with people in context of health, illness and death. This means that the work in hospitals should fulfill certain moral principles. The two US-American philosophers Tom L. Beauchamp and James F. Childress worked out and initially publicized the principles of respect for autonomy, nonmaleficence, beneficence, and justice in 1977. On the basis of the four principles, I am examining the guiding principles of hospitals of five German Swiss hospitals for their moral content. Subsequently I will follow up on their economic statements and verify my initial assumption that the well-being of the patient comes first. I ask which ethical relevant aspects should, by all means, be taken into account increasingly in order for profitability to be at the service of the well-being of the patient.

Swiss hospitals are distinctly becoming more and more competition-orientated enterprises, as mentioned in the introduction: Patients become clients. In order to promote profitability, the efficiency of activities in hospitals are supposed to be increased by specializing and concentrating medical offers. Economical stimuli and entrepreneurial actions lead to an economization of medicine and should eventually lower the costs. The health insurance law sets the same agenda: In order for the health insurance to bear the costs of medical services these must not only be effective and appropriate, but also economic.

Economization does not necessarily have to have a negative effect on medical actions, it can be quite helpful. The medical ethicist Arne Manzeschke claims, in the manner of the Swiss theologian Arthur Rich, that economically interesting actions are ethically justifiable, if they respect that which is appropriate and humane. That which is appropriate is objective, it describes and explains what something is like, how it conducts itself, how it works. That which is humane stipulates in a normative manner, what something should be like, how it should conduct itself and how it should work. In this sense, that which is humane concretely determines the human rights that receive universal recognition in the UN's Universal Declaration of Human Rights. It is now necessary, according to Manzeschke, to differentiate between that which is appropriate and practical constraints, to maintain freedom from an ethical point of view, to identify and question the so called autonomy of economy not as an almost basic physical law, but rather as practical constraints.

When the economization of medical and nursing occupation helps organize processes and structures in hospitals, so that professionals can effectively apply their competences in favor of the patient, then that which is appropriate and that which is humane have been taken into consideration.

3. Ethical Aspects in Guiding Principles of Enterprises

Broadly speaking, guiding principles are written explanations of organizations concerning their selfconception and their basic principle. Guiding principles are supposed to point the way for both employees and the organization itself and have a motivating effect on them. Thomas Maak and Peter Ulrich, experts in business ethics, outline the normative function of guiding principles as the following: “A code of ethics/Code of Conduct postulates the values, that are rooted in business ethics, and norms of responsible actions, that are obligatory for all employees. Thereby it should be equally fundamental as well as clear and concrete and regularly be checked for it's consistency as it was established in a participative manner as a 'Living Document'. Furthermore it should be established bindingly by clearly defined measures”.

Responsible -ethical- conduct is not only beneficial for successful business conduct but essential, according to experts in business ethics, Linda Trevino and Katherine Nelson. Adam Smith, whose work 'Wealth of Nations' is readily quoted in order to justify the free market without regulations also emphasizes in 'The Theory of Moral Sentiments” that man is inherently empathetic, cares for others and that love and friendship bring him much joy especially. As selfish as man might be on the other hand, he is naturally inclined to take part in the fate of other people. Doing good makes one happier than material goods. Virtuous people would weigh up reasonable self-love against resolute righteousness and doing good. An ideal society draws upon such people. A flourishing, happy society is based on righteousness and rules of conduct which support the social order.

4. Ethical Aspects in Guiding Principles of Hospitals

Stakeholders in hospitals differ from stakeholders in industry: Physicians, caregivers, hospital workers in administration, domestic services staff, hospital management, the hospitals governing body and the public want patients and accident victims to be treated as well and as professional as possible on one hand. On the other hand, economists call attention to dwindling resources. They want to economize and even draw profits. This controversy poses a special ethical challenge for hospitals:

Patients want to be treated and 'healed' well and as fast and cheaply as possible. Today, they live longer and therefore often require medical services over a longer period of time. Furthermore, with increasing wealth, health has become more important and the corresponding needs increase. In addition, increasingly better and comprehensive treatment options are available.

