

August 1978

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Recommended Citation

Camenisch, Paul F. (1978) "On the Matter of Good Moral Character," *The Linacre Quarterly*: Vol. 45: No. 3, Article 8.
Available at: <http://epublications.marquette.edu/lnq/vol45/iss3/8>

On the Matter of Good Moral Character

Paul F. Camenisch

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It is becoming ever more difficult to say what it means currently to be a professional. On the one hand the once rather specific meaning of that label is being diluted by the insistence of various occupational groups that they too are "professionals," by which they seem to mean that they are competent, specialized, trained or educated for their particular task, "dedicated," and deserving of respect. On the other hand the traditional professions — lawyers, doctors, teachers and clerics — and especially the most conspicuous and influential among them, lawyers and doctors, are perceived by the public at large — whether correctly so or not — as acting in ways which make them increasingly indistinguishable from most other economic agents. Together these two developments evoke the troubling question, "What, morally speaking, does it mean today to be a professional?"

Some of the differences that label traditionally made, or was expected to make are quite clear. One such major difference is reflected in Everett Cherrington Hughes' statement that "The profession claims and aims to become a moral unit."¹ While such moral claims and aspirations often play a minor role in many emerging or aspiring professions, they are still important in the image projected by most of the traditional professions. They are also important in shaping the public's perceptions and expectations of those professions and their members. These last two assertions are clearly as applicable to physicians as to any professional group. While there may well be disagreement about the kind of moral unit this central medical profession has become or about the kind it should become, there can be little doubt that it has claimed to be, has presented itself as a moral unit. By "moral unit" I will here mean a group that claims to be motivated by, to be dedicated to more than its own gain, that claims to govern its conduct and that of its members by considerations other than its own self-interest.

This dimension of being a professional, this atypical commitment which Talcott Parsons has called a "collectivity orientation"² has,

along with professional autonomy or insulation from lay control and assessment, and the mastery of special skills and knowledge, been one of the major distinguishing characteristics of the professions as traditionally understood.

Being a "moral unit" can of course mean several things and can be manifested in various ways. As an internal matter it can be seen in the medical profession in the oaths administered by many medical schools and by some medical fraternities and organizations, in codes of ethics such as that of the AMA, and in the supervising and disciplining of its members by various organs of the profession. These items, especially the latter two, often include matters which are not, strictly speaking, moral matters. That is, they also include matters such as professional etiquette, image building and protection, and the protection and allocation of professional territory and prerogatives. At the same time, however, they also include matters which are significantly moral in the fullest sense of that term.

The above ways of being a moral unit, legitimate and positive though they are for the most part, are internal matters of the profession or the associations and are not legally binding. They do not therefore in the most direct and obligatory sense represent commitments made to the society. Of course the autonomy society has traditionally granted that the medical profession rightly establishes the area for and creates an obligation to self-regulation in matters both of competence and ethics. Since there is this area of socially established and therefore legitimate autonomy granted to the medical profession, it is not clear to what extent the larger society or the individual citizen can legitimately interfere in or criticize what the profession does there in terms of being a moral unit. There the profession is free to choose for itself both the ways it will be a moral unit and the content of its morality so long as it does not violate the laws governing the conduct of all citizens.

Physician Licensing

But there is a point at which such societal scrutiny, criticism and, when called for, pressure for change, are entirely appropriate. This is the point of physician licensing. It is in licensing that the *society*, not the profession, grants admission to the profession. Admittedly the present constitution of licensure boards and the manner of choosing members for them do not always reflect or sustain this interpretation, but legally that is what is there done.³ It is through licensure therefore that the society specifies and enforces the qualifications which will be required of those who will be admitted to the profession. Since the profession is viewed as a moral unit, such requirements appropriately include ethical considerations as well as questions of competence. The significance of such ethical considerations is heightened by the fact that the medical profession is granted exclusive rights to provide cer-

tain crucial services to the licensing society and its members. That is, because of the nature of the services involved here and because the profession is granted exclusive control over them, admission to the medical profession is a moral trust.⁴ The profession and the professional therefore stand in a fiduciary relationship to the licensing society. Thus the candidate who accepts a license under these conditions (that is, one granted on grounds of moral character as well as of professional competence), makes a moral commitment which is now also legally binding, to conduct himself according to the expectations embodied in the licensure procedures and requirements.

