EDITORIAL

Military Medical Ethics: Privacy, Military Necessity, and the Dual Roles of Military Psychiatrists

Meghan Quinn, M.D., and Sean Wilkes, M.D., M.Sc.

The military and medicine both have long-established ethical traditions guiding professional conduct. Military physicians are commissioned officers and follow two distinct and potentially conflicting ethical codes. They must continually weigh the responsibility they have as a doctor to each individual patient against the responsibility they have as an officer for the military mission.

Using the Hippocratic Oath as their base, professional medical societies have developed ethical codes that members must follow. The American Psychiatric Association annotated the American Medical Association's Principles of Medical Ethics, highlighting psychiatric applications and emphasizing patient protection and the primacy of the patient-psychiatrist relationship (1).

The military is also governed by ethical rules and oaths. Commissioned officers in the United States swear to "support and defend the Constitution … against all enemies" and to "faithfully discharge the duties of the office" that they occupy (2). They are accountable to the principles outlined in the Geneva Convention, as well as to military service–specific ethical standards and core values. These core principles of ethical conduct are legally enforceable by the Uniform Code of Military Justice.

Certain protections exist to shield the "physician soldier" from conflicts between these dual roles. Military physicians are noncombatants and are armed only to protect themselves and their patients. The Geneva Convention prohibits noncombatants from participating in offensive military operations. In addition, in armed conflict, patients receive medical treatment regardless of their side in the conflict (3).

Despite apparent differences, civilian and military psychiatry have much in common. The confidentiality of psychiatric medical records is highly valued in both settings, and failure to comply with regulations regarding confidentiality carries a steep fine (4, 5). There are limited situations when all psychiatrists may disclose patient information without consent—typically in professional consultation or when the clinician is concerned about serious harm to self or others.

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In the military, there are additional times when privacy may be breached. Department of Defense policy specifies when health care providers must notify a patient's military command (6). Situations include risk of harm to self, others, or military mission; inpatient psychiatric treatment or substance misuse treatment; acute inability to perform assigned duties or sensitive mission responsibilities, such as presidential support; and other circumstances requiring a senior officer's approval. When a service member may be suffering from a severe mental disorder and will not voluntarily present for evaluation, a commanding officer may order a psychiatric evaluation, and be privy to the results. In these cases, information disclosed to the commanding officer should be limited to diagnosis, prognosis, treatment plan, impact on duty, recommended limitations or restrictions, safety concerns, and how unit leadership can be supportive. For example, a psychiatrist might disclose the medication a patient is prescribed, because this may affect the individual's "deployability," but keep confidential the patient's history and psychotherapy content.

This policy may seem like a tremendous breach of privacy to civilian psychiatrists, who must obtain releases of information prior to disclosing patient information in the absence of acute safety concerns. However, it is in line with the HIPAA military command exception, which allows disclosure without consent "for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission" (7). As such, military psychiatrists explain the limits of confidentiality at the beginning of patient encounters and review the information that may be conveyed to a patient's command. Because active duty service members may have access to weapons and classified information and may deploy on short notice, the military psychiatrist must consider the greater military mission in addition to the individual patient's health. Sharing information with the patient's command allows individuals who are fully aware of that mission to decide how to prioritize the patient's needs without compromising the mission or unit.

Another role entrusted to military physicians is recommending whether service members are fit for duty or should be evaluated for medical separation. In many civilian organizations, decisions regarding fitness for duty are made by physicians retained for that purpose alone. The military is unique because physicians serve both individual patients and the organization as a whole. Although civilians are not required to disclose newly diagnosed medical conditions to their employer, service

members do not have that option. At the individual level, this may appear to challenge the ethical principles of fidelity and autonomy, potentially contravening the patient's privacy and choice. Reporting the condition may lead to the loss of the patient's job, potentially violating the principle of nonmaleficence. However, at the level of the collective, it may be justified because it protects those who may be harmed by the patient's dysfunction. Many patients who are recommended for medical separation are provided ongoing health care while their enrollment with the Department of Veterans Affairs health care system is under way, and psychiatric diagnoses do not preclude honorable discharge from the military.

The potential conflict arising from the dual roles of the physician-soldier becomes more apparent in combat. Psychological trauma is a common consequence of armed conflict, and stress reactions are often observed throughout deployment. One crucial task for the deployed psychiatrist is determining whether a service member requires evacuation to higher levels of care or may return to combat. Although this decision is largely based on the patient's needs, prognosis, and functionality, considering the needs of the military unit is similarly vital, as mission success may depend on both factors (8, 9). The authority and responsibility to make sound, ethical medical recommendations rests with the individual physician; however, the military commander may accept or reject these recommendations, considering how the medical treatment of one service member may affect the unit's operational mission (10). During combat, the individual's needs may need to be subordinated to that of the collective—similar to triage during a mass casualty.

When medical resources are outstripped by demand, service members with a higher likelihood of survival may be prioritized over those with more serious injuries in order to maximize survival rates. In deployed settings, those who have experienced psychological trauma may be returned to duty despite risks of retraumatization to help ensure mission accomplishment and, potentially, the unit's survival (11). In such circumstances, psychiatrists may find it necessary to balance the principles of beneficence and nonmaleficence at the level of the individual patient against the principle of justice and the well-being of the collective in making such a recommendation.

This is not to say that the practice of military psychiatry is inherently unethical or fraught with irreconcilable ethical conflicts. There are other approaches to ethical decision making that may assist in the reconciliation of such conflicts. For example, London et al. (8) have alternatively argued that a rights-based approach is better suited to resolving such dual-loyalty conflicts through the application of select rules based on what they assert are nonderogable human rights. These rules include adherence to "the principle of confidentiality in a manner consistent with practice in civil society" and the "treatment of the sick and wounded according to the rules of medical needs and triage." It is a simpler approach that seeks to obviate most circumstantial exceptions to the most commonly agreed upon principles of medical ethics. Conversely, it could severely hamper the provision of medical care within the military by placing treatment at odds with the military's mission. Without conflict-mitigating paradigms in place, each psychiatrist must craft his or her own solution while balancing ethical principles against one another.

Military psychiatrists face some unique ethical conundrums about which they must maintain constant awareness, while remaining vigilant of the rights of the patient and the need to uphold the principles of autonomy, beneficence, nonmaleficence, justice, veracity, and fidelity. Many psychiatrists never face ethical conflicts associated with military service, but awareness of them enables all psychiatrists to provide better care to patients connected with the military.

Dr. Quinn is a second-year resident in the National Capital Consortium Psychiatry Residency program at Walter Reed National Military Medical Center, Bethesda, Md. She is a lieutenant in the U.S. Navy. Dr. Wilkes is a first-year child psychiatry fellow at Tripler Army Medical Center, Honolulu. He is a major in the U.S. Army and guest editor for the military psychiatry section theme of this issue of the *Residents' Journal*.

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