Physicians should be able to decide freely, with due regard to the 'WZW'-criteria (Wirksamkeit, Zweckmäßigkeit, Wirtschaftlichkeit: efficacy, convenience, profitability), how the individual patient is to be treated: “...providing the patient at the right time, at the right place, with the best possible medical service is the principle of medical professionalism.”

Caregivers want to look after the individual patient personally and comprehensively.

All the *staff* want to work in a good work environment and receive appropriate wages.

Hospital managements want to perform good services using as few resources as possible and work in a way that not less than all costs are covered, if not even profitably: “Increasing economic competition requires a strategic alignment of the hospitals.”

The public desire possibly affordable hospitals on which they must spend as little taxes as possible. However, they demand optimal, sometimes even maximal therapy, in an own case of illness.

4.1. The Four Moral Principles of Beauchamp and Childress

Beauchamp and Childress ascertained that the development in biological sciences and health sciences, in biomedical technology and accordingly also in hospitals, presented the traditional professional ethics of physicians and caregivers with a new challenge in the last decades; it was not able to answer questions satisfyingly by healthcare policy in a pluralistic world. The Hippocratic Oath, which “was the model of medical professional ethics for centuries and, as such, determined the vocational attitude of generations of physicians”, is not capable of answering diverse ethical questions sufficiently, when, for example, areas of informed consent, privacy, public health care, access to medical care or medical research are concerned. Furthermore, the paternalistic orientation of the Hippocratic Oath supposedly evokes opposition from patient organizations.

According to this, ethical guidelines aside from the Hippocratic Oath are needed for the health care system, due to job-related knowledge, as well as specific tasks and personal relations in this field requiring rules that other enterprises do not. For example, suffering patients appeal to higher moral ideals, such as compassion and the desire to help. Beauchamp and Childress name five basic characteristics (focal virtues), which enable health specialists to give morally good care in the first place: Compassion, discernment, trustworthiness, integrity and conscientiousness.

In order for helpful guidelines for moral medical action to be worked out, Beauchamp and Childress present a framework of norms for biomedical ethics with their four principles – respect for autonomy, nonmaleficence, beneficence and justice. In doing so, the two authors only make partial and selective reference to the classic theories of moral philosophy (aristotelianism, utilitarianism, Kantian Deontology, discourse ethics). The four principles of Beauchamp and Childress are easy, comprehensible and culturally neutral; they deliver a basal moral network in generally comprehensible language.

The *Principle of Respect for Autonomy* includes, in relation to patients, that they can decide autonomously, meaning free of influence and adequately orientated, and that their decisions must be respected. Patients can make decisions competently when they receive transparent explanations that are comprehensible to them. Their informed approval to medical treatment in based upon this.

The *Principle of Nonmaleficence* ('primum non nocere') says that attending physicians may not kill, inflict pain or suffering to, cause harm to, withhold necessary treatments from patients or expose them to unreasonable risks. Attending physicians may not neglect vocational duties, put financial considerations

before medical indications or conduct useless treatments that have only a little, questionable or no physiological effect at all.

The *Principle of Beneficence* demands more than just not causing harm; individuals and the community in the field of preventive medicine, in the public health care system and in medical research benefit from well-doing. Attending physicians make an effort of performing the best services possible, while avoiding high costs and high risks for the patients. Patients expect not only the obligatory well-doing of the attending physician: They expect their rights to be protected, defended and not to be harmed, that everything that could cause them harm is eliminated, that someone will lend them his support in their state of limited capabilities and save them from danger. In addition to this, approaching the patient with empathy, benevolence, friendliness and compassion is ideal for the patient and his quality of life. Well-doing is therefore mandatory in the mentioned scenarios, it is not only a virtue.

The *Principle of Justice* says how to treat or act fairly, evaluate demands and achievements, consider abilities, set priorities and how to distribute, divide and ration resources. Essentially, all people have a right to appropriate medical treatment; at least the access to limited basic care should be open to all.

4.2 The Principle of Beauchamp and Childress in Selected Guiding Principles of Hospitals

4.2.1 The Principle of Respect for Autonomy

In the guiding principles of a university hospital the respect for the autonomy of the patient is not explicitly addressed. This respect, however, reveals itself indirectly in that the patient is seen as an important agent in regard to his health.