Lest it be thought that this focus on the moral dimensions of licensure is entirely the product of a moralist's myopia or an ethicist's illusions of grandeur, it should be noted that the criteria for receiving a physician's license in all of the 51 jurisdictions of the United States presently include the requirement of "good moral character."⁵ Simple realism requires that the mere existence of such a requirement not be taken as proof of its actual significance in the deliberations of the boards. Nor can we assume in contemporary America that there is a clear and generally accepted meaning for "good moral character." It was in the hope of securing answers to these two questions of the weight and the content of the "good moral character" required of applicants that I undertook a survey of the 51 examining boards in November of 1975.⁶ Of the 51 boards, 19 or 37% responded to the questionnaire which was directed to the presiding member of the board.

The questionnaire sought both straightforward factual information such as the nature of the laws under which the board functioned, and more elusive information such as the board's understanding of "good moral character" and related matters. Since I sought a response from a single person who could speak for each board rather than trying to survey the board's entire membership, information on matters of this latter sort is, to some extent, speculative. However, since the 19 respondents had averaged over five years of service on the boards, they had had ample opportunity to become acquainted with the boards' general practices and their operating assumptions.

All 19 respondents acknowledged that their board was charged by law with ascertaining and/or certifying the moral character of licensure candidates. But having laid this responsibility upon the boards, most states do not tell the boards what they are to understand as "good moral character." When asked, "To what extent does the law under which the board operates specify what it means by 'good moral character'?" 11 respondents answered "not at all," four indicated "somewhat," and two said "thoroughly." When asked to what extent the rules of state regulatory agencies under which they functioned specified the meaning, again two said "thoroughly," four said "some-

what" and 13 said "not at all." And when asked to what extent the board was left on its own to define or specify the meaning of "good moral character," 15 responded "entirely," and the remaining four "somewhat." Three of these latter four, however, had earlier indicated that neither state law nor agency regulations specified such content at all. Thus either there was confusion in the respondents' minds about the questions or these three boards felt that significant societal guidance is available from sources other than statutory laws and regulations. Furthermore, the two respondents who had indicated that both the law and agency regulations "thoroughly" specified the content of "good moral character," indicated in this third question that their boards were left "entirely" on their own to define it. Whatever the significance of these few mixed responses, it is clear that an overwhelming majority of the boards responding felt they were largely or entirely on their own in giving specific content to the "good moral character" which the law demanded they require of every candidate.

Boards' Assessment

The boards then are asked not only to assess the moral character of other persons but to assess it on society's behalf virtually without society's guidance and to do so in a more or less public forum and as part of a procedure which will have immediate and significant consequences for the one assessed. Many thoughtful persons confronted with such a task would experience a profound sense of uneasiness. But this appears not to be generally true of those responding to the questionnaire. Only four agreed strongly and four simply agreed with the statement that "In asking the medical examining boards in any way to determine and certify the good moral character of licensure candidates, society has given the boards an impossible task since it is nowhere made clear what, if anything, the society means by 'good moral character'." Any such uneasiness at this task reflected in agreement with this statement was further diminished when the suggestion was made that the boards' function in this area should be made more precise by stating it in more clearly defined legal terms and simply requiring that the board license no one who has a record of felony convictions. Here only one agreed strongly, four agreed, nine disagreed, three disagreed strongly and two did not know. The significance of such responses is not always obvious. For example, the rejection of this last suggestion might reflect a reluctance on the part of the boards to surrender any of the power they wield over admission to the profession. On the other hand it might reflect the commendable conviction that the profession of medicine requires more than technically competent practitioners who do not break the law. But whatever their meaning, these responses indicate rather clearly that whatever uneasiness is felt in assessing the moral character of candidates, most of the

boards are not willing to resolve their dilemma by surrendering or even curtailing their discretionary powers in this area.

This reluctance to alter this requirement significantly may well derive from the boards' conviction about the importance of good moral character in the physician. When asked, "In your estimation to what extent do considerations of moral character and commitment figure in the board members' final decision on a candidate?" a total of 13 (68%) indicated either "heavily" (7) or "moderately" (6), while four indicated "minimally," and two "not at all."

One indication of the significance of such considerations is the number of candidates who have been rejected on such grounds. Eleven respondents said they knew of cases in which their board had turned down applicants on such grounds. These 11 indicated that in the years of board activity known to them, such morally based denials had in virtually all states averaged less than one per year and in one case had occurred only once in 10 years.

