THE DEVELOPMENT OF
MEDIEVAL MEDICAL ETHICS

by

DARREL WALTER AMUNDSEN
B.A., Western Washington University, 1967
M.A., University of Washington, 1969

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

in

THE FACULTY OF GRADUATE STUDIES
Department of History

We accept this thesis as conforming
to the required standard

THE UNIVERSITY OF BRITISH COLUMBIA
April, 1980
© Darrel Walter Amundsen, 1980
In presenting this thesis in partial fulfilment of the requirements for an advanced degree at the University of British Columbia, I agree that the Library shall make it freely available for reference and study. I further agree that permission for extensive copying of this thesis for scholarly purposes may be granted by the Head of my Department or by his representatives. It is understood that copying or publication of this thesis for financial gain shall not be allowed without my written permission.

Department of History

The University of British Columbia
2075 Wesbrook Place
Vancouver, Canada
V6T 1W5

Date April 25, 1980
ABSTRACT

In classical antiquity there were no restrictions on who could practise medicine. There were no enforceable professional standards. The physician sold his services at his own discretion to those who asked and paid for treatment; he exercised his art as he wished. In the early Christian centuries Christian charity and moral principles effected some significant changes in the perception of medical ethics and suggested a responsibility to exercise compassion and extend charity. Yet it is not until the late Middle Ages that we can speak of the development of a clearly-defined medical deontology and professional ethics resulting from two factors: 1) The development of licence requirements (whether imposed by external authority or obtained by medical guilds) which reflects a fundamental change in the very basis for the practice of medicine from a right to a privilege, with specific obligations attached to that privilege. 2) The clear definition and expression by casuists of the moral responsibilities of physicians. During the late Middle Ages some physicians wrote treatises on medical etiquette and ethics. When the contents of these treatises are supplemented by guild and university ethics and the moral expectations of the casuists, as well as by the evidence of physicians' conscientious response to the various outbreaks of pestilential disease
in the late Middle Ages, the picture that emerges is of relatively high ethical standards circumscribed by, and in part the result of, clearly-delineated expectations of ecclesiastical authority and the secular community.
### TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acknowledgements</td>
<td>v</td>
</tr>
<tr>
<td>Chapter I. The Greco-Roman Background: Decorum and Enlightened Self-Interest</td>
<td>1</td>
</tr>
<tr>
<td>Chapter II. Early Christian and Early Medieval Medical Ethics: Duty to God and to Tradition</td>
<td>56</td>
</tr>
<tr>
<td>Chapter III. Licensure, Universities and Guilds: Duty to the State and to the Profession</td>
<td>116</td>
</tr>
<tr>
<td>Chapter IV. Casuistry and Professional Obligations: Regulation by the Court of Conscience</td>
<td>219</td>
</tr>
<tr>
<td>Chapter V. Medical Ethics in Theory and Practice: The Witness of Individual Physicians in the Late Middle Ages</td>
<td>289</td>
</tr>
<tr>
<td>Bibliography of literature cited</td>
<td>359</td>
</tr>
</tbody>
</table>
ACKNOWLEDGEMENTS

A special debt of gratitude is owed to my Research Supervisor, Professor John Norris, for his conscientious diligence in reading and criticizing this thesis at its various stages. Dr. Ronald Kotrc of the College of Physicians of Philadelphia deserves special appreciation for his generous support during the summer of 1977 when much of the preliminary work on the casuistic literature was accomplished. The criticisms and discussions evoked by presentations of various aspects of this study at meetings of the Death and Dying Research Group (now the Death, Suffering and Well-Being Research Group) of the Hastings Center: Institute of Society, Ethics and the Life Sciences, have proved most helpful.

To my wife and children I extend my deepest gratitude for their patience in bearing with the deprivations that must be inevitable in any family where one is attempting to complete a doctoral thesis.
CHAPTER I
THE GRECO-ROMAN BACKGROUND:
DECORUM AND ENLIGHTENED SELF-INTEREST

During the early centuries of the Christian era, as paganism gave way to Christianity, pagan medical practitioners were slowly replaced by at least nominally Christian physicians who inherited their predecessor's medical knowledge and adopted, adapted, or rejected various aspects of their ethics. Thus any serious attempt to trace the development of medieval medical ethics must begin with the Greco-Roman background. The general state of Greco-Roman medical ethics will be discussed in this introductory chapter. No attempt will be made to develop a history of ancient medical ethics or to analyze its varied philosophical roots.¹ Rather the concern here is with giving a

broad overview of the practical medical ethics of the Greco-Roman physician.

Strictly for the sake of convenience and organization, the description of the medical ethics of the Greco-Roman physician will be broken down into two different categories. At the outset, however, it should be recognized that these two categories will overlap and that any general categorizing of medical ethics will invariably be somewhat artificial. The first category will be called general etiquette. Matters of general etiquette appear to constitute a code of conduct for practitioners, a loose code of eminently practical concerns addressed to the general good of the aggregate of practitioners. These rules of conduct seem to have resulted from and answer to the general desire for facilitating harmonious relations with patients and colleagues alike. This category includes such matters as the ideal character and qualities requisite to medical practice, bedside manner, and general decorum. Such is the subject matter with which ancient treatises on medical etiquette were mostly concerned. These treatises also were concerned with the subject of fees, a theme that extends into our second category. The second category is what, for the sake


2. E.g., in the Hippocratic Corpus: The Physician, Precepts, and Decorum.
of convenience, will be called deontology. This category partakes of considerations that transcend the immediate concerns of the physician/patient and the colleague/colleague relationships and includes such matters as obligations (in the broadest sense) to the community that attach to those occupying the role of a physician, and also those issues that can retrospectively be called issues of "respect for life." Concerns included in these two categories will appear repeatedly in the subsequent treatment of medieval medical ethics.

Two matters should be noted before discussing specific aspects of Greco-Roman medical etiquette and deontology. One is the significance of the so-called Hippocratic Oath; the other is the general state of the ancient medical profession. Although scholarly opinion varies considerably as to how many (if any) of the treatises in the Hippocratic Corpus were written by Hippocrates, few (if any) scholars today hold that the Oath that bears his name was written by him. Even the date of the composition


4. Savas Nittis' thesis that Hippocrates himself composed the Oath in Athens between March and October of 421 B.C. is unconvincing; "The Authorship and Probable Date of the Hippocratic Oath," Bulletin of the History of Medicine, 1940, 8: 1012-1021.
of the Oath is unknown; some scholars place it as early as the sixth century B.C. and others as late as the first century A.D. It apparently did not excite a great deal of attention on the part of physicians or others earlier than the beginning of the Christian era; the first known reference to it was made by Scribonius Largus in the first century A.D. Some of the stipulations in the Oath are not consonant either with ethical precepts prevalent elsewhere in the Hippocratic Corpus and in other classical literature or with the realities of medical practice as revealed in the sources. This has inspired a number of attempts either to explain away those inconsistencies or to attribute the Oath to an author or school whose views were, in other respects as well, discordant with those characteristic of classical society. Most significant is Edelstein's theory that the Oath was a product of the Pythagorean school. Edelstein's thesis is tempting and, in my opinion, the most convincing thus far advanced.

5. Ludwig Edelstein dates the composition of the Oath to the mid- to late fourth century B.C.; "The Hippocratic Oath: Text, Translation and Interpretation," in Ancient Medicine, pp. 55 ff.


8. Much has been written on the Oath since Edel-
The Pythagorean origin of the Oath, however, should not be considered proved. Not only can parallels be found outside Pythagoreanism for even the most esoteric injunctions in the Oath, but the Greek text offers many variant readings, some of which can be translated in sometimes significantly different ways. The Oath, taken as a whole, is an esoteric document which is often inconsistent with the larger picture of Greco-Roman medical ethics. We shall see that the Oath was popular with early Christians and during the Middle Ages precisely because it espouses positions more compatible with Christian ethics than with values most prevalent in classical culture.

Secondly, at no time in the classical world was there any system of medical licensure. The closest parallel to medical licensure was in the appointment of "public physicians," demosieuontes iatroi of Greece, demosioi iatroi of Roman Egypt, and archiatri of Rome and some other areas of the Empire. These "public physicians" were not in any sense "licensed" to practise medicine. The reason for their appointment appears to have been simply to ensure the availability of physicians, although in Roman Egypt there is no evidence that the demosioi iatroi performed any but a

---

stein's monograph, and several leading scholars have questioned the validity of his central thesis of the Pythagorean origin of the Oath. See, for example, Fridolf Kudlien, "Medical Ethics and Popular Ethics," and Karl Deichgräber, Der Hippokratische Eid (Stuttgart: Hippocrates-Verlag, 1955), especially p. 40.

9. Cf. both articles cited in the preceding note, passim.
forensic role. Anyone could call himself a physician and treat patients. There were no professional standards enforceable by sanctions against physicians who violated the "ethics of the profession." Indeed, even to speak of the "ethics of the profession" is misleading. At no time were those who simply chose to call themselves physicians and undertake the practice of medicine required to swear any oath or to accept and abide by any formal or informal code of ethics. Many of the principles of etiquette expressed in the medical literature seem to have resulted from the physician's concern for his reputation. When taken out of the context of classical attitudes, this almost constant concern with reputation can easily be misinterpreted and given a tone of underlying self-interest, but the physician's only credential was his reputation.

Of very real, immediate, and sustained concern was general etiquette. The physician should look healthy and be of suitable weight, "for the common crowd considers those who are not of excellent bodily condition to be unable to take care of others." This is of particular significance, especially in classical Greek culture. At least among the Greeks of the fifth century B.C. and later, health was considered both a virtue and an indicator of virtue. Health was an ideal, indeed the highest good, set above beauty, wealth, and inner nobility. Health was a goal in itself, for without health all else was without value. The statement in the Hippocratic Corpus that without health nothing avails, neither money, nor any other thing, expresses a strong popular, philoso-

11. The Physician, 1.

12. Cicero writes, "Do not imitate bad physicians who, in treating the diseases of others, claim to have mastered the whole art of healing but cannot cure themselves" (Epistulæ ad familiares, 4, 5, 5). "Physician, heal yourself" is a proverb that knows no cultural boundaries (cf., Luke, 4:23; Euripides, Fragment 1086). Babrius (Fables, 120) and Avianus (Fables, 6) both preserve a fable involving a distended frog who tried to comfort afflicted beasts with the assurance of the efficacy of her medicines for relieving their diseases and prolonging their lives. The cattle were credulous but a perspicacious vixen said, "How is this frog, whose pale countenance is marked by a sickly hue, going to prescribe medicines for others?"


phical, and medical sentiment. Prophylaxis played an extremely vital role in Greek medicine and a physician who did not appear able to preserve his own physical *areté* would probably have been viewed as being incapable of assisting others in the preservation of health.

In his conduct, the physician should be a "perfect gentleman."

Galen insists on the ideal of neatness and propriety that every physician ought to have in his deportment. Especially in dealings with his patients he should be cheerful and serene but neither harsh nor silly. He should be reserved, speak decisively, use brevity of speech and be self-controlled and not excitable. Particularly a display of ostentation was regarded with distaste: "An over-forward obtrusiveness is despised, even though it may be very useful." Further, "it is disgraceful in any art and especially in medicine, to make a parade of much trouble, display, and talk, and then to do no good." Distaste for ostentation extended into any

17. *Decorum*, 16.
form of advertising. The most common form of advertising in classical antiquity was the public harangue, similar to that of the barker at a modern carnival. Physicians were urged to refrain from holding lectures for the purpose of drawing a crowd. In general, conducting one's practice with much fuss, although it might appeal to the vulgar crowd, smacked of charlatanism and was to be avoided as demeaning.

Pieces of advice on relations with fellow physicians appear very occasionally in the literature on medical etiquette. Charlatans, by their very nature, we are told in a treatise in the Hippocratic Corpus, avoid consultations; good physicians, recognizing their own limitations and respecting their colleagues' knowledge, should turn to other competent physicians for advice. Consequently,

a physician does not violate etiquette even if, being in difficulties on occasion over a patient and uncertain owing to inexperience, he should urge the calling in of others in order to learn by consultation. . . . A physician's reasoning should never make one jealous of another. This is a sign of weakness.

Consultations can lead to disputes and the author of Precepts urges that "physicians who meet in consultation must never quarrel or jeer at one another." Although

22. Precepts, 12.

23. See, e.g., The Physician, 4; On Joints, 42, 44 and 73; Precepts, 10; Celsus, 5, 26, 1, C.

24. E.g., in Precepts, 7: "... quacks ... avoid calling in other physicians, because they wickedly hate help."

25. Precepts, 8.

26. Ibid.
statements such as these are repeated in medieval treatises, it is not until the advent of medical guilds in the late Middle Ages that much emphasis on the physician's relations with his colleagues appears.

There is more concern in the literature with rules of etiquette guiding the physician in his treatment of patients than with those advising him in his relationship with colleagues. The physician's relationship with his patient usually commenced with an examination followed by a prognosis. It was then that the physician was faced with an ethical decision: what to tell the patient. Two considerations impinged upon the physician now: 1) the effect of his statement on the patient and 2) the effect of the outcome of the case on his own reputation. There was considerable hesitancy to take on hopeless or doubtful cases.27 Some physicians merely informed the patient that he was going to die and left him if they considered his case hopeless. Galen tells us in disgust that a particular colleague of his, in responding to a patient's question whether he would live or die, gave this sarcastic reply: "Patroclus28 also died, and he was a better man than you."29 Galen's castigation of such callousness should

27. This subject will be discussed in detail below.

28. A legendary Greek hero.

29. Galen, In Hip. epid. lib. sex. com., 4. Another example given in loc. is "If you are not the child of Leto [i.e., the mother of Apollo or Artemis], who is blessed with fair children, you will die."
not be construed as a recommendation to withhold the truth. In actual practice, conditions must have varied considerably among individual physicians and the medical literature does not provide a consensus of opinions. In one treatise in the Hippocratic Corpus, the physician is advised to

conceal most things from the patient while you are attending to him . . . revealing nothing of the patient's future or present condition. For many patients through this cause have taken a turn for the worse, I mean by the declaration I have mentioned of what is present, or by a forecast of what is to come.30

Surely revealing the prognosis of a rapid and painless recovery is not meant here. If the case was dangerous and the outcome uncertain but not absolutely hopeless, it was sometimes suggested, at least in our later sources, that the patient's relatives be informed. Celsus, for example, enjoins the physician "to point out to the patient's relatives that hope is surrounded by difficulty, for then if the art is overcome by the malady, he may not seem to have been ignorant or mistaken."31 In Prorhetikon II the physician is instructed to tell a third party.32 Others suggest that the patient himself should

30. Decorum, 16.

31. Celsus, 5, 26, 1, C.

32. On this passage in Prorhetikon II, Ludwig Edelstein writes, "One may be sure that patients were often told the worst, without any consideration: that Prorhetikon II advises the physician to tell his prognosis to a third party suggests that such was the case.
be told and advised to make his will since he is facing
great danger. 33 Sextus Empiricus (second century A.D.),
a physician by profession, a member of the Empirical
school of medical theory by persuasion, and a Sceptical
philosopher in orientation, writing more as a philosopher
than as a physician, argues that "the physician who says
something false regarding the cure of his patient, and
promises to give him something but does not give it, is
not lying though he says something false" 34 since in saying
it he has regard to the cure of the person he is treating.
This rationale probably corresponds fairly closely to that
behind the statement quoted above from Decorum. 35 But how
did laymen react to the problem? Apuleius seems simply
to assume that the physician, after he examines his patient,
will inform him of his condition: "... the physician sits
down by the man's bedside, takes his hand, feels it and ex­
plores the beat and movements of the pulse. If he discov­
ers any irregularity or disorder, he informs his patient

The numerous statements in the Hippocratic writings, that
the physician's words at the bedside should be cautious,
give one an inkling of how often other physicians disap­
proved of both the form and the content of what patients
were told" ("Hippocratic Prognosis," in Ancient Medicine,
p. 76).

33. Ctesias, in Oribasius, Collect. medic. reliquiae,
8, 8. Cf., Paulus Aegineta (6, 88): "... if the result
is dubious ... we must make the attempt [sc., to treat,
in this case, a serious wound], having first given warning
of the danger."

34. Sextus Empiricus, Against the Logicians, 1, 43.

35. Above, at n. 30.
that he is seriously ill."^  Seneca has left a comment that is ambiguous, being either condemnatory of the physician who does not inform the patient or else neutral: "If a physician does not recognize that his patient is failing, he is a much poorer practitioner than if he recognizes the fact and conceals his knowledge."^ Pliny the Younger remarks, without question or indignation, that in a particular case the physician would not reveal to the patient his condition. Perhaps the strongest approval of such practice by a lay source is Cicero's comment that "physicians, although they know many times that their patients are going to die of a present disease, yet never tell them so; for a forewarning of an evil is justified only when to the warning is joined a means of escape." It should be obvious from both the medical and the lay sources cited above that opinions on this delicate matter varied considerably then just as they do now.

38. Pliny the Younger, Epistles, 1, 22.
39. Cicero, De divinatione, 2, 25. By "means of escape" he surely is not considering escape from the disease via escape from life, but rather escape from the disease without recourse to suicide or euthanasia. Given the Stoic attitude to suicide, Cicero must here be thinking of a terminal illness of relatively short duration.
40. We shall see in Chapters IV and V that this matter will become a very important issue in the late Middle Ages.
Regardless of what he tells the patient or the patient's relatives, should the physician treat as confidential such information as he acquires in his contact with patients? In the so-called Hippocratic Oath, the following injunction appears: "What I may see or hear in the course of the treatment or even outside of the treatment in regard to the life of men, which on no account one must spread abroad, I will keep to myself holding such things shameful to be spoken about."\(^41\) Ludwig Edelstein sees in this stipulation a clear indication of Pythagorean purity, an insistence of secrecy "not as a precaution but as a duty."\(^42\) In any event, those things, whether encountered within or outside of practice, that one ought not spread abroad, are categorized as things "shameful to be spoken about," or, in another translation, "holy secrets."\(^43\) We are not told what information would not fall into this category, although Edelstein stresses Pythagorean taciturnity to the point that one must wonder whether the Pythagorean physician would be held uncommunicative on all counts and in every area. But this somewhat peculiar injunction, appearing as it does in an Oath in which anomalous, or nearly anomalous, stipulations are indeed not uncommon, seems to go beyond a simply pragmatic recogni-

\(^41\) Ludwig Edelstein's translation, "Hippocratic Oath," in *Ancient Medicine*.


tion of the expediency of reticence in one's dealings with laymen. Elsewhere in the Hippocratic Corpus the physician is advised not to gossip to laymen, "but say only what is necessary. For he realizes that gossip may cause criticism of his treatment."\[^{44}\] In another treatise the physician is urged to be "careful of certain moral considerations - not only to be silent but also of a great regularity of life, since thereby his reputation will be greatly enhanced."\[^{45}\] Such remarks as these last two quoted must be distinguished from the stipulation in the Oath. While the latter may, in fact, be motivated by a sense of duty to keep inviolable especially those things to which his practice makes him privy, the other two must be placed in the context of a utilitarian regard for reputation, generated much more by the physician's concern for self than by his concern for the "rights" of his patient. Surprisingly little emphasis on confidentiality is found in the medical literature. Neither in the fragmentary "Ancient Poem on the Duties of a Physician"\[^{46}\] nor in a "second oath" of unknown date\[^{47}\] is any reference to confidentiality made. Galen seems to have taken particular delight in disparaging the

\[^{44}\] Decorum, 7.

\[^{45}\] The Physician, 1.


\[^{47}\] Published in Corpus Medicorum Graecorum, vol. 1, 1, pp. 5-6.
views of his detractors by describing in intimate detail his successful treatment of the various ailments of the emperor Marcus Aurelius and of the peripatetic philosopher Eudemus. We shall find that confidentiality is an infrequently recurring theme in the medieval literature of medical etiquette as well.

Another very practical stipulation in the Oath reads, "Whatever house I may visit, I will come for the benefit of the sick, remaining free of all intentional injustice, of all mischief, and in particular of sexual relations with both female and male persons, be they free or slaves." Edelstein stresses again the Pythagorean tone of this injunction, especially the emphasis on justice and sees in the prohibition of sexual relations with members of the patient's household, female or male, free or slaves, evidence of Pythagorean severity in sexual morality. Indeed, he goes so far as to write, "Everything, then, that the Oath stipulates in regard to sexual continence agrees with the tenets of Pythagorean ethics, in fact with the ideals

48. Galen, De praenotione ad Posthumum, 11.

49. Ibid., 2. One should bear in mind, however, the prevailing hypochondria of Galen's time, the period of the second Sophistic, and the pride with which illness and discomforts of both a large and petty nature were flaunted about, which merely a glance at the correspondence between Marcus Aurelius and Fronto will demonstrate.

of these philosophers alone." In this he surely presses his interpretation too far. While it is safe to say that the stipulation under consideration is fully consonant with Pythagorean values, nevertheless, if this injunction were taken out of the context of the esoteric Oath and were read independently, it would not evoke exclamations of surprise. Whether this advice was motivated by ideals of purity or by merely pragmatic concerns, it is obvious that the physician who used his close contact with patients or their households to satisfy his sexual passions would earn not only disrespect and contempt but also strong distrust. Having a reputation as a mischievous, lascivious seducer of patients and their family members simply does not enhance one's medical career. In terms of its practical aspect, it falls under the same rubric as such aspects of general etiquette as have been discussed above. It is in the context of a discussion of general demeanor that the following statement occurs in a Hippocratic treatise: "The intimacy also between physician and patient is close. Patients in fact put themselves into the hands of their physicians, and at every moment he encounters women, girls and very precious possessions." Further, the anonymous poem on the physician's duties declares that he "should not burn with desire when handling lovely ladies and girls."

51. Ibid., p. 35.
52. The Physician, 1.
The eminent practicality of urging the sexual continence of physicians toward patients should be obvious. It is a piece of advice that will appear with some regularity in the medico-ethical literature of the Middle Ages.

The subjects discussed thus far have been drawn primarily from treatises on medical etiquette. The concerns expressed were directed toward the highly practical aspects of physician/patient and colleague/colleague relationships. I have called it "general etiquette;" it is usually referred to as medical ethics. Indeed, traditionally when physicians have written on medical ethics, they have been almost exclusively concerned with matters of etiquette. Seldom have they, in their "ethical" treatises, addressed the more fundamental questions of the nature of their role in society and of the obligations incumbent upon them as exercisers of that role.

What was the physician, the ἰατρός of the Greek, the medicus of the Roman? By the most basic definition, he was one who practised the art of preserving or restoring health. If the primary function of the classical physician was preserving or restoring health, ideally he should be a compassionate man. When I say "ideally," I am thinking in terms of the "ideal" physician as he appears, at least in simile and metaphor, especially in philosophical or political literature. When thus used, the word "physician" was not a neutral term. Unless modified by a pejorative adjective, it denoted a "compassionate, objective,
unselfish man, dedicated to his responsibilities." In this manner, the good ruler, legislator, or statesman was sometimes called the physician of the state. According to Thucydides, "the statesman should be to the state what the physician is to his patient." Similar sentiments are expressed by Euripides, Plato, Aristotle, by the author of an oration falsely attributed to Demosthenes, by Aeschines and Cicero. Even epigraphy yields an example, further demonstrating the pervasiveness of the popularly-held ideal of the physician as a dedicated, unselfish, and compassionate preserver or restorer of health. Regardless of how far short of the ideal many physicians fell, nevertheless the ideal did exist, at least figuratively, and we shall see that it was adopted by early Christian authors and remained a constant throughout the Middle Ages.

54. Thucydides, The Peloponnesian War, 6, 14.
56. Plato, The Statesman, 293 A-C; Laws, 862 B, 720 D-E (cf., Gorgias, 464 B); Republic, 342 D.
57. Aristotle, Nicomachean Ethics, 1180 b; Politics, 1287 a.
59. Aeschines, Against Ctesiphon, 225 f.
60. Cicero, Republic, 1, 62; 5, 5; De oratore, 2, 186; Disputations, 3, 82.
61. Supplementum Epigraphicum Graecum, 10, 98, 14.
Although there is much in the medical literature dealing with etiquette, there is little said about the "ideal* physician or the moral basis for medical practice. In the Hippocratic Corpus appears the statement, "where there is love of man, there is also love of the art," which is often cited as if ancient medical ethics were founded upon this lofty principle. Indeed on the basis of this adage P. Lain Entralgo argues that the Greek physician's relationship with his patients was based on a combination of *philanthropia* (love of man) and *philotechnia* (love of the art). He maintains that "a careful study of the Hippocratic writings leads to the conclusion that Hippocrates and his direct and indirect followers were 'philanthropists' *avant la lettre*." His thesis rests upon his belief that "there is an 'instinct to help' at work in human nature, moving a man to succour the sick. . . ." This, of course, is a highly debatable premise upon which to base such a sweeping assertion. The statement from the Precepts that is central to Lain Entralgo's argument occurs in the context of a discussion about fees introduced by the admonition, "I urge you not to be too unkind." Attempts to find any assertions in the Hippocratic Corpus that would

---


64. Ibid., p. 245, n. 1.

65. Ibid., p. 45.
set up philanthropy as an indispensable motivation for practising medicine are fruitless. For Galen, the physician who is also a philosopher is the best physician; such will be motivated by love of humanity. 66 But this philanthropy is the basis of medical practice for only a small number of physicians. The rest are motivated by love of money, love of honor, love of glory. Whether these are physicians or not depends on their proficiency in the healing arts, not on their motivations. 67 "The motive ... is a matter of personal choice," as Edelstein summarizes Galen's opinion; "it has no intrinsic connection with the pursuit of medicine." 68 Other sources are found, however, that strongly emphasize that the ideal physician "should promise aid in equal measure to all who ask for help." 69 In an anonymous poem on the duties of a physician (third century A.D.) it is stated that he should be savior "equally of slaves, of paupers, of rich men, of princes, and to all a brother ... for we are all brothers." 70

67. Galen, De placitis, 9, 5.
70. James Oliver and Paul Maas, "An Ancient Poem ... ." For a discussion of the changing attitudes in classical antiquity toward philanthropy as the basis for medical practice,
Naturally, the patient would prefer to be treated by a physician who is truly a "lover of man." But this can lead to some inconsistencies. Seneca, for example, writes that if one's physician treats him just as any other patient, he owes him nothing but his fee, payment for his skill. But if the physician gives him more attention than is professionally necessary, even at the explicit expense of other patients, then "such a man has placed me under obligation, not as a physician, but as a friend." It is not the seriousness of Seneca's condition that would necessitate the solicitude he wants; that would, in Seneca's view, be part of the physician's responsibility. It is rather the extra care and attention, motivated by concern and affection for Seneca the individual, that would qualify his physician as a friend. But it could, by the same token, disqualify him as an ideal physician who, if indeed motivated by his philanthropy, would give care equally to all who ask for help, rich and poor alike.

It should not be surprising that the subject of fees was of concern to ancient medical writers. Here again pragmatic considerations occupy their attention. Physicians were undoubtedly aware that the appearance of greed could have a detrimental effect on their reputations. The

see Fridolf Kudlien, "Medical Ethics and Popular Ethics," especially pp. 91-97.

71. Seneca, De beneficiis, 6, 16.
physician is urged to be more concerned with his reputation than with financial reward.\textsuperscript{72} He is also advised to give his "services for nothing, calling to mind a previous kindness or his present reputation."\textsuperscript{73} It was also recognized that beginning a case by discussing fees could adversely affect the patient, particularly if his condition was acute:

\textit{... should you begin by discussing fees, you will suggest to the patient either that you will go away and leave him if no agreement be reached, or that you will neglect him and not prescribe any immediate treatment. So one must not be anxious about fixing a fee. For I consider such a worry to be harmful to a troubled patient, particularly if the disease be acute. For the quickness of the disease, offering no opportunity for turning back, spurs on the good physician not to seek his profit but rather to lay hold on reputation. Therefore, it is better to reproach a patient you have saved than to extort money from those who are at death's door.}\textsuperscript{74}

And, later in the same treatise: "For some patients, though conscious that their condition is perilous, recover their health simply through their contentment with the goodness of the physician."\textsuperscript{75}

Physicians were admonished to consider their patient's economic situation in setting fees, as we have seen. It was also suggested that less expensive remedies should be provided for the poor than for the rich.\textsuperscript{76} Although a degree

\begin{itemize}
\item \textsuperscript{72} Precepts, 4.
\item \textsuperscript{73} Ibid., 6. \textit{παρεσθαυν εἴδοσίην} can be translated either "present reputation" or "present satisfaction."
\item \textsuperscript{74} Ibid., 4.
\item \textsuperscript{75} Ibid., 6. On these two passages, see Edelstein, "Ethics . . . ." in Ancient Medicine, p. 321, n. 4.
\item \textsuperscript{76} On Diet, 3.
\end{itemize}
of compassion is shown in these passages, Ilza Veith's statement that the Hippocratic physician acted "without impulse to charity"⁷⁷ is probably correct. Indeed, physicians of the Empirical school justified the making of money as the primary motive of a physician's calling.⁷⁸ Edelstein writes of Greek physicians generally that they "wanted to make money and were not ashamed of admitting it . . . physicians on the whole were businessmen."⁷⁹ This view, however, is not adequate. A hotly debated point in Greco-Roman medical history is the extent to which physicians were viewed or viewed themselves as craftsmen or as exercisers of a liberal art. It is well known that the physicians of Greece were performers of a technē, a craft, and their status was essentially that of craftsmen. On the other hand, in the Roman Republic, physicians (often being slaves and usually being Greeks as well) were viewed with contempt. But even by the mid-first century B.C., Cicero classified medicine as a respectable pursuit along with such companions as architecture and teaching. There was undoubtedly much fluctuation in status over the period under consideration and also some, perhaps even much, within the profession at any given time.⁸⁰

⁷⁹. Quoted by Cohn-Haft, ibid.
⁸⁰. There is much literature on the subject, the most recent by Fridolf Kudlien, "Medicine as a 'Liberal Art' and
sources conflict on this question and it is undoubtedly true that many physicians considered themselves as performing a service for a fee while others saw their role as one rewarded at the discretion of the patient in the form of an honorarium.\textsuperscript{81} Galen writes that he never "demanded a fee from any of his pupils and patients but . . . often provided in many ways for patients who were in want."\textsuperscript{82} Although this conduct is consistent with Galen's strong emphasis on philanthropy, it is not consonant with the actions and avowed interests of the majority of ancient physicians as displayed in the literature.\textsuperscript{83}

If the Greco-Roman physician was motivated in part by philanthropia as Lain Entralgo maintains, it certainly did not evidence itself in any overwhelming display of charity. Let us now consider the extent to which he was

\begin{flushleft}
\end{flushleft}

\textsuperscript{81} Particularly under the Roman Empire the problem is intricately entangled in the complexities of the laws of contract and mandate (see Karl-Heinz Below, \textit{Der Arzt im römischen Recht}, Munich: C. H. Beck, 1953, 58 ff.) and has not been satisfactorily resolved by modern scholarship (see David Daube's review of Below, \textit{Journal of Roman Studies}, 1955, 45: 179-180).

\textsuperscript{82} Owsei Temkin, \textit{Galenism}, p. 47.

\textsuperscript{83} For a discussion of the practice of medicine within classical conceptions of charity, see A. R. Hands, \textit{Charities and Social Aid in Greece and Rome} (London: Thames and Hudson, 1968), 131 ff.
guided by philotechnia. Buried in a footnote in one of Ludwig Edelstein's papers is a significant appraisal of the Greco-Roman physician's attitude toward the advancement of medical knowledge: "One must not assume that the ancient physician experienced the restlessness of the modern scientist, who sees medicine as science in a perpetual process of change through one discovery after another. . . . the concepts of knowledge in ancient and modern medicine are poles apart." 84 This, of course, is not to say that ancient physicians did not strive to improve their proficiency and the efficacy of their art. It was recognized that without attempting new procedures and remedies, medical knowledge and techniques would not advance. The author of On Joints, after describing the failure of a novel attempt at a reduction, writes, "I relate this for a purpose: Those things which after a trial show themselves to have failed and which show why they failed, also provide good instruction." 85 It was with the same healthy attitude that physicians were urged to study incurable cases. 86 But we shall never know whether, for example,


85. On Joints, 47.

86. Ibid., 58.
Scribonius Largus was in the least concerned with possible ethical implications when he first applied an electric eel (the large Mediterranean torpedo) to the forehead of a patient to numb him against headache. 87 Galen suggests that the effect of simples be observed when administered to a perfectly well person, a slightly ill man, and a very sick patient. 88 But in several instances he asserts that he refrained from testing some remedies when he had others at his disposal of whose effects he was more certain and he points out that rash experimentation presents a danger to the life of the patient. 89 Outside of the fear that he might be charged with premeditated murder or with malpractice, 90 the physician will have been deterred from ir-

87. Mention of this practice by Scribonius Largus is made by John F. Fulton, The Frontal Lobes and Human Behaviour (Springfield, Ill.: Charles C. Thomas, 1952), 5 f. I wish to thank Dr. William C. Gibson, University of British Columbia, for bringing this reference to my attention.

88. Galen, In Hip. de humor. com., 1, 8; De simp. medic. temp. ac fac., 2, 20.

89. Galen, In Hip. be humor. com., 1, 8.

90. Contrary to the complaint occasionally encountered in the classical sources that only the physician can commit homicide with complete impunity, there were at least some, albeit limited, means for seeking redress against the dolose, negligent, or incompetent physician. The traditional opinion is that the physician qua physician in Greece was immune from prosecution except in bona fide cases of intentional homicide. I have argued elsewhere ("The Liability of the Physician in Classical Greek Legal Theory and Practice," Journal of the History of Medicine and Allied Sciences, 1977, 32: 172-203) that the physician could be held liable for negligent or incompetent malpractice, at least in Attic law. In Roman law a physician could be sued for damages when the victim was a slave and the majority of relevant passages in Roman law involve damages to
responsible experimentation on his patients primarily by concern for his reputation. Medical experimentation was not an area in which the state sought to exercise any controls.91

When new knowledge and techniques were discovered or developed, the physician was faced with the question of whether or not he should disseminate this information to his colleagues (that is, to his competitors) and to the public at large. The so-called Hippocratic Oath, whether Pythagorean or not, was apparently composed for an exclusive, though unrepresentative, sect. The physician swears,
in essence, not to impart his knowledge to anyone outside his sect. Similar sentiments are expressed in The Law: "Things . . . that are holy are revealed only to men who are holy. The profane may not learn them until they have been initiated into the mysteries of the science." Apart from such statements, a desire to share new techniques or knowledge with other physicians permeates the medical literature. This should not be surprising since those who publish their medical knowledge and experience did so primarily to instruct others; they obviously did not desire to keep them secret. Galen's prolific pen was motivated in part by the wish to help physicians after him. But many physicians undoubtedly guarded their special techniques with jealousy. Galen shows no surprise at a surgeon intentionally concealing his operative procedures from view but expresses disappointment that even some of his own pupils would not share their anatomical knowledge with others. Owsei Temkin succinctly summarizes Galen's position: "Galen's philanthropy is not only that of the physician, but more comprehensively that of a philosopher who subjectively delights in study and objectively labors for the good of mankind. He thinks of his work as belonging

92. The Law, 5.
93. Galen, De methodo medendi, 1, 1.
95. Galen, On Anatomical Procedures, 2, 1; cf., De cognoscendis pulsibus, 1, 1.
to posterity. . . ." 96

An apocryphal Athenian honorary decree is thus addressed to Hippocrates: "Whereas Hippocrates of Cos, a physician . . . has unselfishly published medical books in his desire to see many physicians prepared to save people. . . ." 97

Celsus also praises Hippocrates' willingness to publish examples of his own errors: "Such a sincere confession of the truth suits a great mind." The highest claim to greatness lies "in performing the task of handing down knowledge for the benefit of posterity so that no one else may be deceived again by what has deceived him." 98

Not only did some physicians write to instruct other physicians but also they composed some treatises for the medical edification of laymen. 99 It is in this desire to share medical knowledge with contemporaries and with posterity that at least a few Greek and Roman physicians achieved their highest manifestation of philanthropia and philotechnia, a realization of social responsibility and of the benefit of the medical art to their community.

96. Owsei Temkin, Galenism, p. 50.

97. Quoted from Henry E. Sigerist, A History of Medicine (New York: Oxford University Press, 1959), vol. 2, p. 269. This was only one of several praiseworthy items in the decree.

98. Celsus, 8, 4, 3 f.

99. E.g., many treatises on the preservation of health were written. Galen's De sanitate tuenda is a good example of the genre. Laymen also tried their hand at the production of such pieces; e.g., Plutarch's De sanitate tuenda praecopta.
We must remember that the ancient physician was completely a free agent. This is emphasized in a passage in The Disinherited by Lucian, prolific Greek writer of the second century A.D. In this essay a young physician has cured his father of an illness but has refused to treat his stepmother. His father then disinherits him. In the course of the imaginary hearing, the physician says:

In the case of the medical profession, the more distinguished it is and the more serviceable to the world, the more unrestricted it should be for those who practise it. It is only just that no compulsion and no commands should be put upon a holy calling, taught by the gods and exercised by men of learning; moreover, it should not be subject to enslavement by the law. The physician ought to be persuaded, not ordered; he ought to be willing, not fearful; he ought not to be hailed to the bedside, but to take pleasure in coming of his own accord.

Although written by a lay author, the sentiments expressed seem to be an accurate reflection of the role of the physician in classical antiquity. The physician sold his services at his own discretion to those who asked and paid for treatment; he exercised his art at his own pleasure. Owsei Temkin's assessment deserves to be quoted:

The ancient physician, then would consider himself bound to society chiefly by the intrinsic value of medicine which he might feel called upon to cultivate and further to the best of his ability. . . . . . . . The existence of a rational medical science, as the Greeks created it, was in itself a social factor of the highest significance. But apart from this it seems that ancient physicians were little concerned about making medicine useful to the community.

100. Lucian, The Disinherited, 23.
101. Owsei Temkin, "Changing Concepts of the Relation
While the ancient physician may have had an elevated sense of duty to his art, as he conceived it, mixed feelings toward his colleagues and competitors, a varying sense of responsibility to his individual patients, and little feeling of duty to his community, how did the physician qua physician view his responsibility to nature and, more specifically, to life? Did the Greco-Roman physician feel bound by any sense of "duty to prolong life?"  

First, we should ask, what is meant by the phrase "the physician's duty to prolong life?" If this question were asked of a physician in classical antiquity, he might quite reasonably ask us whether, by prolonging life, we mean increasing longevity generally; preserving health by prophylaxis; combating curable diseases and injuries; temporarily prolonging the unhealthy life of a terminally ill patient; refusing to assist in terminating the life of any man with or without his consent, whether healthy or ill, and if ill, whether with a painful but curable or an incurable ailment; or refusing to terminate the "life" of a fetus. He might also ask what we mean by life: Would we limit the term to useful, productive, happy and healthy life; to that of the citizen, the foreigner, the free man, the slave; and what then of the fetus? And of the word "duty" he might quite rightly ask, "duty to whom? to the

---

patient, even against the patient's wishes? to the medical art or profession? to public opinion, to the state, to religion? to his own conscience, simply as a man, or as a physician?"