In the guiding principles of a psychiatric clinic, in contrast, the principle of respect for the autonomy of the patient is emphasized in detail: The clinic's conception of man views every individual as an independent, autonomous member of his environment. In the knowledge that every single human has an individual pattern of cognitive abilities, thoughts, feelings, intellect, conscious and subconscious experiences and the ability to be aware of oneself and of others, therapeutic efforts are approached. These only succeed if the autonomy of the patient is considered. However, the patient is also to understand that illness and health are not clearly definable areas, but a continuum and that sick parts exist right beside healthy ones that influence each other. Under these conditions and due to further comprehensible explanations, a patient should be able to voluntarily give his consent to an individual treatment plan; the obtained insights strengthen his autonomy. The patient decides “which of the offered therapeutic options are useful and viable for him”. He dictates “how much support he needs, if he wants to cede responsibility for treatment and, if so, how much of it, how much change/development he can permit” - meaning, how much autonomy he can relinquish.

According to the kind and severity of a mental disease, a patient no longer has the inherent or acquired abilities and, therefore, no longer has the ability to overcome crises and diseases on his own without professional help. Another therapeutic goal, which strengthens the autonomy of the patient, is for the patient to learn how to accept such a disability.

In situations of extreme crisis, when compulsory measures are necessary due to self-endangerment or endangerment through others, the patient must be relieved of his responsibility and another person must make decisions in his stead. A prospective benefit justifies this paternalistic action, this limitation of autonomy for the well-being of the patient. On the other hand, the therapeutic worker must also be willing to “expose himself, share the helplessness and powerlessness of the patient and to give up the role of a doer”, that is to limit his own autonomy in favor of the patients.

As therapeutic assignments are often issued by different authorities, working in the mental health field is a "balancing act between the personal ideals of the therapist, those of the patient and the values of the social environment". A dilemma between the autonomous demands of the sick individual and those of the society can occur. The autonomous conscious attitude of the clinic corresponds to "that the therapeutic assignment can ultimately only be given by the patient due to him being the only one able to initiate developments and changes."

The respect for the autonomy of the patient is either not addressed or only addressed indirectly in the other examined guiding principles. The valid principle of non-resident physicians allows the patient to "choose a physician in whom he has confidence". A cantonal hospital expresses respect for the autonomy of patients in a generalizing manner, by expecting employees and patients to treat one another with appreciation and respect and to communicate openly and constructively.

Respect for the autonomy of employees is expressed by the clinic management's style of leadership by working with transparent management structures and decision levels. It is also shown by their commitment in their employee's development in their human and specialized maturity. Employees have are free to organize their work-space or prepare therapeutic concepts independently. They are perceived as competent and autonomous in their decisions.

In the other hospitals, different occupation groups and specialists are to work considerately together; employees act autonomously according to their capabilities; motivated and creative employees should work as autonomously as possible.

When all parties really take respect for the autonomy of the patient seriously, disease-centered care is replaced by patient-centered medicine:
Disease-centered diagnosis and treatment primarily follows scientific knowledge of specific diseases and is less interested in the effects of diagnosed diseases on the physical and mental needs of the patient in their personal environment.

However, respecting a patient's autonomy does not only exhaust itself in informing patients well, so that they understand what effect diagnostic examinations and treatments have on them. Part of patient-centered medicine is that physicians and nursing staff do not only focus on the disease – 'disease-centered care' - but also on the needs and moral concepts of the patients -'patient-centered medicine': How does the patient perceive his disease from a mental and emotional perspective? In what way is his quality of life affected by the disease ? Family members and friends also play a role.

Different ways of treatment can follow from the combination of these considerations; the patient can make a better informed decision and ultimately give his consent to one or the other treatment.

