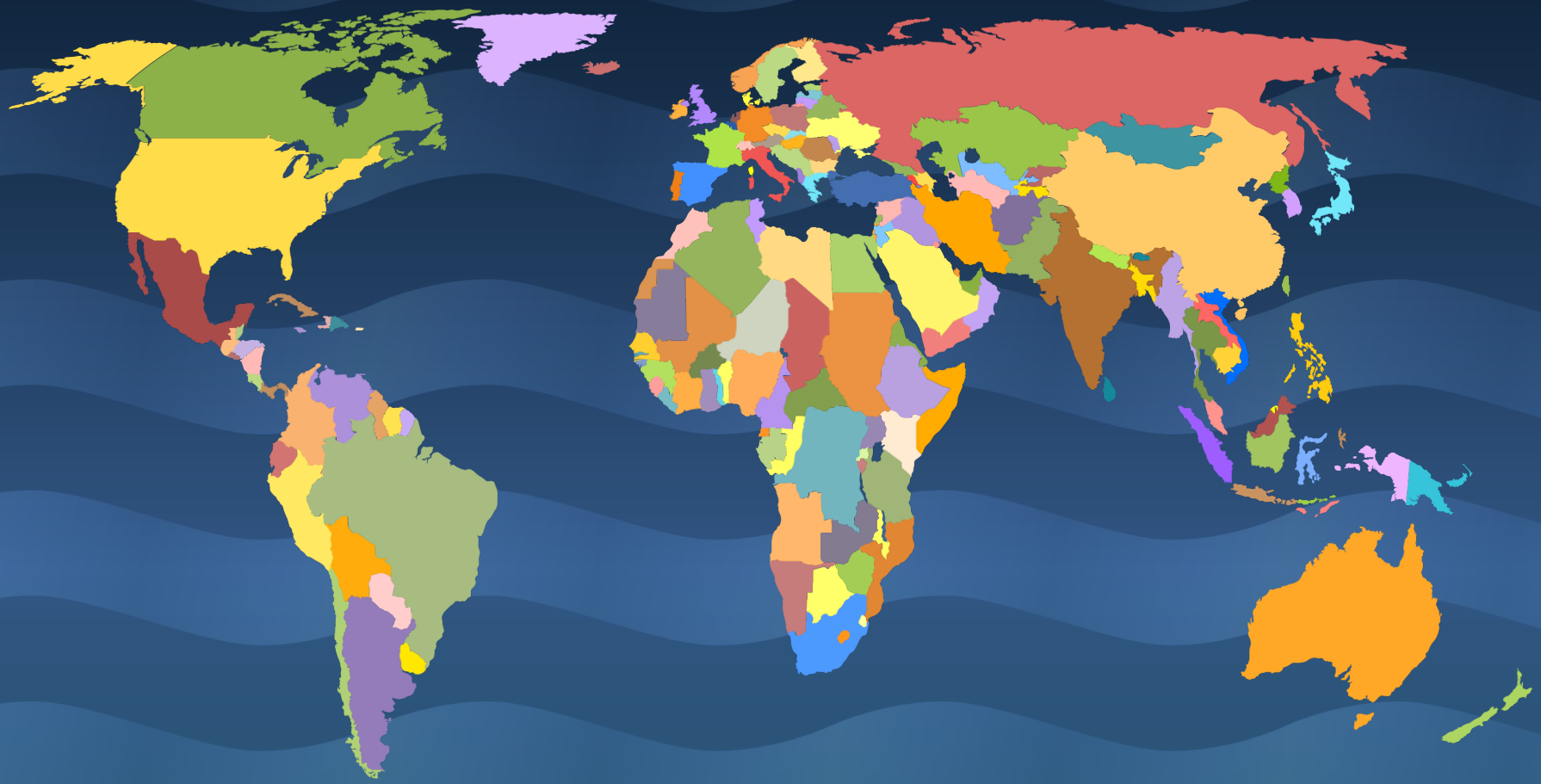

Dual Loyalty/Military Medicine

August 17, 2019

Declaration of Geneva

"I will apply, for the benefit of the sick, all measures which are required, avoiding those twin traps of overtreatment and therapeutic nihilism."

Primum non nocere ("first, do no harm")

Oath of Commissioned Officers

"I, _____, having been appointed an officer in the Navy of the United States, as indicated above in the grade of ____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter; So help me God."

“Medical ethics in times of armed conflicts is identical to medical ethics in times of peace.” World Medical Association

“Respect human life and the dignity of every individual.

Refrain from supporting or committing crimes against humanity and condemn any such acts.

Treat the sick and injured with competence and compassion and without prejudice.”

AMA Declarations of Professional Responsibility

Dual Loyalty

Clinical role conflict between professional duties to a patient and obligations, expressed or implied, real or perceived, to the interest of a third party such as an employer, an insurer or the state (military) that can violate patient's rights.