We should note at this point that regardless of the motivation behind engaging in medical practice, an apparently constant ideal was that the physician was "to help, or at least to do no harm," a familiar aphorism found in the Hippocratic Corpus. This famous adage appears in a variety of forms in other classical medical literature and probably seems to be axiomatic. Aside from obvious examples of using the art of medicine to cause harm, were there other activities that would commonly have been so classified? It is here that we come to the crux of the problem of understanding the ancient physician's conception of his duty to his patients and to the art of medicine. Let us exclude from our discussion the probably extremely small number of physicians who might have admitted to disagreeing with the proposition that as physicians they should render

103. *Epidemics*, 1, 11.


105. E.g., using opportunities provided by his practice to kill a patient for political, financial, or other selfish or malicious reasons.
help, or at least not cause harm. How then would the ancient physician have defined or delimited the terms "helping" and "harming"? Would he have thought it helping or harming 1) to agree to perform an abortion at the request of the parents; 2) to refuse to treat a terminally ill patient if medical intervention would only temporarily prolong the patient's life; or 3) to agree to assist a man who, for any reason, wished to end his life? Now it can be objected that such questions are meaningless. They can only be addressed if fleshed out by specific sets of circumstances of definite cases, real or hypothetical. But if forced to put these three questions under the rubric of helping or harming, a probably strong, if not overwhelming, majority of Greco-Roman physicians would have classified these actions as "helping, or at least not harming."

Addressing first the question of abortion, we find the following injunction in the so-called Hippocratic Oath: "I will not give a pessary to a woman to cause abortion." 106 Here again we encounter a stipulation in the Oath that simply runs counter to the realities of ancient medical practice. The prohibition is compatible with the tenets of Pythagoreanism, as Edelstein argues. 107 But many physi-

106. I have followed W. H. S. Jones' translation (The Doctor's Oath, p. 11). Ludwig Edelstein's translation - "I will not give to a woman an abortive remedy" - (Hippocratic Oath," in Ancient Medicine, p. 6) appears broader in scope than the Greek: ὀμοίως δὲ οὐδὲ γυναικὶ πεισοῦν φθορίου δῶσον.

107. Ibid., pp. 13 ff.
cians did perform abortions without qualms and various techniques are described in the medical literature. Both Plato and Aristotle encouraged abortion as a means of population control. Plato also stressed that abortions should be required for women who become pregnant after the age of forty on the ground that women beyond that age tend to give birth to less robust and healthy children. Aristotle's attitudes were complicated by his doctrine of the tripartite soul and he would forbid abortions after the fetus' change from vegetative to animal soul life, i.e., "quickening." Objections to abortion were relatively rare, before the beginning of the Christian era, and in both Greek and Roman law abortion was permitted, although it was a criminal offense if performed without the father's consent. During the early Christian era, some pagan physicians, influenced by the Oath, refused to perform abortions under any circumstances. Soranus gives three reasons for which a woman seeks an abortion: to rid herself of the consequence of adultery, to maintain her beauty, and to preserve her health. Only for the last


109. Plato, Republic, 461 C.

110. Aristotle, Politics, 1335 b.

111. Forty days after conception in the case of a male, eighty or ninety in the case of a female; Aristotle, Historia animalium, 583 b. We shall see, in Chapter IV, that this was adopted by some casuists in the late Middle Ages.
cause would Soranus himself perform abortions.\textsuperscript{112} Soranus, moreover, was highly critical of those physicians who so strictly adhered to the injunction in the Oath that they refused to perform an abortion even to save the life of the mother. There appear then to have been some physicians who would perform abortions on request, some who refused to do so for any reason, and others who assumed a position on therapeutic abortion consonant with that of Soranus. The decision ultimately rested on the moral convictions of the individual physician. The moral stand of some physicians on the issue of abortion was undoubtedly tempered by the not uncommonly encountered principle in various cults that induced abortion, or even miscarriage, caused pollution, an attitude not by any means peculiar to the Pythagoreans.\textsuperscript{113}

We shall return presently to the question of abortion within the context of a general discussion of respect for life in Greco-Roman medicine.

Plutarch preserves a favorite saying of Pausanias, King of Sparta from 408 to 394 B.C., to the effect that the best physician was the man who did not cause his patients to linger on, but buried them quickly.\textsuperscript{114} Although Pausanias

\begin{itemize}
\item \textsuperscript{112} Soranus, \textit{Gynaecia}, 1, 60.
\item \textsuperscript{113} See Fridolf Kudlien, "Medical Ethics and Popular Ethics," pp. 109 f.
\item \textsuperscript{114} Plutarch, \textit{Moralia}, 231 A.
\end{itemize}
was well known as a detester of physicians, his remark just quoted represents an attitude that was quite commonly held. The medical art's two functions were preserving and restoring health. Preserving or restoring health was the emphasis, not prolonging life *per se*. Plato is perhaps better known than any other classical source for ardently opposing any effort on the part of physicians to prolong the lives of patients who had no chance of regaining their health.\footnote{Plato, *Republic*, 406 C, 407 D, 408 B; cf., Euripides, *The Suppliant Women*, 1109 ff. (quoted by Plutarch in his "Consolation to Apollonius," *Moralia*, 110 C); cp., Aristotle, *Rhetoric*, 1361 b; Demosthenes, *Third Olynthiac*, 33.}

Plato, at least within the context of the *Republic*, may be an extreme case, for there his concern was much more with eugenics than with the personal worth of the individual. But aside from utopian literature, there is abundant evidence that, as mentioned above,\footnote{At n. 13.} at least among the Greeks, health was considered both a virtue and an indicator of virtue. Health was an ideal, indeed the highest good, set above beauty, wealth, and inner nobility. Health was a goal in itself, for without health all else was without value.

Let us now directly address the second ethical question posed: Would the ancient physician have thought it helping or harming to refuse to treat a terminally ill patient if medical intervention would temporarily prolong the patient's life? The treatise entitled *The Art* in the
Hippocratic Corpus defines medicine as having three roles: doing away with the sufferings of the sick, lessening the violence of their diseases, and refusing to treat those who are overmastered by their diseases, realizing that in such cases medicine is powerless.¹¹⁷ Let me emphasize again that in classical Greece and Rome there was no system of medical licensure. Anyone who wished could practise medicine and, bound by no duty to a licensing authority or professional organizations, the physician exercised his art at his own pleasure. He sold his services at his own discretion to those who asked and paid for treatment. That the physician should be completely free to treat or to refuse to treat is emphasized by Lucian in a passage quoted above.¹¹⁸ To such a physician, any whim or reason to refuse to treat a particular patient would be a justification not to give treatment. It could be merely a matter of personal and arbitrary sentiment. If, however, the physician were basing his decision whether or not to undertake a case only on the consideration that the treatment he gave would simply prolong the life of a patient for whom there was no hope of recovery, he of course would still be completely free to refuse. There would be no legal or, even in the broadest sense of the word, ethical pressures that could compel him to undertake treatment.

¹¹⁷. The Art, 3; cf., Diseases, 2, 48.
¹¹⁸. At n. 100.
It was entirely his decision and, regardless of what he decided, he could receive approbation from some medical and lay persons and condemnation from others.

I have already mentioned that in a treatise in the Hippocratic Corpus one role of medicine was to refuse to treat those who are overmastered by their diseases, realizing that in such cases medicine is powerless. This represents a very strong and, in my opinion, prevailing sentiment among at least those ancient physicians whose writings have survived or who are mentioned in the literature. It is one for which precedent could easily have been found in Egyptian and Assyro-Babylonian medicine.\footnote{See Darrel W. Amundsen, "History of Medical Ethics: Ancient Near East," in The Encyclopedia of Bioethics (New York: The Free Press, and London: Collier Macmillan, 1978), vol. 2, pp. 880-884.}

In Greco-Roman medicine, the decision to refuse to treat such a patient was motivated by a variety of factors. If treatment would simply prolong life, the patient's interests would not have been served. Indeed the physician would have been considered by many physicians and lay persons alike as having harmed rather than helped the patient. While the patient's interests may have been a partial motivation behind the decision not to treat, the most frequently articulated concern in the medical sources was the possible damage that such a case might cause to the physician's reputation. As stressed on several occasions above, many, if not most, of the "ethical" principles expressed in the medi-
cal literature appear to have arisen from the physician's concern for his reputation. Although from a modern vantage point this seems reprehensible, we must remember that the physician's only credential was his reputation. But earning and preserving a good reputation was a precarious enterprise. Charlatans were criticized for avoiding dangerous cases and exaggerating the severity of ailments that yielded easily to treatment. Thus the conscientious physician, although he might shy away from hopeless cases, was urged in the medical literature not to refuse dangerous or uncertain ones. But the decision of whether to take on a dangerous case was entirely the individual physician's. Some cases in the therapeutic treatises in the Hippocratic Corpus are introduced with the advice that certain procedures should be followed if the physician chooses to attempt treatment. Indeed it appears that physicians might have based their decisions on whether they were liable to earn less reprobation from refusing to treat than from agreeing to treat such cases.


121. E.g., in the Hippocratic Corpus, Precepts, 7; elsewhere, Celsus, 5, 26, 1, C; Menander, Phanium, 497 K.

122. E.g., in the Hippocratic Corpus, Precepts, 7; Ancient Medicine, 9; On Joints, 69; cf., The Art, 8; elsewhere, Paulus Aegineta, 6, 88; Ctesias in Oribasius, Collect. medic. reliquiae, 8, 8.

123. E.g., De morbis, 3, 7; De intern. affect., 12.
If the physician did elect to take on a dangerous case, the importance of the art of prognosis or forecasting became evident. The physician who declared before beginning treatment that the prospects of a cure were only slight thereby avoided responsibility for an unfavorable outcome. The medical literature is divided on the question of whether a physician should withdraw from a case once it became clear that he would be of no meaningful help. Some urged that the physician ought not to withdraw, even if by so doing he might avoid blame. Others felt that he should withdraw if he had a respectable excuse, particularly if continuing treatment might hasten the patient's death.

There is no denying, however, that physicians did sometimes attend to cases considered incurable. In the Hippocratic Corpus many diseases that ended in death are described with no mention of prognosis and with no recommendation for withdrawal. 

124. What responsibility a physician may have felt is open to discussion. There are many passages in the Hippocratic Corpus where the concern with incurring blame is expressed. See, e.g., On Joints, 67; Decorum, 14, Ancient Medicine, 9. Gert Preiser (Über die Sorgfaltspflicht der Ärzte von Kos," Medizin-historisches Journal, 1970, 5: 1-9) maintains that there seems to have been no liability for the physician in Greek law. Thus, according to Preiser, although the concern with the use of prognosis as a means to protect the physician from accusations suggests legal liability, this concern was motivated by a professional responsibility based upon the Hippocratic physician's broad conception of his duty to his techné.


126. E.g., in the Hippocratic Corpus, On Fractures, 36; cp., Aphorisms, 6, 38; Prorrhetic, 2, 9.
mendation to the physician that such cases be undertaken or rejected. In most of these, medications to be employed are named. It was recognized that it was necessary to deal with incurable complaints in order to learn how to prevent curable states from advancing to incurability, particularly in the case of wounds. Even a cursory look at the *Epidemics* in the Hippocratic Corpus should convince the reader that the author's intention was not to show how to cure. Nearly sixty percent of the cases end in death and treatment is very seldom mentioned. Such a physician's medical attendance was perhaps less designed for the individual patient's good than for the advancement of medical knowledge. W. H. S. Jones writes that the author's aim was to discover the sequence of symptoms, to set down the successes and failures of Nature in her efforts to expell the disease. The physician is acting, not *qua* physician but *qua* scientist; he has laid aside the part of healer to be for a time a spectator looking down on the arena, exercising that *θέωρεία* which a Greek held to be the highest human activity.\(^{127}\)

Opinions certainly varied on the physician's responsibility to undertake treatment of hopeless or dangerous cases. But the following quotation from Celsus represents what appears to have been the mainstream of medical thought:

> For it is the part of a prudent man first not to touch a case he cannot save, and not to risk the appearance of having killed one whose lot is but to die; next when there is grave fear without, however, absolute despair, to point out to the patient's relatives

---

\(^{127}\) In vol. 1 of Hippocrates in the Loeb Classical Library, p. 144.
that hope is surrounded by difficulty, for then if
the art is overcome by the malady, he may not seem
to have been ignorant or mistaken.\(^{128}\)

Taking on a hopeless or, under some circumstances, an ex­
tremely dangerous case is perhaps the closest issue in an­
cient medicine to the modern question of employing "extraor­
dinary measures."

Danielle Gourevitch writes of the Greco-Roman phy­
sician, that "far from feeling any liability for abandoning
his patient, he would feel guilty if he undertook a cure he
could not successfully carry out."\(^ {129}\) This is, perhaps,
somewhat of an overstatement. While it is true that if
the physician were motivated by greed to continue ineffi­
cacious treatment he would be viewed as acting repre­
hensibly, nevertheless, if he were attempting a novel
treatment in an effort to effect a cure, the ethical im­

\(^ {128}\) Celsus, 5, 26, 1, C.

\(^ {129}\) Danielle Gourevitch, "Suicide among the Sick in
Classical Antiquity," Bulletin of the History of Medicine,
1969, 43: 503.

\(^ {130}\) See, for example, Pseudo-Quintilian, Declama­
tiones maiores, 8, where both sides of the question are
argued.
ledge so as to be able, ultimately, to render more effective treatment to the suffering.\textsuperscript{131} The objective, even here, was not an ethically based imperative to prolong the life of the incurable patient, but rather a very pragmatic desire to increase the boundaries of the art. Lain Entralgo bases much of his understanding of Greek medical ethics on the idea that the Greek physician's sense of responsibility both to his art and to his patient rested on his physiophipilia, i.e., love of nature. Since, in Lain Entralgo's view, physis (nature) was "divinity" to the Hippocratic doctor, he was deeply and spontaneously conscious of the religious and ethical imperative to respect the limits of his art.\ldots{} The frequency and sternness with which [the] injunction to abstain from therapy is formulated in the Corpus Hippocraticum\ldots{} clearly shows that it was not a mere piece of technical advice, but a religious and ethical injunction. Under the influence of his beliefs about nature, man and his own art, the Greek physician understood that it was his duty to abstain from treating the incurably and mortally ill.\ldots{}\textsuperscript{132}

In the primary sources that have survived, the issues were usually not wrestled with, and modern appraisals of ancient attitudes often are not tempered by the consideration that divergent opinions existed side by side in antiquity and that society was not static. There are significant differences between, for example, fifth-century B.C. Athens, third-century B.C. Rome, and the Roman Empire of the

\begin{flushright}
\textsuperscript{131} Markwart Michler, "Medical Ethics in Hippocratic Bone Surgery," passim.
\end{flushright}

\begin{flushright}
\textsuperscript{132} P. Lain Entralgo, \textit{Doctor and Patient}, p. 48.
\end{flushright}
first century A.D. The attitudes toward old age and death held by the Athenian gentleman of the fifth century B.C. were, in certain respects, significantly different from those of a Roman aristocrat of a later period. Edelstein writes that "generally speaking, the Greeks judged old age unfavorably. The Romans, however, cherished and respected it." This statement is generally true; but it would be an easy task to cull from Greek literature sentiments of reverence for old age and from Roman sources statements of the opposite opinion. On the basis of the available evidence, however, I am confident that, although attitudes varied, it is responsible to say that generally a physician who prolonged, or attempted to prolong, the life of a man who could not ultimately recover his health was viewed as acting unethically.

We turn now to the third ethical question: Would the ancient physician have thought it helping or harming to agree to assist a man who, for any reason, wished to end his life? To this question probably a majority of ancient physicians would also have given the reply "Helping, or at least not harming." It is absolutely essential that we consider the ancient physician as a functioning member of a highly complex and diverse society whose moral responses arose from ethical foundations sometimes strikingly different from those of the Middle Ages and of the Western world today, for that matter. Except among some groups

133. Ludwig Edelstein, "The Distinctive Hellenism of Greek Medicine," in Ancient Medicine, p. 381.
on the periphery of classical thought, the "sanctity of human life" was an idea partially obfuscated by, or at least subservient to, the belief in the inherent right of the free man to dispose of his life as he saw fit, if not always in its living, at least in its termination. Suicide was a concern of the state in neither Greek nor Roman law except the suicide of a slave or of a soldier. Indeed even murder, at least in Greek law, was not a crime against the state (a public offense); it was thought as solely a matter between the victim (and his family) and the killer. Although murder was classified as a public offense in Roman law, it did not follow that suicide was viewed as self-murder but instead was, under most circumstances, outside the purview and interest of the law. Should a person who wished to commit suicide enlist the aid of a second party, the latter, in rendering such assistance, was not culpable. Turning to extra-legal sources, we find few objections in classical literature to suicide in general, fewer still to the suicide of the hopelessly ill.134 Granted, there were some few cults or philosophical schools that condemned all suicide, regardless of the circumstances. But these were both com-

paratively small in number and quite insignificant in long-range influence. Christianity is of course an exception, but the rise of its influence corresponds roughly with the decline of classical culture.

Platonists, Cynics, and Stoics considered suicide an honorable alternative to hopeless illness; some philosophers regarded it as the greatest triumph of man over fate. The Aristotelean and Epicurean schools did not censure suicide, but condoned it under many circumstances. Porphyry wrote a treatise entitled "On Sensible Removal," and some authors went so far as to compose lists of conditions justifying suicide. Pliny, for example, con-

135. See especially Rudolf Hirzel, ibid., pp. 279 ff. A very cogent expression of the Stoic attitude toward suicide is Seneca's Letters to Lucilius, 77. See also Diogenes Laertius, Lives of the Eminent Philosophers, 4, 3, and 6, 18, where criticism is directed against those who would cling to life when suffering from disability or extreme pain.

136. Rudolf Hirzel, ibid., p. 279, n. 1. It should be noted that Plato, for example, condemned suicide as opprobrious if one is not compelled to it by the occurrence of some intolerable and inevitable misfortune" (Laws, 873 C). On the origin of the famous prohibition in the Phaedo, see J. C. G. Strachan, "Who Did Forbid Suicide at Phaedo 62 B?", Classical Quarterly, 1970, 20: 216-220.

137. See Ludwig Edelstein, "The Hippocratic Oath," in Ancient Medicine, p. 17.

138. For some examples, see Danielle Gourevitch, "Suicide among the Sick," pp. 509 ff.
sidered pain due to bladder stones, stomach disorders, and headache valid reasons for suicide. Whether or not to commit suicide was completely up to the individual; whether or not to assist in the act was up to the physician, if asked. The literature contains references to physicians cutting the veins of patients, both ill and well, who asked for such a procedure. Poison was even more common than sustained phlebotomy, and various poisons were developed by physicians who were praised for employing their toxicological knowledge in the production of drugs for inducing a pleasant and painless death. Assisting in suicide was a relatively common practice for Greco-Roman physicians; the very infrequent criticism of such physicians was made primarily by sources that would have to be considered as atypical of classical thought. The so-called Hippocratic Oath must be placed into such a category.

In the Oath appears the following injunction: "I will neither give a deadly drug to anybody, not even if asked for it, nor will I make a suggestion to this effect." This statement immediately precedes the prohibition of abortion.

139. Pliny the Elder, Historia naturalis, 25, 7, 23.

140. See, for example, Tacitus, Annals, 15, 69. Cf., Suetonius, Life of Lucan.


142. I have followed Fridolf Kudlien's translation ("Medical Ethics and Popular Ethics," p. 118, n. 47).
tion. Both prohibitions have at least this much in common: they are inconsistent with values expressed by the majority of sources and atypical of the realities of ancient medical practice as revealed in both medical and lay literature. It is known that, while these two prohibitions remained atypical of medical ethics for the entirety of the classical period, during the first and second centuries A.D. a greater sensitivity to them began to be evidenced. During the early Christian era some pagan physicians, influenced by the Oath, refused to perform abortions under any circumstances, others would perform them only to preserve the health of the mother, and others would perform them on request for any reason. Some physicians began emphasizing philanthropy as their essential motivation and extended philanthropy to include what we may generally term "respect for life." Stressing, on the basis of the Oath, that medicine is the science of healing, not of harming, Scribonius Largus credits "Hippocrates," in condemning abortion, with going "a long way toward preparing the mind of the learners for the love of humanity. For he who considers it a crime to injure future life still in doubt, how much more criminal must he judge it to hurt a full

143. So writes Soranus, Gynaecia, 1, 60.

grown human being." He then asserts that unless medicine "strives fully in each of its parts to help those in need, it is not better than promising sympathy to men." Later he writes that the medical art should never be injurious to anyone. But Scribonius' insistence that the physician not harm or be injurious to anyone is just as neutral in respect to the issue of active or passive euthanasia as the Hippocratic aphorism "to help, or at least to do no harm."

Some physicians may have preferred not to assist in a suicide, for it could prove to be a messy business, at least from a legal point of view. Under Greek and Roman law the physician could be charged with poisoning his patient. Indeed physicians were frequently charged with, or at least suspected of, poisoning their patients. Other physicians, however, who may have refused to aid a person in committing suicide, perhaps condemned suicide under all circumstances for philosophical or religious reasons, but these seem to have left few records of their sentiments, much less professional justification for them.

Aretaeus, who lived in the second half of the second century A.D., can perhaps be placed in this last category of physicians. He writes that some patients, while suf-

146. Ibid.
ferring from a particularly painful disease, still shrink from death while others beg for it. In these cases, he writes, it still is not proper for the responsible physician\textsuperscript{147} to cause the patients' death but it is proper to

\begin{quote}
\textsuperscript{147} The subject under discussion here is intestinal obstruction. The Greek original of the phrase underlined in the text - \textit{τῷ ἀρχιηγῷ δὲ οὐ θέμις πρήσασθαι} is significant for two reasons: 1) The expression οὐ θέμις is roughly equivalent to the Latin \textit{ne fas}, meaning "morally wrong," "contrary to divine law," "in violation of what is customarily accepted," or simply "not proper". How strongly Aretaeus is here using the word, and what moral overtones are implied, are open to interpretation. θέμις without the negative is used in the next clause where he says that it "is proper" to drug the patient. In another instance he writes that the physician "is not able to make the ill (sc., those suffering from atrabiliousness) entirely well. For then the physician would be mightier than God. But it is proper (θέμις) for the physician to bring about the absence of pain and both regressions and latencies of diseases" (Corpus Medicorum Graecorum, 2, p. 158, lines 6 ff.). Elsewhere he writes that "it is not proper (οὐδὲ . . . θέμις) to drink from a pool or from a river by mouth (ibid., p. 86, line 29, where the subject is elephantiasis). Thus given Aretaeus' uses of θέμις, we should hesitate to interpret his statement quoted in the text as an extremely strong moral injunction. 2) This is the only instance where Aretaeus uses the term \textit{ἄρχιηγός} (Ionic for \textit{ἀρχιηγός}), a word that usually means an official physician (either a court physician or a community physician). It also appears to have been used generally to mean a "responsible practitioner" and indeed, in Liddell and Scott's \textit{A Greek-English Lexicon}, this passage in Aretaeus is the only example cited to illustrate this meaning. In roughly the score of instances where he employs a word for "physician," Aretaeus uses \textit{ἰητρός} (Ionic for \textit{ἰατρός}). In fact he uses ἱητρός in this same passage when stating what procedures the physician ought to follow when dealing with patients suffering from intestinal obstruction. Thus the clause may be translated "it is not proper for the responsible physician to do this," and would then not be nearly as condemnatory as might appear at first sight. Indeed he probably is merely saying that a responsible physician should not perform euthanasia, at least when dealing with the ailment under consideration, while the less responsible and average physician might very well do so.
\end{quote}
drug such patients in order to relieve their anguish.\textsuperscript{148}
In another passage Aretaeus, when discussing the treatment of inflammation of the lungs, writes that "if [the patient] is in the height [or at the point] of choking [or suffocating] and you give him a drug to cause death, you would be responsible for his death in the opinion of the common people."\textsuperscript{149} Aretaeus' concern here seems to be less with the ethical issues than with reputation and possible legal implications. On the basis of the paucity of statements such as the first quoted from Aretaeus and the plethora of evidence of opposite sentiments, it is safe to conclude that the author of the Oath and perhaps Aretaeus as well represented a minority opinion on the question of active euthanasia.\textsuperscript{150}

\textsuperscript{148.} Corpus Medicorum Graecorum, 2, p. 133, lines 10 ff.
\textsuperscript{149.} Ibid., p. 120, lines 8 f.
\textsuperscript{150.} There are three other sources sometimes cited as evidence for the opposition to active euthanasia in classical antiquity. 1) There is a passage in the Oxyrhynchus Papyri (nr. 437, third century A.D.) where the Oath is quoted as the basis for the rejection of giving poison. 2) The following problematic passage occurs in a metrical oath of unknown date: οὔτε τίς ἀν ἔρως μὲ παραβοσίνα ἀλεγεινὴν ἐκτελεῖν πείσει καὶ ἀνέρι φάρμακα δοθῆναι λυγρά. A possible translation is "nor would anyone bribe me to alleviate a painful condition by giving baneful drugs (i.e., poison) to a man (sc., a patient)" (Corpus Medicorum Graecorum, 1, 1, pp. 5 f., lines 15 ff.). Owing to some ambiguity in the Greek, the exact relationship between τίς and ἀνέρι is uncertain. If τίς refers to a third party, then the swearer of this oath is refusing to give poison to a patient when asked by someone other than the patient. If ἀνέρι has a pronominal force, to which τίς is antecedent, then he is refusing to give poison to the
Did the Greco-Roman physician, qua physician, feel obligated by any sense of duty to prolong life? The answer

person requesting it for himself. It is ambiguous and may well have been intended to be ambiguous. (I wish to thank Dr. Ronald Kotrc of the College of Physicians of Philadelphia for discussing this passage with me.) 3) In the Metamorphoses, a novel written by Apuleius in the second century A.D., a woman sent her slave to obtain from a physician a poison to be used for murdering her stepson. Her own son drank the potion unwittingly. She then charged her stepson with murder. The physician was one of the judges at the trial. He described how the slave had come to him to buy a quick and efficient poison to give to a friend who wished to escape from an incurable illness. The physician had suspected that it was really intended for murder. His description continues: "When this fiend came bothering me for a poisonous drug, I decided that it would be a betrayal of my profession to supply anybody with the means of murder, since medicine was meant to be used for the preservation, not the destruction, of mankind. Yet I feared that an untimely refusal would provoke him to devise some other way of carrying out the nefarious project on which he was so obviously set -- either by buying poison elsewhere, or by having recourse in desperation to the knife or some such weapon. So I gave him a drug, but a sleeping drug compounded of mandragora, an herb valued for its numbing effect that can hardly be distinguished from the repose of death" (10, 11). On this episode I have elsewhere commented, "If Apuleius' physician had in fact sold poison to the slave and had been identified later as the supplier of the drug, he would have been liable for prosecution under the provisions of the lex Cornelia de sicariis et veneficis for homicide. Then the burden would have been on his shoulders to prove that he had no knowledge that the drug was to be used for murder. It was partially this enlightened self-interest that prompted him to substitute a soporific, for it is clear from his speech that, if he had been certain the drug was in fact intended for use in a suicide, he would not have hesitated to supply it ("Romanticizing the Ancient Medical Profession: The Characterization of the Physician in the Graeco-Roman Novel," Bulletin of the History of Medicine, 1974, 48: 325). Owsei Temkin, however, writes that this physician "did not believe that his profession allowed poisoning even for the sake of suicidal euthanasia" ("Respect for Life," p. 4). See also Danielle Gourevitch, "Suicide among the Sick," pp. 506 f., and Ludwig Edelstein, "The Hippocratic Oath," pp. 13 f. and nn. 23 and 24.
to this question must be a qualified "no". The only duty common to probably all Greco-Roman physicians was "to help, or at least to do no harm." Taking on a hopeless case was entirely the prerogative of the individual physician and few voices would condemn a refusal, particularly if such a decision were based on the conviction that the patient's unhealthy life would only be temporarily extended. Prolonging the life of a patient who did not want to live would probably have been considered as harming the patient and therefore as unethical by all, or nearly all, classical physicians, even by those constituting that minority that would not assist actively in terminating a patient's life.

While a sense of duty to prolong life is not present in any strains of classical medicine, the idea of "respect for life" is quite a different matter. Owsei Temkin writes, concerning the so-called Hippocratic Oath and sources expressing compatible attitudes, that "sufficient material has now been gathered to prove the existence of a tradition which, in its uncompromising form, did not sanction any limit to the respect for life, not even therapeutic abortion. . . ."151 This tradition that would sanction no limit to the respect for life appears, in its emphasis, to have been entirely negative: the physician would not actively terminate life by abortion or euthanasia. But it laid no stress, apparently, on the positive correlate

that would require the physician actively to prolong life.

This negative tradition did, indeed, become stronger with the rise of Christianity: abortion, suicide and euthanasia became sins. Additionally, charity became a virtue, one of the highest virtues in fact, and the love of man and Christian compassion became central to the Christian ideal of medical practice. These themes, among others, will be considered in the next chapter.
CHAPTER II
EARLY CHRISTIAN AND EARLY MEDIEVAL MEDICAL ETHICS:
DUTY TO GOD AND TO TRADITION

We have seen in the preceding chapter that the Greco-Roman physician was entirely a free agent, bound by no clearly-defined duty to his patient, to his art, or to his community. In the medical literature advice on general etiquette or decorum appears. These principles of etiquette are noteworthy for their practicality and seem to have been motivated primarily by concern for enhancing and preserving the individual physician's reputation and the honor of the art. These rules of etiquette are often collectively referred to as "Hippocratic ideals," especially when supplemented by the prohibitions of abortion and euthanasia which appear in the so-called Hippocratic Oath. These prohibitions, as we have observed, do not reflect the ethical values of the vast majority of physicians represented in the sources. For the most part, however, the values expressed in the so-called Hippocratic Oath, although many were atypical of the Greco-Roman scene, were fully compatible with Christian morality.

Although certain aspects of pagan medical ethics were in harmony with Christian thought, Christianity was fundamentally different in its most basic tenets and
principles from the most common features of the pluralistic society in which it took root. Thus it is imperative that we examine certain aspects of early Christian thought that have a direct bearing on the development of Christian medical deontology. This is particularly important since the issues addressed here either are, as resolved in early Christian thought, fundamental to our understanding of later medieval attitudes, or continue to be raised periodically throughout the Middle Ages.

We should first see what early Christian sources say about the place of illness in the Christian's life and in God's purposes. We must then consider early Christian concern with whether the use and practice of medicine are compatible with God's purposes. It should be noted that the two questions raised thus far, even though wrestled with and generally resolved in the early centuries of Christianity, are still very much alive as points of disagreement among Christians today, and were so throughout the Middle Ages as well. If physicians and their art have a place within the Christian community, what should their goals and limitations be? If they are instruments of God to succor the ill and to extend compassion and care to the sufferer, are they bound by any duty to attempt to prolong a patient's life? In considering this question it will be necessary to determine early Christian attitudes toward death, suicide, and clinging to life. Once a fairly clear picture emerges of the physician's basic role and limita-
tions, we shall consider the character and qualities of the ideal physician in early Christian thought and the effect of Christian philanthropy on medical practice and ethics, in both secular and monastic medicine. This chapter will close with an evaluation of the blending of "Hippocratic ideals" with Christian ethics in the deontological literature of the early Middle Ages.

Numerous passages can be adduced from the Old Testament that imply that in Jewish thought both sickness and health were held to be within God's purview, the former visited on people as punishment or as discipline, and the latter given as a reward.¹ It is perhaps revealing that

1. The problem of suffering in Jewish thought is exceedingly complex. Sickness is only one aspect of suffering and the Hebrew words used for sorrows, afflictions, griefs, can also sometimes yield the translation disease or sickness. In Isaiah 53 "A man of sorrows and acquainted with grief" can be translated "A man of suffering, familiar with disease." (vs. 3) "Surely he hath borne our griefs and carried our sorrows. Yet we did esteem him stricken" can be rendered "Yet it was our sickness that he was bearing, our suffering that he endured. We accounted him plagued . . . ." (vs. 4) "Yet it pleased the Lord to bruise him . . . ." can also yield "But the Lord chose to crush him by disease . . . ." (vs. 10) Jewish attitudes toward illness often hinge upon the interpretation of the "Suffering Servant" of Isaiah 52 and 53. For a brief discussion of the various Jewish interpretations, see Christopher R. North, The Suffering Servant in Deutero-Isaiah: An Historical and Critical Study² (London: Oxford University Press, 1955), 6-22, especially 6-9 dealing with pre-Christian times. For Jewish attitudes toward sickness in the Old Testament and at the time of Christ, see Victor G. Dawe, The Attitude of the Ancient Church Toward Sickness and Healing (unpublished doctoral dissertation, Boston University School of Theology, 1955), 67; Evelyn Frost, Christian Healing: A Consideration of the Place of Spiritual Healing in the Church of Today in the Light of the Doctrine and Practice of the Ante-Nicene Church² (London: A. R. Mowbray, 1949), 206; and Albrecht Oepke, "νόσος, κ.τ.λ. ," in Theological Dictionary of the
the question posed by Jesus' disciples when they encountered a person who was blind from birth was, "Who sinned, this man or his parents, that he should be born blind?" Jesus' answer was that neither sinned, "but it was in order that the works of God might be displayed in him." Unfortunately, this does not answer a question posed in various ways by Christians ever since then, namely did the affliction come from God, from the devil, or from some theologically neutral source, and, regardless of the source, why are Christians afflicted by disease and suffering? This is a question with which the early Christians often wrestled and the attitudes represented in the literature are diverse and contradictory.

Generally three different sources of suffering are identified in the literature of the first several centuries of Christianity, namely a divine, an evil, and a natural source. More often than not, there was a hesitancy to attribute disease directly to God; rather he was typically viewed as the regulator of it, whether it came from natu-


3. Frost, Christian Healing, pp. 204 f.
4. Dawe, Attitudes of the Ancient Church, p. 130.
5. Frost, Christian Healing, p. 204.
ral or evil sources. Tertullian, in the late second and early third centuries, held that any particular suffering, at one and the same time, was intended as a warning for Christians and as punishment for the heathen. Indeed, Lactantius, writing in the early fourth century, described with un-Christian delight the excruciating agonies accompanying the death of Galerius, an emperor who had persecuted the Christians quite viciously. Cyprian, in the third century, felt that God sometimes used sickness to draw the unbelieving to himself, while the author of the second-century Shepherd of Hermas saw sickness and other misfortunes as punishment for those who had wandered from God. Irenaeus, writing in the second century, recognized in infirmities a schooling for endurance. His contemporary, Clement of Alexandria, in several places in his writings, asserts that by afflictions the Christian acquires moderation both in pain and pleasure, and he loses the fear of poverty, disease and death. He says that “penury and disease, and such trials, are often sent for admonition, for the correction of the past, and for care for the future.”

6. Tertullian, On Flight in Persecution, 1 f.
7. Lactantius, De mortibus persecutorum, 33.
9. Shepherd of Hermas, 6, 3.
10. Irenaeus, Against Heresies, 5, 3, 1.
11. Clement of Alexandria, Paedagogus, 1, 8 ff.
Around the middle of the third century the Empire was afflicted by a series of plagues. After the city of Alexandria was hit by a particularly devastating assault, the city's bishop, Dionysius, wrote that while it was an object of extreme fear to the pagans, "to us it was not so, but . . . a source of discipline and testing." When the same plague was ravishing Carthage, Cyprian remarked that some of his brethren were distressed that the pestilence did not strike only the pagans, "as if the Christian believed in order that he might have the enjoyment of the world and this life free from the contact of ills." But the plague was a blessing because the things they were experiencing "are trainings for us, not deaths; they give the mind the glory of fortitude; by contempt for death they prepare for the crown."

Slightly later, during the first decade of the fourth century, Lactantius writes that the relationship between the soul and the body is that between master and servant. The flesh must share in the campaign against evil and be ready to be despoiled or sacrificed in the service of its master. In this spiritual warfare the soul sometimes can be refined through suffering, a point developed at some length by Church Fathers during the fourth century. Ambrose, writing to a friend suffering from a non-fatal illness, maintains that

15. Ibid., 16.
"this sickness was intended for your health and brought you more pain than peril... He struck you with illness; he healed you with faith... He chose to admonish you in such a way as not to harm your health and yet to incite your devotion." 17 Gregory Nazianzen, delivering his father's eulogy, ruminates thus of suffering: "But why should it be surprising that holy men suffer ills, either for the purification of some small stain, or for proving their virtue, or testing their philosophy, or for the instruction of the weaker, who learn from their example to be brave instead of faint-hearted in misfortune?" 18 Gregory's close friend, Basil the Great of Caesarea, discusses six reasons why Christians are afflicted with illness. First, some diseases are contracted "for our correction." 19 He includes as part of the corrective process both the suffering involved in the disease itself and the pain incurred in the treatment of the ailment. Our real objective in such suffering "should be our spiritual benefit, in as much as the care of the soul is being taught in the guise of an analogy." Secondly, illness is often a punishment for sin and should be distinguished from a third category, namely those infirmities that "arise from faulty diet or from any other physical origin." Fourthly, some illness comes at the Evil One's request, for example the case of Job, where God confounded Satan's boasts by

17. Ambrose, Epistles, 79.
18. Gregory Nazianzen, On His Father, 28.
19. This and the following quotations from Basil are from The Long Rule, 55.
the heroic patience of His servants. Fifthly, "God places those who are able to endure tribulation even unto death before the weak as their model." And last is the instance of any great saint, for example the apostle Paul, afflicted with physical suffering "in order that he might not seem to exceed the limits of human nature and that no one might think him to possess anything exceptional in his nature."

It was in Basil's mind extremely important that "when we suffer the blows of calamity at the hands of God, who directs our life with goodness and wisdom, we first ask of him understanding of the reason he has inflicted the blows; second, deliverance from our pains or patient endurance of them." This was important for a variety of reasons but especially so that the afflicted would know whether or not to employ a physician. Only in two of the six categories should a physician be summoned, namely for illnesses arising from natural causes and those which are for the Christian's correction. When we are ill as a punishment for sin and have "recognized our transgressions, we should bear in silence and without recourse to medicine all the afflictions which come to us." Of those in the three remaining categories, Basil says, "What profit would there be for such men in having recourse to medicine? Would there not rather be danger that in their solicitude for the body they would be led astray from right reason?"

Throughout the history of Christianity there has al-
ways been a degree of tension, sometimes only latent, between theology and secular medicine, between the medicine of the soul and the medicine of the body. If God sends disease, either to punish or test man, then it is God to whom one must turn for care and for healing. If God is considered to be both the source and the cure of man's ills, then in some minds, the use of human medicine is an attempt to circumvent the spiritual framework, to deviate from divine will, to resort to worldly wisdom, which may be considered as inherently in conflict with the spiritual realm. But, some reasoned, if God is the source of disease, or if disease comes by his leave, and if he is the ultimate healer, his will can be fulfilled through his human agents, and these human agents can be those who, through divine grace, have acquired the ability to aid in the curative process. On the other hand, if it is not God but rather a diabolic force that causes suffering and disease in man, then the first, and to some minds, the only source of aid to which one may turn is God. Within this framework some asserted that the human agent of care, the physician, is the instrument of God, used by him in bringing succor to man, and others maintained, on the contrary, that any use of human medicine is a manifestation of a lack of faith. This ambivalence in the Christian attitude, both among theologians and laymen, has always been present to some degree.

During the Church's first centuries we hear little of Christian physicians. Paul refers to his companion Luke
as "the beloved physician," but aside from him we encounter no Christian physician until there is record of a Phrygian physician martyred at Lyons under Marcus Aurelius. Some scholars argue that in the early centuries of Christianity the level of faith or the commitment to divine healing was so vital that, owing to the frequency of what believers would call miraculous cures and unbelievers would discount or explain differently, there was little need of or room for secular medicine. But as the vitality of early Christianity began to diminish, or as the age of miracles drew to a close, a place for the secular healing art in Christianity was more and more recognized as not discordant with God's purposes.