Without information on the total number of applications processed by the boards and, more problematically, without knowing how considerations of moral character figured in deliberations which did not end in a denial of license, it is difficult to say how well these denials alone indicate the overall significance of moral character in the boards' actions. Nevertheless they indicate that the boards do feel sufficiently secure in their understanding of good moral character or in their grasp of what they take to be society's understanding of it that they are willing to base on it judgments of considerable significance to the candidate and the society.

Given that the boards are not willing to surrender their function of judging moral character, that they generally feel that moral character is not defined for them by the society, and that they do claim to base significant judgments on it, it would seem reasonable to assume that the boards would themselves have attempted to formulate some working definition of good moral character in order to keep their judgments consistent over a period of time and in order to keep both candidates and the society at large informed concerning the criteria by which applicants are assessed.

While such an assumption would appear to be reasonable it would at the same time be false. For even though, as noted above, 15 of the 19 boards felt that they were entirely on their own in defining good moral character and the other four felt somewhat on their own, none of those responding indicated that their board had resolved the matter through written policy statements to guide their deliberations. Seven said they had undertaken to define good moral character "by occasional but not binding discussions of the issue by the board." Eleven indicated that any such definition could be found only "implicitly in the actions of the board on specific candidates," and five said that

their board had confronted the issue "in no specific way." (The number of responses here exceeds the total of respondents since each was asked to mark all the items which applied to his board.)

No Explicit, Precise Definitions

Although working without either explicit or precise definitions of good moral character, the boards nevertheless do still attempt to detect its presence or absence. Letters of recommendation were easily the most frequent means employed for this purpose, being used by 18 of the 19 responding boards. Eight of these indicated that letters were "the extent of their board's inquiry into this area." However, when other modes of inquiry were suggested, some of them admittedly quite indirect, at least four of these eight indicated other means were also employed. Eleven of the boards indicated that they relied in part on "the candidate's response to questions in the interview aimed at revealing his moral character, values and commitments." Nine indicated that their board also considered "the candidate's written response to questions concerning his values and commitments" and/or the "implicit revelation of the candidate's character, etc., in his general conduct in the interview." Another six of the boards cited "board members' intuitions concerning the candidate's character."

The overall picture which emerges here would seem to represent an altogether too casual approach to a matter which the boards profess to take with great seriousness, a function which they do not want to surrender, a requirement the society has thought important enough to write into law and a judgment on which the professional careers of some and the health and well-being of many may depend. This is not to argue that the boards should mount a moral inquisition on some specific and exclusive understanding of good moral character. It is to suggest, however, that such behavior may well be a significant disservice to the public and to the candidates for licensure for it prevents both from being as fully informed about the operations of the boards as they have a right to be. The candidates obviously have a significant stake in the outcome of the boards' deliberations and so have a right to know as precisely as possible on what grounds they will be assessed. The society on whose behalf the boards function has a right to know against what ills this requirement of good moral character is supposed to protect them, and this requires that they know something of what that phrase means to the boards which enforce the requirement. Such casual acceptance and subsequent indifferent handling of such moral categories also contribute to the general devaluation of moral/ethical language and concepts which plague contemporary society. Having consented to operate under such requirements, the boards have an obligation to take them seriously or to work for their alteration. At

the same time it must be admitted that any failure here is shared by the society and/or its legislators for requiring the boards to assess moral character without saying what they mean by it.

Even in the absence of stated definitions it can be assumed that since the boards do make judgments about good moral character they must have some conception of what they are looking for. The respondents were therefore provided with a list of eight items and were asked: "On your interpretation of the boards' actions, the following elements are major, moderately significant, minor, or negligible factors in the boards' understanding of "good moral character." The relative importance of each item was to be indicated by the number assigned to it. Even if the responses received are taken not to represent the boards themselves but only the personal stance of the specific respondents, they are still of considerable interest since in most cases they come from experienced observers and/or participants of the boards.

Taking into account the weighted voting for the items, the results were as follows. Ranked almost equally as most important were two items: "readiness to abide by laws governing medical practice (e.g., abortion and drug laws)" and "willingness to abide by moral demands of doctor-patient relationship (e.g., to observe confidentiality)." Next came a group of three items ranked very close to each other: "ranking patient's well-being as his highest goal in his practice of medicine;" "willingness to abide by professional 'etiquette' (e.g., not to advertise);" and "dedication to delivering the highest quality of medical care he and the science are capable of." The last group of three, significantly below the previous group, were, in order of descending importance: "dedication to enhancing public health through preventative as well as curative measures;" "dedication to seeing that all needing medical care get it under conditions they can meet without hardship;" "preference for the traditional fee-for-service mode of practice."⁷

