

A Commentary in Response to: **By What Authority? Conflicts of Interest in Professional Ethics**

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Note: the author of this commentary was blinded to Dr. Charland's identity.

Perhaps I am naïve when it comes to considering the role of ethicists in the sphere of health care but I cannot detect the reasons why the author of this article is so disconcerted as to refer to them as emperors without clothes who sail on rickety ships and inhabit disordered homes. Moreover, he states that some of them are allegedly remunerated in shady ways, a proportion (it would appear a large one) are derelict in not declaring conflicts of interest when they function in their role, and they do not care about abuses that they well may be committing. Evidently, we all know that a big problem stares us in the face but we studiously avoid dealing with it.

No evidence is marshalled for this rather harsh indictment. On the contrary, the impression gained is of a member of the ethics "industry" (as he himself puts it) who is riding a hobby horse and is disillusioned about what he may have observed in the course of serving as an ethics consultant (he refers to "former" in this regard which suggests that he has withdrawn from such work).

I am always wary of *ad hominem* arguments and therefore searched diligently for what the author might be getting at. I did identify a thread, namely the impermissibility of concealing or disguising a conflict of interest in ethical decision-making. Loss of impartiality invariably follows with the interests of the consumer trumped by those of the provider. One can have no dispute with this contention. A declaration of a conflict of interest is required in many situations linked to the provision of health care although it is true that the degree of pressure on moral agents varies from stringent to *laissez-faire*.

The author then lashes out at one group of moral agents, professional ethicists, who he asserts do not take their job seriously since they have been adversely affected by their biased education, especially if it was obtained in religious institutions. Thus, for example, they may in their commitment to euthanasia fail to disclose their strongly held convictions and impose them on a vulnerable family. As mentioned earlier, no evidence is offered to the reader for these claims. The assumption prevails that anyone trained to hold particular views on euthanasia or any other vital issue in health care is apt to act duplicitly and withhold his personal views from consultees, whether they be family or medical hospital staff.

The emergent suggestion that, in the wake of this messy state of affairs, all ethicists under consideration for appointment to an ethics committee should be instructed to disclose their potential conflicts **before** any appointment is made is nebulous and impractical. How could a proposed appointee determine a continuing range of potential conflict of interests. How could she ever devise such a list without knowing exactly all her inclinations in every sphere of health care? The author attempts to do precisely this at the end of the article by declaring his preference for pragmatism, scepticism for theory and his position concerning five medical interventions. Omitted are dozens of other bioethically complex situations encountered in health care that might well come his way as a consultant ethicist. Surely, to be consistent, he would need to provide an exhaustive list so that potential conflicts of interest are transparent in all these circumstances?

A case could be made for pragmatism, particularly in the form of an agreed upon code of ethics for ethicists. This could contain core principles and associated practically-oriented annotations to guide ethics consultants in their work. Robert Baker¹ has suggested just that in proposing that bioethicists should devise a series of guidelines for their own job of assisting other professions to deal with ethical challenges and quandaries. He has also offered a draft code to his colleagues for their deliberation. His argument revolves around the concept of codes reflecting the "professionalisation" of a group of practitioners who should assert the "integrity and independence" of their enterprise, and offer to themselves and to the public an "... authoritative interpretation of its mission, ideals and practices." Baker's draft code, including its section on conflicts of interests, is reasonably clear and coherent. Thus, ethicists should avoid, and refuse to be involved in, situations that create or appear to create conflicts of interests; they should not serve as consultants where they have "conflicting clinical and/or administrative responsibilities, or intellectual or financial interests."

Although Baker attempts to define the field of bioethics and the corresponding role of the bioethicist, it remains unclear whether his code applies to the clinical sphere only or also encompasses bioethicists who assist in devising policy or consult to corporate bodies.

That the initiative to produce a code for bioethicists may not be all that straightforward is evident in the diverse array of views expressed by 16 prominent experts invited to comment on Baker's draft. The position of one of them, the renowned moral philosopher Tom Beauchamp,² is salutary; yes, the idea of codifying an "ethics

for bioethics” is to be applauded but Baker’s draft has conceptual, theoretical and practical limitations, especially in his failure to define and elaborate a range of core concepts. Is the effort therefore a futile exercise? Not at all. As Beauchamp concludes: “No one ever said that codes are easy to write.”

References

1. Baker, R. A draft model aggregated code of ethics for bioethicists. *American Journal of Bioethics* 5: 33-41, 2005.
2. Beauchamp, T. What can a model professional code for bioethics hope to achieve? *American Journal of Bioethics* 5: 42-3, 2005.

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