In the second century Tatian spoke out emphatically against the use of medicine, as employing the bad to attain the good. Such a person would be punished by God. He maintained that "if anyone is healed by matter, through trusting in it, much more will he be healed by having recourse to the power of God. . . . Why is he who trusts in the system of matter not willing to trust in God? . . . Why do you deify the objects of nature? And why, when you cure your neighbor, are you called a benefactor? Yield to the power of the Logos!" Tatian's contemporary, Hippolytus, although he is

22. Tatian, Oratio ad Graecos, 18.
not nearly as outspoken, seems to have shared his opinion, commending the perhaps apocryphal account of King Hezekiah's ban on medicine. But this view certainly was not shared by all Christians of the second century. Clement of Alexandria writes that "health by medicine, and soundness of body through gymnastics . . . have their origin and existence in consequence of human cooperation. Understanding also is from God." Clement's disciple, Origen, followed his teacher in his attitude toward medicine, saying that it is "beneficial and essential to mankind." He held that a man seeking to recover from a disease had two alternatives, either "to follow the more ordinary and simple method and have recourse to the medical art," or "he must rise to the higher and better way of seeking the blessing of him who is God over all, through piety and prayers." This either-or approach, giving the higher place to divine healing was probably not uncommon.

Sometimes Christian writers cite a passage from Ecclesiasticus, or the Wisdom of Jesus the Son of Sirach, a book that was part of the Septuagint, the Old Testament of the

23. Hippolytus, Commentary on Song of Songs, 2.
24. Clement of Alexandria, Stromata, 6, 17.
26. Ibid., 7, 60.
Early Church, but not included in the Jewish canon. The passage from this book, written by a second-century B.C. Jew, reads:

Honor the physician with the honor due him according to your need of him for the Lord created him; for healing comes from the Most High, and he will receive a gift from the king. The skill of the physician lifts up his head, and in the presence of great men he is admired. The Lord created medicines from the earth, and a sensible man will not despise them. . . . My son, when you are sick do not be negligent, but pray to the Lord, and he will heal you. Give up your faults and direct your hands aright, and cleanse your heart from all sin. Offer a sweet-smelling sacrifice. . . . And give the physician his place for the Lord created him; let him not leave you, for there is need of him. There is a time when success lies in the hands of physicians for they too will pray to the Lord that he should grant them success in diagnosis and in healing, for the sake of preserving life. He who sins before his Maker, may he fall into the hands of a physician. 27

Note that here healing comes from God, whether directly or through a physician, for the Lord created both him and his medicines. But man is advised first to pray for healing, cleanse his heart from all sin, offer a sacrifice and then to give the physician his place. And the physician himself also must depend upon God for his success. This essentially sets the tone for the most articulate and balanced sources in Christendom from the fourth century on. There were still occasional voices raised condemning medicine, for example, in the early fourth century, Arnobius writes that the physician is "an earth-born creature, not relying on true science, but founded on a system of conjecture, and wavering in estimating possibilities." 28 But this was a minority

opinion for that period. Gregory Nazianzen, whose brother was a physician, refers to "the marvelous art of medicine" and Gregory of Nyssa speaks of the healing art as a gift of God which human nature has gradually discovered how to use.

We have already seen the caution with which Basil the Great approached secular medicine, advising its employment only in two of his six categories of illness. But when writing to his physician he says "... in my opinion, to put your science at the head and front of life's pursuits is to decide reasonably and rightly." Most important, in Basil's mind, in regard to medicine were two considerations: 1) That God created the medical art so as to provide an analogy for Christians, "a model for the cure of the soul," "a parallel to the care given the soul," "an example for the proper care of the soul." That, in his opinion, is medicine's chief end and purpose. 2) That it should be employed in only two of his six categories of physical ailments. But yet he writes, since "each of the arts is God's gift to us, remedying the deficiencies of nature ... ... ... to reject entirely the benefits to be derived from this art is the sign of a pettish nature."

Now Basil's nature was not pettish nor was he as reluctant as it might appear to provide medical care for the sick. Indeed he is often indicated as an exemplar of Christian charity for his founding, in 372, of a vast charitable institution, called "New Town," which included, among other facilities, separate hospitals for those afflicted by uncontagious and contagious diseases. Gregory Nazianzen refers to this institution as a place where illness became a school of wisdom, where disease is regarded in a religious light, where misery is changed to happiness, and where Christian charity shows its most striking proof. Medical facilities were amply staffed by priests, physicians, and nurses. It would be easy to be diverted here into a discussion of the history of the foundation and development of Christian hospitals. It must suffice to mention that in


34. The early history of hospitals is rife with semantic confusion. The sundry charitable institutions that existed from the fourth century that are called "hospitals" include xenodochia (hospices for travelers), brephotrophia (foundling homes), orphanotrophia (orphanges), gerocomia or gerontochia (homes for the aged) and nosocomia (infirmaries). Although these designations continued in the Greek East, the term xenodochium gained currency in the Latin West, where it was generously applied to nearly any charitable house or institution. In the early Middle Ages, more often than not these institutions' raison d'etre was simply to provide charitable assistance to the destitute and shelter for the pilgrim. Only seldom does one encounter a xenodochium in the early Middle Ages that had any medical personnel. On the history of early hospitals, see, e.g., George E. Gask and John Tood, "The Origin of Hospitals," in Science, Medicine and History: Essays on the Evolution of Scientific Thought and Medical Practice, Written in Honour of Charles Singer (London: Oxford University Press, 1953),
325, at the Council of Nicaea, all bishops in attendance were instructed to set up hospitals in every cathedral city.\textsuperscript{35} A very well-known story is Jerome's account, in the late fourth century, of his friend, a lady named Fabiola, establishing a hospital or infirmary in Rome. He tells, in much detail, the devotion with which she gathered the sick from the public squares of the city and nursed the most wretched cases with her own hands.\textsuperscript{36} The foundation of Christian hospitals was a logical development of Christian charity. Regardless of the abuses propagated under the name of Christianity, it cannot be denied that the most central theme of Christianity is love, both in its soteriological and philanthropic emphases. The gospel did not limit itself to the salvation of souls for eternity, but was also directed to salvation within the world. It was a gospel not only of God's love to men but also of God's love through men. Christ's commandment to love your neighbor as yourself\textsuperscript{37} was not simply a piece of


\textsuperscript{35. Council of Nicaea, Canon 70.}

\textsuperscript{36. Jerome, Epistles, 77, 6, 1 f.}

\textsuperscript{37. Matthew 19:19, 22:39; Mark 12:31-33; Luke 10:27; cf., Romans 13:9; Galatians 5:19; James 2:8.}
advice, it was a categorical imperative. Love for one's neighbor can manifest itself in quite a variety of ways. But spiritual concern was never to take precedence over immediate material or physical help for those in need. This is bluntly stated in the Epistle of James: "This is pure and undefiled religion in the sight of our God and Father, to visit orphans and widows in their distress." 38 Indeed, Christ's examples of charity include the following:

I was hungry, and you gave me something to eat; I was thirsty, and you gave me drink; I was a stranger, and you invited me in; naked, and you clothed me; I was sick, and you visited me; I was in prison, and you came to me. . . . To the extent that you did it to one of these brothers of mine, even the least of them, you did it to me. 39

"I was sick and you visited me." The verb here rendered "visited" also yields the meanings "to care for," "to be concerned about," "to succor," and is sometimes used in late classical Greek to refer to a physician's medical visitation of a patient. 40 The visitation, care and comforting of the sick became early a duty incumbent upon all believers.

Adolf Harnack, a leading Church historian of a pre-

38. James 1:27.
vious generation, writes regarding the visitation and care of the sick that "to quote passages would be superfluous, for the duty is repeatedly inculcated."^{41} It is fitting, however, to give some representative examples. In the Apostolic Tradition of Hippolytus, dating from the second century, it is stipulated that before candidates for baptism will be approved, they are to be examined as to "whether they have lived soberly, whether they have honored the widows, whether they have visited the sick, whether they have been active in well-doing."^{42} Two other second-century documents, one falsely attributed to Justin Martyr and the other to Clement of Alexandria, stress that "to imitate Christ is to minister to the sick"^{43} and that no one should plead such excuses as squeamishness or being unaccustomed to such activity.^{44} Early Christian literature is indeed rife with such admonitions. Although in the early church the care of the sick was required of and urged upon all believers, in the course of time it became more and more the specific duty of deacons, deaconesses


^{42} Hippolytus, Apostolic Tradition, canon 20.

^{43} Pseudo-Clement, De virginitate.

^{44} Pseudo-Justin, Epistles, 17.
and widows.\textsuperscript{45} It especially became the mark of the very devout. Many examples are given of those who were particularly zealous in practising such charity. A typical biography of a saint describes him as "the eye of the blind, the feet of the lame, the clothes of the naked, the roof of the homeless, and the physician of the sick."\textsuperscript{46}

During the outbreaks of plague in the 50s of the third century, the Christians responded with a spectacular degree of activity on behalf of those suffering from the pestilence, both fellow Christians and pagans alike. Their zeal was nearly suicidal, as death incurred in such a fashion was considered to rank with martyrdom.\textsuperscript{47} Dionysius, Bishop of Alexandria, describes his flock's activities thus: visiting the sick without a thought as to the danger, assiduously ministering to them, tending them in Christ, and so most gladly departing this life along with them.\textsuperscript{48} Their activity was placed in stark contrast with that of the pagans who deserted the sick or threw the bodies of the afflicted out into the streets. Cyprian, in Carthage, saw the plague

\begin{itemize}
\item \textsuperscript{45} See Dawe, \textit{Attitudes of the Ancient Church}, p. 186.
\item \textsuperscript{46} Demetrios J. Constantelos, \textit{Byzantine Philanthropy and Social Welfare} (New Brunswick, N.J.: Rutgers University Press, 1968), 93. See also Eusebius (De mart. Pal., 11, 22) who bears testimony to the character of Seleucus, that like a father and guardian, he had shown himself a bishop and patron of orphans and destitute widows, of the poor and of the sick.
\item \textsuperscript{47} Eusebius, \textit{Ecclesiastical History}, 7, 22, 8.
\item \textsuperscript{48} Ibid., 7, 22, 7.
\end{itemize}
as beneficial as it "searches out the righteousness of each one, and examines the minds of the human race, to see whether they who are in health tend the sick, ... whether physicians do not forsake their beseeching patients; ... whether the haughty bend their neck; whether the wicked soften their boldness. ..."  

Cyprian’s own heroism during the plague is ably described by his biographer, Pontius.  

Mention should also be made of the Parabolani, a little-known group in the fourth century, whose name means the "reckless ones" because of their primary duty of assisting the ill during epidemics.

Christianity had quite drastically altered attitudes and actions toward the sick. In the words of Henry Sigerist, Christianity introduced

the most revolutionary and decisive change in the attitude of society toward the sick. Christianity came into the world as the religion of healing, as the joyful Gospel of the Redeemer and of Redemption. It addressed itself to the disinherited, to the sick and afflicted, and promised them healing, a restoration both spiritual and physical. ... It became the duty of the Christian to attend to the sick and poor of the community. ... The social position of the sick man thus became fundamentally different from what it had been before. He assumed a preferential position which has been his ever since.

The question now can be asked whether this new, pre-

---

49. Cyprian, De mortalitate, 16.


ferential position of the sick had, as its correlate, the
development of an imposition of any sense of obligation on
the part of those tending the sick to make every effort to
attempt to prolong the life of the afflicted.

The Christian attitude toward death that is expressed
in the literature of early Christianity is generally con­
sonant with Paul's statement that "for me to live is Christ
and to die is gain." 53 Death was not to be sought. Some
Christians actively courted martyrdom but more balanced
minds condemned such activity as being tantamount to sui­
cide. Clement of Alexandria, writing in the second century
quotes Jesus' words "When they persecute you in this city,
flee to the other," 54 and comments as follows:

He does not advise flight, as if persecution were an
an evil thing; nor does he enjoin them by flight to
avoid death, as if in dread of it, but wishes us
neither to be the authors nor abettors of any evil
to anyone, either to ourselves or the persecutor and
murderer. For he, in a way, bids us take care for
ourselves. But he who disobeys is rash and foolhardy.
If he who kills a man of God sins against God, he also
who presents himself before the judgment seat becomes
guilty of his own death. 55

Sometimes comments or at least intimations are made both
by scholars and popularizers that early Christians were, if
not sympathetic toward suicide, at least neutral toward the
act and that it was Augustine who, as it were, imposed on

55. Clement of Alexandria, Stromata, 4, 10.
Christians a negative position on suicide. It can be argued that Clement's statement is ambiguous on suicide since it really is addressed to courting martyrdom. But elsewhere he flatly states that the Christian "does not withdraw himself from life. For that is not permitted him." In the same century, Justin Martyr anticipates the hypothetical suggestion: "Go then all of you and kill yourselves, and pass even now to God, and do not trouble us." To this he responds, "... we shall, if we so act, be ourselves acting in opposition to the will of God." Still in the second century the author of the Shepherd of Hermas states that whoever does not save someone who is driven to suicide by calamities "commits a great sin, and becomes guilty of his blood." It was Augustine, in the late fourth and early fifth centuries, who was the first Christian author to discuss suicide systematically. He does not, in that context, however, deal specifically with the question of suicide to escape illness or physical disability, but he does

56. Ibid., 6, 9.
57. Justin Martyr, Second Apology, 2, 4.
58. Shepherd of Hermas, 4. Cp. Polycarp, Epistle to the Philippians, 10, 3: "When it is in your power to do good, withhold not, because alms deliver from death." Lactantius, a little over a century later, implies a condemnation of suicide when he writes, "For if death were appointed for a fixed age, man would become most arrogant" (On the Workmanship of God, 4).
59. Augustine, City of God, 1, 20-27.
elsewhere saying, "For we are among evils which we ought patiently to endure until we arrive among those goods where nothing will be lacking to provide us ineffable delight, nor will there then be anything that we are obliged to endure." 60

Augustine's contrast of the ineffable delights of heaven with the evils of this world partakes of a theme dear to the heart of Christian authors during the early centuries of Christianity. The Christian is placed in juxtaposition with the pagan on the question of his attitude toward death. While pagans were thought of as fearing death, sad and trembling, the Christian rejoices at the death of his loved ones and anticipates with eagerness his own day of "homegoing." 61 The joys of heaven are often emphasized to show the folly of clinging to this life. Cyprian, in the third century, during a severe outbreak of plague, writes:

So many persecutions the soul suffers daily . . . and yet it delights to abide here . . . although it should rather be our craving and wish to hasten to Christ by the aid of a quicker death. . . . What blindness of mind or what folly is it to love the world's afflictions, and punishments, and tears, and not rather to hasten to the joy which can never be taken away! . . . How preposterous and absurd it is, that while we ask that the will of God should be done, yet when God calls and summons us from this world, we should not at once obey the command of his will! . . . with a sound mind, with a firm faith, with a robust virtue, let us be prepared for the whole will of God, laying aside the fear of death, let us think on the immortality which follows." 62

60. Ibid., 19, 4.

61. See, for example, Cyprian, De mortalitate, 2, 7, 14 and 26 (written while Carthage was being besieged by plague).

62. Ibid., 5, 18 and 19.
Augustine points to the irony that so many, when faced with troubles, cry out, "'O God, send me death; hasten my days.' And when sickness comes they hasten to the physician, promising him money and rewards." Augustine laments at what things men do that they may live a few days. . . . If, on account of bodily disease, they should come into the hands of the physician and their health should be despaired of by all who examine them; if some physician capable of curing them should free them from this desperate state, how much do they promise? How much is given for an altogether uncertain result? To live a little while now, they will give up the sustenance of life. . . .

But this was not what Christians were to do. They were to put their faith in God, leave the results in his hands, and not cling to life with desperation. Basil, as was his wont, expresses succinctly what seems to be a quite balanced position, probably representative of the mainstream of Christian thought of his time. He writes:

Whatever requires an undue amount of thought or trouble or involves a large expenditure of effort and causes our whole life to revolve, as it were, around solicitude for the flesh must be avoided by Christians. Consequently, we must take great care to employ this medical art, if it should be necessary, not as making it wholly accountable for our state of health or illness, but as redounding to the glory of God. . . .

While it seems certain that the idea of a duty to attempt to prolong life was not a correlate of the very strongly

63. Augustine, Sermones, 84, 1.
64. Ibid., 344, 5.
felt obligation to succor and comfort the sick and, generally, to preserve life until God should choose to end it, nevertheless it remains an indisputable fact that compassion for the ill was a central feature of early Christianity. Christian love, διακαταλέπτον, the God Shepherd’s love for his sheep, could be more graphically expressed in a more common metaphor. Christ became the Great Physician, the verus medicus, solus medicus, verus archiater, ipse et medicus et medicamentum — himself both the physician and the medication.66

Early Christian authors thus adopted and adapted a strong tradition in classical literature that employed, in simile or metaphor, the idea of the physician as a compassionate, selfless and philanthropic healer of ills, soother of distress and, sometimes, inflicter of health-giving pain.67

While seldom concerned directly with actual conditions of medical practice, the church fathers frequently availed themselves of the rich potential that illustrations from the practice of medicine afford for medical-spiritual analogies. Their illustrations provide us with some interesting


67. Discussed above in Chapter I.
insights into standards that they considered ideal. Origen writes that he followed "the method of a philanthropic physi­
cian who seeks the sick so that he may bring relief to them and strengthen them." He apparently held that a phy­
sician ought to attempt to help as many people as possible. In demonstrating the superiority of Christianity to pagan philosophy, he says that "Plato and the other wise men of Greece, with their fine sayings, are like the physicians who confine their attention to the better classes and despise the common man while the disciples of Jesus carefully study to make provision for the great mass of men." It was in his care for the common man, for the destitute, for the poor, that the physician evinced a Christ-like compassion. Augustine points to his friend, the physician Gennadius, as "a man of devout mind, kind and generous heart.


69. *Ibid.*, 7, 59: "It is obvious that humanity itself and the interest of mankind as a whole suggest that the phy­
sician who has cared for the health of the majority helps his fellow-men more than the physician who has cared for the health of only a few."

70. *Ibid.*, 7, 60. Origen apparently did not feel that physicians were obligated to attempt to extend care in all cases, for earlier in the same work (3, 35) he writes: "Many instances may be adduced of people being healed [sc. at pagan healing shrines] who did not deserve to live, people who were so corrupt and led a life of such wickedness that no sensible physician would have troubled to cure them."
and untiring compassion, as shown by his care of the poor."  

Zenobius, a fourth-century physician, is lauded by his biographer for not only serving his poor patients free of charge, but also helping them financially when necessary. 

Augustine, with some frequency, speaks of the hypothetical physician who, motivated by charity, asks no remuneration for his services, but undertakes the most desperate cases among the poor with no thought for receiving any recompense. 

Without any condemnation, Augustine acknowledges that often the physician, when coming to a new community, will take on desperate cases among the poor gratis so that, in addition to exercising benevolence, he may also increase his reputation. 

With greater renown, the physician will be able to inspire greater confidence, which Augustine seems to have considered as an important aspect of the physician/patient relationship.

71. Augustine, Epistles, 159.

72. Constantelos, Byzantine Philanthropy, p. 182, in the same place also mentions the sixth-(or perhaps fifth-) century physician Sampson who "transformed his home into a free public clinic. Not only did he treat poor patients free of charge, but also offered them food and lodging."

73. Augustine, Sermones, 175, 8 f.

74. Ibid., 176, 4.

75. Ibid., 9, 10; 80, 30; 84, 1; 137, 3; 344, 5; De bapt., 1, 8, 11; In Psalm. 45, 11; Enchiridion, 16.
According to Peter Chrysologus (early fifth century), it is "to the praise of his virtue, the glory of his skill, and the increase of his reputation," if the physician exercises patience. Peter goes on to describe how the physician must sometimes endure bites and "pains by no means light in order to free his patients from suffering." Augustine marvels at the mildness of physicians who do not return insult for insult when irrational patients treat them with sharpness and abuse.

The physician, in caring for the ill, encounters unpleasant things. Eusebius writes that Christ, "like some excellent physician, in order to cure the sick, examines what is repulsive, handles sores, and reaps pain himself for the sufferings of others." Origen employs the same comparison:

It is relevant to observe that a physician also, who "sees terrible things and touches unpleasant wounds," in order to heal the sick, does not pass from good to bad, or from beautiful to shameful, or from happiness to misfortune, although the physician who sees the terrible things and touches the unpleasant wounds does not wholly avoid the possibility that he may fall into the same plight.

76. Peter Chrysologus, Sermones, 38.
77. Ibid.
78. Augustine, Sermones, 175, 2; 176, 4; 357, 4; Epistles, 104, 7; De tract. Joh., 7, 12.
79. Eusebius, Ecclesiastical History, 10, 4, 11.
80. This appears to be a loose quotation from De flatibus, 1, in the Hippocratic corpus.
81. Origen, Contra Celsum, 4, 15. Origen also uses
A good physician, however, will not be deterred by the possibility of contagion for by very definition he is motivated by philanthropy. Indeed the physician, according to Augustine, should always have his patient's cure at heart, for the practice of medicine would be cruelty if the physician were only concerned about engaging in his art. Indeed his concern for his patients manifests itself in his refusal to give them those things that they ask for that would be harmful for them. Further, in an effort to keep the patient's mind free from care and worry, the physician should not inform him of any disturbing matters, in spite of his questionings.

Augustine saw as worthy of praise the action of his friend, the physician Gennadius, who had been called in as a consultant on an extremely difficult case. When Gen-

---

82. See Basil of Caesarea, Epistles, 189, written to the physician Eustathius.

83. Augustine, Sermones, 9, 10.


85. Ibid., 85, 9.

86. Ibid., 102, 6, and De mendacio, 5, 6. Jerome (Adv. Ruf., 1, 18) maintains that the physician may resort to justifiable falsehoods as to the patient's condition.
nadius had examined the procedures being employed by the physicians in charge, he refused to take over in their place. "He commended their skill, and declared that to win the credit of the cure by doing the little that remained to be done would be most inconsistent with his nature." This may tell us something about Gennadius' nature as a man, but it does not necessarily imply that such magnanimity was an essential quality of the practitioner of the "Hippocratic art." It was, however, not uncommon for the term "Hippocratic art" to be used in early Christian literature as a metonymous expression for the medical art and we occasionally encounter the name Hippocrates used as an ethical ideal for the medical practitioner. Indeed Christ is himself spoken of quasi spiritualis Hippocrates. -- "as it were, a spiritual Hippocrates" and it is to Hippocrates as the type of physician that Jerome compares the Christian healer.

In a passage well known to medical historians, Jerome refers to the so-called Hippocratic Oath. He is writing to Nepotian on a pastor's duties:

It is part of your duty to visit the sick, to be acquainted with people's households, with matrons, and with their children, and to be entrusted with the secrets of the great. Let it therefore be your

---

87. Augustine, City of God, 22, 8.
89. Jerome, C. Ioan. Hier., 38 f. Cf., Epistles, 125, 16.
duty to keep your tongue chaste as well as your eyes. Never discuss a woman's looks, nor let one house know what is going on in another. Hippocrates, before he will instruct his pupils, makes them take an oath and compels them to swear obedience to him. That oath exacts from them silence, and prescribes for them their language, gait, dress, and manners. How much greater an obligation is laid on us who have been entrusted with the healing of souls!90

Those well-acquainted with the so-called Hippocratic Oath shall have immediately recognized that there is nothing in the pagan oath bearing on "language, gait, dress, and manners," although there is an injunction to confidentiality or silence.91 But in the Hippocratic works Precepts and Decorum these matters are dealt with and it appears that the general principles of etiquette associated with the name Hippocrates were at least vaguely identified with the Oath bearing his name.

90. Jerome, Epistles, 52, 15. Not only was Christ referred to as a physician but by extension Origen applied the term ἱατρός to the prophets. Although in the passage quoted, Jerome does not directly call the clergy physicians of the soul or spiritual physicians, he certainly does so by implication. Augustine has one reference to the pastor as a spiritual physician (Epistles, 25, 3), a figure that thereafter became extremely common, particularly in the Middle Ages.

91. W. H. S. Jones, The Doctor's Oath, comments that "there is nothing in the extent forms [of the Oath] which touches on either incessus or habitus. We are forced to the conclusion that either Jerome has inadvertently included under the term sacramentum rules of conduct which appear, not in Oath, but in Precepts or in Decorum, the two works of the Hippocratic Collection which, after Oath, give us most information about ancient medical etiquette, or else that in early Christian times there were forms of Oath which include references to incessus and habitus. Of the two suppositions the second is perhaps the more likely" (pp. 41 f.).
All these guidelines for conduct are basically the product of commonsense, both for physicians and clergymen. Since there is much in common between the two professions, both would be reduced substantially in efficiency by significant deviation from these basic principles of decorum. In a collection of letters falsely attributed to Clement of Alexandria there appears a passage that reads in part:

For such is the manner in which we are to visit the sick . . . without guile or covetousness or noise or talkativeness or pride or any behavior alien to piety . . . instead of using elegant phrases, neatly arranged and ordered . . . act frankly like men who have received the gift of healing from God, to God's glory. 92

This excellent advice for physicians was actually written for exorcists dealing with the demon-possessed. Every detail enunciated here, save reference to piety and to God, is also mentioned in the Hippocratic literature, but we need not assume that the anonymous author of this letter was adopting principles of medical etiquette.

Although in early Christian literature a reasonably clear if not exhaustive picture of the ideal physician emerges, it tells us little, if anything, directly about the ethics of the early Christian physician, except insofar as individual physicians may have agreed with and attempted to conform to such an ideal. Few references to Christian physicians are found from the period when Christians were

92. Pseudo-Clement, De virginitate, 1, 112.
a persecuted minority. As mentioned above,\textsuperscript{93} Luke is said to have been a physician, and there is occasional mention of martyred Christian physicians.\textsuperscript{94} But as Christianity became more widespread, encompassing an ever broadening spectrum of society, physicians became Christians and Christians became physicians on a much larger scale.

Christianity finally displaced paganism, becoming the official and then the only tolerated religion. While Christianity remained a religion of conviction for some, it became a religion of convenience for many, and the social amalgam that resulted in the late Empire was a not entirely harmonious marriage of the new religion with the extremely varied cultural and intellectual strains that in the aggregate comprised late classical Mediterranean society.\textsuperscript{95}

While the physician as an ideal, convenient for homiletics, and the ideal physician as an exemplar, appear in the literature, we know next to nothing about the effect of such ideals on actual medical practice. The

\begin{flushright}
\textsuperscript{93} At n. 20.
\end{flushright}

\begin{flushright}
\textsuperscript{94} E.g., Alexander, martyred at Lyons under Marcus Aurelius (W. H. C. Frend, \textit{Martyrdom and Persecution in the Early Church: A Study of a Conflict from the Maccabees to Donatus} [Oxford: Blackwell, 1965], 9) and Zenobius, a priest who was also a physician, martyred in Sidon under Diocletian (Eusebius, \textit{Ecclesiastical History}, 8, 13).
\end{flushright}

\begin{flushright}
\textsuperscript{95} Voluminous discussion has been devoted to the interpretive problems central to an understanding of the social milieu of the Roman Empire of the fourth through sixth centuries. As a preliminary, one should see E. R. Dodds, \textit{Pagan and Christian in an Age of Anxiety: Some Aspects of Religious Experience from Marcus Aurelius to Constantine} (Cambridge:
\end{flushright}
Christian who also happened to be a physician may well have felt bound to apply fervently to his practice the philanthropic and moral precepts of his religion. On the other hand, the physician who also happened to be a Christian may have found his principles of conduct and responsibility much less tempered by his religion. Both, however, would have shared a tradition of classical medical etiquette that was in many ways consonant with Christianity, as is easily demonstrated by a comparison of the ideal physician of classical thought with that of Christian thought. Although it is certain that many of the stipulations in the so-called Hippocratic Oath were discordant with the realities of classical medical practice, yet, under the Empire, owing to a growing philanthropic emphasis and an increasing reaction against such practices as abortion and euthanasia, this oath and probably a wide variety modelled on it, increased in popularity in some quarters and was easily adapted to Christian ideals. Several manuscripts are extant of the "Oath of Hippocrates insofar as a Christian may swear it." There is doubt as to how early

---

96. See above, Chapter I.

the Christian Oath was composed. W. H. S. Jones writes that "all the evidence, without being conclusive, points to a date anterior to Galen."\(^{98}\) Even if Jones' dating is too early, there is no reason to doubt that the Christian Oath was in existence at least by the end of the second century A.D. A comparison of the Christian Oath with the pagan Oath reveals these differences: The Christian Oath omits the enigmatic prohibition of cutting for stone, makes more specific and definite the anti-abortion statement, and, or course, eliminates the references to pagan deities. The clauses promising preferential treatment to his instructor and his instructor's family, his own sons and other physicians "who have sworn allegiance to the physicians' law" are dropped.\(^{99}\) On this last point Jones remarks:

> The sentences which encourage an inner circle of practitioners show an aristocratic exclusiveness, which is in sharp contrast with the universal brotherhood of Christianity. The relief of pain and suffering, thought the writer, should be tied by no fetters and hindered by no trade-union rules. Christian benevolence should be universal.\(^{100}\)

It is further interesting to note that where the pagan Oath reads, "Into whatsoever houses I enter, I shall do so to help the sick, keeping myself free from all intentional wrong-doing and harm," the Christian Oath has, "Into whatsoever houses I enter, I will do so to help the sick,

---


99. Also the reference to instruction ἀνευ μισθοῦ (without fee) is changed to ἀνευ φθόνου (without jealousy).

keeping myself free from all wrong-doing, both intentional and unintentional, tending to death or to injury." How much can be made of including a promise to keep oneself free from unintentional in addition to intentional wrong-doing? It could be argued that the fact that the Christian Oath was composed later than the pagan Oath simply reflects in this passage a pragmatic awareness of a continually developing concept of tortious liability in Roman law, considerably more sophisticated and thus more worrisome to the negligent physician than that of Greek law. But it is perhaps more likely that an articulation of concern to avoid even unintentional harm is less consonant with pagan medical ethics than with the underlying deontological basis of Christian philanthropy and charity manifesting itself in a sense of obligation to extend compassion and care to the destitute and the ill.

There is a well-known and frequently-cited document penned by Cassiodorus in the service of the Ostrogothic king Theodoric in the early sixth century. This document reinstates the office of the comes archiatrorum, who appears to have been both the president of the collegium of archiatri.

101. One manuscript of the pagan Oath, peculiar on many accounts, includes the same phrasing here as is found in the Christian Oath. See ibid., p. 23, n. 4.


103. Cassiodorus, Variae, 6, 19.

104. The term archiater and its Greek equivalent
(probably civic physicians in Rome) and personal physician to the king and the royal household. The text begins with an encomium on the usefulness of the art of medicine. Cassiodorus here places medicine among the most useful arts to which "none seems superior, even equal" in terms of its benefits to mankind. "It endeavors to sustain us when no wealth and no dignity can help. Those skilled in law are held to be excellent when they defend individuals' affairs. But how much more glorious is it to drive out that which causes death and to restore health to one endangered, who has despaired of recovery?" He lauds the nearly uncanny prognostic skill of the experienced physician which, to the ignorant man, seems nearly supernatural. He emphasizes that the art of medicine is worthy of respect and is "consecrated not because it has proved useful in times of peril, but because it is a learned discipline. Otherwise we are simply exposed to dangers if we are subjected to physicians' fickle whims." He then briefly touches on the humoral theory, diet and drugs, essential theoretical knowledge for the physician. "Therefore, for the safety of all and after their training, let physicians have a master, let them spend time

mean basically "chief" - arch "physician" - iater. References to archiatri are frequently encountered, especially from the third century A.D. on. There has been much debate over the office and functions of archiatri. The most recent treatment is by Vivian Nutton, "Archiatri and the Medical Profession," who concludes that although there were shifts in the meaning and use of the term, it generally comprised both royal and civic physicians. Of the definition, functions and responsibilities of the latter we know very little.
with books, let them delight in ancient writings. No one more justly reads copiously than he who deals with human health." The "master" whom physicians should have, at least those within the collegium of archiatri, is the comes archiatrorum to whom this text is addressed. The comes is directed to be an "arbiter of this distinguished art," to "judge physicians' disputes which the outcome alone was accustomed to judge." Cassiodorus commands physicians in general to "lay aside contentions that are harmful to the ill" and he urges them to yield to each other and share their techniques mutually. Then they can question each other without envy for "every man seeks advice." This problem of bedside bickering seems to have weighed heavily on Cassiodorus' mind for later he reminds physicians that "at the very beginning of your career in this art you are consecrated by oaths like those of priests; you promise to your instructors to hate iniquity and to love purity." It is on that account that physicians are not free of their own volition to be derelict. They must put the health of their patients before the minutiae of medical science. "So more diligently search out what things cure the sick and strengthen the feeble." Cassiodorus then states that although the physician's fault is not legally culpable,

105. The physicians, as Romans, not Ostrogoths, would have still been subject to Roman law which had a poorly defined concept of tort that could be applied to the negligent or incompetent physician only if the injured party was a slave. In the case of the death of a patient who
yet, as far as he was concerned, "to sin against the health of a person constitutes the crime of homicide."

This document is interesting for a variety of reasons. It demonstrates an acute awareness of the responsibility of the physician to his techne. But it is not by any means a distinctly Christian document and much of it could just as easily have been composed centuries earlier and addressed to any group of physicians who did bind themselves by oath to abide by those principles that they considered as foundational to the practice of their art. Cassiodorus' reminder that physicians swear to hate iniquity and love purity is consonant with the tone of both the so-called Hippocratic Oath and the Christian version such as that mentioned above. It is important to bear in mind that there was still no system of medical licensure and that this document was addressed to the head of some kind of public health service about which we know very little and one which very likely encompassed only a minority of the practising physicians. The practice of medicine was still free enterprise, a right and not a privilege. Without a medical organization, society, or guild that would include all recognized practitioners, enforceable standards of conduct and a defined and generally accepted deontological basis for medical practice shall not have been generated from within the profession. Without a state-controlled and state-

was not a slave, no means of redress were available unless intent could be proved. See Amundsen, "Liability of the Physician in Roman Law," passim.
enforced system of medical licensure, a cogent and well-defined code of ethics shall not have been imposed upon the profession as a whole from the outside. Neither internal nor external regulation developed for several more centuries.

The biographer of Hypatios, a monk and physician living in the late fifth and early sixth centuries, mentions his treating patients afflicted with various sores. These individuals had come to him because, being poor, they had been refused treatment by other physicians. This introduces an important point. The extent of a physician's conformity to the Christian ideal may well have been, on the whole, in converse ratio to his Christian conviction and commitment. We cannot expect the average physician of the period after the Christianization of the Empire to act significantly differently from his pagan counterpart of a few generations earlier, except that the religious pressures against abortion and active euthanasia may have deterred many nominally Christian physicians from such practices. But the physician who was also a fervent Christian in late antiquity might well have found his primary commitment to be to Christ and his secondary commitment to be to the medical art and practice of the latter to

106. Constantelos, *Byzantine Philanthropy*, pp. 95 f. Ambrose, a century and a half earlier, had commented that physicians left the care of lower-class patients to their slaves or servants (*medicorum pueri* and *ministri*). He writes: "Let the rich man call the master, the poor man the servant" (*Enarratio in Psalmum*, 36, 3).
be a vehicle for presenting the former. Gennadius, mentioned above, as a secular physician seems to have been of that kind. But more and more will such men be of the nature of Zenobius and Hypatios, both already mentioned, the former a priest and the latter a monk, physicians whose spiritual and medical interests blended into a common concern for the spiritually and physically ill. Around 375 Basil wrote a letter to the secular (but Christian) physician Eustathius extolling him for his combination of the medical and spiritual. The author writes, "And your profession is the supply vein of health. But, in your case, especially, the science is ambidextrous, and you set for yourself higher standards of humanity, not limiting the benefit of your profession to bodily ills, but also contriving the correction of spiritual ills."^107

The extent to which secular physicians set for themselves these "higher standards of humanity" simply cannot be determined. But there is fairly ample evidence for a growing number of Christian physicians who were also priests or monks in late antiquity and by the early Middle

---


^108. Aside from the early Christian Oath, which was probably written by a physician, there is little direct evidence from medical sources for the ethics of the early Christian physician. My attempts to cull from the late Roman and early Byzantine medical compilers, e.g., Alexander Trallianus and Paulus Aegineta, matters of etiquette or ethics, other than repetitions of classical principles, have proved fruitless.
Ages our sources, which by then are almost entirely clerical, reveal a strong emphasis on the practice of medical charity by the clergy, especially by monks. A clear distinction must be made here between monastic medical care for monks and for the laity. Sometimes a chapter from the Rule of Saint Benedict is cited as evidence for an obligation to care for the sick laity. The passage reads in part:

Before all things and above all things care must be taken of the sick, so that they may be served in very deed as Christ himself; for he said: "I was sick and you visited me;" and "what you did to one of these least ones, you did unto me." But let the sick on their part consider that they are being served for the honor of God, and not provoke by their unreasonable demands the brethren who are serving them. Yet they should be patiently borne with, because from such as these is gained a more abundant reward. Therefore let the abbot take the greatest care that they suffer no neglect. Let there be assigned for these sick brethren a special room and an attendant who is God-fearing, diligent, and careful. . . . Let the abbot take the greatest care that the sick be not neglected by the cellarers and attendants; for he must answer for all the misdeeds of his disciples.109

The concern here is clearly with the care of sick monks and nothing is said or even implied about any obligation to the general populace. However the cellarer, who is in great part responsible in the above passage for the care of his sick brothers, is admonished elsewhere in the Rule to "take the greatest care of the sick, of children, of guests, and of the poor, knowing without doubt that he will have to render an account for all these on the Day of Judgement."110

109. Benedict of Nursia, Rule, Ch. 36.
110. Ibid., Ch. 31.
The "children, guests, and poor" in this context certainly would not apply to monks, nor should "the sick" here be limited to them. Still this is far from a concise articulation of a monastic obligation to succor the ill of the lay community at large.

Cassiodorus, after retiring from the court of the Ostrogothic kings of Italy for the pursuit of a religious life, founded a monastery, naming it Vivarium. In his *Introduction to Divine and Human Readings*, Cassiodorus writes to those of his monks who were also physicians:

I salute you, distinguished brothers, who with sedulous care look after the health of the human body and perform the functions of blessed piety for those who flee to the shrines of holy men -- you who are sad at the sufferings of others, sorrowful for those who are in danger, grieved at the pain of those who are received, and always distressed with personal sorrow at the misfortunes of others, so that, as experience of your art teaches, you help the sick with genuine zeal; you will receive your reward from him by whom eternal rewards may be paid for temporal acts. Learn, therefore, the properties of herbs and perform the compounding of drugs punctiliously; but do not place your hope in herbs and do not trust health to human counsels. For although the art of medicine is found to be established by the Lord, he who without doubt grants life to men makes them sound. For it is written: "And whatsoever you do in word or deed, do all in the name of the Lord Jesus, giving thanks to God and the Father by him."