Patient-centered care is especially important at the end of life and is becoming more important as palliative care in ambulant treatment as well as in stationary treatment. In some circumstances a disease focused therapy has strong side effects that the patient does not want to shoulder (any longer). The patient wants as little pain as possible and does not want to have to suffer from respiratory distress, nausea and vomiting, nor does he want to become confused or depressed. The most optimal treatment possible for these symptoms becomes the first priority. Palliative care also encompasses psycho social and spiritual care. 'Death with dignity' acknowledges man's unalterable worth. Respecting this dignity, understanding the patient's perspective and easing the patient's suffering must also be present in intensive care units as a plan, which must be evaluated regularly.

Respect for autonomy is also considered by the model of decision-making in a clinical context, shared decision making:
- In the paternalistic model the flow of information is only on part of the physician towards the patient. The physician is the protector, the physician is the decision maker.

- In the interpretive model knowledge is shared by the physician with the patient and the patient shares his values with the physician. In the end, the physician decides upon treatment.
- In the shared decision making model the physician informs the patient about various treatment options, based on expert knowledge and experience; the patient and physician voice their preferences and decide on a partnership basis.

Helena Hermann, an ethicist, examined in a study how qualified Swiss physicians are to conduct conversations with their patients, estimate their own power of judgment correctly and to inform their patients comprehensibly in order for mutual, informed decisions to be made. The study shows deficits on various levels, from which Hermann concludes that guidelines, aids and training by medical associations and organizations are urgently necessary. Appropriate advanced training must be established in guiding principles of hospitals.

Of course not only the patient's autonomy must be respected, but also that of the physicians and nurses, although respect for the autonomy of another person, a patient for example, does not mean that all of his possible wishes must be fulfilled. According to John Rawls, the American philosopher, the following applies to all partners in health services: Acting autonomously means acting according to principles that one would agree to as a free and equal rational being.

4.2.2. The Principle of Nonmaleficence

Mental health clinics write in their guiding principles that they work confessionally neutral on a basis of conventional medicine, together with other medical disciplines and do not want to carry out unnecessary treatments – i.e. not to harm. Services are constantly checked for correctness. The effort of performing qualitative good services includes causing no damage if possible.

Quality is mentioned in all guiding principles under headwords such as: The best, top performance, quality leadership, quality management, quality for people in hospitals, professionalism -the best help.

Quality is more then nonmaleficence. We all, admittedly, expect qualitative superior – secure, effective, patient-oriented, contemporary, just and efficient – health services. Unfortunately, reality often looks different: Unnecessary procedures are carried out, medication is administered incorrectly, prevention measures are not adequate, exacerbation of chronic conditions is not counteracted and important research findings are hesitantly implemented. Physicians tend to prescribe unnecessary examinations especially in emergency situations due to the fear of missing something or being sued; this leads to high costs.

Not being mindful of quality leads to the risk of doing patients harm, whereby nonmaleficence does not only mean not doing harm, but also avoiding the risk of doing harm.

Beauchamp and Childress differentiate between an intentional negligence, which accepts unreasonable risks, and an unintentional negligence, which causes damage due to irresponsibility. There is zero tolerance for misuse in the physician-patient-relationship.

Quality management in health services is not only based on the ethic principle of nonmaleficence. Quality must be patient-focused, is supposed to help him decide autonomously and participate in making decisions, therefore it is also grounded on the principle of autonomy. Quality caters for an effective, safe, modern treatment and hereby promotes the well-being and with it the patient's highest interest in accordance with the principle of well-doing.

Quality also considers a just, efficient allocation of services, that is to say the principle of justice.

4.2.3 The Principle of Well-doing

The principle of well-doing is dominant in all selected guiding principles.

That, what is said about the content of therapeutic work, can also be included under the principle of well-doing, in my opinion: “[...] to develop the possibility of understanding the reason for crises/diseases together with the patient, expose and promote his individual abilities (resources) and to encounter him explicitly on an individual relationship level.”

According to Beauchamp and Childress, well-doing, contributing to someone's well-being, improving someone's physical condition, is the goal, reason and justification of every medical activity and care. However, there is the risk that one acts paternalistically - which can do good, but harms the autonomy.

4.2.4 The Principle of Justice

The examined university hospital sees fairness and openness as basic requirements in dealing with patients and their relatives, but also with employees and partners.