Aspects of Interest

There are several aspects of this ranking which are of considerable interest even if, as some might suggest, the ranking itself is fairly predictable. Given the current critical mood of the public, some might suspect that the top ranking given to the readiness to abide by relevant laws represents the profession's retreat to the lowest tolerable minimum in matters of moral character. But it might simply reflect the fact that the law is the most explicit, the most clearly specified and most concrete set of standards available. It might also reflect the boards' awareness that here as nowhere else the society, or at least those legislating on its behalf have given specific content to their expectations in this area. At the same time it might simply be one

manifestation of a wider phenomenon — that when moral guidelines and definitions in a society are in flux or are losing both their clarity and their influence, most persons will turn to legal guidelines to replace them.

In fact many of the boards may well rely on the law to settle the question of good moral character to a much greater extent than these responses alone would indicate. The practice of some boards, apparently as a matter of policy, is to minimize the matter of good moral character in the licensing of candidates but with the understanding that the candidates' subsequent conduct, most notably the violation of certain laws relevant either directly or indirectly to medical practice and its demands, will serve as *prima facie* evidence for an absence of good moral character. The assumption is that such conduct will be taken as grounds for considering whether the board should exercise one of its other powers, that of revoking the physician's license.⁸

Given the present state of the public's understanding of good moral character, this may be a commendably responsible way of handling the matter. However, the profession should take note of at least one significant implication of such reliance on strictly legal canons for defining the good moral character to be required of physicians. To the extent that the moral dimensions of professional life are defined only by laws, most of which at the same time regulate the conduct of non-professionals, the claim of the profession to be a "moral unit" in some distinctive sense which sets it off from the rest of the society is proportionately undercut. There are, after all, few non-criminal forms of employment in our society in which the violation of certain laws would not jeopardize the violator's employment.

The high position accorded the moral demands of the doctor-patient relation might, like the high ranking of obedience to the law, reflect the desire for specific content which in this case is furnished not by statute law but by long and, to a considerable extent, fairly specific tradition.

Two of the middle group of three — those concerning the patient's well-being and the quality of care delivered — are, like the second item above, elements of special importance in the doctor-patient relation. They are commitments or obligations which guide conduct between two individuals. The third item in this middle group is the only one in the list referring directly to matters which most non-physicians would see as a matter of professional etiquette or even of professional self-defense, rather than of morality proper. The interesting fact about its location is not that it was ranked conspicuously high, for it was not, but that it was ranked above all three items which referred to questions of the distribution of health care, of the profession's larger moral responsibilities to the total society.

Putting Elements in Order

The grouping of the eight elements in the order of importance makes it clear that "good moral character" in the minds of the respondents emphatically has more to do with the professional's obligations to a limited number of specific individuals, to his patients, than to the society at large, to the entire population of those needing health care. In this second area which includes such matters as the distribution of health care and the mode and ease of patient access to it, it is not as important that preference for the fee-for-service mode of practice and distribution was placed last as it is that all three items concerning the profession's relation or obligations to the larger society were given lowest billing. The stand taken on these matters is not as important in the present context as is the fact that these matters themselves were placed last as elements in defining the good moral character relevant to being a physician.

This low ranking of societal issues and responsibilities is of special interest in light of the fact that these same respondents, when asked to indicate the major differences between professional and other occupational licensing, gave highest place to "the degree of dedication to the public well-being expected of the licensee." ("The amount and type of preparation required" was a close second.) Similarly the respondents indicated that the license is more important as an expression of the physician's relation to the society at large, than to his professional colleagues (placed last), or to an accumulated body of knowledge and technique, or even to his patients (placed second). In spite of these responses, however, the respondents portrayed their boards as understanding the acceptance of a license by a physician more as the legal prerequisite for practicing medicine than as the acceptance of a moral trust from the society to serve the public. This is admittedly an unclear picture and it may well be that the boards' definition of the good moral character required of a candidate need not coincide with or even reflect the boards' understanding of the significance of licensure itself. On the other hand there are obvious reasons for keeping these two matters related to each other, for rightly understood they are both important elements in any understanding of the moral meaning of "professional," in any view of a profession as a "moral unit."