He then goes on to point out to them various medical authors whose works he had "stored away in the recesses of our library." 111

It is worthwhile to compare this exhortation of Cassiodorus to his monk/physicians with that which he had directed

toward the comes archiatrorum and, by extension, to archiatri in the public medical service. In both he lauds the medical art. Aside from this there is little similarity between the two pieces. The secular physician is urged to place his confidence in his techne (since the medical art is a learned discipline) and not in experience and successes. On the other hand, the monk/physician is to place his hope in the Lord ("for he who . . . grants life to men makes them sound") and not in the medical art itself. Although Cassiodorus stresses that the secular physician is to be dedicated to his learned techne and mindful of the oath by which he was consecrated, swearing "to hate iniquity and to love purity," nevertheless, stress is placed on a negative aspect of medical practice: professional jealousies, envy, and an unwillingness to share techniques with colleagues, all manifesting themselves in bedside bickering. This document addressed to the comes archiatrorum is not particularly concerned with the calling, motivation, or qualities of the secular physician. Quite different indeed is that directed toward the monk/physician. He is to be a man of deep compassion, distressed with personal sorrow at the misfortunes of others, grieved by their pain, sad at their suffering, and sorrowful for those who are in danger. His medical service, motivated by compassion, will thus "perform the functions of blessed piety" and his reward will be received from the Lord. While the impression of the ethical base of Cassiodorus' secular phy-
sician is identical to classical descriptions, the peculiar qualities of the monk/physician constitute a picture of the physician as an ideal and the ideal physician of earlier Christian thought. But no longer is this an ideal posited for Christian physicians generally, but for the relatively new breed known as the monastic or clerical physicians.

There is abundant and irrefutable evidence that, in the early Middle Ages, both in the Latin West and in contemporary Byzantine society as well, monasteries became the refuge for the sick, the poor, and the persecuted, and our primary sources supply many examples of monastic medical care of the laity. Although the monastic clergy undoubtedly took the lead in the administration of medical assistance and in the establishment and maintenance of charitable institutions, such as xenodochia and hospices, nevertheless the secular clergy also were sometimes knowledgeable of medicine and extended medical care to the destitute as a good work. A commonly-cited example is Bishop Masona of Merida who, in the sixth century, founded a xenodochium, staffed it with physicians, and sent his clergy out to beat the bushes in an effort to round up

112. Constantelos, Byzantine Philanthropy, p. 95.

113. To avoid any semantic confusion, one should note that secular clergy were those who were in orders but not living under a rule, thus not monks. A member of the secular clergy who practised medicine would not be a secular physician (i.e., a physician who was not a member of the clergy) but rather a clerical physician who was a cleric but not a monk.
patients, making, as our source tells us, no distinction between Christians and Jews, slaves and free.\textsuperscript{114} Citing illustration after illustration now would add bulk but not substance to our awareness of the existence of monastic and clerical medicine and its underlying philanthropic basis.

While there is, in some genres of early medieval literature, particularly from the Merovingian era, a strong anti-medical, pro-miraculous sentiment,\textsuperscript{115} throughout the period there continued to be an active interest in and use of what we may call a sanctified secular medical practice by the monastic and secular clergy, motivated by charity and accomplished, ideally, for the glory of God. Although secular (i.e., non-clerical, non-monastic) physicians are known to have continued to exist throughout the early Middle Ages, we learn of them only by occasional and then oblique references, and these references are usually in clerical literature. Unless new and significantly different types of sources for the early Middle Ages should come to light, we simply can only conjecture as to the ethics of these secular physicians and can surmise that there would have been little uniformity either in ideals or practice. The differences between the occasional western physician trained in Constantinople, the Germanic wound specialist,

\begin{flushleft}
\textsuperscript{114} Paulus Diaconus, \textit{De vitiiis patrum Emeritensium}, \textsuperscript{4}. \\
\textsuperscript{115} \textit{E.g.}, in the writing of Gregory of Tours and Pope Gregory the Great. See Loren C. MacKinney, \textit{Early Medieval Medicine with Special Reference to France and Chartres (Baltimore: Johns Hopkins University Press, 1937)}, 23 ff; 56 f; 61 f.
\end{flushleft}
and the peripatetic lithotomist would be extreme and extensive, in training, tradition, and probably moral perspectives as well. The only thing that they definitely have in common is that we can now look back at them and, hopefully aware of our semantic sloppiness, label them physicians. Even if we uncover anecdotes about them that seem to reveal, in some instances, a high ethical standard or, in others, a low ethical standard individually, it tells us little or nothing about the ethics of that amorphous and nebulous category conveniently grouped together as the secular physicians of the early Middle Ages. Not only did they not leave any deontological literature, but they did not even produce any significant extant medical literature from which we could perhaps glean a few tidbits on etiquette, and maybe even a few gems on ethics proper. We must not lament the absence of such literature but turn to what we do have.

The medical literature that has survived from the early Middle Ages is extensive and diverse. The medical literature ranges from surveys of medical knowledge in the encyclopedic tradition to treatises dealing with specific areas of medical knowledge. Some extensive manuscripts are extant containing many different treatises of the latter category and among these are occasionally found treatises dealing with medical etiquette and ethics. About fifty years

116. E.g., Isidore of Seville, Rabanus Maurus.
ago, Ernst Hirschfeld published the Latin texts of several of these. Twenty-four years later Loren C. MacKinney published an article on early medieval medical ethics. In this paper he gives translations of treatises included and others not included in Hirschfeld's article. In all instances where he translates sources printed by Hirschfeld he translates from manuscripts both older and more reliable than those which Hirschfeld edited. Before considering the purpose for which these deontological treatises were written and the audience for which they were intended, it would be well to survey their scope and content.

The introduction to a manuscript handbook probably compiled in a German monastery in the late eighth century, exhorts physicians to serve the rich and the poor alike, looking for eternal rather than material rewards. The mutual obligation between patient and physician is mentioned: "Sick one, pay the physician what you owe lest when ills return no one will visit you. Physician, care for the poor as well as the powerful. If the patient is rich you have


119. Ibid., p. 6 and n. 7.
a just occasion for profit; if poor, let one reward suffice." This "one reward," of course, would be spiritual.\textsuperscript{120}

The treatise ends with the exhortation: "Aid the sick, your reward coming from Christ, for whoever gives a cup of cold water in His name is assured of the eternal kingdom where with Father and Holy Spirit He lives and reigns for eternity."

The bulk of MacKinney's material from the early Middle Ages comes from a detailed medical handbook, compiled probably before the ninth century in Central France. This handbook contains, among other things, epistolary treatises, the first seven concerned with medical training, ethics, and etiquette. MacKinney consulted a variety of manuscripts of this handbook,\textsuperscript{121} and used a ninth-century Paris manuscript as a sort of master copy. Since the Paris manuscript is itself a compilation of already existing medical treatises, many, if not all, of the treatises probably were composed prior to the ninth century.

Much is written in these deontological treatises concerning the ideal character of the physician. In one treatise it is said that the physician should be:


\textsuperscript{121} A chronological list of manuscripts containing the treatises under consideration is given on p. 8 of MacKinney's "Medical Ethics."
of a gracious and innately good character, apt and inclined to learn, sober and modest; a good conversationalist, charming, conscientious, intelligent, vigilant and affable, in all detailed affairs adept and skillful. Our art also requires that one be amiable, humble, and benevolent. . . . not be hesitant or timid, turbulent or proud, scornful or lascivious, or garrulous, a publican, or a woman-lover; but rather full of counsel, learned, and chaste. He should not be drunken or lewd, fraudulent, vulgar, criminal or disgraceful; it is not right for a physician to be taken in a fault or to blush for shame in the presence of his people. . . . Inasmuch as the physician has high honors he should not have faults, but instead discretion, taciturnity, patience, tranquility, and refinement; not greed but more of restraint and subtilty, rationality, diligence, and dignity. One of the virtues of this art is zeal in the acquisition of wisdom, long sufferance, and mildness. . . .

In the same collection a treatise entitled "Concerning those who are starting in the art of medicine," begins: "In character and spirit let him be zealous and talented, indeed keen so that he may understand readily and be teachable; also strong so that he may be able to endure the recurring labor and the terrible sights that he encounters." It closes with the statement that "he who takes up the art . . . should be well endowed and wise, indeed adorned with all good characteristics." 122

Another treatise in this collection contains the admonition for the physician to be "very chaste, sober, not a winebibber." 124 And yet another says "you ought always to read, and to shun indolence . . . cherish modesty, follow chastity." 125 It was felt that good character should

122. Ibid., pp. 11 f.
124. Ibid., p. 18.
125. Ibid., p. 23.
manifest itself in good manners: The physician "should be
gentle in manners and modest, with the proper amount of
reliability. He should be neither lacking in knowledge,
nor proud. . . . He should be unassuming in manners so
that both perfection in the art and good manners may be
harmonized insofar as is possible." 126 The same theme is
taken up in another treatise in the same collection: The
physician should be
careful about his manners. According to Erasistratus,
the greatest felicity is to keep things in balance so
that one is both accomplished in the art and also en­
dowed with the best of manners. If either one is lack­
ing, better to be a good man without learning than a
skillful practitioner with depraved manners. If in­
deed the lack of good manners in the art seems to be
compensated by reputation, great is the blame, for
professional knowledge can be corrupted by blameful
manners. But if both of these are faulty, I adjure
you . . . to withdraw from the art. 127

Under the rubric of manners or etiquette, much is said
in this collection. There is concern over appearance: "The
physician should have slender, fine fingers so as to be ag­
reeable to all and to be subtle in his touch. Hippocrates
himself said this. . . ." 128 Although the physician, or
potential physician, has little control over the length of
his fingers, he can regulate his dress and demeanor. On this
matter one of these deontological treatises is quite specific:
The physician:

126. Ibid., p. 12.
128. Ibid., p. 12.
ought not to be fastidious in everything, for this is what the profession demands. He ought to have an appearance and approach that is distinguished. In his dress there should not be an abundance of purple, nor should he be too fastidious with frequent cuttings of the hair. Everything ought to be in moderation, for these things are advantageous, so it is said. Be solicitous in your approach to the patient, not with head thrown back or hesitantly with lowered glance, but with head inclined slightly as the art demands.

Bedside manner and duty to the patient are variously presented in these treatises. One recommends that the physician "visit with care" the patients whom he "accepts for treatment, and safeguard them." Another is more specific: "For those who are ill, you ought to get up early so as to inquire about the preceding night. . . . At midday plan another visit. . . . For a third time, visit at about nightfall, staying for about an hour. . . ." According to another treatise, when going to see the patient, "enter the homes you visit in such a manner as to have eyes only for the healing of the sick. Be mindful of the Hippocratic Oath and abstain from all guilt and especially from immorality and acts of seduction. Keep secret everything that goes on or is spoken in the homes." Yet another treatise contains a paragraph introduced by the statement that what follows "constituted the sacred medical oath according to the precepts of Hippocrates." This is followed by advice to abstain from sexual relations with

129. Ibid., p. 18.
130. Ibid., p. 23.
131. Ibid., p. 22.
132. Ibid., p. 12.
maid-servants, children, married women, virgins, or widows, and to maintain confidentiality. It also contains the only mention in these treatises of abortion and, perhaps, euthanasia: "Enter a home without injuring or corrupting it. Beware lest your medicines bring death to anyone. Do not allow women to persuade you to give abortives, and do not be a part to any such counsel, but keep yourself immaculate and sacred." 133

These concerns, which are consonant with those expressed in the Hippocratic Oath, are also articulated in some of the other treatises in this collection. One treatise reads in part: "I warn you, physician, even as I was warned by my master . . . guard the secrets of the homes [you visit]. If you know anything derogatory concerning a patient, keep quiet about it." 134 Another treatise contains the admonition that the physician "ought not to be a deceiver. Like a friend he should maintain silence. . . . The physician ought also to be confidential." 135

The physician should take his calling seriously and uphold his oath. One of these deontological treatises entitled "On giving the sacred Oath and what sort of books one should read" includes the admonition that "he who wishes to begin the art of medicine and the science of nature ought to take the oath and not shrink in any way whatsoever from the consequences." 136 His duty to his art and to his fellow

---

133. Ibid., p. 19.
134. Ibid., p. 23.
135. Ibid., p. 18.
136. Ibid., p. 15.
practitioners is urged upon him. In one treatise the physician is advised not "to spread abroad his private cures or the secrets of the art, excepting only data on cases already cured."\textsuperscript{137} And in another of these treatises appears this admonition: "Do not detract from other [physicians]; if you praise the character and cures of others you yourself will have a better reputation. You will win more thanks if you do all these things, and no physician will be greater than you [in reputation]."\textsuperscript{138}

The concern with preserving one's reputation is reasonably strong. Indeed one treatise, after giving advice on character, basic etiquette, and demeanor, reads, "thus the physician himself, and the art, will acquire greater praise."\textsuperscript{139} There is little that I have extracted to this point from this collection of deontological treatises that is not completely consistent with the etiquette of Greco-Romans (and the peculiarities of the so-called Hippocratic Oath) as summarized in Chapter I. But there are also elements that, if not distinctly Christian, are much more compatible with the Christian emphasis on compassion and charity than with pagan medical ethics generally. One treatise states that the physician "should make the cases of others his own sorrow."\textsuperscript{140} Motivated by a sorrowful com-

\textsuperscript{137} Ibid., p. 18.
\textsuperscript{138} Ibid., pp. 23 f.
\textsuperscript{139} Ibid., p. 12.
\textsuperscript{140} Ibid., p. 14.
passion, a cheerful physician turns sorrow and sadness into joy, and comforts all the members of his patient, and restores his spirits. According to the secret teachings which should be pursued in medical instruction, let the physician be cheerful because he is the gentle helper. . . . The physician is said to be the preceptor of healing, the liberator, the opportune worker who renders aid in time of need.141

And the Christian physician must exercise charity:

. . . he should take care of rich and poor, slave and free, equally for among all such people medicines are needed. Moreover, if certain compensation is offered, do not demand it because, however much each one pays, the compensation for medical services cannot be equated with the benefits.142

MacKinney correctly sees in these early medieval deontological treatises a fusion of classical thought with Christian principles. He writes, "To be sure, the monastic spirit dominated the compiling of the medical handbooks of the period, but . . . the result was classical as well as pious, and secular as well as ascetic."143 But MacKinney does not address the question of the purpose for which these treatises were originally written, the types of people who may have composed them, and the audience for which they were intended.

On paleographical grounds the earliest manuscripts of the treatises under consideration can be dated, in the first instance, to the eighth century, and the rest to the ninth. But these dates provide only a terminus ante quem

141. Ibid., p. 12.
142. Ibid.
143. Ibid., p. 5.
and do not necessarily reflect a composition date. Whether the originals were written in monasteries or outside, there are at least three different possible purposes behind their composition: 1) As purely literary efforts. 2) To be used in general or advanced clerical education. 3) To be used in the training of physicians.

1) Literature dealing with medical ethics and etiquette appears to have been, in classical antiquity, a distinct sub-genre of medical literature. And it was a sub-genre with a strong traditional component. It is well known that the monasteries of the early Middle Ages were responsible for the preservation and transcription of much classical and early Christian literature. The monasteries were not without original literary output as well, and indeed these treatises under consideration may have been composed in a monastic setting as conscious efforts to Christianize this particular genre. Only two of these treatises are attributed to specific authors. One is an "Epistle of Arsenius to Nepotian, his sweetest son." While there is no clue as to why the name Arsenius was chosen, Nepotian is the name of the priest to whom Jerome had addressed a similar epistle, the latter on pastoral duties, in which reference is made to the ethics and etiquette of physicians as expressed in the Hippocratic Oath. Given the late

144. Ibid., pp. 11 f.

145. See above, at n. 90.
classical and medieval practice of writing hortatory treatises in the form of letters, often attributed to a famous or in some way appropriate person of the past as written to some similar person, it is very possible that this particular treatise is simply such an exercise. Another treatise in the same collection is variously given the title "Epistle of Hippocrates" or "Epistle of Galen" in various manuscripts. Even if some or all the treatises in question were written simply as literary exercises, they may still have been used for an educational purpose for which they had not been envisaged.

2) General education in the early Middle Ages consisted of the trivium and the quadrivium, that is, the seven liberal arts. Although medicine was not one of these, it was variously included as a sub-division of the liberal arts in the different classificatory systems of the Middle Ages. A general acquaintance with, at least, the theoretical aspects of medicine was expected of every man who could be considered as educated. Thus surveys of medicine were included in encyclopedias ranging from Varro's


147. For a short discussion of the place of medicine (and later, surgery) in the schematic literature of the Middle Ages, see Darrel W. Amundsen, "Medicine and Surgery as Art or Craft: The Role of Schematic Literature in the Separation of Medicine and Surgery in the Late Middle Ages," Transactions and Studies of the College of Physicians of Philadelphia, 1979, n.s. 1: 43 ff.
Disciplinae (first century B.C.) to Isidore of Seville's Etymologiae sive Origines (sixth/seventh century) and Rabanus Maurus' slightly later De rerum natura. Generally these dealt with such subjects as, for example, in Isidore's work, the definition of medicina and medicus, the founders of medicine, the different medical sects, the four humors, acute disease, chronic disease, medical books, physicians' instruments, and so forth, all treated in a perfunctory fashion. Students who wished to pursue at least a theoretical study of medicine further could do so by reading under a specialist. The specialist himself would usually have been simply one who had advanced further in medical theory. There are many examples of clerics who had a strong theoretical background in medicine, acquired partly during formal education and supplemented by subsequent private reading. An example is Gerbert, later Pope Sylvester II, who lived in the tenth century. His correspondence includes occasional medical references. One letter illustrates an attitude toward medicine that probably was quite common among educated clerics: "Do not ask me to discuss what is the province of physicians, especially because I have always avoided the practice of medicine, even though I have striven for a knowledge of it." 148 Even those who had devoted much of their advanced

---

education to the study of medicine might never practise. Richer of Rheims, also living in the tenth century, devoted great attention to the study of medicine, first at Rheims and then at Chartres. His studies included pharmacology, pharmacy, botany, and surgery. There is no evidence that he ever practised medicine, and it is obvious that his major concern was with the theoretical rather than the practical. Regardless of the purpose for which our deontological treatises were written, it is likely that they may have been perused as an integral part of that body of medical literature with which the educated cleric, who had a special interest in medicine, would have had an acquaintance.

3) There were three basic categories of physicians during the early Middle Ages: monastic physicians, clerical physicians (secular clergy), and secular (lay) physicians. It is likely that nearly all in the first two categories would have had at least a general, theoretical training in the liberal arts and medicine, along with practical education under a practising physician. The last category would have to include the wide variety of illiterate empirics as well as the laymen who were educated in

monastic or cathedral schools, then pursued advanced theoretical study of medicine, and finally worked directly under an educated, practising physician. It is to these first two categories and the educated physicians of the third category that we should now direct our attention.

The theoretical education that these physicians received would probably have been the same as that of those who pursued a general and more advanced medical education with no intention of ever practising. The only difference would have been in the student's response to the purpose behind his study of medicine. The student seeking only a theoretical background in medicine may have found the deontological treatises as merely providing some interesting principles of the ancient art of medicine and the ideal character, etiquette, and moral responsibilities of its practitioners. For the student of medicine who intended to practise the art, even the most theoretical aspects of his training would likely have been viewed with an eye toward their ultimate practicality and utility.

It should also be noted that these treatises are directed toward those who were about to begin their medical studies. Charles Talbot, a respected historian of medieval medicine, writes concerning these deontological texts that they "not only evince a grave concern for the ethical standards of those who are to practise medicine, but also draw up in some detail the preliminary studies
which a candidate was assumed to have completed before embarking on the study of medicine."150

It still remains that we cannot determine with any certainty the purpose behind the composition of these treatises or the actual use to which they may have been put. Even if they were studied by those preparing for medical practice, the extent of their influence cannot be assessed. And further, it must be remembered that the physicians of the early Middle Ages were, in respect to their medical practice, free agents, bound to no regulating authority and thus not bound by any code of conduct or promulgated delineation of moral responsibilities. Such developments will be discussed in the next chapter.

If one development were to be identified as the single most significant element in the history of medical deontology, it might well be the change from the practice of medicine as a right to the practice of medicine as a privilege. This occurred in the late Middle Ages, brought about by movements both from outside and within the medical profession, namely the imposition of licensure requirements by secular or ecclesiastical authorities in an attempt to protect the public from charlatans, and the organization of medical and surgical guilds (to include universities) by practitioners in an effort to secure and protect a monopoly in providing medical and surgical service. In this chapter I shall first discuss the occasional attempts in secular law of regulating medical practice prior to the advent of licensure and guilds. Next to be treated will be the developing concern of the state to protect the people and of medical practitioners to establish a monopoly in health care delivery. The result of these developments was a fundamental change in the basis for practising medicine, a change from a right to practise to a privilege to practise. We shall see a resulting reciprocity of obligations where, in exchange for the privilege of practising
and exercising a monopoly, the profession assumed certain obligations both to the state and to the people, that is, a responsibility to the community.

In the early Middle Ages there is little evidence of attempts made in secular law to regulate medical practice. Of the sundry codes of early medieval law, known collectively as the *Leges Barbarorum*, there are several that mention physicians. The *Pactus Legis Alamannorum*, promulgated around 613, contains a provision that, in the event that one strikes another's head and a dispute arises over the severity of the wound, "let the physician take a solemn oath with his iron tools."¹ In the *Leges Alamannorum*, written between 717 and 719, and in the *Lex Baiwariorum*, dating from 744-748, a somewhat similar forensic role is assigned to physicians in cases of head wounds.² Of the Lombard Laws, Rothair's *Edict*, promulgated in 643, contains several laws specifying that in the case of injury to another's slave, the offending party must pay a fine for damage, compensation for work lost, and the physician's fee.³ It is


specified that he who struck the blow should seek the physician.  

Pierre Riché, in his masterful study of education and culture in the early Middle Ages, writes: "From the time they came into the Empire, the Barbarians showed great interest in medicine and protected those who devoted themselves to it." The absence of measures in most early medieval codes restricting medical practice would seem to lend support to his assertion. One notable exception is Visigothic law which has one section containing several laws devoted to regulating medical practice. These laws have been severely criticized in surveys of medical history, for example by Fielding H. Garrison and Max Neuburger: "Under the Visigoths in Spain, the activities of the medical profession were crushed by a Draconic code of laws."  

in breakage, breaking arms, breaking hip bone or shin bone, blows to chest with a sharp or blunt instrument, puncturing of arm or leg, cutting off nose, ears, lips, big toe, thumb, or fifth finger.  

4. Rothair's Edict, 128.  


In Spain . . . the schools of the Imperial era degenerated . . . and with them also the medical status, the profession declining to the level of a trade. The small esteem in which it was held is shown by the legal enactments of the Visigoths. . . . Limitations of medical activity, such as are found amongst the Visigoths, are not known in the legal systems of other nations. . . . Such draconic enactments naturally hindered medical action, for none but itinerant quacks could escape the criminal dangers threatening treatment.

I have previously argued that Garrison and Neuburger and many other medical historians have greatly exaggerated the severity of Visigothic medical legislation; that, in Visigothic law, the laws governing physicians did provide certain safeguards both to the physician and the patient; were not, considering the absence of medical licensure regulations, unduly harsh; did not excessively hinder medical action; did not limit the medical profession to none but itinerant quacks; nor necessarily indicate that the medical profession was held in small esteem or that medical practice and medical ethics were at a low level.

The laws in question appear as Title I of Book XI of the Lex Visigothorum under the rubric De medicis et egrotis ("Concerning physicians and sick persons"). The Lex Visigothorum was promulgated in 654 by Recessswinth. Over half of its laws are labeled Antiquae, ancient laws, that is, from codes promulgated by Euric (475) or Leovigild


(between 572 and 586). There are eight laws in the section dealing with physicians.

One law demonstrates that there was continuation of the Greco-Roman medici-discipuli educational system in Visigothic Spain: **Lex VII. Antiqua**: "Concerning an apprentice's fee. If any physician should take an attendant into his instruction, let him receive twelve solidi for his services." As in classical times, the level of medical education for physicians would depend in great part on the proficiency and philosophy of the individual instructor. In the education of Visigothic physicians we cannot ascertain the curricular ratio of precepts and oral instruction to that of observation and experience. Since the practice of medicine probably was for most Visigothic medici a craft, likely for the majority, as was the case in Greece and Rome, the practical aspects of apprenticeship played the dominant if not the exclusive role.

**Lex V. Antiqua**: "If a physician should remove cataracts from the eyes. If any physician should remove a cataract from an eye and restore the patient to his former condition of health, let him receive five solidi for his services." Since the stipulation in this law concerns the fee for successful operation and since there is no mention of penalty for the physician if damage to the patient results, in light of the concern which we shall see in Visigothic law for the welfare of the patient, it is probably
reasonable to conclude that in this particular area of practice there were at least some physicians whose competence was relatively high. This is the only law that specifies a fixed fee for a particular medical procedure. The physician's receiving his fee was made contingent upon the success of his treatment apparently only in the case of cataract removal.

Lex III. Antiqua: If a physician should be sought under contract on account of illness. If anyone should request that a physician treat him for a disease or cure his wound under contract, when the physician has seen the wound or diagnosed the illness, immediately he may undertake the treatment of the sick person under conditions agreed upon and set forth in writing.

This law provides for the possibility of the physician/patient relationship being contractual. It does not make a written contract mandatory, nor does it in any way specify content or form of contract, should one be drawn up, but leaves these up to the discretion of the individuals involved. This law is not inherently prejudicial either to physician or patient. If a physician should guarantee the results of an operation or treatment or sign any contract that he could not fulfill, if it were specified that the payment of his fee was contingent upon success, this would be the result of his own poor judgment, not the product of unfair legislation.

Lex IV. Antiqua: If a sick person who has been treated under contract should die. If any physician should undertake the care of a sick person under contract reduced to written obligation, let him restore the patient to health. Assuredly, if the patient
should die, the physician shall definitely not require the fee specified in the contract; thereafter no malicious suit shall be brought against either party.

A physician, of course, is judged to a degree by the recovery or death of his patient, although the apparent results of treatment may be due to many causes other than the ability or incompetence of the physician. Obviously, a physician cannot be liable to criminal investigation for every instance in which a patient does not recover. Visigothic law alleviated the threat of malpractice suits to a great extent in the case of a patient's death by the promulgation of this law under which a physician could not be charged with homicide after unfortunate termination of a case following his treatment. Of course, forfeiting a fee after one has conscientiously tried every possible means to help a patient is unfortunate, but immunity from criminal action brought by vindictive relatives of the deceased is some compensation.

The only law in the Lex Visigothorum which deals specifically with the punishment for what we could call malpractice pertains to phlebotomy. In Recceswinth's code (654): Lex VI. Antiqua: "If a free man or a slave should die due to phlebotomy. If any physician, while he bleeds a patient, should debilitate a free man, let him be compelled to pay 150 solidi; if, however, the patient is a slave, let him replace the slave with one of equal value."

One often associates with medieval medicine the "barber
surgeon" whose "surgical" panacea was phlebotomy. Discussing the popularity of this type of treatment in early medieval times, Loren C. MacKinney writes:

Most prominent was the process of cupping or blood-letting. It was employed constantly for all sorts of ailments, especially fevers. Sometimes the results were admittedly precarious; early medieval literature contains references to the dangerous swellings that followed the operation. Many a person in medieval times must have been bled to death.\textsuperscript{10}

The Visigoths, not borrowing this law from earlier known codes, indeed must have been cognizant of the possibly harmful results of this manner of treatment to have enacted legislation of this nature. Such a law, if enforced, ought to have discouraged the indiscriminate practice of phlebotomy; yet a need to enlarge its scope was apparently felt, as shown by the revision promulgated by Erwig (680-687):

\textit{Lex VI. Antiqua}: If a free man or a slave should die due to phlebotomy. If any physician, while he bleeds a patient, should debilitate a free man, let him be compelled to pay 150 solidi. If, however, the patient should die, the physician must immediately be handed over to the relatives of the patient so that they would have the power to do with him whatever they wish. If, however, he should debilitate or kill a slave, let him replace the slave with one of equal value.

The provision for a physician being turned over for vengeance to the relatives of the patient whom he had bled to death may seem to be extremely harsh. The degree of the harshness of a law can be evaluated in different terms.

It can be compared to present standards of justice, in which case this law would seem most severe; it can also be analyzed in respect to its degree of severity in comparison with the concepts of justice and punishment inherent in the code in which the law is found. In the **Lex Visigothorum** punishments were relatively mild for the times and the extent of employment of the **lex talionis**, i.e., retribution in kind, was limited. There were certain crimes for which the principle of "an eye for an eye and a tooth for a tooth" was imposed and in some cases more severe punishment exacted so as to act as a deterrent: "The savage temerity of some persons must be legally punished by more severe penalties, so that, when anyone fears to suffer for what he has done, at least unwillingly he would abstain from the commission of crime."\(^{11}\)

The injured party could opt in certain cases for pecuniary compensation from his oppressor (wergeld), in lieu of retribution in kind, with the amount at his discretion. In many instances, though, a fine was stipulated to be paid to the injured party, for example 50 solidi for the loss of a thumb, 100 solidi for the loss of a nose. The severity of the punishment of the physician who bleeds a free man to death is probably indicative of the extent of debilitations and deaths resulting from the indiscriminate

\(^{11}\) **Lex Visigothorum** XI, 4, 3.
practice of phlebotomy. After the enactment of Erwig's revision, it is very probable that the practice of phlebotomy decreased to the mutual benefit of patients' health and physicians' reputations.

Another law dealing with phlebotomy is *Lex I. Antiqua*:

A physician shall not presume to bleed a woman in the absence of her relatives. No physician shall presume to perform a phlebotomy on a free woman without the presence of her father, mother, brother, son, or uncle or any other relative, unless the exigency of the illness demands it. Now, when the above named persons are not present, then, in the presence of respectable neighbors or in the presence of suitable male and female slaves, let him apply what he knows according to the nature of the illness. If he should presume otherwise, let him be compelled to pay ten solidi to her relatives or husband, because it is not very difficult, on such an occasion, for wantonness occasionally to occur.12

Some medical historians wax exceedingly indignant about this law, as if it were an insult to the integrity of the medical profession as a whole. Perhaps they do so justly; but let us consider the practical implications of this piece of legislation. It is reasonable to assume that the enactment of this law, unprecedented in other, earlier legal codes, was brought about by circumstances that made it at least seem to its enactor to be warranted. We cannot assume that the unlicensed *medici* of Visigothic Spain were one and all of extremely high moral fiber. Neither, on the basis of this law, can we relegate the Visigothic physicians as a whole to the unsavory category of wanton violators of debilitated women, nor can we interpret this as an indica-

---

12. Sections in italics were added by Erwig's revision.
tion that members of the medical profession were held in a position of deepest distrust by the Visigothic legislators. Even if there had not been one case in which a physician had actually abused a woman weakened by phlebotomy, it is not unlikely that there were some physicians accused of doing so. The debilitating and sometimes syncopetic effect of phlebotomy could make it in some ways, although certainly not in all respects, analogous to anesthetization. George R. Fowler stresses the importance of a physician not administering an anesthetic to a woman without a witness being present:

The necessity of always having witnesses at hand when anaesthetics are administered to female patients has been more than once insisted upon. Experience shows that young women often have voluptuous sensations while under the influence of an anaesthetic, during which time their clothing may become soiled with mucus. Upon awakening they will affirm, with the greatest positiveness, that they have been violated sexually during the anaesthesia. This may arise in part from the fact that women fear that the person administering the anaesthetic might take advantage of their helplessness. The impression may continue after awakening, the fear being changed into a belief of the impression as a reality. The importance of observations upon this point is apparent when the fact is borne in mind that more than a few persons thus accused have suffered punishment, although in the light of subsequent events it was deemed more than probable that they were innocent.13

Even though the law under consideration was probably intended more for the protection of the patient than the physician, it undoubtedly served to benefit both.

Another prohibitive law is **Lex II. Antiqua**:

A physician shall not presume to visit those confined in prison. No physician shall presume to enter where governors, tribunes, or deputies are held in custody, without the keeper of the prison, so that those through fear of their crime would not seek from him a means of death for themselves. For if anything deadly should be furnished or administered to these by the physicians themselves, the course of justice would be greatly obstructed. If any physician should presume to do this, let him receive judgment along with punishment.14

We cannot assume the ethical standards of all who would call themselves *medici* and undertake to practise medicine were compatible with those expressed in the so-called Hippocratic Oath15 or with Christian attitudes toward suicide and euthanasia.16 It is likely that at least the educated physicians practising in Visigothic Spain were Romans, i.e., Hispani, rather than Visigoths, and some indeed may have felt no qualms about following the strong Greco-Roman tradition amenable to euthanasia.17 For the state to guard against activity of this nature and to punish those guilty of such action does not seem to be either unduly repressive nor necessarily an adverse reflection on the ethical level of physicians of that time and place.

---

Fowler is here thinking specifically of the effect of ether. Such physiological effects would not necessarily occur in a woman rendered syncopic by phlebotomy, but nevertheless the psychological effects could be analogous.

14. Sections in italics were added by Erwig's revision.
15. As discussed in Chapter I, above.
16. As discussed in Chapter II, above.
17. See above, Chapter I.
The last law dealing with physicians is indeed favorable to members of the medical profession: Lex VIII. Anti-gua: "A physician shall not be imprisoned without a hearing. No one shall confine a physician in prison without a hearing, except in the case of homicide. Nevertheless, when charged with debt, he must provide a surety." This places the medici in an almost unique position in Visigothic law and raises the question of how legislators and judges determined who was and who was not a medicus. There is no evidence at all of any state-supported medical facilities; indeed, the evidence available is most conclusively indicative of their absence. Criteria used probably were somewhat arbitrary: those who had established practice in the community would likely qualify for this exemption whereas itinerants would not.\(^{18}\) It appears, then, that a physician charged with malpractice would be entitled to a formal hearing and would not be subject to retention pending trial in the event of an accusation having been filed against him. The clause excepting cases of homicide would not apply to cases of alleged malpractice resulting in the death of a patient since, as we have seen, in the event of a patient's death, the physician was contractually protected against suit by virtue of the forfeiture of his fee, except, as noted, in the case of death resulting from phlebotomy.

\(^{18}\) John M. Riddle cites this definition with approval in his article "Theory and Practice in Medieval Medicine," Viator, 1974, 5: 166, n. 36.
These laws are relevant to a discussion of medieval medical ethics for a variety of reasons. Their promulgators appear to have been motivated by a desire to protect the public from certain kinds of at least potential abuse by physicians and to protect physicians from vindictive patients or the latters' relatives. The law makers apparently considered it to be in the best interest of the state to regulate the fees that a physician could receive for training an apprentice and for successfully performing cataract surgery, and to extend to them certain legal privileges as well. While such legislation was designed to regulate medical activity for the benefit of patient and physician alike, to check abuses and encourage responsible practice, it falls far short of that most significant step in regulating medical practice for the common good, namely limiting the practice of medicine to those who meet a set standard of training and competence. Additionally these laws are anomalous. There is, to the best of my knowledge, nothing similar in Western medico-legal history. They also seem to represent a possible groping toward medical licensure. But owing to the fate of Visigothic civilization, these laws are only a cul-de-sac in the history of the external regulation of medical practice.

As far as I have been able to determine, it is not until the twelfth century that another attempt to regulate medical practice appears in Western law and that is in the
Latin (Crusader) Kingdom of Jerusalem.\textsuperscript{19}

After Jerusalem was conquered by the crusaders in 1099, Godfrey of Bouillon, as Baron and Defender of the Holy Sepulchre, created two courts: the high court (\textit{Haute Cour}) and the lower court (\textit{Cour des Bourgeois}).\textsuperscript{20} Cases between members of the nobility were judged in the high court and those between the free non-nobles in the lower court.\textsuperscript{21} Litigation between noble and non-noble was held in the lower court.\textsuperscript{22} Local tradition in the Latin Kingdom of Jerusalem held that Godfrey had also ordered a compilation of the existing usage of his day, the so-called \textit{Lettres du Sépulcre}. These were not a formal code of laws but consisted of provisions drawn up to meet the immediate contingencies of the newly created kingdom. They were re-

\begin{flushleft}


21. It should be noted that the high court did not stand in appellate relation to the lower court.

\end{flushleft}
vised, amended and added to as the occasion arose but the entire code was lost when Jerusalem fell to Saladin in 1187. Oral tradition based on familiarity with the Lettres du Sépulcre was that upon which the customary law was founded that governed the kingdom until the compilation of the two major divisions of law of the kingdom that are extant: the Assises de la Haute Cour and the Assises de la Cour des Bourgeois. In the latter are contained various regulations governing the medical profession.

There has been considerable debate as to the date of the writing of the Assizes of the lower court. They were, however, compiled during the first half of the thirteenth century. Much of the Assizes of the lower court

23. It has become fashionable to deny the very existence of the Lettres du Sépulcre; however, for a defence of their historicity, see J. L. LaMonte, "Three Questions concerning the Assises de Jerusalem," Byzantina-Metabyzantina, 1946, 1: 204 ff.

24. These are published in Beugnot, Les Assises, vols. 1 and 2 respectively.

25. There are in the Assises de la Haute Cour a few references pertaining to forensic medicine. For these see R. P. Brittain, "The History of Legal Medicine: The Assizes of Jerusalem," Medico-Legal Journal, 1966, 34: 72 ff. Brittain's concern here is strictly limited to forensic medicine in the Haute Cour.

seems to be case law, that is specific law based upon precedent. Whether any particular section was based on the transcript of an actual adjudication or on oral tradition is usually impossible to determine. Nor can we assume that this code gives a picture of conditions in the Latin Kingdom of Jerusalem for any specific point in time. These were not rigid laws but were subject to change. Accordingly, the extent to which any part represents customary law and procedure of the early Latin Kingdom of Jerusalem is highly debatable.

Chapters 236 and 238 of the Assises de la Cour des Bourgeois are devoted to medical regulations. Although the text does not divide the chapters into individual rubrics, chapter 236 contains eleven different laws and chapter 238, twelve. Eighteen of these twenty-three laws are concerned with the liability of the physician for what we would term negligent or ignorant malpractice. The making of a physician's liability dependent upon the unfavorable results of specific types of treatment was employed extensively by the Cour des Bourgeois. In chapter 236 there are three laws dealing with the improper treatment of wounds, one with the improper treatment of a boil, all resulting in the death of the patient. In each of these the patient was a slave. In all of these instances the physician is ordered to pay to the slave's owner as much as the slave was worth while in good health. In chapter

238 there are eight cases of improper treatment of ailments resulting in the death of a slave. These range from administering laxatives to a patient with dysentery to burning out the intestine in an attempt to cauterize hemorrhoids with a hot iron. In these also the physician must indemnify the owner for the death of his slave. There is in chapter 236 one case where a physician poorly set a slave's broken arm or leg causing him to be crippled. The court ordered the physician to buy the slave for the sum he was worth before his injury or, if he lacked the means, to pay to the slave's owner the amount of the slave's diminution of value.

Roman law indirectly provided the basis for a great part of the Assises de la Cour des Bourgeois. Jurists in the Latin Kingdom of Jerusalem could easily have found legal precedents in Roman law for making the physician, who by negligence or incompetence caused the injury or death of a slave, responsible for indemnification of the slave's owner. Not so, however, when the patient who

28. LaMonte, Feudal Monarchy, p. 101, n. 5. According to J. Prawer ("Etude preliminaire sur les sources et la composition du 'Livre des Assises de Bourgeois,' "Revue historique Droit Francais et Etranger, 1954, 31: 210 f.), the section in which the medical regulations appear was not influenced extensively by Roman legal principles nor is there any indication in that section of borrowing from earlier or contemporary codes.