Distributive justice mentions mental clinics with regard to it's therapeutic task: “The balancing act between the personal ideals of therapists, those of the patient and the values of the social environment in which the psychiatrist works takes place, is part of this network of relationships. Therefore, we also understand psychotherapeutic work as developing an optimal balance between the individual needs of patients and the demands of the society which the patient and the therapist are a part of. Thus, the therapeutic task that was worked out with the patient must orientate itself by the means available.”

5. Economic Aspects in the Selected Guiding Principles of Hospitals

Services in health care and especially also in hospitals are not only measured by how qualitatively well the need for health of the population and especially of patients is met, but also by the amount of spent resources. Added to a medical perspective of optimal care of individual patients is, justifiably, an economic and health policy perspective.

Health economics helps shape diagnostic, therapeutic and nursing actions to be more efficient.
With a reasonable balance between patient's interests and economical interests, hospitals and their employees should be able to succeed in winning over the trust of patients, who are reliant upon it especially in an emergency or when sick. Economical thoughts to programs such as 'Smarter Medicine', 'Choosing Wisely' and 'Chronic Care Management' should be made visible and productive in hospital's guiding principles.

'Smarter Medicine', a campaign of the Swiss Society of General Internal Medicine SSGIM, concerns itself with the difficulties of overdiagnosis and oversupply in medicine. It promotes a list of examinations that are often performed and that show to be only of little or no use at all and that can have undesirable side effects – meaning they cause evitable costs.

'Smarter Medicine' corresponds to the US-American program 'Choosing Wisely' which was promoted by the Advancing Medical Professionalism to Improve Health Care Foundation. The initiative is meant to motivate physicians and patients to discuss how an evidence-based treatment is chosen that really is necessary and that causes no harm if possible. They are also encouraged to discuss how to avoid the unnecessary repetition of tests and procedures that have already been carried out.

The 'Chronic Care Model' was developed at the beginning of the 21 century in the USA: Physicians individually, regularly and comprehensively take care of chronically ill patients, they coordinate ambulant or hospital based diagnoses and treatments. Social resources, such as support groups, senior centers and home care aid organizations are brought into the picture.

6. A Summary of the Results

“In order to be efficient, our hospitals need an informed governance in which the agreement between the administration, care givers, and the medical staff ensures quality of services, the wellbeing of the patient, the general working atmosphere and not least of all the solid economical constitution of the regional healthcare system”, Pierre-François Cuénoud, vice-president of the FMH, Swiss Medical Association, wrote in 2013. An informed leadership structure draws on the guiding principles – with their moral guardrails- in order to lead employees or an enterprise, to show patients which diagnoses and treatments and which care they can expect, and to showcase their thrifty dealings with resources to the hospital's governing body and the public.

The examined guiding principles primarily advertise with well-doing services.
Secondly, quality is prominently mentioned in all examined guiding principles.

Furthermore, three of the five institutions are explicitly striving for just actions: They want to handle resources justly, be guided by them and deploy them appropriately. All examined guiding principles make mention of economical actions according to their resources.

The autonomy of patients in particular is respected in detail in the guiding principles of psychiatric clinics.

7. Conclusion

The principle of respect for the autonomy of the patient should generally be deemed crucial in the health-care sector in my opinion – and it should primarily and elaborately be held on to in every hospital's guiding principles. This respect is expressed by informing patients comprehensively according to their capacity, their medical condition and their state of mind. Only sufficiently informed patients are able to consciously co-determine diagnoses and treatments. What matters is that employees in hospitals are encouraged to do communication skills training; they are supposed to be able to make conversation with the patients and to comprehend what the patient wants to know, what is on their mind, in order to then respond to it with the right words. A satisfied culture of discussion is the best precondition for the well-being of the patient - and of the attending physician.

Economic aspects can also be reasonably discussed with adequately informed patients. Apart from this, economic considerations can absolutely be of help in making diagnoses and treatments more efficient for the well-being of the patient.

Back to the patient with a severe valvular aortic stenosis mentioned in the beginning: Medical results are confronted with the perception and wishes of the patient; physician and patient discuss these and then decide on a partnership basis; perhaps the evidence-based criterion of the heart valve stenosis is not the only crucial argument for the following procedure.