Primary Care Physician

A young female primary care physician deployed in Afghanistan was directed to perform physicals on male detainees prior to their interrogations. Female physical exams performed on male muslims are considered highly embarrassing. She refused and was threatened with courts martial. She subsequently did the physicals, fearing the risk of a court martial and serving a two-year jail term this doctor has a young daughter and did not want to miss time with the daughter

Team Physician

The team physician for critical care transport (flying ICU) stationed outside the US is directed to transport four critically ill civilians to another hospital. The team physician on boarding the plane determines that the facilities of the newer hospital are not able to provide care and the civilians will die. He directs the aircraft pilot to return the plane. The pilot refuses – he has different orders. There is potentially a court martial.

Navy Nurse

A Navy nurse who refused to force-feed Guantánamo prisoners. he refused to manage tube feedings of prison hunger strikers. He was removed from his duties treating captive patients.

He was described as an 18 year active duty sailor, a one-time submariner who, at the Navy's, urging became a nurse and commissioned officer who had only three years before retiring.

At one point he was threatened with court-martial for insubordination. But the personnel board will not face a court martial and he is being returned to regular duties.

Instead, the nurse "is going to be able to go back to work," and have every reason to believe, finish up his honorable service in the U.S. Navy."

JANUARY 29, 2013

Under Secretary of Defense for Personnel and Readiness request the Defense Health Board to review the unique challenges faced by military medical professionals in their dual-hatted positions as a military officer and a medical provider

Defense Health Board

The Defense Health Board is an appointed civilian body known as a Federal Advisory Committee to the Secretary of Defense that provides independent advice/recommendations on matters pertaining to military health.

Question 1

How can military professionals most appropriately balance their obligations to their patients against their obligations as military officers to help commanders maintain military readiness?

Question 2

How much latitude should military medical professionals be given to refuse participation in medical procedures or request excusal from military operations with which they have ethical reservations or disagreement?

WMA Policies

International Code of Medical Ethics

Statement on the Protection and Integrity of Medical Personnel in Armed Conflicts and Other Situations of Violence

Regulations in Times of Armed Conflict

Declaration of Tokyo - Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment

February 11, 2015

Ethical Guidelines and Practices for United States Military Professionals

Recommendation 1

DoD should further develop and expand the infrastructure needed to promote DoD-wide medical ethics knowledge and an ethical culture among military health care professionals, to include: a code of ethics; education and training programs; consultative and online services; ethics experts; and an office dedicated to ethics leadership, policy, and oversight. To achieve these goals, DoD should form a tri-Service working group with appropriate representation to formulate policy recommendations on medical ethics. This should include development of a DoD Instruction to guide development of the infrastructure needed to support the ethical conduct of health care professionals. In addition, this working group should consider the best ways to implement the recommendations in this report. .

Recommendation 2

Throughout its policies, guidance, and instructions, DoD must ensure that the military health care professional's first ethical obligation is to the patient.

Recommendation 3

DoD leadership, particularly the line commands, should excuse health care professionals from performing medical procedures that violate their professional code of ethics, State medical board standards of conduct, or the core tenets of their religious or moral beliefs. However, to maintain morale and discipline, this excusal should not result in an individual being relieved from participating in hardship duty.

Recommendation 4

DoD should formulate an overarching code of military medical ethics based on accepted codes from various health care professions to serve as a guidepost to promote ethical leadership and set a standard for the cultural ethos of the MHS (military health services).

Recommendation 5

To provide formal ethics guidance, direction, and support to the MHS and its components, DoD and the Military Departments should:

Publish directions/instructions

Ensure military treatment facilities have access to high-quality ethical services

Provide a reach back mechanism

Develop a cadre of physicians with graduate training

Ensure health professionals are knowledgeable

Review compliance with ethics directives

Recommendation 6

DoD should develop clear guidance on what private health information can be communicated by health care professionals to leadership, and the justifications for exceptions to the rule for reasons of military necessity

Recommendation 7

DoD should provide military health care professionals with privileges similar to those of Chaplains and Judge Advocates regarding their independence and obligation to protect privacy and confidentiality while meeting the requirements of line commanders.

Recommendation 8

DoD should provide specific education and training for health care professionals designated to serve as medical mentors or health care providers in foreign health care facilities or in support of humanitarian assistance or disaster relief operations. Such education and training should cover cultural differences, potential ethical issues, rules of engagement, and actions that might be taken to avert, report, and address unethical, criminal, or negligent behavior or practices.

Recommendation 9

DoD should create an online medical ethics portal. At a minimum, it should include links to relevant policies, guidance, laws, education, training, professional codes, and military consultants in medical ethics.

Recommendation 10

- DoD should include in professional military education courses information on the legal and ethical limitations on health care professionals regarding patient care actions they may or may not take in supporting military operations and patient information they may and may not communicate to line leadership.

Recommendation 11

DoD should ensure that systems and processes are in place for debriefing health care professionals to help them transition home following deployment. Debriefing should occur as a team when possible. Not only could this help mitigate potential moral injury in health care professionals, but it may also provide lessons learned and case studies for inclusion in ongoing training programs.

Recommendation 12

To create an environment that promotes ethical conduct and minimizes conflicts of dual loyalty, DoD leadership should emphasize that senior military health care professionals are full members of the Commander's staff as an advisor on medical ethics as it relates to military readiness.