29. The law that detailed procedures for claims resulting from damage to property was the Lex Aquilia, for which see F. H. Lawson, Negligence in the Civil Law (Oxford: Clarendon Press, 1950).
was injured or killed by the negligent or incompetent physician happened to be a free man or a free woman. There was no penalty in Roman law for the negligent injuring or killing of a free man. Intent was a necessary factor in homicide. Also, since there was in Roman law no applicable concept of tortious liability, at the most the negligent or incompetent physician would be liable only for expenses. The **Cour des Bourgeois**, in dealing with the killing or injuring of a free man or a free woman by a negligent or incompetent physician, made the matter of intent irrelevant. In chapter 236 there are three laws dealing with the treatment of wounds, one with the treatment of a boil, all resulting in the death of the slave-patient.

After these appears the following provision:

> And if this physician has thus, as is stated above, badly treated any free man or free woman and he dies from it, reason judges that this physician ought to be hanged and as much as he owns ought to be the lord's by right. But if the physician has received something from the dead man, this ought to be given to the relatives of the diseased from the possessions of the physician, for this is right and reason.

Also in chapter 236 it is ordered that, if a physician so badly sets a free person's broken arm or leg that he is crippled on that account, he ought to have his right hand cut off and be compelled to return any fee that he had received. In chapter 238, following those treatments listed that had proved fatal to patients who were slaves, appears this stipulation:

> Likewise, if any physician has thus treated any
free man or free woman, reason judges and commands that this physician ought to be hanged and that all that he owns be given to the lord. But before he is hanged, he ought to be whipped through the city with a urinal in his hand, for this is right and reason to frighten the others from this malpractice, for this is right and reason by the assizes.

The concern of the court here was not directed toward the compensation of the victim or his relatives seeking redress. Nor is this an instance of the application of the *lex talio-nis* as was the case in Visigothic law that provided for the physician who bled a free man to death be turned over to the deceased's relatives. The severity of the punishment of physicians in cases such as these in the Latin Kingdom of Jerusalem, indeed the very necessity of judgments of this nature, listing a wide variety of specific treatments considered blatantly improper for specific ailments, is surely an indication that a fairly sizeable segment of the medical profession was of a low calibre. This was not an attempt on the part of the promulgators of law to establish a fixed body of proper and improper medical procedures. The *Assises de la Cour des Bourgeois* are, after all, case law. As individual cases were judged, precedents would be established based on the peculiarities of the case at hand. It had to be "proved" that the accused physician had in fact followed improper procedures if he was to be found guilty of responsibility for a patient's death. In chapter 238 one law specifies that in the event of a patient's death owing to the physician's malpractice, "there must be due witness by law." If the physician denies
that he followed the procedure that was thought to have killed the patient, witnesses must "swear on the saints that they saw him prescribe such medicines and such syrups for the patient, and that because of this he died . . . and that they heard the patient say that because the physician had given him such things he felt within his body that he was dying." It is reasoned that such witnesses are necessary, for the physician "must not be accused simply on the word of people or of the patient alone without anything more." In chapter 236 there appears the provision that

if the physician can demonstrate in court, through a good witness, that the person whom he treated either had lain with women, drunk wine, or consumed any bad food that the physician had forbidden him, or did anything that he was not supposed to do . . . even if the physician had treated him otherwise than he should have, he is not liable, because it is better reason to understand that he died because he should not have done what was forbidden rather than by bad doctoring. . . .

While most of the laws in this collection specify improper procedures for which a physician is liable, little is said about the physician's active responsibilities or omissions for which he is liable. In chapter 236 one section reads: "But if the misfortune happens to the physician that, after he has taken a patient under his care, he be captured by the Saracens or is himself taken ill, or otherwise cannot care for the patient and the patient dies, reason judges that the physician not be held liable." This implies that the physician who through negligence failed to
attend his patient was legally culpable in the event of
the patient's death. There is, indeed, only one law that
specifically states an active responsibility incumbent upon
the medical practitioner. In the event that a physician
had not forbidden the patient certain activities or foods
and he died on account of such activities or foods, "reason
judges that the physician be held liable because he is re­
quired by law to command the patient, as soon as he has
seen him, as to what he is to eat and what he ought not to
eat, and if the physician does not do this and ill results,
this must be the responsibility of the physician."

The responsibility of the promulgators of law to pro­
tect the general public from quacks, charlatans and pseudo­
physicians reaches its highest realization in the estab­
lishment of an enforceable system of medical licensure.
And the Assises de la Cour des Bourgeois did create a sys­
tem of medical licensure of sorts. No foreign physician,
whether he came from Christian Europe or from pagan coun­
tries was allowed to practise medicine "by means of urine"

30. William of Tyre asserts that the nobility of the
Latin Kingdom, through the influence of their women, pre­
ferred the services of Jewish, Samaritan, Syrian, and Sac­
cen physicians to Latin physicians (Rerum in partibus trans­
marinis gestarum, 18, 34). The Synodicum Nicosiense in March
1252, under Hugh of Pagiano, Archbishop of Nicosia, whose
area of jurisdiction included the Latin Kingdom of Jerusalem,
contains the following prohibition: "Prohibemus etiam dis­
tricte, ne quis Christianus sanus aut infirmus medicum ad­
vocet infidelem, Judaeum videlicet aut Saracenum; sed nec
ab eo, vel de eius consilio medicinam aliquam recipiat, quia
hoc pia consideracione in sacris canonibus prohibitur. Nam
until he had been tested by other physicians, the best in the land, in the presence of the bishop. If found competent, he would be given letters from the bishop certifying that he could legally doctor by means of urine. The law goes on to say that if he is not found to be a good physician, the bishop and court must command that he leave the city or remain in the city without practising medicine. It does not state, however, that he would be allowed to continue practising medicine but without the right to use urine analysis (i.e., uroscopy) as a diagnostic and prognostic method. Further, it says that if any physician practises medicine in the city without leave of the court and the bishop, he must be seized and thrown out of the city.

ex hoc contingit nostram fidem haberi despectui: cum ipsi Judaei vel Saraceni, huiusmodi Christianorum uti ministerio dedignentur, et reputent propter hoc offendere suam legem" (in J. D. Mansi, Sacrorum conciliorum nova et amplissima collectio, vol. 26, col. 314). This prohibition is repeated in the Constitutio instruens Graecos, ibid., col. 328 f. It was apparently ignored: e.g., shortly after this, Hugh III, King of Jerusalem and Cyprus, is known to have had a Jewish court physician.

31. A. F. Woodings, "The Medical Resources and Practice of the Crusader States in Syria and Palestine 1096-1193," Medical History, 1971, 15: 269, errs in ascribing to the bishop, on the basis of this law, either the right or the ability to judge the competence of the candidate.


33. Ibid.
Once again there is no mention of practising medicine by means of urine. Accordingly, it seems that any physician who wished to engage in any type of medical practice would first have to submit to an examination of his ability to diagnose through urine analysis.34

What was the source of their policy of medical licensure? We shall be turning presently to a discussion of the medical licensure legislation of Sicily, first by Roger II in 1140 and then by Frederick II in 1231. If we knew the date of the initiation of the system of medical licensure in the Latin Kingdom of Jerusalem, it might prove helpful in determining whether or not any relationship existed between its institution and the developments in Sicily during the twelfth and thirteenth centuries. It is very possible that the medical licensure provisions of the Assizes of Jerusalem antedate the legislation of Roger II. It would then be the first known provision for medical licensure in the western world.35 Since the arrangement of the Assises

34. There is no evidence to indicate that there was any dichotomy between the practice of medicine and surgery. Initially there might seem to be evidence to support such a contention: The cases in chapter 236 deal primarily with what would be under the purview of the surgeon and those in chapter 238 for the most part involve medicine. In the punishment ordered for the guilty physician, the major difference between the two chapters is that in chapter 238 there is the additional stipulation that the physician, before being hanged, is to be whipped through the city carrying a urinal in his hand. The same word, however, is used to designate the medical practitioner in both instances.

35. Unfortunately, the evidence is scanty and incon-
de la Cour des Bourgeois is topical and not chronological, the fact that the provisions for licensure occupy the last part of the sections devoted to medical practice does not mean, eo ipso, that they were drawn up later than the rest of the same sections. But the provisions for licensure surely are not the product of case law and would not have been based on specific precedent as the other cases at which we have looked were. Yet the medical licensure provisions of the Latin Kingdom of Jerusalem were, in some ways, a reasonable consequence of case law. The attempt to define, punish, and curtail medical malpractice led to the creation of a primitive system of medical licensure not designed with the intent of their superseding the malpractice laws but probably with the hope that need of application of the malpractice laws would be substantially diminished.

The medical licensure regulations of the Kingdom of Sicily, mentioned above, are the earliest in the Western world that can be dated with certainty. In 1140, Roger II promulgated his Assizes of Ariano. Many of the statutes in this collection were later included by Frederick II in his

clusive for dating these provisions. William of Tyre's story of the fear-motivated refusal of physicians to treat the feverish King Amalric with a purgative in the year 1174 could point to the existence of a precedent for one of the laws found in chapter 238. Although the Assises de la Cour des Bourgeois were not written down in present form until the first half of the thirteenth century, many of their provisions are from the twelfth century. The medical regulations, of course, could be included among them.
Liber Augustalis or Constitutions of Melfi. One of these is entitled "Concerning acceptable experience for physicians." Its text reads:

Whoever in the future desires to practise medicine must present himself to our officials and judges to be examined by their judgment. But if he should dare to practise otherwise, let him be incarcerated and all his goods confiscated. This is designed so that the subjects in our kingdom be not endangered by the incompetence of physicians.

While in the Assizes of Jerusalem an examination in uroscopy is specified, Roger's legislation simply stipulates that the candidate be examined. In the Assizes of Jerusalem the candidate is examined by the "best physicians of the land, in the presence of the bishop," but in Roger's kingdom the examination is conducted by the king's officials and judges. While we can assume that a concern with the

36. Imperitia - basically meaning inexperience. It was a technical term in Roman law which signified the ignorance or incompetence that resulted from inexperience.

37. Two manuscripts of the Assizes of Ariano were found in the last century and have been edited by Francesco Brindleone, Il Diritto Romano nelle Leggi Normanne e Sveve del Regno di Sicilia (Rome: Frantelli Bocco, 1884). The law in question appears in one of these two manuscripts, the Codex Vaticanus, at title 36 (p. 115) and, except for a minor difference in the word order of one clause, is identical to the text included by Frederick II in his Liber Augustalis and as printed in J. L. A. Huillard-Bréholles, Historia Diplomatica Friderici II (Paris: H. Plon, 1852-1861), vol. 4, part 1, p. 149. A translation is available in The Liber Augustalis or Constitutions of Melfi Promulgated by the Emperor Frederick II for the Kingdom of Sicily in 1231, trans. and with an introduction and notes by James M. Powell (Syracuse: Syracuse University Press, 1971), 130. See also Edward F. Hartung, "Medical Regulations of Frederick the Second of Hohenstaufen," Medical Life, 1934, 41: 595.

38. Although no examining officials are mentioned, it
bonum publicum provided much of the motivation behind the licensure requirement in the Latin Kingdom of Jerusalem, in Roger's legislation such a concern is succinctly articulated: "This is designed so that the subjects in our kingdom be not endangered by the incompetence of physicians." This difference between these two pieces of legislation is significant. The regulation in the Latin Kingdom of Jerusalem appears to have been the response of the courts of that kingdom to extreme abuses of medical practice that had come to adjudication. It was not a statute enacted by royal proclamation and was not the product of a philosophy of sovereign right and responsibility underlying the promulgation of a monarch's code. Such, however, was the case with Roger's legislation.

Roger II, as king of Sicily, faced the monumental task of devising royal institutions for a land comprised of Greeks, is reasonable to assume that medical authorities were involved in the examination. Possibly the officials mentioned were medical officials of some sort. Contrary to the assertion made by Henry E. Sigerist ("The History of Medical Licensure," Journal of the American Medical Association, 1935, 104: 1058), no mention is made of the school of Salerno in Roger's medical legislation. See Paul Kristeller, "The School of Salerno, its Development and its Contribution to the History of Learning," Bulletin of the History of Medicine, 1945, 17: 164 f.

It is, of course, possible that the regulation in question came well after Roger's, perhaps even after that of Frederick II (1231). The rulers of the Kingdom of Sicily were Norman and the Norman influence in the Kingdom of Jerusalem was very strong. Relations between the two kingdoms were close and Frederick II was also King of Jerusalem, at least in name, for eighteen years.
Lombards, Arabs, Jews and the newly-arrived Normans, a heterogeneous land that had not been unified under a single authority since Justinian's reconquest of Italy in the sixth century. An examination of Roger's administration demonstrates a high degree of success on his part, a success that was the result of an administrative ableness and a legislative brilliance. Although overshadowed in nearly every area by his grandson, Frederick II, Roger II was, in his own right, an exceedingly competent and gifted monarch. It was particularly his view of the monarchy that made him distinct and provided the basis for the scope of his legislation; and Roger indeed held a lofty view of the monarchy. To Roger the royal office was absolute in two particular but complementary aspects: in terms of its absolute power and in terms of its absolute responsibility. When discussing the exalted view of kingship exemplified in Roger's administration as embodied in his legislation of 1140 (the Assizes of Ariano), John Norwich asserts that "no other nation, no other legal code in mediaeval Europe conceived of [kingship] in such sweeping terms." Although this may be an overstatement, in essence it appears true. As A. Marongiu writes:

40. Ernst Kantorowicz, Frederick the Second 1194-1250, trans. by E. O. Lorimer (New York: Ungar, 1931), writes that Roger II "had wrought indeed with great intensity and a wisdom and statesmanship amounting to genius" (p. 110) and refers to his "creative achievements as lawgiver in a newly conquered country" (p. 236).

The Norman State was so coherently organized that all powers converged in the King. An introductory passage... of a Rogerian document of 1143 appropriately expresses this idea: "as the rays of the sun illuminate everything, as the river fills its bed, so the power of my majesty distributes grace to all subjects."  

In distributing "grace to all subjects," Roger viewed himself then as the source of all justice and, as sovereign, his very prestige "rested in his defense of justice and prevention of abuse of power by officials, prelates, and feudal lords..." While Roger's attempted curtailing of abuses of power by officials, prelates, and feudal lords may have been motivated both by self-interest as monarch and by a concern for the general welfare of his subjects, his medical licensure legislation seems to have been motivated by a royal altruism directed toward the benefit of his subjects and is fully consonant with his apparent philosophy of regal responsibility.  

Holding an even more exalted view of royal right and responsibility than Roger II, his grandson Frederick II has been described by Ernst Kantorowicz as the only monarch of the thirteenth century who literally acted in accord with the new maxim Rex est imperator in regno suo. Describing

---

43. Ibid.  
44. Ernst H. Kantorowicz, The King's Two Bodies: A Study in Mediaeval Political Theology (Princeton: Princeton University Press, 1957), 97 ff. See also Thomas Curtis van
himself as the "fountain of justice" and pater et filius Iustitiae, 45 Frederick sought in his legislation to fulfill the role which he enunciates in the Proceium to his Liber Augustalis as inhering upon a monarch: "... princes of nature were created through whom the license of crimes might be corrected. And these judges of life and death for mankind might decide, as executors in some way of Divine Providence, how each man should have fortune, estate, and status." 46 Frederick was, by any standards, a genius and will probably always remain a fascinating enigma. He was a sensitive man of letters, an inordinately inquisitive and enlightened student of science, an able but ruthless administrator, called by some of his contemporaries (among quite a variety of other things) stupor mundi ("the wonder of the world") and immutator mundi ("transformer of the world"). 47

If much of Roger's legislation was motivated by a sense of responsibility for the welfare of his subjects,

---


45. Kantorowicz, The King's Two Bodies, pp. 97 ff.

46. Powell's translation, p. 4.

47. For an assessment of Frederick's genius and personality, see Kantorowicz, Frederick the Second, nearly passim but especially pp. 307-368; and van Cleve, The Emperor Frederick II, also nearly passim, but especially his "Epilogue," pp. 531-540.
so also was Frederick's, assuming a consistency between the philosophy of government expressed in the Proemium and the force of the laws in the Liber Augustalis. A. Marongiu comments that Frederick's state was not only an aesthetic creation, but above all, the fruit and the result of calculation and reflection. One can discern in it the man, the universal student, the poet enlightened and guided by the importance of his own mission, by the incisiveness of his reasoning and by the firm temper of a constans vir.

Viewing Frederick's legislation in this light, Marongiu holds that his concern for the welfare of his people was not "from any sense of obligation toward his subjects" but was "because he felt such activity to be useful and reasonable." Further he asserts that Frederick "sought the maximum possible results, through distributive justice, order, and discipline, through the common dependence of all on the law and on the sovereign." 48

In 1231 Frederick II promulgated the Liber Augustalis or Constitutions of Melfi which contains three books. Between 1231 and his death he issued new laws, Novae constitutio. 49 All the laws with which we shall deal were part of the original Liber Augustalis except for one Nova constitutio.


49. These Novae constitutio were inserted into the manuscripts of the Liber Augustalis at Frederick's command. Huillard-Bréholles, in his edition, separated the Novae constitutio from the original legislation of the Liber Augustalis, printing them separately.
Placed immediately after Roger's medical regulation in the Liber Augustalis is the following law:

That no one should dare to practise unless he has been approved in a public examination by the Masters of Salerno. We take precautions for a special advantage when we provide for the common safety of our faithful subjects. Therefore, being aware of the serious loss and irreparable damage that can result from the incompetence of physicians, we order that henceforth no one alleging the title of physician shall dare to practise otherwise or to give remedies, unless, first having been approved in a public examination by the Masters of Salerno, he approach our presence with testimonial letters as to his loyalty and sufficient knowledge both from the Masters and from those appointed by us, or, if we are absent, he may approach the presence of him who remains in our place, and obtain from us or from him a license to practise as a physician. The penalty of confiscation of their goods and a year's imprisonment threatens those who dare in the future to practise in defiance of this edict of our serene majesty.

This law is similar to that of Roger in several ways. For one, a concern for the safety and welfare of the people is enunciated as the incentive behind this legislation. Se-

50. See n. 36, above.

51. The word I have translated "loyalty" is fides, a word ranging in meaning from "faith" to "loyalty" to "trustworthiness" to "safe-conduct." The meaning "loyalty" seems more consonant than other nuances with the tenor of the Liber Augustalis. The subjects of Frederick II were called fideles, about which James Powell, in his translation of the Liber Augustalis, writes: "I prefer to keep this term in the Latin because of its special connotations of allegiance that no translation can fully render. It denotes a bond of loyalty between ruler and subject" (p. 12, n. 22). Additionally, the emphasis on the quality of loyalty in the physician that appears in the license itself (which will be discussed presently) supports the translation of fides as "loyalty."

52. Liber Augustalis, 3, 65; Huillard-Bréholles, Historia Diplomatica, vol. 4, part 1, p. 150.
condly, the right to grant the license to practise medicine still remains with the king. Thirdly, a severe penalty is to be imposed on those who practise without a license. The differences between these two pieces of legislation are the requirements for the candidates to be approved in a public examination by the Masters of Salerno and that candidates be able to present, from both the Masters of Salerno and royally appointed officials, letters attesting their loyalty and knowledge.

An example of a physician's license or diploma is contained in the correspondence of Petrus de Vineis, chief legal adviser to Frederick, for whom the Emperor created the post of Logothetes. Petrus was probably the actual composer of the Emperor's laws. The text of the license or diploma reads:

53. The origin of the medical school at Salerno has excited a good deal of scholarship, theorizing, and speculation for several centuries, both by medical historians and historians of the medieval university. Some scholars have supported the tradition that the school was founded during Roman times. More recent scholars date the origin of the school to the ninth century. Although a vast bibliography on Salerno exists, the previously-cited study by Kristeller remains still the most reliable. Kristeller demonstrates convincingly that the medical school of Salerno originated toward the end of the tenth century and did not start as a university but simply as a group of practising physicians who taught students who came to Salerno to learn practical medicine. The school gradually developed a regular curriculum during the twelfth, and acquired legal status in the thirteenth, century.
We make known for your loyal compliance\textsuperscript{54} that our loyal subject\textsuperscript{55} N. . . having approached our court, having been examined and having been found loyal\textsuperscript{56} and a descendent of a family of loyal subjects,\textsuperscript{57} and being adequate for the practice of medicine, is approved by our court. On account of this, having been made confident of his knowledge and legal status, and having received the oath of loyalty\textsuperscript{58} from him in our court, and an oath that he will practise the art of medicine itself faithfully\textsuperscript{59} according to custom, we have given to him a license to practise medicine on these terms: that henceforth he must faithfully\textsuperscript{60} exercise the art itself for our honor and in loyalty to us,\textsuperscript{61} and for the health of those who require him. Therefore we command, for the instruction of your loyal compliance,\textsuperscript{62} that no one shall hereafter hinder or disturb the above-mentioned N. . . our loyal subject,\textsuperscript{63} in exercising the art of medicine itself in these lands, as has been decreed.\textsuperscript{64}

The extent to which loyalty and faithfulness is emphasized in this document should be noted. Only one direct reference to the welfare of patients is made and that is subordinated

\begin{itemize}
\item \textsuperscript{54} Fidelitati.
\item \textsuperscript{55} Fidelis.
\item \textsuperscript{56} Fidelis.
\item \textsuperscript{57} Fidelium.
\item \textsuperscript{58} Fidelitatis sacramento.
\item \textsuperscript{59} Fideliter.
\item \textsuperscript{60} Fideliter.
\item \textsuperscript{61} Ad honorem et fidelitatem nostram.
\item \textsuperscript{62} Fidelitati.
\item \textsuperscript{63} Fidelem.
\item \textsuperscript{64} Huillard-Bréholles, \textit{Historia Diplomatica}, vol. 4, part 1, p. 150, n. 2.
\end{itemize}
to the assertion that the physician "must faithfully exercise the art itself for our honor and in loyalty to us." But the very institution of medical licensure itself was, of course, a manifestation of concern for the general welfare, as also was the requirement, as evidenced in the license, that the physician had to swear that he would practise the art "according to custom."

Included in the middle of a law dealing with the preparation of medicines, is the stipulation that "no one in the kingdom shall lecture in medicine or surgery, or take the title of master, unless he has been thoroughly examined in the presence of our officials and of the masters of the same art." A century before Frederick's time, Gilles of Corbeil had complained that some medical students at Salerno, who were too young and inexperienced, begin to teach and to practise medicine and, by virtue of the former activity, become masters. He did not indicate that there were any fixed requirements or formal procedures requisite to assuming the title and responsibilities of a master in medicine or surgery. If Gilles is to be trusted, it would seem that Frederick's legislation under discussion here was motivated by a desire to eliminate such

65. To be discussed below.
abuses by laying down, probably for the first time, fixed regulations governing the appointment of masters at Salerno. While the license to practise medicine was to be granted by the king, the authority to confer the title of master was to be in the hands of the school of Salerno. The interest of the monarch insinuated itself by the requirement that the examination was to be conducted in the presence of royal officials.

Some years after the promulgation of the Liber Augustalis, Frederick deemed it desirable to issue a Nova constitutio* under the rubric "Concerning physicians." The text reads:

Because the science of medicine is never able to be known unless something of logic is learned before, we order that no one study in medical science unless he first study for at least three years in the science of logic. After three years, if he wishes, he may advance to the study of medicine in which he shall study for five years; and this in such a way that, in this period of time, he learn additionally the field of surgery which is part of medicine. After this and not before let him be granted a license to practise, once he has been examined according to legal formula, and also has received an affidavit from his faculty that he has completed the prescribed time of study.

Such a physician shall swear to obey the laws in force up till now, with this added that if it comes to his attention that any apothecary is preparing drugs under standards, he will denounce him to the court, and that he will give advice** to the poor gratis.

---

* The date of this Nova constitutio is uncertain, but probably by 1241. See Huillard-Bréholles' introductory comments to this rubric (Historia Diplomatica, vol. 4, part 1, p. 235).

** Consilium. The word can mean simply "advice" or "medical attention" in the broadest sense. The former would
Such a physician shall visit his patients at least twice a day, and, at the patient's request, once during the night. He shall receive from the patient per day not more than half a gold tarenus, provided he has not been called beyond the city or village limits. From a patient, however, whom he visits beyond the city, he shall not receive per day beyond three tareni, when the patient has covered his own medicinal expenses, or beyond four tareni if the physician has paid for the medicines himself. He is not to form an association with apothecaries nor is he to receive anyone of them under his patronage for the payment of a fixed sum, nor is he himself also to have his own pharmaceutical shop.\footnote{70}

No physician shall practise after completing his five-year period of training, unless he practise for an entire year under the direction of an experienced physician. During the appointed five-year period the masters assuredly shall teach in the schools the authenticated books of both Hippocrates and Galen, in both the theory and practice of medicine. Moreover we enact, by a salubrious regulation, that no surgeon be admitted to practice unless he provide testimonial letters from the masters teaching in the medical faculty that for at least one year he has studied in that part of medicine which provides skill in surgery, especially that he has learned the anatomy of human bodies in the schools, and that he is proficient in that part of medicine without which neither incisions can safely be made nor fractures healed.\footnote{71}

\footnote{70. The remainder of this paragraph deals with the regulation of apothecaries, a subject we shall consider presently.}

\footnote{71. \textit{Liber Augustalis}, 3, 46; \textit{Huillard-Bréholles, Historia Diplomatica}, vol. 4, part 1, pp. 235 ff.}

not contain the idea of the furnishing of drugs, while the latter would. It is unlikely that Frederick required physicians to furnish the poor with drugs as well at their own expense.
This *Nova constitutio*, issued, as it was, as much as a decade after the *Liber Augustalis*, lays down new regulations governing medical (and surgical) education, sets new standards of medical ethics, and provides one new obligation to the state.

First, in the area of medical education: Now three years of logic are required before commencing medical education proper. Then five years of medical education must be pursued during which the student is to be taught the "authenticated" (i.e., traditionally accepted) books of Hippocrates and Galen, and learn that part of medicine which is surgery. The student is then to be subjected to an examination in accord with the law followed by a year of internship under a practising physician. Additionally, for the first time, licensure requirements for surgeons (who were not physicians *qua* surgeons) were set: One year of study under the medical faculty "of that part of medicine which provides skill in surgery," especially human anatomy.

The physician is reminded of his obligation to obey the laws in force up to that time. It is now specified that he must visit his patients at least twice each day and once during the night if the patient wishes. The fees for visits are now fixed by law and depend in part on whether it is necessary for the physician to travel outside his city or town. For the first time in secular law it is required that the physician give his advice free to the poor. The
giving of free care to the poor is completely consonant with the emphasis of Christian ethics as we have seen above in Chapter II. But it had been a matter that was left entirely to the conscience of the individual physician. To make medical charity mandatory was novel. It should be noted that the physician was required to give his advice free. This does not necessarily mean that he would be required to provide medications at his own expense. Further, the physician was forbidden to form an association with any apothecary or to own his own pharmaceutical shop. The potential for abuse when the physician prescribing medications profits from the sale of the drugs he orders is self-evident, as is the wisdom and perspicacity behind the promulgation of such an unprecedented regulation.

While the concerns discussed in the preceding paragraph were entirely with the ethics of the profession, there is one requirement in this Nova constitutio that involves the physician's obligation to the state: The physician must inform the authorities if he knows of any apothecary who dilutes his drugs. Such a regulation as this makes every licensed physician functionally a potential agent of the state in respect to apothecaries.

These laws of Frederick II are, in many respects, revolutionary and create, at least in areas in which they were in force, a basis for medical practice starkly different from that which had prevailed previously in the
Western world. No longer was the practice of medicine a right of which anyone could avail himself, free enterprise without constraints other than those provided by individual conscience and the basic restraints of criminal law; but rather the practice of medicine was now a privilege, a privilege granted, enforced and protected by the state. These regulations basically were of benefit both to the general public and to the qualified and responsible physician as well, and evince a reciprocity of obligations between the profession and the state. Yet these were regulations that were imposed by an absolute, albeit enlightened, monarch, not the end result of negotiation and agreement between tradesmen or professionals and the state or civic authority. They were as unilateral as were regulations governing other occupations in the Liber Augustalis.

Reference has already been made to legislation governing apothecaries. One law included in the original promulgation of the Liber Augustalis reads as follows:

About the number of loyal subjects to be appointed concerning electuaries and syrups. In every land of our kingdom subject to our jurisdiction, we desire that two circumspect and trustworthy men be appointed and be held by a corporeal oath, and that their names be submitted to our court, and that under their verification electuaries and syrups and other medicines be tested by the Masters of Salerno.72 We also desire

72. At this point in the text are introduced the regulations governing the appointment of Masters at Salerno, discussed above, at n. 65.
that those preparing drugs be obliged by an oath sworn corporeally that they will make them faithfully according to the arts and capacities of men in the presence of sworn witnesses. But if they act contrary, let them be condemned by sentence to the confiscation of all their goods. Furthermore, if those appointed, to whose trust the above specified matters have been committed, are proved to have practised fraud in the office entrusted to them, we order that they be put to death.73

A Nova constitutio, already discussed for its regulations governing physicians and surgeons, contains further regulations of apothecaries' activities:

Apothecaries indeed are to make their confections at their own expense and with the prescription of a physician, in accordance with our regulations, nor are they permitted to keep confections unless they have taken an oath. They are to prepare all their confections in the prescribed manner without fraud. Furthermore, the shopkeeper is to be paid for his confections in the following manner: For compound and simple medicines which are not accustomed to be kept in the shop longer than a year after the time of purchase, for any ounce he will be enabled and empowered to receive three tareni. For others which, owing to the nature of the drugs or owing to some other cause, are kept in the shop beyond a year, for any ounce he will be allowed to receive six tareni. Shops of this kind are not to be allowed everywhere, but in certain cities throughout the kingdom, as will be described below.74

These regulations are similar to those governing physicians in three ways. First, the motivation behind their

---

73. Liber Augustalis, 3, 47; Huillard-Bréholles, Historia Diplomatica, vol. 4, part 1, p. 151.

74. Liber Augustalis, 3, 46; Huillard-Bréholles, Historia Diplomatica, vol. 4, part 1, p. 236. The promised description of where these shops would be located has not survived in the legislation.
composition was the public good - although this was not articulated here as it was in the legislation pertaining to physicians - for the dangers to the health and safety of the general public are as extreme as in the case of incompetent or negligent physicians. Secondly, the regulations governing the conduct of the apothecaries (for example, the prices to be charged), although not as extensive as those on physicians, impinge upon their activities in a way that is not as imperative for the public good as are those regulations of drug quality, for instance. Thirdly, these regulations were unilaterally imposed by regal authority and were not the result of negotiations where apothecaries guarantee certain standards in exchange for the right to pursue their trade under municipal, royal, or ecclesiastical protection.

Not only did Frederick regulate occupations that had a great potential for harming the health of his subjects, but he also attempted to set standards for quite a variety of trades. Masters of mechanical arts "whose works are necessary for mankind should exercise their crafts legally and faithfully." Butchers and fishmongers, "who administer the necessities of life for men and from whose frauds loss can be inflicted not merely on property but also on persons, should be trustworthy in their merchandise and their marketing." They were not to sell diseased flesh or food that had been kept over a day or anything corrupt or infected
unless the buyer was first informed of the condition of the merchandise. The quality of materials for candle makers was set and tavern keepers and wine sellers were forbidden to sell watered wine as pure.

Goldsmiths, silversmiths, bronze and iron workers, makers of catapults and bows, and all artisans were to work with trustworthiness and zeal. Shield and saddle makers were to desire faithfully to make buyers more secure; they were to strengthen saddles and shields with the needed strong ornaments. Gold was not to be worked that contained less than eight ounces of pure gold per pound, or silver known to contain less than eleven ounces of pure silver per pound, regardless of the use to which it was to be put.

"In order that the opportunity and the material for committing frauds may be closed to all these artisans, we desire that two trustworthy men should be chosen in each locality, to be appointed by the bailiffs of the district" and "that these officials should be bound by an oath on the Holy Gospels to exercise loyally and diligently the office committed to them." They were to seize and hold suspect goods as evidence and report the frauds of artisans to the court.

Bailiffs were to establish workshops of artisans and grape gatherers, reapers and the like at a fixed salary. Such workers were not permitted to leave the limits of
their establishment. If they were to leave, they would not only lose the salary they would have received but were then to pay four times that amount to the court.

Any artisan caught making works below standards prescribed by this law, or any butcher, fishmonger, tavern-keeper or wine-seller found to be selling forbidden or corrupt food or watered wine for pure was to be punished as follows: For a first offense he was to be fined one pound of purest gold to the royal fisc. If he lacked the means to pay, he was to be beaten. For a second offence he was to lose a hand. For a third offence he was to die on the forks, "which he has fully merited by committing illegal acts and not correcting his behavior." If the inspecting officials were found to have been bribed or otherwise corrupted by those whom they were to supervise, they were to suffer the same penalty.75

Merchants' weights and measures and the cutting of cloth for sale were regulated.76 If a merchant was apprehended in using false weights, he was to be punished, for a first offence by a fine of one pound of the purest gold to the royal fisc. If the culprit could not pay, he was to be publicly beaten through the land "with the weight or measure hung around his neck for a punishment and as an


example to others." For a second offense he was to lose a hand and for a third he was to be hanged.??

Now these laws are similar to those governing physicians and apothecaries in two ways in particular: First, their promulgation was motivated, at least in part, by the *bonum publicum*, although the potential dangers to people would not have been nearly on the same level as those which incompetent or dishonest physicians or apothecaries offered. Secondly, these regulations were unilaterally imposed on the various trades. A significant difference is that the tradesmen affected reaped no direct benefits in exchange for the standards now fixed by law, where the physicians and apothecaries gained a legally protected monopoly in their trades.

A. Marongiu enthusiastically compares Frederick with the princely reformers of the eighteenth century and sees the Norman kingdom of Sicily as a precursor of the modern state. Joseph Strayer, whose comments on Marongiu's article immediately follow it, disagrees and sees Frederick's kingdom as an imperial anachronism. Strayer writes that

> it is true that the Sicilian kings, and especially Frederick II acted deliberately and consciously as legislators at a time when such acts were rare. But this proves very little, since conscious and delibe-

77. *Liber Augustalis*, 3, 51; Huillard-Bréholles, *Historia Diplomatica*, vol. 4, part 1, p. 156. When foreigners were deceived by merchants, the penalties were to be doubled. "For we desire that our defense and knowledge should take the place of their [sc., the foreigners'] weakness and ignorance" (*Liber Augustalis*, 3, 52; Huillard-Bréholles, *Historia Diplomatica*, vol. 4, part 1, pp. 156 f.).
rate legislation is as typical of ancient empires as of modern states. . . . if we have to choose between thinking of the Norman kingdom of Sicily as a precursor of the modern state, or as a final attempt to revive the spirit of the old empires in the medieval West, there is not much difficulty in making a decision.  

While Frederick's adopting an imperial model for his regime was, in many ways, the creation of an anachronistic state, certain aspects of his legislation were exceedingly innovative and without precedent. The laws governing physicians and apothecaries demonstrate that their source was both enlightened and despotic while the laws regulating artisans and merchants, although evincing a concern for the common good, reveal the heavyhandedness of an absolute monarch. The feature that is most striking about the legislation we have discussed and that makes it discordant with developments elsewhere in Europe is its having been unilaterally imposed on the tradesmen involved without negotiations. While Frederick's actions in regulating trades were not an anachronism, they were an anomaly. Elsewhere in Europe tradesmen (and I include in their number artisans, merchants, physicians, professors) were organizing into guilds, gaining charters from municipal, royal, or ecclesiastical authorities, and guaranteeing standards of quality of goods or services in exchange for the privilege of holding a monopoly in the particular service or commodity.

It is to guild development that we must now turn in order to gain some insight into efforts at formal regulation made by medical and surgical organizations. One of the most striking features of late medieval urban life was its corporative aspect, particularly in its guild organization. While the early history of guilds is obscure, it is safe to say that, by the end of the twelfth century, most towns had at least a guild consisting, in the aggregate, of several trades. During the course of the twelfth century, many towns had received a charter enabling them to establish a merchant guild (or guild merchant), although in some cases the formation of the merchant guild preceded the granting of a municipal charter. The merchant guild was an association of traders formed for common actions on matters of common interest, "an omnibus in which different kinds of traders could ride." The common interests of a merchant guild varied from town to town as the economic

79. There are some real semantic problems here. Susan Reynolds' comments bear quoting: "In the Middle Ages almost any voluntary association or club might be called a guild, and its members—whether united for trading, political, religious, or any other purposes—would bind themselves together by the characteristic methods of feasting, religious ceremonies, and perhaps oath-taking. Guilds were, in G. H. Martin's excellent phrase, 'a form of association as unself-conscious and ubiquitous as the committee is today.'" An Introduction to the History of English Medieval Towns (Oxford: Clarendon Press, 1977), 84. Martin's phrase is found in "The English Borough in the Thirteenth Century," Transactions of the Royal Historical Society, 1963, 5th series, 13: 126.

character of each town was reflected in its merchant guild. In small towns more often than not the economic activity was limited to supplying the needs of the town and adjacent countryside. In larger towns (or even in some smaller ones in which there was produced one predominant economic commodity) in addition to the local market there was often a strong involvement in foreign trade. In these towns that catered both to the local and foreign market the composition of the merchant guild was usually different from that of towns with only a local market in that the former were typically dominated by an upper echelon of wealthy merchants who were active in international trade. This dominant group was essentially those who, because of their economic importance, controlled the city government or, in reality, were the city government. They are frequently referred to as the urban patriciate.

In large towns or cities that had a sufficiently specialized population, there developed, in addition to, or as offshoots of, the merchant guild, a variety of craft guilds or artisan guilds. Before the thirteenth century, craft guilds were of little consequence, but they soon proliferated rapidly throughout most of Europe. Beginning in the thirteenth century and culminating in the fourteenth, a high degree of intra-urban strife arose in many cities between the patriciate or merchant class and the various craft or artisan guilds, with the former attempting to
maintain control of municipal governments and to protect their privileges, and the latter seeking to wrest a certain degree of political power from the patriciate or wealthy merchants.

Many merchants were also artisans since most artisans were at least part-time traders who sold some of their wares directly to the public. Although these artisans qua merchants were not always merely petty traders or shopkeepers, they were typically masters in their craft. Some were indeed very wealthy and did themselves engage in extensive and mixed enterprise thus being nearly identical with merchants who were not even nominally craftsmen or artisans. This particularly held true in certain industries such as the cloth trade. But even here there were still variations among different areas of Europe, e.g., Florence where the masters of the Arte della Lana were essentially merchants engaged in extensive international trade but were artisans in the sense that they were masters of a craft, and various cities of Flanders where the merchants exercising entrepreneurial control over the cloth trade were distinctly members of the patriciate and not masters of a craft. The extent to which a master was wealthy affected the degree to which he could be identified, both functionally and ideologically, as a merchant, even though he might still be a member of a trade that was organized into a craft or artisan guild. Furthermore, some guilds appear more, if not ex-
clusively, mercantile in scope than others. "There existed, in effect, mixed gilds." When speaking of artisan industry, what is usually implied, are small, individual enterprises and the virtual absence, in most cases, of large-scale capital investment. What is usually involved are one master and one or two apprentices. The artisan or craft guild was the aggregate of autonomous workshops "whose owners (the masters) normally made all decisions." In theory, the artisan guilds joined together, as unequal partners, masters and apprentices, "but strove to ensure for all members an equal chance of advancement and success."

