Laws and Ethics

Law is a system of principles and rules of human conduct prescribed by society and enforced by public authority. This definition applies to both criminal law and civil law. Ethics is the study of standards of conduct and moral judgment. When referring to a profession, ethics is the group’s principles or code. Some may view the link between law and ethics as one to one—what is lawful is ethical and what is unlawful is unethical. This is not necessarily true. The law is the minimum performance that is expected in society. Professions demand that members comply with the law but simultaneously hold members to a higher standard. Thus, a profession’s code of ethics may require its group’s members to act in ways that are different from members of society. In this presentation, we examine ethics in the health professions by focusing first on human development and the foundation of law, and second, on reasoning in the world of values.

Human Value Development and the Foundation of Law

Moral philosophies and derivative principles provide a framework to hone and use a personal ethic to analyze and solve ethical problems. Like philosophers, clinicians and administrators are unlikely to agree fully with only one moral philosophy. Most will be eclectic in developing or reconsidering a personal ethic. In general, however, the principles of respect for persons, beneficence, nonmaleficence, and justice are useful in defining relationships among patients, managers, and organizations. These principles may carry different weights and take precedence over one another, depending on the issue being evaluated. Justice requires, however, that they be consistently ordered and weighted when similar problems are considered.

Moral motivation, or motivation to do the right thing, may come from many sources and take many forms. Our system of law, for example, is a set of determinants which is in place to shape the behaviors of people. Like ethics, law is guided by fundamental principles. The first of these is a concern for justice and fairness. The second is plasticity and change. Although the law from the outside is seemingly solid, it is a shifting process that reacts to its environment. The third principle is that acts are judged on the universal standard of the reasonable person and the fourth principle is that of individual rights and responsibilities. In other words, law like ethics, shifts, reacts, maintains fluidity and depends on a system of human reasoning and moral values.
Reasoning in the World of Values

Five theories of moral philosophy are used rather extensively in Western culture: teleology, deontology, natural law, virtue ethics, and casuistry. These moral philosophies provide a basis to study ethics and help determine or reason the moral rightness or wrongness of a decision. Teleology judges actions by their consequences, thus their utility or disutility. Utility theory is, in fact, the most prominent modern theory of morality. Deontology holds that the end result is unimportant because human beings have duties to one another as moral agents, and these duties take precedence over consequences. Deontology promotes practicing the Golden Rule—do unto others as you would have them do unto you. Natural law states that ethics must be grounded in a concern for human good and be guided by rational thought to do what is right, which may be reflected in statutes. Casuistry uses case-based reasoning and a body of experience to lead toward a consensus and greater certainty in identifying morally right decisions. Finally, virtue ethics implies a character trait in which one can be trusted to act in a moral way.