At the same time it should be noted that the tendency noted above in the ranking of the elements of good moral character to see questions of morality and ethics largely if not exclusively in terms of issues of individual or personal relations at the expense of larger societal issues is not unique to the medical profession. It is a pervasive American tendency. Nevertheless it will be unfortunate if the medical profession in this time of growing societal uncertainty about and unhappiness with health care does not begin to realize that among its professional obligations are obligations to the society as a whole and thus to

see that the ability to recognize and the willingness to respond to these should play a larger role in what is meant by good moral character. As Edmund D. Pellegrino, M.D., has suggested, it may well be precisely this failure of the profession to enlarge its understanding of its obligations toward the larger society that accounts for the declining prestige of the profession as a whole even while individual physicians retain the respect of their own patients.⁹

While it is a good thing, as Hughes puts it, for a profession to claim and aim to become a moral unit, it must also come to realize that at the same time it is a part of a larger moral reality, the society which created it, which sustains it and which now depends on it for essential services. In other words, if being a "moral unit" has been something which the professions have seen as distinguishing them from the rest of the society, currently they are being challenged to understand that same fact of being a moral unit as also tying them extensively and intimately to the larger society, to see that to be a moral unit means not to be an isolated self-defined monad, but rather to be one inter-related, interdependent part of a larger moral reality, the total society.

Obviously the matter of good moral character on which this discussion has focused is not the only, perhaps not even the most important element in a profession's being a moral unit. The most that need be claimed here is that it is one such important element and may therefore serve as a starting point for investigating what, morally speaking, it means in these days to be a professional, whether medical or otherwise.

REFERENCES

1. Hughes, Everett Cherrington, *Men and Their Work* (Glencoe, Ill.: The Free Press, 1958), p. 33.
2. See Talcott Parsons, *The Social System* (Glencoe, Ill.: The Free Press, 1951), pp. 432-473; and "The Professions and the Social Structure," in Talcott Parsons, *Essays in Sociological Theory Pure and Applied* (Glencoe, Ill.: The Free Press, 1949), pp. 185-199.
3. The boards themselves recognize this since only three of the respondents to the questionnaire discussed maintained that licensing is primarily a right of the medical profession and none said that the board acts primarily on behalf of the profession.
4. For a treatment of this same theme from a different perspective, see Paul F. Camenisch, "Commentary: On the Professions," *Hastings Center Report*, 6, no. 5 (October, 1976), pp. 8-9.
5. *Report of the National Advisory Commission on Health Manpower*, Vol. II (Washington, D.C.: U.S. Government Printing Office, 1967), p. 301.
6. I am grateful to the Institute of Religion, Texas Medical Center, Houston, Texas for support for this project during my year there as post-doctoral fellow in medical ethics.
7. In suggesting these possible elements in good moral character I have rather freely ignored the classical understanding of moral character which refers first of all to certain "character traits" — habits, virtues or vices — within the agent which

give some consistency and therefore a kind of predictability to his conduct. I have here included elements which might more likely be viewed as values or substantive commitments. This looseness in my use of "good moral character" is justified in part by its reflection of the less than rigid distinctions made among these moral concepts by the general population.

8. See, for example, *Report of the National Advisory Commission on Health Manpower*, Vol. II (Washington, D.C.: U.S. Government Printing Office, 1967), which reports that:

All states require good moral character for medical licensure. This requirement has generally been held by the courts to be negated by conviction of a felony or an offense involving moral turpitude. It is possible that standards specified in the statute for suspension or revocation of licenses may be deemed relevant in defining the good moral character requisite for admission to practice. The paucity of judicial decision interpreting this vague requirement, except in cases of heinous offenses, indicates that licensing boards have wide discretion in defining good moral character as long as they do not act arbitrarily or capriciously. Thus, procedures for contesting a board's interpretation of the criterion are important to protect both the rights of individual candidates and the interest of society in the admission to practice of all qualified candidates. It would be an unsound limitation on medical manpower to bar qualified physicians for characteristics unrelated to professional responsibilities and duties" (p. 301).

For a recent account and assessment of this second way in which the profession's moral relation to the society is implemented through professional discipline, see Robert C. Derbyshire, M.D., "Medical Ethics and Discipline," *JAMA*, Vol. 228, no. 1 (April 1, 1974), pp. 59-62. Derbyshire there concludes: "To the question, 'Are the boards of medical examiners adequately disciplining unethical physicians?' the answer must be, on the whole, no." (p. 62)

9. Pellegrino, Edmund D., M.D., "Toward an Expanded Medical Ethics: The Hippocratic Ethic Revisited," in Roger Bulger, ed., *Hippocrates Revisited: A Search for Meaning* (New York: Medcom Press, 1973), pp. 133-147.