Not all craft or artisan guilds were comprised of men who produced commodities. Those who sold services often were organized into guilds or collegia, the latter not being craft guilds in the strict sense of the word. The medieval universities were essentially educational guilds or collegia.

84. Ibid., p. 126.
corporations either of students (as was the case in Bologna) or of teachers (which was more common). Some universities gained charters, beginning in the late twelfth century, becoming corporate bodies designed to further educational interests and to protect their members. Donald Matthew is probably not overstating when he writes that the teachers or students created the universities by organizing "to defend common interests, with forms of association, purposes and procedures similar to those of the guilds which enabled illiterate lay men to protect skills of value, sought after by many. It was not learning, but corporate professionalism, that created the universities."^85 There were guilds of various professions. Medical practitioners were either physicians or surgeons. In great part, although there were significant exceptions, surgeons (or barber-surgeons) were organized in craft guilds and physicians separately formed their own guilds except in cities having a university, where they were not then members of a craft guild but were part of, affiliated with, or under the supervision of the medical

85. Donald Matthew, The Medieval European Community (New York: St. Martins, 1977), 218. George Unwin comments that "the federated guilds of scholars or teachers or both, of which the universities were composed, performed the same functions in regard to higher education of the professional classes as the later guilds performed in regard to the technical education of the merchant and the craftsman" ("Mediaeval Guilds and Education," originally published in 1912 and reprinted in Studies in Economic History: The Collected Papers of George Unwin, ed. by R. H. Tawney [London: Frank Cass and Co., 1958], 94).
faculty of the university. Also organized into guilds were lawyers and notaries.\footnote{See Carlo M. Cipolla, "The Professions: The Long View," \textit{Journal of European Economic History}, 1973, 2: 37 ff.}

Perhaps originally organized simply as fraternal organizations under the auspices of a patron saint,\footnote{Susan Reynolds writes: "A comparison of English and continental evidence suggest . . . that guilds were originally social and religious associations, primarily for drinking and fellowship, and probably of pagan origin, some of which began to acquire purposes connected with trade and urban government as and when their members' interests developed in these directions" (\textit{English Medieval Towns}, p. 81).} guilds were overtly concerned with technical (artistic, in the broad sense) and trade interests. There were three major identifiable interests: 1) fraternal, manifesting itself in charitable efforts, both internal and external, and social life within the guild (banquets, etc.); 2) political, both active and passive; and 3) commercial, protection of financial and vocational interests. In the matter of commercial interests, the guilds, in obtaining charters, secured the right of exercising a monopoly on their product or service in a particular geographical area. They had the right typically to make and enforce standards of quality in their products or services, to control hours and working conditions, to limit competition among members, to limit entry into the craft or profession, and to ensure the proper treatment of customers. Part of the monopoly was the right to train and, essentially, to license new members, thus eliminating competition from outside the guild. Although one
of the major concerns in these measures was economic, yet the claim was frequently made by the guilds that such restrictions were necessary to maintain a high degree of competence and ethics in the trade or profession.

It is difficult to compartmentalize the various interests of these corporate entities, particularly to separate the economic and the political concerns. The guilds were associations designed for the safeguarding of personal interests. At the best the organization of guilds was motivated by enlightened self-interest. Donald Matthew comments that "the guilds were intended from the first to serve the interests of the members. If the public came to benefit by the insistence upon quality or prices, this was incidental. The guilds set out to prevent outsiders from practising the craft in the town." Guilds were hotly involved in political activity and considerable strife arose on occasion between guilds in their efforts to gain political advantages that could be translated into economic gain. Strife also arose between guilds that supplied raw or semi-worked materials and those guilds that created the finished product (as in the textile industry) or between guilds of overlapping interests, e.g., physicians, surgeons, barbers, apothecaries.

Throughout the discussion of guilds to follow, it should be borne in mind that conditions varied considerably at different times and in different places. There has been

no scholarly treatment of guild ethics in general, certainly not of medical and surgical guild ethics in particular. A comprehensive treatment of even the latter would require a massive effort and considerable archival research. So, relying on the limited primary documents available in various published collections, supplemented by occasional relevant secondary material, I shall attempt to provide what I trust will be a representative picture of late medieval medical and surgical guild ethics by using available documentation from Montpellier, Paris, and London, with some brief mention of conditions elsewhere.

The earliest mention of some kind of medical school at Montpellier is from 1137. The type of organization this medical school had and whether or not its masters enjoyed any protected status are unknown. Apparently an effort was made by 1181 to gain a monopoly in the teaching of medicine there, for in that year Guilhem VIII, seigneur of the city, issued an edict granting the right to anyone who wished, regardless of his country or place of origin, to teach medicine in the city. He promised that, regardless of insistence or offers of bribes, he would not grant to anyone a monopoly in the teaching of medicine at Montpellier.

since such a privilege was contrary to equity and justice. As Hastings Rashdall writes: "... the masters soon began to imitate the guild-system already established at Bologna and Paris ... while the bishop claimed that authority over the schools was everywhere enjoyed by the Church north of the Alps." It was indeed to the church, specifically to the pope, that the masters of Montpellier turned and, in 1220, Pope Honorius III gave to Cardinal Conrad the responsibility and authority to regulate the teaching of medicine in Montpellier. Conrad, after consulting with the medical masters and students, and in concert with the Bishops of Maguelone, Agde, Lodève, and Avignon, promulgated a charter in the name of the Holy See. In this he writes: "For many years the profession of medical science has flourished gloriously at Montpellier, from whence it has spread over the diverse parts of the earth the abundant health and multiplicity of its fruits." Now, under the auspices of the church, it was to continue to prosper. Specific regulations were set for the teaching and the study of medicine at Montpellier. No one was to lecture at Montpellier who had not taught there before unless he was examined and ap-


92. Cartulaire, vol. 1, nr. 2, pp. 180-183. In 1239 this charter was confirmed by a legate of Gregory IX: ibid., vol. 1, nr. 4, p. 186; and by Alexander IV in 1258: ibid., vol. 1, nr. 8.
proved by the Bishop of Maguelone in conjunction with some masters of medicine chosen by the bishop. The Bishop of Maguelone was assigned various other responsibilities including the judging of criminal cases, appointing, in consultation with the masters of medicine, one master to dispense justice to colleagues and students alike.

Included in Conrad's charter are provisions for licensure to practise medicine. He writes:

Since it often happens that, on account of ignorance of the causes [of disease] and lack of training, physicians cause the death of the patient when there was hope for his life, we order and command by the present edict that nobody dare practise unless previously examined by two masters chosen by the venerable Bishop of Maguelone from the college of masters, and after he has been examined and has passed, he shall receive a certificate from the Bishop and the doctors who examined him... 93

Note that here ecclesiastical authorities articulated the same concern expressed eleven years later by Frederick II for his kingdom: the dangers incurred by the general public when exposed to treatment by ill-qualified medical practitioners. This is a theme that will recur in requests for charters, in the granting of charters, and in pleas that privileges granted by charters be enforced.

93. It is here specified that surgeons were not required to pass an examination. Luke Demaitre, "Theory and Practice in Medical Education at the University of Montpellier in the Thirteenth and Fourteenth Centuries," Journal of the History of Medicine and Allied Sciences, 1975, 30: 104, comments that the surgeons "were usually members of guilds and thereby subject to certain standards." The standards of surgeons' guilds in other areas will be discussed below.
Sonoma Cooper points out that "the protection of the rights of the masters of the medical faculty had been the chief concern of Cardinal Conrad" in granting these statutes. And Conrad's regulations do indeed achieve that end. For example they specify that no one was to study medicine at Montpellier unless under the supervision of one master exclusively and they prohibit such things as one master receiving under his instruction any student who was having difficulties with another master over fees or any other matter. Masters were prohibited from attracting students away from their colleagues' classes. What was created by Conrad's charter was essentially a closed shop, identical to the stereotype of the later medieval craft guild, both in respect to training and, after completion of training, in respect to practice.

Various statutes were enacted over the next century and a half governing the study and practice of medicine. In 1240 it was stipulated that, before being presented by his master for a license to practise, the candidate must practise outside the city of Montpellier for six months.95

94. Sonoma Cooper, "The Medical University at Montpellier," p. 172.

95. Luke Demaitre, "Theory and Practice," p. 119. In 1309 the period of required practice outside Montpellier was increased to eight months or two summers.
A bachelor of medicine, being awarded that degree after three years of study, was required to swear that he would not practise medicine in Montpellier nor in its suburbs until he was awarded a master's degree. He would also report others practising illegally and would uphold the honor and interests of the university and its masters at all times. After completing three more years of study and the period of practice mentioned above, the student was examined for the master's degree and a license to practise. The candidate then had to swear, among other things, to obey the statutes of the university and not to disclose its secrets, not to treat any leper at Montpellier for more than eight days, to call a priest, if possible, when treating a critically-ill patient, and to reveal or, if possible, prevent any known peril to the university.

These regulations of 1240 were reiterated exactly a century later when, for the first time at Montpellier, the medical faculty sought to gain the right to supervise apothecaries. The statutes of 1340 specified that apothecaries must henceforth be licensed by the Bishop of Maguelone and that the candidate for an apothecary's license must be approved by two-thirds of the masters of the medical faculty.

96. Sonoma Cooper, "The Medical University at Montpellier," p. 175; Vern Bullough, The Development of Medicine, pp. 54 f.
97. Cooper, "The Medical University at Montpellier," p. 179.
Two masters of medicine were appointed to exercise surveillance of the makers of electuaries and the latter were required to swear an oath to the effect that they would make their drugs faithfully according to written formulas and without adulteration. 98

A document is extant that purports to be an "Oath of the Faculty of Medicine at Montpellier." W. H. S. Jones, in his study of the Hippocratic oath, includes this document. Although no date is given for the oath, the tone and content are not at all inconsistent with what one would expect in an oath for faculty at a medical school of a late-medieval university. Jones' translation reads:

In the presence of the masters of this school, of my dear fellow-students, and before the image of Hippocrates, I promise and I swear, in the name of the supreme Being, to be faithful to the laws of man and of honour in the exercise of medicine. I will give my services without fee to the needy, and I will never exact a higher fee than my work deserves. When I am admitted inside houses, my eyes shall not see what goes on there, and my tongue shall be silent about the secrets which shall be entrusted to me, and I will not abuse my position to corrupt morals or to encourage crime. Respectful and grateful towards my masters, I will give back to their children the instruction that I have received from their fathers. May men grant me their esteem if I am faithful to my promises. May I be covered with shame and despised by my fellows if I fall short. 99

A comparison of this oath with the so-called Hippocratic oath reveals immediately a strong, indeed predominant, classical component. The exception is the provision that the

98. Cooper, "The Medical University at Montpellier," p. 179.

swearer of the oath will give his services to the needy gratis and will never exact a fee higher than his work deserves. Although I have seen nothing in the university statutes of Montpellier specifying free medical care for the poor and conscientiousness regarding fees, such provisions are fully consonant with guild (and university collegia) regulations of this period.

The medical school of Montpellier differed from its contemporary at Salerno in many ways. As pertains to our subject, the former was essentially a guild of masters who had organized themselves to protect their interests and had both sought and obtained from ecclesiastical authorities the right and enablement to exercise a monopoly both in medical teaching and practice. The interest of ecclesiastical officials in guarding against the dangers resulting from incompetent practitioners was happily consonant with the interests of the masters in protecting their own prerogatives. The interests of the masters at Salerno were neither granted nor protected by any authority; rather imperial proclamation unilaterally imposed upon them those regulations which Frederick II simply deemed to be in the best interest of his state. The masters at Montpellier had considerably greater control over the creation of the regulations by which they were governed than did the masters at Salerno. When conflicts arose regarding the regulations, at Montpellier arbitration determined the issue, while at Salerno imperial fiat supplied the answer.
References to a medical school in Paris appear toward the end of the twelfth century but there is no reason to suppose that the medical teachers there were organized into a collegium or guild then. During the first quarter of the fourteenth century, the medical faculty claimed that regulations had been issued two hundred years earlier protecting various of their prerogatives, but the earliest official record of a medical university there dates from 1213. Pearl Kibre writes that "it was probably toward 1220 that the faculty of medicine obtained from the diocesan official a sentence reserving the right to practice medicine at Paris and in the faubourgs to those who had obtained the master's degree in medicine with the approval of the chancellor of the university," although there is no extant record of this. The year 1231 provides the earliest record of a formal organization having both masters and students in medicine. Approximately twenty-seven

100. Bullough, Development of Medicine, p. 69.


102. Ibid., p. 2.

103. Chartularium Universitatis Parisiensis, ed. by H. Denifle and A. Chatelain (Paris: Delalain, 1889-1897), vol. 1, nr. 16, pp. 75-76.


years later is the first record of the existence of an organization of surgeons. In a municipal ordinance surgery is listed with other guilds that were under the control of the provost of Paris. Since the document in question does not grant a charter to the guild but recognizes it as a municipally sanctioned organization, we can assume the previous existence of a guild of surgeons in Paris although no date of initial official recognition is known.

Thus, by the mid-thirteenth century we have in Paris an association of medical masters constituting a medical faculty which was a recognized part of the university, and a guild of surgeons, distinct from the university and not affiliated with it in any way. The peculiar course of events in Parisian medical, surgical, and para-medical circles centered on friction between physicians, surgeons, barber-surgeons, apothecaries, and various varieties of charlatans, empirics, and quacks. In 1271 the masters of the medical faculty made a statute against various groups practising medicine in or about Paris. The statute opens with the assertion that some people, who are "not yet advanced in the art of medicine and quite ignorant of the causes of medical procedure," have "by shameful and brazen usurpation" assumed the role of physicians "without consulting skilled


persons." These practitioners are ignorant of such things as "what should be used as a base, what as a bridge, what as a spur" in the medicines that they "wretchedly administer to simple men and so by their treatments, made not according to art but rather by chance and fortune, have criminally handed over many to the suffering of death, which is at the peril of their souls." This not only puts such practitioners into danger of excommunication but "further tends to the disgrace and grave infamy of all skilled in medicine." In light of these affairs, the "doctors teaching in the medical faculty at Paris at the devout and pious supplications of many, namely, the religious, clergy, scholars, likewise many citizens of Paris, wishing to check so many errors, perils and scandals, confirm a statute of ours" purportedly made long ago, supported by municipal and royal letters, prohibiting, under every penalty of secular and ecclesiastical laws, Jews or Jewesses operating surgically or medicinally on any person of catholic faith.

"Also, since certain manual operators make or possess some confections but totally ignore their cause and reason" and do not even "know how to administer them and the relation which medicines have to disease . . . since these matters are reserved exclusively to the industry of the skilled physician." Yet such practitioners persist in treating cases "rashly and to public scandal . . . . Therefore we strictly prohibit that any male or female surgeon,
apothecary or herbalist, by their oaths presume to exceed
the limits or bounds of their craft secretly or publicly
or in any way whatsoever." Surgeons henceforth are only
to engage in manual practice and things pertaining to it.
The apothecary and herbalist are only to mix drugs that
are to be administered exclusively by masters in medicine
or by those licensed by the latter. "None of the afore­
said shall visit any sick person to administer to him any
alternative medicine or laxative or anything else that per­
tains to physicians, nor advise it to be administered or
procure it, except through a master in medicine. . . . ."
Although these practitioners could administer those drugs
"which are wont to be sold commonly" they are excluded
"from every way and method of treatment in which medical
skill is called for." Medical students were also forbidden
by this statute to administer to anyone, whether sick or
well, "any drug comforting, alternative, or even laxative
without the presence of some master in medicine, or even
visit, except once, unless there is with him some master
to direct him and show the way to work." The statute
ends with instructions that anyone knowing of violations
of the regulations here set forth should secretly reveal
it to the dean of the medical faculty who then will shield
the informer.

This is the earliest recorded instance of the Paris
medical faculty seeking to prohibit the practice of medi-
cine to all save themselves. Their action differs from earlier developments in Salerno and Montpellier. In Salerno the medical licensure regulations were imposed by imperial fiat, in Montpellier they were promulgated by ecclesiastical authorities at the request of the medical faculty. In Paris the regulations were entirely of the medical faculty's own making and at the faculty's initiative. The attempts to enforce these regulations necessitated, as we shall see, frequent pleas to municipal, royal, and ecclesiastical authorities to lend their support. There is one matter in which the Paris statute of 1271 is similar to the medical licensure regulations of Salerno and Montpellier, however, and that is its strong emphasis on the common good. It was, after all, in response to the supplications of the religious, clergy, scholars, and many citizens of Paris, and in the face of imminent danger to the general public, as well as with a view to the good name of the medical profession that the statute was enacted.

While a guild of surgeons is known to have existed in Paris before 1258, it must have been a relatively weak organization. The provost of Paris found it desirable to intervene in their operations in 1301 by stipulating that henceforth no one could practise the art of surgery in Paris or its environs unless he had first been approved through an examination conducted by the master surgeons. 108 Having

their own licensing authority, backed by the municipal government, the surgeons' position vis-à-vis the medical faculty's attempts at control was strengthened. While the medical faculty was a threat to the surgeons' prerogatives from above, the barbers impinged upon their territory from below. Six years after the ordinance issued by the provost requiring the licensing of Paris surgeons, a municipal statute was enacted which provided that all barbers practising surgery must cease such activity until they had been examined by six masters of surgery. These masters were to be appointed by the provost of Paris and obligated under oath to be responsible for the loyalty and qualifications of the barbers who practised surgery.109 These regulations were reinforced by King Philip IV in 1311 when, in response to the surgeons' request, he issued the first extant royal ordinance dealing with surgery. Philip required that all surgeons or barbers practising surgery in Paris be examined by master surgeons and he placed his own surgeon, Jean Pitard, in charge of these examining masters.110

Whether as a response to the medical faculty's statute of 1271 or owing to the loss of documentation to the contrary, it appears that four decades passed without any significant strife between the masters of the medical faculty and illi-

cit practitioners. In 1311 and 1312 two cases came to litigation. In the former, the dean of the faculty of medicine charged a charlatan or empiric with illegally practising medicine in Paris and in the next year a woman was excommunicated for her illicit practice. In 1322 an interesting case arose involving a certain Jacqueline Félice de Almania who was prosecuted for illicit medical practice. Her trial continued for several months, numerous witnesses were called both by the prosecution and the defense, and the summary occupies several pages in the Chartularium Universitatis Parisiensis.

A famous knight and former surgeon to King Philip IV, John of Padua, was called as a witness for the prosecution. He stressed, among other things, the serious consequences to the common good in permitting an untrained and ignorant woman to practise medicine. The counsel for the defense countered with the assertion that Jacqueline had treated and cured many sick people and had provided them with comfort when the physicians had failed. This was then corroborated by several witnesses. One woman testified that when she had been ill with a fever, several physicians had visited her only to pronounce her case hopeless. Then Jacqueline had come and had cured her. The defense went on to attack the legality of the university statute that

had given a monopoly to the medical faculty in the practice of medicine and asserted that the statute in question could not be binding as it was demonstrably contrary to the public good. Such argument was of no avail, Jacqueline was excommunicated, and the public good was determined to be better served by basing the privilege of practising medicine on educational and licensure prerequisites rather than on efficacy of treatment.

In the same year that Jacqueline was prosecuted by the medical faculty, the masters drew up articles "in the public interest" which strengthened the faculty's control over the apothecaries which it had previously assumed in 1271. Now all apothecaries and herbalists were required to appear annually before the medical faculty and swear that, among other things, they were conscientiously performing their pharmaceutical functions, and that they were using accurate weights and drugs which were not corrupted. The dean of the medical faculty and one apothecary appointed by the faculty would henceforth make periodic inspections of apothecary shops. The statute also forbade apothecaries from selling any laxative medicines, aborticides, poisons, or other dangerous drugs without the advice of a licensed physician.113

113. Chartularium, vol. 2, nr. 817, pp. 268-269. This statute was reinforced and strengthened by King Philip VI in 1336: Ordonances des rois de France, ed. by E. J. de Laurière et al., Paris, 1723-1849, vol. 2, p. 116. An oath required of apothecaries in Paris from 1422 is recorded in Chartularium, vol. 4, pp. 406-407, and a translation is provided by Thorndike, University Records, pp. 298 f. They were required to
In spite of the trials and conviction of illicit practitioners in 1311, 1312, and 1322, charlatans and empirics must have continued their enterprises in Paris, for in 1325 the medical faculty "humbly beseeched" Pope John XXII to intervene to protect the people's health and the physicians' monopoly. The pope wrote to Stephen, bishop of Paris, expressing grave concern over the many deaths allegedly caused in the city by those illegally practising medicine, and instructed him to cooperate with the medical faculty in preventing those ignorant of the art of medicine, especially old women and soothsayers, from practising within the city or its suburbs. Stephen was further instructed to call a council of men learned in medicine, if necessary, in order to find out the truth of the matter, and to follow their advice.\textsuperscript{114} Charlatans must have continued to thrive in Paris, for five years later the medical faculty again petitioned the pope. He wrote to Hugh, the new bishop of Paris, urging him to make every effort to ensure that only those who were masters or licentiates in the medical art be permitted to practise in Paris or its suburbs and swear to eight matters: 1) that they have the appropriate pharmaceutical books to follow, 2) they are using just weights, 3) will not use corrupted medicines or 4) substitute one drug for another without the permission of the master giving the prescription, 5) will not dispense drugs without a prescription, and 6) will fill the prescriptions of only licensed physicians. The seventh and eighth points pertain to the supervision of their employees.

that ecclesiastical censure be brought against those who practise in violation of this dictum.\textsuperscript{115} Ten years later, in 1340, Pope Clement VI ordered that not only those who practise medicine in Paris illegally be excommunicated, but also those who allow themselves to be treated by such practitioners.\textsuperscript{116} In 1347 and 1351, the medical faculty again petitioned the pope to lend his authority to the faculty's campaign to stamp out charlatanism in Paris.\textsuperscript{117}

In addition to battling against illicit medical practitioners, the medical faculty was engaged in drawn-out litigation from 1330 through 1332 with the chancellor of the university. The latter had licensed a bachelor of medicine who had not been presented by the medical faculty. The faculty sought and obtained confirmation of their exclusive rights in the examination and approval of licentiates in medicine from the king, the pope, and the provost of Paris.\textsuperscript{118}

Troubles continued with the illicit practice of medicine and, in response to a petition of the dean and masters of the medical faculty, King John in 1352 issued a royal ordinance.\textsuperscript{119} He had been apprised that "many per-

\textsuperscript{115} Ibid., vol. 2, nr. 900, pp. 336-337.

\textsuperscript{116} Kibre, "The Faculty of Medicine," p. 13.

\textsuperscript{117} Chartularium, vol. 2, nr. 1138, pp. 602-603, and vol. 3, nr. 1197, pp. 7-8.


\textsuperscript{119} Chartularium, vol. 3, nr. 1211, pp. 16-17; translation in Thorndike, University Records, pp. 235 f.
sons of both sexes, women and old wives, monks, rustics, some apothecaries and numerous herbalists, besides students not yet trained in the faculty of medicine or coming from foreign parts to the town of Paris to practice," were indeed acting as physicians. These people were "ignorant of the science of medicine and unacquainted with human constitutions, the time and method of administering the virtues of medicines, particularly laxatives in which lurks peril of death if they happen to be administered unduly" and that these practitioners alter medicines "quite contrary to reason and the medical art." They administer strong laxative clysters "and other things unlawful for them in ... Paris, calling into consultation no physicians whatever, which results in scandal of our people, grave danger to souls and bodies, and derision, prejudice and injury of the said petitioners, and science of medicine, and those expert in it." Homicides and abortion "on every hand and sometimes publicly" result. "Wherefore the said petitioners, unable further to tolerate the said practices with clear conscience or to wink at them, humbly beseech us that we deign to provide a suitable and lasting remedy to this." Terming the illicit medical practice "damnable interference, presumption and fatuous rashness," the king, for the public utility of his subjects, decreed

That no one, of whatever sex or condition in ... Paris shall henceforth make, or advise the making, or dare to administer any medicine alterative, laxative, sirup, electuary, laxative pills, clysters of
any sort — for fear of death from flux or aggravation of bad symptoms in which it is not likely that they know how to apply a remedy — opiate or anything else, or offer medical advice or otherwise exercise the office of a physician in any way, since the administration of the aforesaid belongs to experts and those learned in operating certainly on the human body and not to others, unless he is a master or licentiate in the said science of medicine at Paris or some other university, or unless that medicine was ordered by the advice and direction of some master or other person approved by the said faculty to practice.

The appropriate officials are ordered to correct and punish those acting contrary to this statute.

Once again, in the name of the public good, but this time by royal mandate, medical practice is reserved exclusively for those duly licensed by the medical faculty of the university. A sharp distinction is clearly delineated between the ignorant and unskilled operators and the expert and learned physicians. The next year, the king issued an ordinance governing apothecaries in Paris. He required that a commission made up of representatives of the master apothecaries and two masters of medicine inspect the pharmaceutical shops in the city twice annually. He also forbade apothecaries to deliver any medicinal remedies without a physician's express instructions. Severe penalties were to be visited upon any apothecaries who should presume to violate these regulations. 120

Between 1356 and 1364, various royal charters were issued repeating and supplementing the provisions of the

royal ordinance of 1311 protecting the rights of surgeons in Paris. Vern Bullough comments on the surgeons that "as their status rose they turned an increasing number of operations and procedures over to the barbers on the grounds that to perform such tasks would be degrading to the surgeons. This laid the groundwork for the organization of the barbers to a position to challenge to the surgeons." Mention has already been made above to a municipal statute of 1307 strengthened by a royal ordinance in 1331 which required that barbers practising surgery be examined and approved by a commission of master surgeons. In 1371 the barbers petitioned the king to renew their ancient but lost charter, "a common procedure of a guild applying for an initial charter." Their request was granted and regulations were issued by the king distinguishing between the rights of barbers and of surgeons. It appears that the surgeons had petitioned the king to limit the barbers'


123. Ibid.
surgical activities further than they already had been. The king maintained that it would be contrary to the public good to limit the barbers' surgical purview since they treated the poor for many illnesses, handling cases that the surgeons would not deign to touch. Thus it was in the public interest that the barbers be allowed to prepare and administer ointments, plasters, and other medicines which were appropriate for treating boils, tumors, bruises, and all wounds which were not mortal, without the interference of the surgeons.\footnote{124} The medical faculty continued to have its difficulties in attempting to regulate medical practice within Paris. In 1375 the masters of medicine issued a statute requiring all bachelors in medicine and others who were still pending licensure to swear that they would not practise medicine nor visit the sick unless they were accompanied by a master.\footnote{125} In 1390 the masters found it necessary again to appeal to the king to protect their

\footnote{124}{\textit{Ordonances}, vol. 5, pp. 530 f. In 1376 the king issued similar regulations for the town of Sens and later for Tours and Rouen. See Bullough, "Medical Guilds," p. 39.}

\footnote{125}{\textit{Chartularium}, vol. 3, nr. 1396, pp. 217-218.}
monopoly. Charles VI responded by issuing another royal
decree against illicit practice. 126 Around 1420, as one
of his first acts as regent of France, Henry V of England
reaffirmed the statutes of the French kings against illi­
cit medical practice and threatened with imprisonment anyone
catched practising without a license. 127

Meanwhile, the Paris surgeons were having their prob­
lems with illicit surgical practice. 128 In 1411 the master
surgeons prosecuted a woman named Perretta Petonne for
practising surgery "although she had been neither examined
nor approved in the aforesaid art, as the privileges and
statutes of that art, issued and confirmed by our predeces­
sors, require and state." She had had the audacity to hang
"before her said house or lodging a box or banner or sign
after the manner of a public surgeon." She had been ordered
to cease surgical practice until she could be examined and
approved through normal examining and licensing procedures.
She had finally been placed under arrest and imprisoned
without bail. Hersurgical books were to be examined by
four physicians in the presence of representatives of the

126. Ibid., vol. 3, nr. 1586, pp. 534-535.
127. Ibid., vol. 4, nr. 2227, p. 423.
128. Ibid., vol. 4, nr. 1912, pp. 198-199. A trans­
lation is available in Thorndike, University Records, pp.
289 f.
surgeons' guild and Perretta herself was to be examined by the said physicians in the presence of the said examiner and clerk and of two surgeons in whom both parties could trust. When this had been done and the said examiner had been informed as to the cures of the sick of which Perretta boasted and as to which the said masters and jurati wished to give him information to the contrary, the same physicians, examiner and clerk should report their findings. . . .

The court elected to permit Perretta to be released on bail; the prosecution objected. Perretta, "because she had many sick persons or patients under her care, who required essential remedies and visitation, demanded that permission be granted her to visit these sick persons and patients, the said prohibition notwithstanding." This request was denied. The court was adjourned until the next month and the parties remitted. The court "forbids the said Perretta, while this process is pending, to exercise the profession or act of surgery in any way, or to place, or cause or presume to place, on her house a box, banner or other sign of a surgeon or surgeoness." Further record of this case has not survived.

The surgeons, while fighting to protect their monopoly from infringement by unlicensed practitioners and to keep the barber-surgeons subservient, were also striving for equality with the physicians. In 1436 the surgeons were admitted as actual "scholars" in the medical faculty.
In the document issued by the university, the reason given for the surgeons' inclusion within the ranks of the university scholars was that "many quacks\(^{129}\) have arisen, not approved, and false or feigned surgeons, greatly disturbing and cheapening the venerable science of surgery with grave and horrid popular scandal and injury to the same." That such quackery persists is "to the prejudice and no small detriment of the said petitioners, in view of the great and notable privileges conceded and bestowed by many kings of France upon the same petitioners and their predecessors in the said science of surgery." The surgeons are now to "be reputed scholars and enjoy their privileges, franchises, liberties, and immunities conceded to us or to be conceded, and that we aid them in this." It was provided that the surgeons must attend the lectures of the masters in the medical faculty "as is customary."\(^{130}\)

It appears that this marriage of the physicians and surgeons was harmonious for a few years and in 1443 we find them "united to make common cause against a group of

\(^{129}\) The quacks referred to here are probably both the illicit surgeons such as Perretta, mentioned above, and the surgeons' rivals, the barber-surgeons. For litigation between the surgeons and the barbers, see Chartularium, vol. 4, nr. 2253, pp. 442-443, and nr. 2621, pp. 675-676.

\(^{130}\) Kibre, "The Faculty of Medicine," p. 18.
illicit medical practitioners called 'cabasatores et cabusatrices.'" But in 1446 relations soured when the medical faculty demanded that the surgeons take an oath in the presence of the medical faculty that they would not exceed their prescribed limits of practice. The surgeons refused. There ensued a variety of unpleasantries culminating in the early 1490s with the faculty of medicine attempting to undermine the surgeons by opening its lectures to the corporation of barbers. The surgeons finally humbled themselves and requested that the medical faculty close its lectures to the barbers. In 1496 an accord was reached, but two years later the medical faculty was charging the surgeons with prescribing alterative and laxative medicines.

In the year 1500 the provost of Paris requested the aid of the medical faculty in combating the plague. The faculty responded with a request that the provost help them in combating alleged medical practice by charlatans and empirics. Their efforts to protect their monopoly still remained ineffective.

132. Ibid., pp. 18 f.
We see from the above discussion of the situation in Paris during the thirteenth, fourteenth, and fifteenth centuries, that the medical and surgical professions expended much of their energies in seeking to protect their own interests, not only against illicit practitioners, but also against each other. While the concern for the common good is always enunciated as the motivation behind the issuance of statutes, the request for municipal, royal, or ecclesiastical support, and the prosecution of illicit practitioners, nevertheless the same terms are used whether the physicians are prosecuting the surgeons, the apothecaries, or the charlatans, or whether the surgeons are fighting the barber-surgeons or the empirics. The protection of the common good seems to equal the protection of the private and sometimes selfish interests of the various medical organizations in the city of Paris.

Hastings Rashdall writes that "the medical doctors of Paris were a wealthy and influential body of men." But the medical school never acquired a strong reputation, nor did it attract students from distant lands. "To the Parisian physician theory was everything." And this was to be expected, for "in the great centers of scholas-
ticism medicine also became scholastic. The importance attached to disputations in the medical curriculum of . . Paris is by itself sufficient to show the spirit in which medicine was here studied. . . . The picture of the physicians of Paris that emerges from the sources is of exceedingly status-conscious academicians who disparaged the surgeons for the manual activities in which the latter of necessity engaged. The surgeons in turn envied the physicians and sought to emulate them by despising the barbers to whom they relegated their more demeaning surgical procedures. The groups that fare best in the accounts are the illicit practitioners such as Jacqueline and Perretta and the lowly barber-surgeons whose willingness to see to the needs of the poor was cause for the king's denial of the surgeons' petition that the barbers' range of permitted surgical activity be decreased. Nevertheless, the danger to the public that would ensue if there were no restrictions on medical and surgical practice was recognized by municipal, royal, and ecclesiastical authorities as is evidenced both by the nature of their decrees and by the specific articulation of such concern.

What did the public gain by the granting of a monopoly (although an unenforceable monopoly) in medical and

137. Ibid., p. 436.
surgical practice to the medical and surgical organizations in Paris? The sources show nothing specific save a guarantee of competence by those licensed, if and only if competence is measured by standards of education rather than efficacy of treatment. The available sources reveal nothing of the standards of conduct adopted by the medical collegium or the surgical guild (which became a collegium). 138

London presents a far different picture from either Montpellier or Paris, primarily because it was not a university city and thus did not have a collegium of physicians whose monopoly in medical practice was linked with the statutes and privileges of a university faculty. There were three groups of legitimate medical or surgical practitioners in London during the late Middle Ages: physicians, surgeons, and barber-surgeons.

The earliest regulations governing any of these concerns the barbers. Around the year 1307 an ordinance was

138. F. M. Powicke and A. B. Emden, who prepared the new and enlarged edition of Hastings Rashdall's monumental study of the medieval universities, write that "the statutes of Cologne usefully supplement the evidence from Paris" (ibid., p. 466, n. 2). The bachelor of medicine at Cologne was required to swear an oath before receiving his license to practise. This oath contained, among other things, that he would not operate as a public surgeon with knife or fire, would not violate the laws, nor be a womanizer. Further, he would not attend a patient who had not paid his bill to another physician, nor would he engage in practice with Jewish practitioners, or with illiterate men, or with female practitioners.
issued "that no barbers shall be so bold or so hardy as to put blood in their windows, openly or in view of folks. . . ."¹³⁹ Barbers caught advertising in this fashion were to be fined two shillings. In 1308 Richard le Barbour was appointed by the court of aldermen to have supervision over the barbers of London.

And he was admitted, and made oath that every year he would make scrutiny throughout the whole of his trade; and if he should find any among them keeping brothels, or acting unseemly in any other way, and to the scandal of the trade, he was to distrain upon them, and cause the distress so made to be taken to the Guildhall, etc.¹⁴⁰

The earliest document from London dealing with surgeons is from 1354 and involves an inquisition into the treatment of a wound. Several surgeons were called to testify before the mayor, aldermen, and sheriffs as to whether or not a wound on the right side of the jaw of a certain Thomas de Shene was curable at the time when John le Spicer took the former under his care. The sur-


¹⁴⁰. Memorials of London and London Life in the XIIIth, XIVth, and XVth Centuries, ed. by Henry Thomas Riley (London: Longmans, Green and Company, 1869), 67. See also Young, Annals, pp. 23 f. Note that the "etc." with which the quotation ends appears in the text, thus indicating that the phrase interrupted was already formulaic by the time that the document was written.
geons, under oath, certified that

if the aforesaid John le Spicer at the time when he took the said Thomas under his care, had been expert in his craft or art, or had called in counsel and assistance to his aid, he might have cured the injury aforesaid; and they further say that, through want of skill on the part of the said John le Spicer, the said injury under his care has become apparently incurable.

This document indicates that those undertaking surgical practice in London at this time were, qua surgeons, held responsible for their actions. Madeleine Cosman writes, commenting on this case, that from it we can learn that "there was available machinery for consultation by experts to advise and assist the individual practitioner in difficult cases . . . . Implicit is the practitioner's responsibility to cure what he has undertaken to cure and his legal accountability if unsuccessful" and suggests a "method of surveillance, and definition of responsibility expected not only of the practitioner but of his profession."142

Fifteen years after this case against John le Spicer, in 1369, three surgeons were sworn before the mayor and aldermen as Master Surgeons of the City of London. They


142. Madeleine Pelner Cosman, "Medieval Medical Malpractice: The Dicta and the Dockets," Bulletin of the New York Academy of Medicine, 1973, 49: 25 f. In 1377 a complaint was brought against Richard Cheyndut by a certain Walter whose "malady" of the left leg Richard had committed himself to cure. At the mayor's order three surgeons examined Walter's leg and concluded that the patient was now in danger of losing his limb owing to Richard's lack of care and lack of knowledge. Richard was fined fifty shillings in damages by the jury and was jailed (ibid., pp. 26 f.).
swore that they would well and faithfully serve the people, in undertaking their cures, would take reasonably from them, etc.\textsuperscript{143} would faithfully follow their calling, and would present to the said mayor and aldermen the defaults of others undertaking cures, so often as should be necessary; and that they would be ready, at all times, when they should be warned, to attend the maimed or wounded, and other persons etc.; and would give truthful information to the officers of the city aforesaid, as to such maimed, wounded, and others, whether they be in peril of death or not, etc. And also, faithfully to do all other things touching their calling.\textsuperscript{144}

The duties of these master surgeons are to three different groups: 1) to their profession; 2) to the people; 3) to the state. 1) They are to do all things faithfully that pertain to their calling. 2) They are well and faithfully to serve the people, be available to attend those who need their services, and charge them reasonable fees. 3) In a supervisory capacity, they are to report to the appropriate officials the failings of their fellow surgeons; and in a forensic capacity, they are to give truthful information to the officers of the city concerning maimed, wounded, and others.\textsuperscript{145} This tripartite responsibility - to the pro-

\textsuperscript{143}. So abbreviated here and elsewhere in the original. Cosman says that this indicates "that the procedures of investiture and components of commitment were written down incompletely because they were familiar and formulaic" (\textit{ibid.}, p. 26).

\textsuperscript{144}. \textit{Memorials of London}, p. 337.

\textsuperscript{145}. Cosman, "\textit{Medieval Medical Malpractice}," p. 26, writes that this document "implies, though it does not state, that patients who have desperate wounds or are in danger of
fession, to the people, and to the state — articulated for the first time here in any medico-surgical document that I have seen, is the fundamental principle of medieval craft guild ethics.

In 1375 certain barbers of London were appointed as keepers or porters at the city gates with the apparent duty of keeping a strict watch to ensure that no lepers should enter the city. The next year, in terms reminiscent of the petitions made by the Paris physicians, the barbers requested of the lords, mayor, and aldermen of the city of London, that an ordinance protective of their craft be granted them. The ostensible reason for the petition was that barbers were frequently resorting to the city from "uppelande" (i.e., from the country-side) who are "not instructed in their craft, and . . . intermeddle with barbery, surgery, and the cure of other maladies, while they know not how to do such things, nor even were instructed in such craft; to the great damage, and in deceit, of the people, and to the great scandal of all the good barbers of the said city." Therefore, the petitionees, "for the love of God, and as a work of charity" are requested to decree that henceforth no one might practise barbery within death must be shown to the masters. Later documents [1390 and 1424], in fact, state that responsibility precisely." The oath of the master surgeons of 1390 is almost identical to that of 1369, except that the master surgeons swear to be ready "to examine persons hurt or wounded, and others, etc." The oath of 1390 is in Memorials of London, pp. 519 f.