Recommendation 13

To minimize isolation of health care professionals, the Military Departments should make every effort to ensure personnel who are deploying to the same location train together as a team prior to deployment. Establishing relationships prior to deployment may enable better communication and trust among line command and health care professionals in the deployed setting.

Recommendation 14

DoD should issue a directive or instruction designating minimum requirements for basic and continuing education and training in military medical ethics for all health care professionals in all components and indicate the appropriate times in career progression that these should occur

Recommendation 15

To enhance ethics training for military health care professionals and the line command, DoD should:

a) Ensure pre-deployment and periodic field training includes challenging medical ethics scenarios and reminders of available resources and contact information to prepare both health care professionals and line personnel. Curricula should include simulations and case studies in addition to didactics.

b) Provide a mechanism to ensure scenarios and training curricula are continually updated to reflect specific challenges and lessons learned through debriefing from real-world deployments and garrison operations.

c) Ensure key personnel returning from deployment who have faced significant challenges provide feedback to assist personnel preparing for deployment.

Recommendation 16

To enhance health care practices in the military operational environment, DoD should:

a) Update the Joint Knowledge Online Medical Ethics and Detainee Health Care Operations courses to improve the efficiency with which the information is communicated and maintain currency of the material.

b) Create a medical ethics course to cover key principles, ethical codes, and case studies applicable to both garrison and deployed environments, in addition to providing resources and appropriate steps to take when assistance is needed in resolving complex ethical issues. This course should be required for all health care professionals

MARCH 3, 2015

The Defense Health Board submitted its report to the Secretary of Defense on “Ethical Guidelines and Practices for U.S. Miitary Medical Professionals Department of Defense”.

It was considered favorably

Department of Defense Medical Ethics Center (DMEC) Vision

Establish the Department of Defense (DoD) Medical Ethics Program Office at the Uniformed Services University (USU), known as the DoD Medical Ethics Center (DMEC), to facilitate a common cultural ethos throughout the Military Health System (MHS), and serve as a knowledge repository and consultancy resource for all military health professionals

DoD Medical Ethics Center (1)

1. Health care personnel will adhere to principles of medical ethics
2. Baseline and periodic updates in medical ethics education and training
3. Systematic and integrated DoD Medical Ethics Program
4. Consultation by fully trained experts in medical ethics
5. Medical ethics leadership composed of senior medical ethics in military ethics will promote ethics conduct and culture across the MHS and DoD

DoD Medical Ethics Center (2)

6. Health care personnel must protect their patients privacy

7. Medical Heath Service leaders must:

a. Unless it could have an adverse impact on military readiness, unit cohesion, and good order and discipline, the Armed Forces will accommodate individual expressions of belief of a member of the armed forces reflecting the sincerely held conscience or moral principles of the member.

DoD Medical Ethics Center (3)

b. In so far as practicable, the Armed Forces may not use such expression of belief as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.

c. This paragraph is applicable to individual expressions of belief of a health care professional reflecting the sincerely held conscience or moral principles of the individual that are grounded in an applicable professional ethics code.

d. Nothing in this paragraph precludes disciplinary or administrative action for conduct that is proscribed by the Uniform Code of Military Justice, including actions and speech that threatens good order and discipline.

Current Medical Ethics Landscape (1)

- Societal and media perceptions of military medical practice
- Varying influences on ethical thought/practices dependent on age, cultural & economic background, and religious beliefs of providers, both military and civilian
- Advances in medical technology
- Determining the roles of patient's providers in decision making

Current Medical Ethics Landscape (2)

- Potential conflicts between autonomy and beneficence
- Ethical practices in deployed environment
- Appropriate parameters of patient and heathcare workers
- Confidentiality and disclosure of Personnel Health Information
- Military mission/chain of command influence and potential conflict of interest

Brief to the Defense Health Board 4-23-18

- Initial operating capacity Fall of 2018
- Functional operating capacity Spring 2019
- Housed in the Uniformed Services University
- Six senior staff plus additional personnel staff and ethics consultants
- Ethics resources from within the military, and from outside civilian medical ethics programs and centers
- Formulate medical ethics curriculum
- Establish medical ethics portal presence

Principles of Medical Ethics
Military Health System

The MHS embraces the principles of professional ethics of America's health care professions whose members are represented in the Military Services. Codes of ethics developed by health care professional organizations recognize responsibility to patients first and foremost and to society. The MHS views the responsibilities of health care personnel and military professionals as mutually reinforcing.

Principles of Medical Ethics (1)

Members of the Military Health System (MHS) will

- **Provide competent health care**
- **Uphold the standards of professionalism**
- **Advocate for the best possible health interest of patients**
- **Respect the rights of patients , colleagues and other health care personnel**
- **Complete appropriate education and training**

Principles of Medical Ethics (2)

- Support patient-centered decision-making
- Use expertise of the health professions
- Consider the context of local culture
- Uphold the responsibilities under the law In caring for enemy combatants
- Regard responsibility to the patient as a primary responsibility

From 2001 and the 9 Eleven catastrophe to the present

Nelson Mandela

Dual Loyalty
Military Medicine