146. Young, Annals, p. 25.
the city until he "shall be found able and skilled in the said art and office of barbery, and that, by assay and examination of the good folks, barbers of the same city, whom out of the said craft it may please you to ordain thereunto." The barbers requested that two of their number be appointed to be wardens of the craft and that they be sworn "well and lawfully, to the best of their power and knowledge, to rule their craft; and that the said Masters may inspect the instruments of the said art, to see that they are good and proper for the service of the people, by reason of the great peril that might ensue thereupon." On the complaint of these two masters, "all rebellious persons in the said craft shall be made to come before you, and whosoever shall be found in default against this Ordinance shall pay to the Chamber forty pence." The ordinance ends with the appointment of two men as masters of the barbers. 147 It is important to note in this document the stress placed on the mutual advantage to the people of London and the barbers of the city if the craft of barbery be closed to all except those who are qualified and that this licensure provision be ensured and protected by municipal authority. There were no provisions in this ordinance governing the intra-guild relations of the barbers. But in 1387 or 1388 a document of the guild specified that "no brother of the said fraternity entice any servant from the service of his mas-

ter, privily or openly. If any dispute arise between any of the brethren . . . it is to be amicably settled by the decision of the masters of the said fraternity."148

There was as yet no guild, company, or collegium of physicians authorized in London. There were medical faculties at both Oxford and Cambridge, but being distant from London, they exercised no direct control over medical practice in the metropolis. These facts do not mean, however, that the physicians had no recognized position in London. George Clark, in his History of the Royal College of Physicians of London, is absolutely correct in writing that "it was characteristic of medieval society that no one could engage in a gainful occupation without leave from some appropriate authority, and those who had such leave enjoyed the protection of the authority which gave it."149

This is illustrated by the case of a certain Roger Clerk who, in 1382, was charged with pretending to be a physician. The accusation was brought by the mayor and commonality of the city of London as well as by a certain Roger atte Hacche, "in a plea of deceit and falsehood." Roger atte Hacche said "that whereas no physician or surgeon should intermeddle with any medicines or cures within the liberty of the city aforesaid, but those who are experien-

148. Young, Annals, p. 33.
ced in the said arts, and approved therein, the said Roger Clerk, who knew nothing either of the arts aforesaid, being neither experienced nor approved therein, nor understood anything of letters" had come to Roger atte Hacche's house, examined the latter's ill wife, and gave her husband "to understand that he was experienced and skilled in the art of medicine" and could cure the woman if her husband desired it. The latter gave him an advance on an agreed upon sum for his wife's cure. Roger Clerk then produced and gave to Roger atte Hacche an old parchment "asserting that it would be very good for the fever and ailments" of the wife. Roger Clerk then rolled up this parchment and put it about her neck, "but in no way did it profit her; and so, falsely and maliciously, he deceived the same Roger atte Hacche." The parchment was produced in court and Roger Clerk asserted that it had a most effective incantation against fevers written on it, and he recited the incantation. Upon examination it was found that none of the claimed words appeared upon it. Under interrogation, Roger Clerk finally admitted that the parchment could be of no avail for fevers.

And because . . . Roger Clerk was in no way a literate man, and seeing that . . . he was found to be an infidel, and altogether ignorant of the art of physic or of surgery; and to the end that the people might not be deceived and aggrieved by such ignorant persons, etc.; it was adjudged that the same Roger Clerk should be led through the middle of the City, with trumpets
and pipes, he riding on a horse without a saddle, the
said parchment and a whetstone, for his lies, being
hung about his neck, an urinal also being hung before
him, and another urinal on his back.¹⁵⁰

Although no precise definition of the requisite skill
or experience for practising as a physician and no indica-
tion of how one would be approved for practising medicine
in the city are given, it is obvious by this document that
the municipal government viewed Roger Clerk as having "vio-
lated not only one man's trust but London's civic code
forbidding practice of the unlearned and the unlicensed."¹⁵¹
Cosman assumes that this "code" was the ordinance of 1376
(the barbers' ordinance) or its equivalent. She is pro-
bably wrong in respect to the former since it is unlikely
that physicians would be examined by the master barbers.
She is closer to the truth in the latter, that is an equi-
valent code, although it is likely that no equivalent code
had been written for the city that would have applied spe-
cifically to physicians. Rather the principle articulated
by George Clark and quoted above, namely that "no one could
engage in a gainful occupation without leave from some ap-
propriate authority" was called into play. Unless there
was active surveillance in individual trades, violations
of this undergirding principle of late medieval urban life
would come to light most likely through accusations such
as the case against Roger Clerk. While barbers had their

organization with the concomitant fixed licensure and surveillance procedures, the physicians had to rely upon the initiative being taken by aggrieved individuals and the municipal authorities in instances where charlatans were playing the role of physicians.

Apparently in the early fifteenth century the London surgeons were attempting to gain some supervisory or surveillance authority over the barbers who practised surgery, for in 1410 the ordinance of 1376 was reconfirmed with the addition that the barbers should enjoy their privileges "without the scrutiny of any person or persons of any other craft or trade of the said Barbers, either as to shaving, making incision, blood letting or any other matters pertaining to the act of Barbery or of Surgery, in the craft of the said Barbers now practised, or to be practised hereafter." Five years later this privilege was reconfirmed as part of a lengthy document introduced by the concern that some barbers who are inexperienced in the art of surgery do oftentimes take under their care many sick and maimed persons, fraudulently obtaining possession of very many of their goods thereby; by reason whereof, they are oftentimes made to be worse off at their departure than they were at their coming; and that, by reason of the inexperience of some barbers, such persons are oftentimes maimed; to the scandal of such skillful and discreet men as practise the art of surgery, and the manifest distraction of the people of our Lord the King.

The mayor and aldermen, wishing to find a solution to this problem, considered first
how that the said barbers by themselves, without the scrutiny of any other persons of any other trade or craft, or under any name whatsoever, have supervision and scrutiny over all men following the craft of barbery . . . as to all manner of cases touching the art of barbery or the practice of surgery, within the cognizance, or to come within the cognizance, of the craft of the said barbers.153

Two "of the most skilful, most wise, and most discreet men, of all the barbers following such practices of surgery" should be chosen by the majority of barber-surgeons, "seeing that oftentimes under their scrutiny and correction there would be found cases of possible death and maiming, where, if ignorant and indiscreet men should undertake the management thereof . . . in their judgment grievous errors might unexpectedly ensue, by reason of such unskilfulness." Two master barber-surgeons were then chosen. They swore, among other things, 1) to oversee "all manner of barbers practising the art of surgery" within the city; 2) to maintain and observe the rules and ordinances of the craft; 3) to spare no one "for love, favour, gain, or hate;" 4) diligently to present to the chamberlain of London such defaults as they might find; 5) "at all times, when duly required thereto, well and faithfully to examine wounds, bruises, hurts, and other infirmities, without asking anything for their trouble."154

Later these masters were having difficulties with some of the barbers under their scrutiny. So during the

153. Reference is made to the above-mentioned document of 1410.

next year an addendum was added to this document, that

notwithstanding the Ordinance aforesaid, very many
inexperienced men of the said craft of Barbers, indiscreetly practising the art of surgery, did presume, and in their presumption pretend, that they were wiser than the Masters inspecting, and, as to certain infirmities — indiscreetly excusing themselves therein, on the insufficient grounds that they are not liable to the peril of maiming or of death — did altogether disdain to give notice of the same to the said Masters. . . . Upon which pretence, they did not hesitate daily to take sick persons, in peril of death and maiming, under their care, without shewing such sick persons, or such infirmities and perils, unto the same Masters inspecting.

Thus many were being put in danger of maiming or death and accordingly the mayor and aldermen were beseeched, "for the common advantage of the whole realm, and the especial honour of the said city" to find a "sure remedy." In response to this petition, the mayor and aldermen, after "diligent counsel" and in light of the severe danger to the public good, ordained that no barber practising the art of surgery within the city "should presume in future to take under his care any sick person who is in peril of death or of maiming, unless he should shew the same person, within three days after so taking him under his care, to the Masters inspecting." A penalty of 6s. 8d. was set to be exacted of any barber found acting in defiance of this ordinance. 155

Once again considerable emphasis is placed on the danger to the public good that is imminent if the barbers are not supported in their efforts to police their trade. The

ready cooperation of the municipal authorities is a sure indication that the barbers' concerns were not ill-founded. The requirement that cases where patients in peril of maiming or of death be shown to the masters is a regulation protective of the interests of both the practitioners and the patients. This document is similar in many of its provisions to the oaths of the master surgeons of 1369 and 1390, discussed above.

In 1421 a petition was sent by the House of Commons to the king concerning unqualified practitioners of medicine. Although this is sometimes called the "Physicians' Petition," there is no reason to believe that it was initiated by physicians, almost certainly not by the medical faculties of Oxford or Cambridge. Just as likely it may have emanated from aggrieved members of the House of Commons, as George Clark conjectures. This petition requested that a royal decree be issued forbidding all except university graduates to practise medicine. A warrant was to be sent to all sheriffs and to all medical practitioners ordering that any who wished to practise henceforth must be approved by one of the two university medical faculties. The petition met with a favorable royal response, but nothing further is heard about it.

156. The text is printed in John Flint South, Memorials of the Craft of Surgery, ed. by D'Arcy Power (London: Cassell, 1886), 50 f.

157. George Clark, History of Royal College, p. 25.
Two years later a petition was addressed by representatives of the physicians and of the surgeons of London to the mayor and aldermen requesting that a joint collegium of the two crafts be authorized. Medical practice was to be under the aegis of two surveyors of medicine, and surgical practice under two masters. The two houses were to be united under one rector of medicine. George Unwin, the great historian of English guilds, writing in the early twentieth century, says of the document under consideration, that it illustrates "the best spirit of professionalism at this period of London history." He summarizes its contents as follows:

Their rules were meant to ensure that all practitioners in both branches should be duly qualified, if possible, by a University training, and they sought to provide a hall where reading and disputation in Philosophy and medicine could be regularly carried on. No physician was to receive upon himself any case, "desperate or deadly," without showing it within two or three days to the Rector or one of the Surveyors in order that a professional consultation might be held, and no surgeon was to make any cutting or cauterization which might result in death or maiming without similar notice. Any sick man in need of professional help but too poor to pay for it, might have it by applying to the Rector. In other cases the physician was not to charge excessive fees, but to fix them in accordance with the power of the sick man, and "measurably after the deserving of his labour." A body composed of two physicians, two surgeons, and two apothecaries, was to search all shops for "false or sophisticated medicines" and to pour all quack remedies into the gutter.

This document is similar to others of both the surgeons

---

158. The text is printed in South, Memoriais of Surgery, pp. 299 ff.
and the barbers that we have already seen, in setting li-
censure provisions, requiring desperate cases to be shown
to designated guild officials, and in the assurance that
reasonable fees would be charged. It is novel in several
ways also: it establishes for the first time in London
surveillance of pharmaceutical shops, and the adjustment
of fees to a patient's ability to pay, allowing for the
ultimate adjustment to free treatment for those who have
applied to the rector. This is the third instance we have
seen thus far in the late Middle Ages of a requirement,
self-imposed or otherwise, to treat the poor gratis, Si-
cily and Montpellier being the other two. This, as we
shall see in Chapter IV, was a subject of great concern to
the moral theologians and casuists, and of even greater
concern to the individual physicians themselves, as will
be discussed in Chapter V. The extent to which the exten-
ding of free medical care to the poor was a common practice
of medical and surgical guilds cannot be determined by the
evidence presently available. Nor should such a practice
be confused with provisions for free medical care for the
poor that was provided by public or municipal physicians
hired by cities sometimes specifically for that purpose,
or with that as one of their prime functions, as was the
case in areas ranging from thirteenth century Venice.

160 Guido Ruggiero, "The Cooperation of Physicians
and the State in the Control of Violence in Renaissance
Venice," Journal of the History of Medicine and Allied
to fourteenth century Nuremberg. 161

In 1435 a long treatise of laws specifically regulat­
ing the craft of surgery was drawn up. 162 This lengthy document, which was the charter of a distinct and autono­

mous guild of surgeons, dealt with a wide variety of topics: 163 corporate meetings, guild dinners, deportment during meetings, charitable acts. Madeleine Cosman calls it "an exemplifi­
cation of responsible self government. For the honor of the craft, for its probity, and for its perpetuity, the ordinance regulates all aspects of academic, practical, and ceremonial functions. . . . Few compilations of rules legislate so pervasively and so justly.164 As previous regulations had already done, this ordinance requires each practitioner to present dangerous cases to a consul­
ting master. A heavy penalty is specified for practitioners who violate this regulation and for masters who fail or refuse to come for consultation when called. Further, any master who, when called for a consultation, attempted to take over the case, was to pay restitution to the aggrieved surgeon and a fine to the guild.

161. Gerald Strauss, Nuremberg in the Sixteenth Cen­

162. The complete text is published in South, Memo­

rials of Surgery, pp. 307 ff.

163. For a short summary, see Cosman, "Medieval Me­
dical Malpractice," pp. 41 f.

164. Ibid.
During the remainder of the fifteenth century, several ordinances and statutes pertaining to the barber surgeons were issued. In 1451 the barbers petitioned the mayor and aldermen to establish certain ordinances for their company. The various regulations contained in these ordinances of 1451 deal primarily with intra-guild relations: e.g., barbers were to settle disputes among themselves within the guild, not taking them to common law; and they were not to "enfourme eny foreyn nor him teche in no wise in eny man^o point that belongeth to the craft of barbourye or surgye." 165

During the sixth decade of the fifteenth century, the Crown was growing in strength and was attempting to exercise a tighter control over municipal affairs. Royal charters were issued to a variety of crafts including a charter granted in 1462 by Edward VI which set up the Community or Fellowship of Barbers as a Company. After a short salutation, this document opens with a lengthy sentence that sets the tone of the remainder:

Know ye, that we considering how our beloved, honest, and free men of the Mystery of Barbers of our City of London, exercising the Mystery or Art of Surgery, as well respecting wounds, bruises, hurts, and other infirmities of our liegemen, and healing and curing the same, as in letting blood, and drawing the teeth of our liegemen, have for a long time undergone and supported, and daily do undergo and support, great and

165. Young, Annals, pp. 43 ff.
manifold applications and labours; and also, how through the ignorance, negligence and stupidity of some of the men of the said Barbers, as well of the freemen of our said City, as of other Surgeons foreigners and not freemen of the said City, and who daily resort to the said City, and in the mystery of Surgery are not sufficiently skilled, whereby very many and almost infinite evils have before this time happened to many of our liegemen, in their wounds, hurts, bruises, and other infirmities, by such Barbers and Surgeons, on account of their defect in healing and curing; from which cause, some of our said leigemen have gone the way of all flesh, and others, through the same cause, have been by all given over as incurable and past relief, and it is to be dreaded, that similar or greater evils may in future arise on this head, unless proper remedy is by us, speedily provided for the same.

The king judged that such evils happen because of a lack of "examinations, corrections, and punishment by a due supervision" of barbers and surgeons who are insufficiently skilled and instructed in the art. Wherefore, "at the humble request of our aforesaid beloved, honest, and freemen of the said Mystery of Barbers," the king granted to them various governing rules, including the election of two masters or governors "of the utmost skill, to superintend, rule and govern the Mystery and Community aforesaid and all men of the said Mystery." The guild is then granted a variety of legal privileges including autonomy in their governance and discipline provided that their statutes or ordinances "are not in any ways contrary to the laws and customs of our Kingdom of England." The governors or masters of the mystery "shall have the superintendence, scrutiny, correction, and government of all . . . the freemen of the said City who are Surgeons, exercising the Mystery of Barbers within
the said City, and of all other foreign Surgeons practising in the city or its suburbs. All who wish to exercise the art of surgery must henceforth be approved by the masters or governors. 166

Sidney Young writes that

the chief point which strikes us on reading the foregoing Charter is, that it contains a great deal relative to Surgery, and little, indeed nothing, concerning Barbery, and yet it is granted ostensibly to the Barbers! . . . With the possession of their Charter the Company were now in an unassailable position, and we hear no more of their molestation by the Guild of Surgeons. 167

Although there had been some evidence of strife and competition between the barbers who practised surgery and the surgeons in London, compared with Paris, the relationships of the various medical and surgical groups in London were nearly blissful.

The major problem that seems to have plagued the practitioners of the surgical arts in London during the last two decades of the fifteenth century was the difficulty involved in keeping their craft a closed shop. This had two distinct aspects: 1) the practice of surgery by unauthorized persons and 2) abuses of the apprenticeship system. Much of the guild's attention was given to the latter. In 1482 a set of ordinances concerned primarily with the regulation of apprentices was submitted to and approved by the court of aldermen. 168 Five years later there appears to have been

166. Ibid., pp. 55 ff.
167. Ibid., pp. 58 and 61.
168. Text, ibid., pp. 61 f.
such an extent of quarrels and dissensions among the barbers that a new set of ordinances was submitted to the court of aldermen for their approval and ratification. The petition is prefixed by the lament that every barber is following his own way and not living under any rule especially in regard to their taking on of apprentices. So ordinances are asked to be granted to deal with these matters. 169

In 1493 an agreement was entered into between the Barbers' Company and the Surgeons' Guild. Although the two corporations were not united by this agreement, they were to choose two wardens from among the barbers, and two from the surgeons. These four wardens were to have jurisdiction over all surgical matters in the city and over all surgeons practising in London, whether of the Barber's Company, the Surgeons' Guild, or foreigners. These four wardens were to be responsible for examining outsiders who wished to practise and to bring to the mayor anyone illegally practising surgery. The wardens also would be available for the mandatory consultation in cases liable to result in death or maiming. These wardens were not to force any surgeon to leave a case under his care, "but that yche of them be redy to helpe eche other w^t counsell or deed, yt worship profyte and the honeste of the crafte, and helpyng of the seke be had and done on all sydis." 170

169. Ibid., pp. 62 ff.
170. Ibid., pp. 66 ff.
This last sentence, quoted from the agreement entered into by the Barbers' Company and the Surgeons' Guild of 1493, gives in a nutshell the foundational principles of medieval medico-surgical guild ethics: 1) for each guild member to be ready to help the other with counsel or deed; 2) having a regard for the profit (i.e., the well-being) and honor of the guild; and 3) helping the sick on all sides. It is essential that we keep the order of these principles in mind if we are properly to understand the thrust of the guild movement as it affected the development of medical ethics.

The guilds were functional organizations that were inherently selfish and designed to promote and protect the special interests of their members. They were brotherhoods, fraternities, companies of brethren united, more often than not, by a common economic activity, which was viewed as being best served by the subordination of individual to group or corporate interests. The well-being and honor of the craft depended upon the mutual cooperation of its members. If these conditions be met, then the third, the service rendered or the commodity produced could be effectively delivered. All of these, in late medieval urban life, hinged upon the authority of the craftsmen or merchants or professors or physicians to perform their functions unmolested by those who would illicitly meddle in their affairs. Thus an exclusive right to fill a particular role was sought and in
exchange for the privilege of holding a protected vocational status, a guild would guarantee as a *sine qua non* a level of expertise in the production of its commodity or in the rendering of its service and the responsibility to police and to supervise its own members, both in respect to their qualifications, that is, training (leading to licensure) and their performance. Regulations governing the minutiae of conduct, both within the guild and in relationships with customers or the community, varied considerably from guild to guild and from city to city. But the obligation to ensure competence and quality seems to have been a constant and essential feature.

Further, in the late Middle Ages, the conviction was very strong that every man must have his *officium*, his office, his calling, and that commensurate with his calling there were certain duties and obligations incumbent upon him that were distinctly and ontologically attached to his *officium*. In a work devoted to the responsibilities attached to kingship, Thomas Aquinas writes: "nor has [the king] the right to question whether or not he will so promote the peace of the

---

171. There is from the Middle Ages a relatively large quantity of works that are in the genre of *specula principum*, i.e., compendia of principles for the education of princes. A convenient, although cursory and outdated, survey of what may broadly be termed *specula principum*, is provided by Lester K. Born in his extensive introduction to his translation of Erasmus' *The Education of a Christian Prince* (1936, reprinted New York: Octagon Books, 1973). During the course of the Middle Ages the genre developed (or at least employed) theories of kingship (e.g., the "king's two bodies," divine right), government, law, etc., and often also became handbooks designed for practical application by the ruler in governing his realm.
community, any more than a physician has the right to ques
tion whether he will cure the sick committed to him. For
no one ought to deliberate about the ends for which he must
act, but only about the means to those ends.¹⁷² Although
comparisons of the function of a statesman or king with
that of a physician are ancient and commonplace, they had
always been limited to analogies of salubrious treatment,
health-giving pain (cauterity, purgatives, etc.), the evil
king being similar to an evil physician, and so forth.
Aquinas' statement goes well beyond that and smacks dis­
tinctly of the flavor of late medieval political and so­
cial philosophy of individual officia as integral to com­
munity life. In late medieval urban (i.e., corporate)
life, physicians, surgeons, barber-surgeons, and indeed
every person pursuing a legitimate officium within the
corporate structure of society, by virtue of his privilege
of engaging in that officium, had variously defined res­
ponsibilities, both to his officium itself, as represented
by the guild, company, craft, collegium, and to the com­
munity that granted him his privileges.

¹⁷² Thomas Aquinas, De regimine principum, 2. My
italics.
CHAPTER IV

CASUISTRY AND PROFESSIONAL OBLIGATIONS:
REGULATION BY THE COURT OF CONSCIENCE

During the late Middle Ages moral theologians and casuists directed considerable attention to defining the moral responsibilities (sins both of commission and of omission) of Christians generally. They also addressed the moral responsibilities attached to those in various walks of life. Many of these sources discuss the sins of physicians and surgeons. It is to such literature that we now turn our attention with a view to achieving a reasonably clear understanding of the ethical standards that ecclesiastical authorities defined as essential for the Christian physician. The period from which most of our sources for this chapter come extends from the early fourteenth century through the early sixteenth. This was, needless to say, a period of significant theological change. Thus, with the thought that I might see development in these sources commensurate with theological and ecclesiastical changes that occurred during these centuries, I have generally approached the sources chronologically in discussing the specific topics that they considered in their treatments of the moral responsibilities of physicians. Rather than any appreciable development, however, there was a tendency to a deepening of the analysis of the re-
levant subjects by the sources, which ultimately demonstrates the extent of their agreement during these centuries on the appropriateness of the ethical principles and standards set for medical and surgical practitioners by the Catholic Church during the late Middle Ages.

The period during which the practice of medicine was redefined from a right to a privilege was marked by profound changes in the very fabric of medieval society. Western Europe was changing from a nearly exclusively agrarian to a more urbanized society. The corporate structure typified by guilds and universities began to constitute the norm of social, economic, and often political, organization for an increasingly large proportion of the population. This was a time of great social and economic change during which a wide variety of new commercial and professional activities arose. The church was engaged in an internal, ideological struggle regarding the spiritual aspects of commercial activity and the attitudes of canonists and the stipulations of church councils evidence an attempt at adaptation designed to cope with socio-economic change. This is reflected in the fact that while in the Decretum of Gratian (c. 1140) all commercial profit seems to have been condemned, even his earliest commentators did not sustain his views on merchants' activities.¹ It is particularly during the twelfth century

---
¹ The whole subject is very complex. As a beginning one should see J. Gilchrist's discussion of the ec-
that there was a "shift in values within the traditional scheme of the cardinal vices." The primacy of pride as the supreme vice was being displaced by the sin of avarice in theological and popular conceptions. Indeed, as new roles arose and old ones became more complicated, as society itself became infinitely more complex, and as diverse circumstances and situations, which a century earlier could not have been imagined, were encountered either generally or as a consequence of one's calling, canonists and theologians were forced to wrestle with the religious implications of an environment significantly different from that of earlier eras.

As decretists (commentators on Gratian's Decretum) sought to apply the old verities to new exigencies, some theologians began to evaluate the vagaries of the contemporary scene in terms of both abstract and practical moral application. Theologians thus engaged during the twelfth century were the founding fathers of what is now known as moral theology. While their discussions were often on an abstract level, their designs were eminently practical.

Peter the Chanter, a Parisian theologian of the twelfth

---

222

century may be taken as an example. His *Summa de sacramentis et animae consiliis* consists of three parts, the first dealing with the sacraments, the second with penance and excommunication, and the third, entitled *Liber casuum conscientiae*, with circumstances for resolving cases of conscience. This work was designed in part to aid confessors in the increasingly difficult task of determining what constituted sin in a society fraught with situations and circumstances not anticipated by the authors or compilers of earlier penitential literature.

Beginning in the sixth century, compilations of canons relevant to sin and penance had been made. The most notable of these are the Celtic or Irish Penitentials. The Penitentials are rather stark lists of sins with appropriate


6. For examples of this literature, see John T. McNeill and Helena M. Gamer, *Medieval Handbooks of Penance: A Translation of the Principal Libri Poenitiales and Selections from Related Documents* (Columbia Records of Civilization: Sources and Studies, nr. 29, 1938).
penances given for each offence. Although they recognize levels of responsibility within various categories of sins, they are mechanical, rigid, and inflexible, and their penalties are severe. By the late twelfth century they appear hopelessly outdated and discordant with the spirit of the age. Additionally, during the tenth, eleventh, and twelfth centuries there was a shift in the practice of penance from a public system of penance to a private system, the latter becoming universal and compulsory in the thirteenth century.  

With this shift from public to private penance, the office of confessor inevitably became very prominent. His task now was also much more complex than earlier. He was "no longer the administrator of a hard and fast penal code. He had become a judge in the full sense with the obligation to base his decisions on the principles of the newborn theology." This "new born theology" was written, as mentioned above, in great part as a response to the needs of the confessor, whose role had greatly increased in significance and demand in a society in which new and puzzling moral dilemmas were constantly arising.


The literature designed to help the confessor begins to appear in the late twelfth century and assumes a wide variety of forms and does not lend itself to precise genre classifications. Works retrospectively grouped together under the rubric *Summae confessorum* or *Summae de casibus conscientiae* were written specifically to aid confessors in all aspects of their confessional responsibilities. There is considerable disagreement among scholars as to which works should be thus classified. Suffice it to


10. When F. Broomfield edited the *Summa* of Thomas of Chobham (cited above, n. 8), he gave Thomas' work the title *Summa confessorum* (c. 1215) and, in his preface, referred to Bartholomew of Exeter (latter half of the twelfth century) as having composed essentially the first recognizable *Summa confessorum*. Leonard E. Boyle ("The *Summa Confessorum* of John of Freiburg and the Popularization of the Moral Teaching of St. Thomas and of Some of His Contemporaries," in *St. Thomas Aquinas 1274-1974: Commemorative Studies*, ed. by A. A. Maurer, et. al., Toronto: Pontifical Institute of Mediaeval Studies, 1974, vol. 2, pp. 245-268) writes that John of Freiburg's *Summa* (c. 1297-1298) was the first to be called a *Summa confessorum*, and comments that "the use of this title in editions of pre-1300 works for confessors is anachronistic, as in F. Broomfield, Thomae de Chobham, *Summa confessorum*" (p. 248, n. 18). However, when Thomas N. Tentler ("The *Summa* for Confessors as an Instrument of Social Control," in *The Pursuit of Holiness in Late Medieval and Renaissance Religion*, ed. by Charles Trinkaus, Leiden: Brill, 1974, 105) refers to Raymond of Peñafort's *Summa de casibus poenitentiae* (c. 1220) as the first *Summa* for confessors, Boyle ("The *Summa* for Confessors as a Genre, and Its Religious Intent," *ibid.*, pp. 126 f.) writes that the genre was already in existence earlier, "as will be clear to anyone who has had to study the manuals of Robert Flamborough (c. 1210) and Thomas Chobham (c. 1215) . . . ."
say that the primary sources that are relevant to resolving problems encountered in the confessional fall into several somewhat overlapping categories, for instance general literature on moral theology (perhaps including specific sections on cases of conscience, e.g., Peter the Chanter's *Summa*), systematic treatments of confession and penance addressed precisely to the needs of the confessor, and short confessional manuals designed as handy reference works for the confessor. 11 All prove valuable as docu-

11. The primary sources I have located that have yielded material for this discussion are here listed in order of composition:


Thomas of Chobham, *Summa confessorum* (c. 1215), cited above, n. 8.

Astances an de Asti, *Summa de casibus conscientiae* (c. 1317), Venice, 1478 (Free Library of Philadelphia); generally cited as *Astancesa*.

Bartholomaeus de Sancto Concordio, *Summa casuum* (c. 1338), Venice, 1473 (University of Pennsylvania); generally cited as *Pisanella*.


ments illustrating a serious and concerted effort to subject the broadest spectrum of human activities to Christian moral principles. The result was the birth of Catholic casuistic literature.

In 1215 Pope Innocent III presided over a general church council, the Fourth Lateran, at which various canons of far reaching and significant consequences were adopted. One canon, which Henry Charles Lea called "perhaps the most important legislative act in the history of the Church,"\(^{12}\) had been precipitated by a century of theological discussion of the nature of penance.\(^{13}\) This canon, number 21 of Lateran IV, sometimes referred to by

Baptista Trovamala de Salis, *Summa de casibus conscientiae* (c. 1480), Venice, 1495 (College of Physicians of Philadelphia); generally cited as Baptistina.

Angelus Carletus de Clavasio, *Summa Angelica de de casibus conscientiae* (c. 1486), Lyons, 1494 (Free Library of Philadelphia); generally cited as Angelica.

Cajetan (Tommaso de Vio), *Summula peccatorum* (1525), Florence, 1525 (University of Pennsylvania).

Bartholomaeus Pumus, *Summa Armilla* (c. 1538), Coloniae Agrippinae, 1627 (Catholic University of America).


its incipit, Omnes utriusque sexus, was incorporated into Compilatio quarta and, most important, was included in the Decretaales of Gregory IX thus becoming part of officially codified canon law. This canon, which imposed on all Christians who had arrived at the age of discretion the obligation of confessing and receiving the Eucharist at least once a year, warrants quoting in full:

Every fidelis of either sex shall after the attainment of years of discretion separately confess his sins with all fidelity to his own priest at least once in the year: and shall endeavour to fulfil the penance imposed upon him to the best of his ability, reverently receiving the sacrament of the Eucharist at least at Easter: unless it happen that by the counsel of his own priest for some reasonable cause, he hold that he should abstain for a time from the reception of the sacrament: otherwise let him during

14. 5, 14, 3. This is one of the Quinque compilations antiques, the five most famous decretal collections between c. 1187 and 1226. The actual sequence of composition was prima, tertia, secunda, quarta, and quinta. All were unofficial collections except for tertia (1210) and quinta (1226). The entire collection was edited by E. Friedberg, 1882 (reprinted, Graz: Akademische Druck- und Verlagsanstalt, 1956).

15. 5, 38, 12. The most important collection of canons in the Middle Ages having the force of law is the Decretaales of Gregory IX. This, the first official collection of a universal character, rendered all previous collections, whether of an official or unofficial nature, obsolete, excepting the Decretum of Gratian, which the official collections did not supplant but rather supplemented. The Decretaales is part of what became known as the Corpus iuris canonici, a title which was first used in 1580 by Gregory XIII and refers to the Decretum of Gratian (c. 1140), the Decretaales of Gregory IX (1234), the Liber Sextus of Boniface VIII (1298), the Clementinae (named after Clement V - 1317), the Extravagantes of John XXII (1325) and the Extravagantes communes (1500 and 1503). These were edited by E. Friedberg, 2 vols., 1879 (reprinted, Graz: Akademische Druck- und Verlagsanstalt, 1959).
life be repelled from entering the church, and when dead let him lack Christian burial. Wherefore let this salutary statute be frequently published in the churches, lest any assume a veil of excuse in the blindness of ignorance. But if any desire to confess his sins to an outside priest for some just reason, let him first ask and obtain permission from his own priest, since otherwise he (the outside priest) cannot loose or bind him. But let the priest be discreet and cautious, and let him after the manner of skilled physicians pour wine and oil upon the wounds of the injured man, diligently inquiring the circumstances alike of the sinner and of the sin, by which (circumstances) he may judiciously understand what counsel he ought to give him, and what sort of remedy to apply, making use of various means (experimentis) for the healing of the sick man. But let him give strict heed not at all to betray the sinner by word or sign or in any other way, but if he need more prudent counsel let him seek it cautiously without any indication of the person: since we decree that he who shall presume to reveal a sin discovered to him in the penitential tribunal is not only to be deposed from the priestly office, but also to be thrust into a strict monastery to do perpetual penance. 16

This decree obviously did not institute the practice of confession. Nevertheless, at a time when a concerted effort was being made to establish and enforce uniformity of law and practice within Latin Christendom, such a canon, issued by pope and general council, included in codified canon law, and backed up by the authority to impose the disciplinary sanctions stipulated in its text, had momentous consequences. The decree was thoroughly publicized, reaching every level of medieval churchmen. 17 While it


made annual confession mandatory at pain of excommunication, it also required that the confessor be discreet and cautious, "diligently inquiring the circumstances alike of the sinner and of the sin" so that he would know what counsel he should give, and, if he needed more insight, he was to seek advice. Although before 1215 literature designed to aid the confessor had been written, it was in great part as a response to the demands of this cannon that such literature began to be produced in much greater quantity and addressed most specifically to the thorough education of the confessor in the requirements of the confessional and its diversities and subtleties.

The literature under discussion was written by those who "were considered experts, with special knowledge about penitents, confessors, and confessing." It was written for the priests, for the ordinary diocesan clergy, who did not have at their disposal the great commentaries and specialized writings of the major scholastics. In this literature the complexities of legal and moral prescriptions could filter down in an easily understandable form to those who needed immediate answers. As Thomas Tentler said, they were "reference books designed to give answers, not philosophical inquiries designed to evoke debate." They were


intended to simplify doctrine for practical application and were organized so that the confessor could locate answers easily. And the answers he would be seeking centered on sin. Sin, after all, is the subject of confession, and the focus of literature designed to aid confessors was the definition, classification, and scrutiny of sins. As one examines this literature, one sees sins identified everywhere, with articles on vices, activities, and obligations, following any of a number of systems of categorization.

The Astesana (c. 1317) exhorts the confessor to "scrutinize the conscience of the sinner in confession as a physician scrutinizes wounds and a judge a case." Since the completeness of a confession was an absolute necessity for the efficacy of absolution, a thorough examination of the penitant was essential. To such an end were the Summae confessorum, confessional manuals, and related literature, an indispensable guide. Confessional examination must penetrate into every area of life; nothing is outside its purview: birth, marriage, sex, the rearing of children, indeed every aspect of domestic, social, and economic life. Under the latter fall those special areas of sin attached to various occupations.

The early moral theologians recognized the importance of dealing with the moral implications of various occupations. The initial concern was with identifying those

20. As quoted by Tentler, ibid., p. 115.
walks of life that were patently sinful (e.g., public prostitutes, usurers). They then sought to single out those which were morally hazardous, thus requiring special comment. Robert of Courson in his *Summa* (c. 1208-1213) so designated surgeons, physicians, lawyers, procurers, mimes, courtiers, mongers, cooks, and merchants of dubious wares. Taking a different slant on occupations in the light of Genesis 3:19 and II Thessalonians 3:10, that earnings must be commensurate with labor, Robert of Courson devoted one book of his *Summa* to the "hiring of services" (*De locatione operarum*). Here he first discussed those professions that seemed to perform no labor and yet demanded exorbitant remuneration, centering his attention on lawyers, physicians, theologians, masters of arts, and notaries. After these relatively respectable professions, he turned to more dubious livelihoods, e.g., prostitutes, actors, mimes, retail merchants, manufacturers of doubtful wares. Robert of Courson's analyses were very detailed and lengthy. It was his colleague Thomas of Chobham


22. Gen. 3:19 - "By the sweat of your face you shall eat bread . . . ." II Thess. 3:10 - " . . . if anyone will not work, neither let him eat."

who, in his *Summa* (c. 1215), first attempted to deal with the moral problems peculiar to various professions in a way that could be conveniently consulted and used by the confessor. Thomas instructed the confessor, as a preliminary to the interrogation, to determine whether the penitent's vocation fell into any of four categories: those completely sinful (e.g., prostitutes and actors), those highly susceptible to sin (e.g., mongers and merchants), those that were useless (e.g., manufacturers of dice, floral wreathes, etc.), and those useful occupations that were seldom exercised faithfully (e.g., teachers and those who hired themselves out for wages). He then subjects eleven occupations to a detailed discussion. These vocations include, among others, actors, prostitutes, beggars, teachers, priests, judges. Thomas gives no indication why he chose to treat in such detail these occupations, ignoring, for example, lawyers, physicians, and soldiers. It was not until the early fourteenth century that the list of occupations singled out for special attention in the literature devoted to the confessional stabilized to include a discussion of all those occupations whose exercise posed special problems for hamartiology. Among these the rubric *medicus* appears with regularity.


25. There are no separate entries for surgeons in the *Summae* that I have seen. Indexed versions send the seeker after *chirurgus* to *medicus*. Some *Summae* label the relevant section simply *medicus*, while others give *medicus et*
The pieces of confessional literature used in the preparation of this section differ from each other sometimes significantly in length, form, and emphasis. Some are very short and refer the reader to no authorities for the opinions given, although they might list an abundance of sins with little or no comment. Others are longer, even very long, citing the *Decretum* and *Decretales* and numerous commentators (decretists on the former, decretalists on the latter)\(^\text{26}\) to give weight to their opinions, but discuss a limited number of sins at quite great length. The order in which sins are given also differs from *summa* to *summa*. In most instances the sins mentioned are classified as mortal sins.

Several *summae* stress the responsibility on one not to practise unless he is competent. The *Astesana* (c. 1317) considers various ways in which a physician can be at fault. One is *ante factum*: "... when he introduces himself into the practice of medicine although he is ignorant (*cum sit idiota)*."\(^\text{27}\) The *Angelica* (c. 1486) is quite similar, designating a *culpa ante factum* a physician's injecting himself into a situation when he is ignorant and not able to

\[\text{chirurgus and others medicus, phisicus et chirurgus (with orthographical variations).}\]

\(^{26}\) Usually the citations given are to sources dealing with principles that the summist then applies to the medical profession. I do not mention such sources. Occasionally a summist will refer to an authority who speaks directly to a medico-ethical issue. In such an instance I shall sometimes comment on the content of the source.

\(^{27}\) *Astesana*, 6, 14.
manage it. Antoninus, in his short *Confessionale* (1473), simply states that if one practices without adequate skill and has studied little or nothing, "he has sinned mortally and has exposed himself to the danger of killing men." In his much longer *Summa* (1477), Antoninus elaborates that the physician must be expert in the art as expertise is defined by known experts in the art. Simply having a doctorate is not sufficient, "since many unworthy men today in every faculty are masters and doctors to the detriment of themselves and of those promoting them." When from "exceptional ignorance" they harm their patient, they sin. "Nor are they excused . . . because they did not intend to do that, because they voluntarily placed themselves in that position." Even if health should follow their ministrations they have sinned, "because they placed themselves in danger of mortal sin."  

Chaimis (c. 1474) maintains that if one has taken up the practice of medicine without adequate skill and if on that account gave harmful medicine or treatment to a patient, he has sinned mortally, "because it was not permitted for him to usurp what was alien to him." Chaimis here refers to the authority of the papal rescript *Tua nos*, written by Innocent III in 1212, included in *Compilatio*.

quarta\textsuperscript{32} and later in the \textit{Decretales} of Gregory IX.\textsuperscript{33} This rescript, although it is addressed to the peculiar problems involved in medical practice by the clergy\textsuperscript{34} and little relevant directly to the discussion at hand, lays down certain relevant principles and, as it is frequently cited by the summists when dealing with the medical profession, should be quoted in full:

Your brotherhood said that we should be consulted. You asked to be advised by the Apostolic See what must be decided concerning a certain monk who, believing that he could cure a certain woman of a tumor of the throat, acting as a surgeon, opened the tumor with a knife. When the tumor had healed somewhat, he ordered the woman not to expose herself to the wind at all lest the wind, stealing into the incision in her throat, bring about her death. But the woman, defying his order, rashly exposed herself to the wind while gathering crops, and thus much blood flowed out through the incision in her throat, and the woman died. She, nevertheless, confessed that she was responsible because she had exposed herself to the wind. The question is whether this monk, since he is also a priest, may lawfully exercise his priestly office. We therefore reply to your brotherhood that, although the monk himself was very much at fault for usurping an alien function which very little suited him, nevertheless, if he did it from piety and not from cupidity, and was expert in the exercise of surgery and was zealous to employ every diligence which he ought to have done, he must not be condemned for that which happened through the fault of the woman against his advice. Then, with no penance being required, he

\textsuperscript{32} 5, 6, 3.  
\textsuperscript{33} 5, 12, 19.  
\textsuperscript{34} On which see Darrel W. Amundsen, "Medieval Canon Law on Medical and Surgical Practice by the Clergy," \textit{Bul-} of the History of Medicine, 1978, 52: 22-44.
may be permitted to celebrate divine service. Otherwise, the fulfilling of the sacerdotal office must be strictly forbidden him.\textsuperscript{35}

We have seen that the Astesana (c. 1317) and the Angelica (c. 1486) had designated ignorance as culpa ante factum. Both include the categories in facto and post factum as well. The Astesana labels it culpa in facto when the physician, "although he is skilled in the art, nevertheless does not follow the traditions of the art but the fancies of his own head."\textsuperscript{36} The Angelica is nearly identical, adding "or new experiments - unless they were reasonable."\textsuperscript{37} Culpa post factum is described in the Astesana as when the physician, although skilled in the art and following procedures consistent with the traditions of the art, "nevertheless does not apply diligence so that the patient be preserved."\textsuperscript{38} The Angelica classifies as culpa post factum any instance where the physician is negligent about the care of a patient, citing various commentators on the rescript Tua nos.\textsuperscript{39}

\textsuperscript{35} Italicized sections, although part of the original rescript, are not included in the text as in appears in the Decretaless.

\textsuperscript{36} Astesana, 6, 16. The idea that the physician sins who, instead of following the traditions of the art, follows his own inclinations and harm results, appears in several of the sources, e.g., in the Baptistina (c. 1480),(sv., Medicus vel cirugicus, 5), in Bartholomaeus de Chaimis (c. 1474), Interrogatorium, (sv., Medicis, phisicis, et cirogicis); and in the Angelica (c. 1486), (sv., Medicus, 1).

\textsuperscript{37} Angelica, sv., Medicus, pr.

\textsuperscript{38} Astesana, 6, 14.

\textsuperscript{39} Angelica, sv., Medicus, pr.
Antoninus, in his *Confessionale* (1473), simply says that a physician sins mortally when, having adequate skill, but owing to his notable negligence in omitting what he ought to have done, "great detriment to the patient occurs or could have occurred." Antoninus enlarges on this in his *Summa* (1477) saying that when a physician is an expert, he sins mortally if he should commit an act of "exceptional negligence in reviewing the literature, in visiting the patient, in the quality of his medical materials," if death or great aggravation of the illness results. He cites Antonius de Butrio's commentary on *Tua nos* to the effect that the physician "must employ every diligence . . . following the traditions of the art; he should visit the patient and personally prescribe diet and regimen." He also writes that the physician sins mortally "when he does not employ diligence in preparing medicines, unless he is definitely certain about the adroitness and honesty of the apothecaries since they sometimes put much adulterated material in them." He sums up their responsibility by saying that they sin if they do not "diligently provide for those things for which provision must be made."

40. Antoninus, *Confessionale*, sv., *Circa medicos*.

41. Antoninus, *Summa theologica*, p. 282. Cp. Chaimis: "If he does not apply necessary diligence about the care of the patient personally when visiting, by observing the internal signs, by regulating medicines, diet, and regimen of life, he is at fault and has sinned (*Interrogatorium*, sv., *Medicis, phisicis, et cirogicis*).

42. Antoninus, *Summa theologica*, pp. 291 f.

The **Baptistina** (c. 1480) stresses that the physician ought to consult with other physicians. The physician sins mortally if, owing to his *imperitia*, the patient dies or is disabled. Baptista gives the example of a patient with a broken shinbone or arm who is disabled because of the physician's *imperitia*. The physician is to be held responsible for damage. In the case of a patient with a family, the physician must make up the equivalent of lost wages for support of the man's family. "The same applies if it results from his negligence in not visiting the patient at the necessary time as he should have." This responsibility applies to anyone who "proclaims himself to be skilled by words or by a doctorate." But damages should not be imputed to one who calls himself unskilled and, owing to a dearth of good physicians, does what he can in good faith. Rather, it should be imputed "to the one who chooses such a man."

Cajetan (1525) attributes some of the gravest sins of physicians to rashness: by rashly treating a disease without having adequately examined it, or by rashly exploring the nature of the disease and thus exposing the patient to the risk of life or grave injury. "If, motivated by gain or fearing that he might appear ignorant, the physician who is ignorant or negligent in study attempts to treat a case,"

---

44. *Imperitiae* basically means inexperience and signifies the ignorance or incompetence that results from inexperience.

45. **Baptistina**, sv., **Medicus vel cirugicus**, 5. Similarly Angelica: "He accuses himself who chooses one who says that he is incompetent" (sv., **Medicus**, 1).
he sins mortally." He also sins by treating rashly, i.e., by neglecting either to study or visit or to take counsel or examine the quality of the medicine if it is brought into doubt. "Or what is worse, he is ashamed to change his opinion and by his obstinancy he casts doubt on the correct cure, which he ought to follow, which was suggested by another." 

Fumus (c. 1538) considered as guilty of mortal sin physicians who are able to know but are not willing to study or to consult experts. "They sin mortally whenever they are acquainted with an ailment and neglect to strive for remedies or to visit, or to give the appropriate medicines if they are able, or whenever they are using one medicine and seeing that it is not effective, continue using it lest they be thought ignorant." 

Six of the Summae used in this study deal with the

46. Fumus, Summa Armilla (c. 1538): "... when ignorant of the ailment but from rashness or lest they be thought to be ignorant, or for the sake of gain, they undertake to treat the patient, exposing him to the danger of death, or of notable harm, and this is a mortal sin" (sv., De medico, 1).

47. Cajetan, Summula peccatorum, sv., Peccata mediorum.


question whether a physician should administer a medicine if he is in doubt whether it will help or harm. All answer the question in the negative and emphasize that it is safer to leave the patient in the hands of God than to expose him to the danger of the medicine. Where disagreement arises among the summists is over the question of what constitutes the doubt that should deter the physician from administering the medicine. The Pisanella (c. 1338) states that even if he strongly (vehementer) believes it would be useful, if he has any doubts at all, he should not give it. Antoninus, in his Summa (1477), and the Baptistina (c. 1480) qualify the physician's doubt by classifying the medicine as one about which the physician is not certain, "following the art." Chaimis (c. 1474) writes that "in no way ought he to give it unless it is in accordance with the art from knowledge that it ought to be of help." Here he cites commentators on Tua nos. The Angelica (c. 1486) is more liberal in its advice, suggesting that if the medicine "has any probability of helping rather than harming, he thus can give it, as long as he has applied necessary diligence and attention: thus, properly (proprie) he is not in doubt."

Four of our Summae go on to ask whether a physician

50. Some have "Creator;" the Baptistina reads, "It is safer to leave the patient to nature."

51. Here the Baptistina reads: "... than to commit him to an unskilled physician."

52. Pisanella, sv., Medicus vel circurgicus; Baptis-
is at fault if he administers a medicine which, owing to a defect or corruption or adulteration of the materials mixed with the drug, harms the patient. All answer that the physician is not culpable if he employed the diligence that he ought in choosing the materials.

The attention of four of the Summae is addressed to the problems peculiar to surgery. In the Pisanella (c. 1338) the question of a surgeon's responsibility in the event of his patient's death is raised. As long as the surgeon performing the operation or the phlebotomy was expert and exercised the necessary diligence he is not held responsible "because death is presumed to have resulted from chance (casu) rather than from his fault." Then these questions are raised: "What if the one who must be operated on does not have the usual arrangement of sinews and veins? Or if an unexpected and unusual fear or shaking seizes him and . . . he dies?" As long as the surgeon has not erred owing to inexperience he has not sinned. If there is any doubt about anything, the surgeon should forgo rather than to operate. The treatment in the Angelica

---

53. Pisanella, sv., Medicus vel circurgicus; Antoninus, Summa theologica, p. 287; Angelica, sv., Medicus, 4; Chaimis, Interrogatorium, sv., Medicis, phisicis, et cirogicis.

---
(c. 1486) is shorter but nearly identical to the above, and Tua nos is cited as the authority. Chaimis (c. 1474) writes that as long as the surgeon operates in accordance with the art and performs only operations that are clearly useful, he has not sinned. But if he is in doubt about the operation or about his own ability to perform it, he should refrain and dismiss the patient into God's hands without the operation. Antoninus, in his Summa (1477), merely stipulates that the surgeon has not sinned if his patient dies, as long as he was skilled and applied proper diligence and did not err owing to inexperience. He cites the rescript Ad aures as his authority.

Between 1187 and 1191 Pope Clement III had received an inquiry from a canonicus, who was in minor orders, who wished to be advanced to major (sacred) orders, but was concerned that his having practised as a physician might be an impediment. Clement's reply reads:

You have brought to our attention that, since you are skilled in the art of physic, you have diligently treated many by the medical tradition of this art, although frequently it had happened to the contrary and those, to whom you thought you were applying a remedy, after taking the medicine, incurred the danger of death. But, because you desire to be advanced to sacred orders, you wished to consult us on this. We reply to you briefly that, if your conscience troubles you on account of those things said above, in our opinion you should not advance to major orders.54

54. This rescript was included in the Compilatio secunda (1, 8, 2) and later in the Decretales of Gregory IX (1, 14, 7).
Although both *Ad aures* and *Tua nos* were addressed to clerics practising, in the one case medicine, and in the other surgery, nevertheless canonists extended their principles to cover the responsibilities of secular physicians. These two rescripts are the only decretals in medieval canon law addressed specifically to the general responsibilities of physicians and both are complementary. *Tua nos* contains the principle that one is obligated to refrain from usurping offices alien to him. The case in question here is a monk/priest usurping the role of surgeon - an alien role for which he was little suited as a monk/priest - but he is not held responsible, in this case, because he was expert in the exercise of surgery and had been zealous to employ all the required diligence. The principle is applied by commentators to anyone exercising a specialized role: one must be expert in the field and employ the necessary diligence. The concern is primarily with error of omission (either in training/experience or in diligence). *Ad aures*, on the other hand, raises the question whether the physician was responsible for harm to anyone owing to his treatments. The matter is left up to his conscience here and this particular rescript places squarely on this cleric's shoulders the onus of searching his own heart to determine whether he was responsible for any harm having come to his patients. And the concern here is with error of commission, providing the commentators (and sum-
mists as well) with a fitting balance for the issues raised by Tua nos.

An area in which the distinction between error of omission and commission can be easily blurred is in neglecting to give the appropriate medicines. The Pisanella (1338) laconically states that the physician sins "if he omits medicines which he ought to have given,"\(^{55}\) while the Angelica (1486), with equal brevity, asserts that the physician is held at fault for prolonging a patient's illness.\(^{56}\) Both of these leave the question of intent open. Antoninus (1477) approaches the problem in greater depth, insisting that the physician is obligated to cure the patient as quickly as he can. "If he diligently omits a useful medicine that cures quickly so that he might leave him in his illness so as to make more money, he sins gravely and is a thief. . . . "\(^{57}\) Chaimis (c. 1474) says that the physician sins if, for any reason, he neglects to give the patient appropriate medicine. But if he "zealously aggravates an ailment in any way for the sake of making a greater profit and causes the patient to relapse, he must be punished gravely beyond a mortal sin."\(^{58}\) Fumus (c. 1538) is in accord, saying that physicians sin whenever they are

\(^{55}\) Pisanella, sv., Medicus vel cirurgicus.

\(^{56}\) Angelica, sv., Medicus, 1.

\(^{57}\) Antoninus, Summa theologica, p. 282. Later, in the same work, he writes that physicians sin "when they detain the patient in his illness a long while so that they might make more money by seeing him frequently" (p. 292).

\(^{58}\) Chaimis, Interrogatorium, sv., Medicis, phisicis, et cirogicis.
able to cure quickly but draw the illness out for a long time because as long as it hangs on they continue making money. 59

We have seen above (at n. 36) that several of the summists condemn a physician's following his own fancies rather than the traditions of the art, if harm results for the patient. Inherent in the idea of following one's own fancies is the possibility of experimentation. Although experimentation is not specifically mentioned by our earlier summists, three of our later sources include it. That these later sources, from the late fifteenth and early sixteenth centuries, specify experimentation is not surprising given the increased experimentation in medical and especially surgical circles during that period. Fumus (c. 1538) writes that physicians sin "if they supply a doubtful medicine for a certain one, or do not practise in accord with the art, but desire to practise following their own stupid fancy, or make experiments, and such like, by which the patient is exposed to grave danger." 60 Two summists are especially condemnatory of physicians experimenting on the poor: Chaimis (c. 1474) says that a physician sinned mortally "if he gave to the poor or to religious or to any other whatsoever anything deceitfully or

59. Fumus, Summa Armilla, sv., De medico, 3.

60. Ibid., 1.

61. A term designating those clerics living under a rule (often including a vow of poverty). They are also
for experimentation." 

Cajetan (1525) likewise castigates the physician who, when he has recognized the disease and knows how to treat it, "puts a poor patient in danger of life or grave injury in order to experiment with a medicine of doubtful efficacy." 

We have seen thus far that the summists stressed the physician's responsibility both for errors of omission and of commission in practice. There is a strong insistence that one be competent before assuming the position of physician or surgeon. Practising without the necessary skill was considered a serious sin. The physician was held responsible for his diligence, e.g. in visiting his patients, in reviewing the literature, for the quality of medical materials that he used. He was expected to practise in accordance with the traditions of the art, not endangering his patients by following his own fancies or experimenting or using doubtful medicines. He was also held to cure as quickly as possible and castigated for intentionally prolonging an illness for the sake of gain. Expertise, diligence, and faithfulness to the traditions of the art are absolutely expected of both physicians and surgeons by the moral theologians surveyed.

called regular (from regula - rule) to distinguish them from secular clergy (i.e., those not living under a rule).


63. Cajetan, Summula peccatorum, sv., Peccata medicorum.
While all our summists have much to say on competence and diligence, only a small minority are concerned with intra- and inter-professional conduct. Both in classical antiquity and in the Middle Ages, frequent references are found to physicians' envy of and strife with each other. The writings of physicians on medical etiquette and ethics sometimes stress the importance of amicable relations among colleagues, especially around laymen. This is also a theme of university and guild regulations. It was not, however, a subject that seems to have excited the interest of the summists. Only two of our authors speak to it. Antoninus, in his *Confessionale* (1473), as his closing statement on physicians, urges the confessor to "interrogate as often as it seems best to you about the envy and slander that physicians bear against each other."  

In his *Summa* (1477), he speaks of "their mutual envy from which they boast about cures, by being proud, and disparage their colleagues by vituperating their cures."  

Chaimis (c. 1474) holds the physician guilty of mortal sin "if owing to envy he disparages other physicians or causes them damage." The small interest shown by the summists in physicians' mutual envy and slander does not indicate that the subject was taken lightly. Envy and slander were regarded as serious sins in the casuistic literature but as sins to which everyone is

---

64. Antoninus, *Confessionale*, sv., *Circa medicos*.

susceptible and on which everyone should be interrogated during confession. Thus they were interested in envy and slander as personal rather than professional matters. After briefly mentioning envy and slander, Chaimis goes on to make the only comment found in our summists on the physician's responsibility to abide by the codes of his professional organization: "If he has sworn to observe the statutes of his universitas 66 and afterwards was a violator of them, now as often as he has violated them, he has sinned mortally." 67

Another matter about which medical guilds were concerned is the relations of physicians with apothecaries. Here again the summists take little interest, and once more only Antoninus and Chaimis comment. We have already noted (above, at n. 42) that Antoninus, in his Summa (1477), says that a physician sins mortally if he administers medicines made by apothecaries "unless he is definitely certain about the adroitness and honesty of the apothecaries since they sometimes put much adulterated material" in their medicines. Elsewhere in the same work he writes that the physician sins mortally if he permits a dealer in spices (aromatarius) to use old drugs that accomplish little or nothing so that the dealer will not lose money. Here

66. Universitas has a different meaning from simply "university." Although it is applied to the organization of faculty, it also can be applied to corporate entities such as guilds, "universities" themselves being guilds.

Antoninus gives the same advice we saw earlier, that a physician must not rely on an apothecary in compounding medicines, "unless he knows him to be of devout conscience and well trained and practical in such matters," but instead he ought to compound his own drugs. 68 This advice, however, is complicated by as great a moral issue, an issue that was the basis for the nearly consistent requirement in the late Middle Ages that physicians not compound their own drugs. It is the potential for serious conflict of interest that arises here, with its consequent temptations, that Antoninus ignores. 69 It is not a matter that escaped the notice of Chaimis (c. 1474) who writes that if the physician had an apothecary shop and directly or indirectly compelled his patients to buy medicines from him or from another with whom he associates in practice and he did this for the sake of gain, he sinned. If on account of this the patients incurred any physical harm because they could have obtained better or more useful medicines elsewhere, or financial disadvantage because they could have obtained them for less elsewhere, the physician "is held for the price in respect to the entire loss." 70


69. Antoninus lived in Florence, the only city to my knowledge where physicians and apothecaries were in the same guild.

Our summists were, however, much more concerned with the physician's fees and his obligations to give treatment. The problems surrounding physicians' salaries or fees are varied. In the late twelfth and early thirteenth centuries, the question of whether knowledge could be sold was discussed at great length. Stephen Langton dealt with the problem of whether a master of arts who collected fees was selling spiritual knowledge and thus committing simony. He concluded "that such fees were licit. Similarly, Peter the Chanter maintained that neither physician, lawyer, nor teacher were selling the grace of God by accepting moderate salaries if they were in need." Thomas Aquinas maintains that one may justly receive a fee for what one is not bound to do gratuitously, provided that due consideration is made for the persons, the matter at hand, the labor involved, and the custom of the country." If, however, they wickedly extort an immoderate fee, they sin against justice. Once it was generally agreed that members of professions could rightly receive remuneration for their services, a consider-


73. Thomas Aquinas, Summa theologica, 2-2, 71, 4.
rable debate ensued among theologians and canonists on how "just price" for services should be defined. The summists surveyed here do not contribute to such discussions, at least not when dealing with physicians' sins. Even the most theoretical of our summists, Antoninus, in his Summa (1477), does not become involved with previous scholastic analysis. Early in his section on physicians, he engages in an extensive analysis of the nature of medicine. During the course of his discussion, he says that "a physician, because he demands and receives compensation, cannot be said to sell his knowledge or health, which are spiritual matters, but he hires out his services, and he seeks wages for his labor which was expended then (i.e., while rendering the service) or previously in his studying. For no one is constrained to give his service de suo." Later, when he is ready to address the subject of physicians' remuneration, he begins by merely saying that they "can demand a salary or wage justly for their labor, as Luke 10 makes clear: 'A workman is worthy of his hire.'" He then distinguishes three different categories of physicians' income: 1) those paid by the community; 2) those who are not salaried but are limited by statute of the community or lord to set fees; 3) those neither salaried nor limited in anything. The first are not able to receive anything besides their salary. "If their salary is not sufficient for them, let them credit

74. Antoninus, Summa theologica, p. 277.
themselves with having agreed to it." The second ought not to accept more than what is specified, "unless the statute has been invalidated by opposing custom." The third "can accept and ought to demand a reasonable (moderatum) fee, and what is 'reasonable' is determined by the quality of care, the labor of the physician, his diligence and conscientiousness, the means of the patient, and the custom of the place."75 Chaimis (c. 1474) simply states that the physician sinned "if he extorted an immoderate fee from the rich."76 Fumus (c. 1538) labels as sin when physicians demand an exorbitant fee "contrary to justice, or whenever they cause exceedingly excessive expenses to arise, especially from the poor, so that either they themselves or the apothecaries might make a greater profit."77

Three of the summists were intrigued with the question of whether a physician is obligated to treat an illness that recurs for the fee he was paid for treating it in the first instance. Antoninus (1477) considers the case where a contract had been drawn up specifying that the fee was to be paid after completion of the service. He maintains that if the illness returned to the man who was still

75. Ibid., pp. 283 f.
77. Fumus, Summa Armilla, sv., De medico, 3.
"unwell," then the physician is obligated, "for the illness does not seem to have disappeared, nor is he fully freed who is not freed from the whole." The physician is not obligated, however, if the illness returned "after an interval of time" or if it returned "by the fault of the patient." When the Baptistina (c. 1480) addresses the same question, the decision is based on the interval of time between the illness' disappearance and its return, unless other factors intervene. An extensive discussion is presented then involving the hypothetical case of Titius (the John Doe of Roman law - classical and medieval) whom a physician had promised to free from gout. He seemed to have been freed but after an interval of time the gout returned. Titius then takes the physician to court on the grounds that he had not eradicated the disease but only made it inactive. Since in this case the physician had promised to cure him entirely, he is obligated. The Angelica (c. 1486) presents us with Titius again, this time suffering from quartan fever. A physician agrees to free him from the disease and succeeds, but only for a brief time; the physician is held responsible because he did not extinguish the illness although he had caused the distress of the man to cease.

78. Antoninus, Summa theologica, p. 284.
It is well known that in classical antiquity physicians were generally loath to take on hopeless cases. There were various reasons for this, which I have discussed elsewhere. With the advent of medical licensure requirements and medico-surgical guild monopolies, the physician's option of simply refusing to treat or deserting a terminal patient certainly became more circumscribed. Antoninus, in his introductory discussion of the nature of medicine, asserts that "desperate cases which, according to the judgments of men, are held to be fatal, sometimes the diligent physician is able to cure, but rarely. . . . Therefore, clear to the end the physician ought to do what he can to cure the patient." The question, however, still remained whether physicians should receive a fee for treating incurable cases. Antoninus' opinion was that "because the physician was created as an instrument of nature, the instrument of medicine should not be entirely withdrawn from the patient as long as nature does not succumb. Therefore, the physician does not sin by accepting a stipend for the treatment of an illness which, following the principles of the art of medicine, he believes is incurable." The physician must not hide that knowledge from those who have the immediate care of the patient, or cause unnecessary expenses, or promise


82. Antoninus, Summa theologiae, p. 281.
entirely to cure him. He thus can justly receive his stipend as he displays in the care of his patient faithful attendance and true counsel ... because the physician does not know what God has arranged concerning the patient, whether he will recover or die, although, according to the art of medicine, he ought to die. Therefore it is licit for the physician to pursue a cure and to accept a stipend clear up to the end or nearly.83

There is a statement attributed to Pope Symmachus, quoted in the Decretum of Gratian, to the effect that "there is not a great difference whether you inflict something fatal or allow it. He is proved to inflict death on the weak who does not prevent this when he is able to."84 Although this says nothing directly concerning physicians, Joannes Teutonicus, in what became known as the Glossa ordinaria to the Decretum (c. 1216-1217), commented on this passage that the physician is obligated to treat both the poor and the rich gratis rather than to allow them to die. This gloss is the locus classicus for the summists' discussion of the question whether a physician is obligated to cure gratis rather than to allow a sick person to die. Thomas Aquinas addressed the problem of the extent to which the physician is morally obligated to treat the poor gratuitously. Beginning with the remark that "no

83. Ibid., pp. 289 f.
84. D. 83, 1. Pars.
man is sufficient to bestow a work of mercy on all those who need it," he then writes that kindness ought first to be shown to those with whom one is united in any way (pro-pinqui). In respect to others, if a man "stands in such a need that it is not easy to see how he can be succored otherwise, then one is bound to bestow the work of mercy on him." Thus a lawyer is not always obligated to defend the destitute "or else he would have to put aside all other business and occupy himself entirely in defending the poor. The same holds with physicians in respect to attending the sick."85 The Astesana (c. 1317) follows Aquinas closely when discussing lawyers' obligations to defend the poor gratis, adding that "the same must be said concerning a physician as to the care of paupers."86 The other sum-mists rely also on Joannes Teutonicus' gloss on the above passage from the Decretum, considering the obligation especially to exist if the alternative to free care is the death of the patient. This distinction, however, is not seen in Antoninus' short Confessionale (1473), where he simply says that a physician has sinned "if he has not freely visited poor patients who he knew were not able to pay, because he is obligated to do that and even to pay for the medicines if he is able."87 Such a bald statement

85. Thomas Aquinas, Summa theologica, 2-2, 71, 1.
86. Astesana, 1, 39.
87. Antoninus, Confessionale, sv., Circa medicos.
disregards the principles laid down both by Aquinas and Joannes Teutonicus, and may well have sent the perplexed confessor to Antoninus' more extensive treatment in his *Summa* (1477) where he addresses the problem in different places. In his discussion of the nature of medicine, he says that the physician must treat gratis paupers who are unable to pay, and not withdraw himself from their care, "because this may be killing them indirectly." 88 Later, when dealing with the question in greater detail, he says that the physician "is not obligated to provide for all the poor ill simply and indiscriminately, but according to the place and time presenting itself, just as it was said above concerning lawyers and as it is said concerning other works of mercy." 89

Generally the treatment by our summists 90 is along the following lines with slight variations: A physician is obligated to give care and counsel gratis to a sick pauper "for he is proved to inflict death on the weak who does not prevent it when he is able to." He ought to give

care and medicines gratis rather than to allow a patient to die. This applies not only to the pauper but also to the rich. The physician should not only give care gratis but even provide the medicines at his own expense for a sick rich man who is not willing to pay him anything, rather than to allow him to die. Antoninus here stipulates that the physician is thus obligated only if the patient or his relatives have called him. If the patient recovers, the physician can then demand his fee from him; if the patient dies, from his heirs. In the former, the grounds are that he has rightly managed the patient's affair; in the latter that he had rightly begun to conduct the affair, although the outcome did not follow. Nor may it be objected that the physician did it for charity (causa pietatis), unless he is united in some way (propinquus) to the patient. He is both able and obligated to treat such a man and can afterwards demand a fee, even if the patient refuses to allow himself to be treated, just as we can drag one against his will from a building that is about to collapse and confer a benefit on one against one's will. It must be assumed that the patient, by refusing treatment is insane.

While our summists were vitally concerned with the physician's fees and his obligations to render treatment, they virtually ignored the possibility of sexual impropriety in the physician/patient relationship. Only Chaimis
(c. 1474) addressed the subject, writing that the physician has sinned mortally "if in the course of visiting women and because of their ailment has handled them intentionally and with libidinous intent and has proceeded on to anything dishonorable." That most of our summists ignore the subject simply indicates that, as with envy and slander, the problem was subsumed not under professional but rather under personal morality.

The summists, however, were not at all reticent about the physician's spiritual obligations, for it is here that the greatest concerns of the casuists, moral theologians, and canonists arose when considering the physician's responsibilities and sins, as well as potential harm to the patient. While there was a fair degree of concern to protect the patient from physical and financial harm at the hands of the incompetent, negligent, or unscrupulous physician, it was infinitely more important to consider the well-being of the patient's soul. We saw in Chapter II, above, that there was in early Christianity and in the early Middle Ages a tension between medicine and Christianity. This tension remained, however latent, sometimes surfacing when the physician's goals and procedures obviously conflicted with spiritual priorities as defined by medieval Catholicism. In the Decretum Gratian quotes Ambrose's statement that "the precepts of medicine are contrary to the divine position." The passage goes on to say that

physicians lure people away from fasts and vigils and meditation. Yet the physician, according to Scripture, is to be honored with the honor due him for God created him, etc. It was an uneasy *modus vivendi* that existed between medicine and theology with the potential for conflict the greatest when the physician's interest in the health of the body appeared at variance with the church's interest in the health of the soul.

At the Fourth Lateran Council of 1215 a canon was enacted which soon became part of Gregory IX's official codification of canon law. This canon, number 22 of the council, coming immediately after *Omnes utriusque sexus*, and bearing the incipit *Cum infirmitas* (or *Quum infirmitas*), is the only official canon from the Middle Ages dealing directly with the responsibilities of the secular physician. Its text reads:

Since bodily infirmity is sometimes caused by sin, the Lord saying to the sick man whom he had healed: "Go and sin no more, lest some worse thing happen to thee" (John 5:14), we declare in the present decree and strictly command that when physicians of the body are called to the bedside of the sick, before all else they admonish them to call for the physician of souls, so that after spiritual health has been restored to them, the application of bodily medicine may be of greater benefit, for the cause being removed the effect will pass away. We publish this decree for the reason that some, when they are sick and are advised by the physician in the course of the sickness to attend to

---


93. Ecclesiasticus 38.

94. This canon was included in the *Compilatio quarta* (5, 14, 4) and then in the *Decreta* (5, 38, 13).
the salvation of their soul, give up all hope and yield more easily to the danger of death. If any physician shall transgress this decree after it has been published by the bishops, let him be cut off from the church till he has made suitable satisfaction for his transgression. And since the soul is far more precious than the body, we forbid under penalty of anathema that a physician advise a patient to have recourse to sinful means for the recovery of bodily health. 95

This canon raises several important points: Since sickness is sometimes caused by sin, a physician, when called to a patient, must admonish him to call a priest before all else. Note that the interest expressed here is with the curative effect of confession, not with the desirability of ensuring that confession be made before a patient dies. Physicians who violate this requirement are to be strictly punished. The final stipulation in the canon is that physicians will be anathematized who "advise a patient to have recourse to sinful means for the recovery of bodily health." It is the summists' concern with this last stipulation that we shall consider first.

The Astesana (c. 1317) simply states that "since the soul is worth much more than the body, under the threat of anathema, we forbid any physician to recommend for physical health anything that results in danger to the soul." 96 The

95. As translated by R. J. Schroeder, Disciplinary Decrees of the General Councils (St. Louis: Herder, 1957), 236.

96. Astesana, 5, 16. The Latin text here is nearly identical to the last sentence of Cum infirmitas. My translation of this passage from the Astesana is strictly literal compared with Schroeder's of Cum infirmitas.
statements in the *Pisanella* (c. 1338), *Baptistina* (c. 1480), and *Angelica* (c. 1486) are just as laconic, indeed even briefer. All cite *Cum infirmitas*. Antoninus (1473 and 1477), Chaimis (c. 1474), and Fumus (c. 1538) are more involved in their treatment, listing specific matters that a physician is forbidden to advise to a patient. All three begin their short lists by forbidding the physician to advise fornicating. Fumus alone mentions masturbation (*pollutio*) and incantation, Antoninus and Chaimis forbid physicians to advise their patients to drink intoxicating beverages, and all three include the open category "and such things." Antoninus is the only one of our summists who discusses the circumstances of illicit counsel, maintaining that "a phy-


100. Cajetan, *Summula peccatorum* (1525), sv., *Pec-cata medicorum*, makes only a brief comment on this subject, follows a different format, and does not cite *Cum infirmitas*, referring to the action as a sin against divine, as opposed to canon, law, when physicians "advise to do anything against the safety of the soul, whatever mortal sin they advise. For according to the Apostle, evil must not be done that good of health or of life result."

sician who says to a patient, 'I do not advise, but if you have intercourse with a woman, you will get well,' transgresses this regulation. . . . Therefore, the physi­cian ought to beware in speaking, lest from concern for the situation of the illness he be aroused to doing some­thing wrong."

Both Antoninus\textsuperscript{102} and Chaimis\textsuperscript{103} regarded it as a mortal sin for a physician to advise the sick to break the church's fasts or to eat meat on forbidden days, "without reasonable cause," or to encourage the healthy to break fast days, "saying that they are harmful and such like."

If one now were asked what aspect of medical ethics has historically excited the most interest on the part of the Catholic Church, abortion would not be an unreasonable reply. Surprisingly, of all the summists surveyed, only two mention abortion in their discussions of physicians' sins.

The history of the treatment of abortion by the church through the end of the Middle Ages is complex and diverse, fraught with inconsistencies of interpretation.\textsuperscript{104} The

\textsuperscript{102} Antoninus of Florence, Confessionale, sv., Circa medicos; Summa theologica, pp. 281 f. and 292.

\textsuperscript{103} Chaimis, Interrogatorium, sv., Medicis, phisicis, et cirogicis.

practice of abortion is condemned in early Christian literature, e.g., in the Didache\textsuperscript{105} the Epistle of Barnabas,\textsuperscript{106} by Clement of Alexandria,\textsuperscript{107} Minucius Felix,\textsuperscript{108} and Tertullian.\textsuperscript{109} In the fourth century the practice is denounced by one church council in the West\textsuperscript{110} and by another in the East.\textsuperscript{111} Jerome\textsuperscript{112} and Augustine\textsuperscript{113} make the distinction that abortion was not counted as homicide unless the fetus was "formed." The statements by Jerome and Augustine "were to be the loci classici on abortion in the West,"\textsuperscript{114} and were transmitted by clerical writers and incorporated into penitentials through the mid-twelfth century. In the Decretum of Gratian abortion is reputed as homicide only when the fetus is formed ("vivified" or "ensouled").\textsuperscript{115} In the Decretales of Gregory IX, two canons deal with the subject, one being in

\begin{itemize}
\item \textsuperscript{105} Didache, 2, 2.
\item \textsuperscript{106} Epistle of Barnabas, 19, 5.
\item \textsuperscript{107} Clement, Pedagogus, 2, 10, 96, 1.
\item \textsuperscript{108} Minucius Felix, Octavius, 2, 43.
\item \textsuperscript{109} Tertullian, Apologeticum ad nationes, 1, 15; De anima, 25, 5 f.
\item \textsuperscript{110} Elvira, in 305, canon 63, in Sacrorum conciliorum nova et amplissima collectio, ed. by J. D. Mansi, et al., new ed., Florence and Venice, 1795-98, vol. col. 16.
\item \textsuperscript{111} Ancyra, in 314, canon 21, \textit{ibid.}, vol. 2, col. 514.
\item \textsuperscript{112} Jerome, Epistles, 121, 4.
\item \textsuperscript{113} Augustine, On Exodus, 21, 80.
\item \textsuperscript{114} Noonan, "An Almost Absolute Value," p. 17.
\item \textsuperscript{115} C. 32 q. 2 c. 7 (\textit{Aliquando}).
\end{itemize}
agreement with Gratian's interpretation, the other applying the penalty for homicide to contraception and to the induced abortion of a fetus at any stage of development. Considerable differences in interpretation of these two conflicting canons exist among various commentators on canon law, with one of the most influential, Hostiensis, arguing in favor of the stricter application. Among theologians, Thomas Aquinas held that the sin of abortion was a matter of degree that depended on the different stages of fetal development. The subject of therapeutic abortion had not been directly addressed. To this Antoninus' contribution "may be taken to mark the beginning of a new era of thought on abortion." Antoninus makes only a passing and indiscriminate reference to abortion when treating the sins of physicians in his Confessionale, saying that a physician sins mortally "if he gives medicine to a pregnant woman to kill the fetus even for the preservation of the mother." Antoninus wrote his Confessionale in 1473. Four years later, in his Summa theologica, we find him making distinctions conflicting with his earlier statement in his Confessionale. In

116. 5, 12, 20 (Sicut ex).
117. 5, 12, 5 (Si aliquis).
118. Thomas Aquinas, Summa theologica, 2-2, 64, 8, 2.
120. Antoninus, Confessionale, sv., Circa medicos.
his *Summa* he deals with abortion first in a general discussion of homicide. John Connery writes:

There he deals with it under the question whether homicide can be justified when necessary to avoid some evil. By way of example he speaks of women who have committed fornication, adultery, or incest and try to hide their crime by abortion or infanticide. They do this to preserve their reputation, or even their lives. Antoninus says that none of these reasons excuses them from a very serious sin. . . . He admits, however, that there will be no question of homicide in causing an abortion unless the fetus is already formed. He says that this occurs after 40 days in the male fetus, 80 days in the female fetus, thus following in general the Aristotelian time distinction between male and female formation. He goes on to say that it is not permissible for a woman, who is going to die anyhow, to shorten her life to save the fetus, nor on the contrary is it permitted to take the life of the fetus to save the mother. Anyone who does this, and all who cooperate with such a person, will be guilty of homicide.\(^{121}\)

It is in his section dealing with the sins of physicians where he makes a distinction "vital to the future discussion of abortion."\(^{122}\) Antoninus' contribution here lies not in his originality but in his adopting a distinction made a century earlier by an obscure theologian, John of Naples, whose *Quodlibeta* never saw print. Antoninus writes that physicians indeed sin mortally in giving medicines to pregnant women for producing abortion and for the death of the fetus (*mortem eius*), in order to cover up a sin. But if they do this to preserve the pregnant woman from the danger of death caused by the fetus (*in quo est ex puerperio*\(^{123}\)), then, following John of Naples, a distinction must be made concerning this fetus, whether it is ensouled (*animatum*) or not ensouled with a rational soul. And if indeed it has been ensouled, the physician sins mortally by giving such medicine.

\(^{121}\) Connery, *Abortion*, pp. 114 f.

\(^{122}\) Ibid., p. 115.

\(^{123}\) Antoninus uses the word *puerperium* to designate the fetus whether *animatum* (ensouled) or not.
He goes on to argue that if the fetus is ensouled, the physician has caused both the physical and the spiritual death of the fetus. The physician who thus allows the mother to die by not giving her the abortifacient is not the cause of her death directly, because the disease from which she suffered is the direct cause. Nor has he caused her death indirectly, "because even if he had been able to preserve the mother from death by giving the medicine . . . he would have been the cause of the death of the fetus."

On the other hand,

if the fetus is not yet ensouled with a rational soul, he would then be able and ought to give such medicine (posset tunc et deberet dare talem medicinam), because even if it prevents the animation of such a fetus, nevertheless, it would not be the cause of the death of any person (causa mortis allicuius hominis). And this good follows, that it frees the mother from death. Therefore he ought to give it in such a case. . . . But if there is doubt concerning the fetus, whether it is ensouled with a rational soul or not, he seems by giving such medicine to sin mortally, because he exposed himself to the danger of mortal sin, that is of homicide.124

John Connery's comments here bear quoting:

Since Antoninus was one of the great moral theologians of all times, acceptance by him of this opinion undoubtedly assured it a hearing. In fact, it is only through him that we know of this exception since the *Quodlibeta* of John of Naples were never published. Discussion of the exception will occupy the attention of moral theologians for the next three or four centuries, that is, until theories of delayed animation on which it was based begin to give way. Although Antoninus and John of Naples will have a respectable following, there will not be unanimous agreement with their opinion about this case.125

Only one of our summists besides Antoninus mentions abortion under the rubric of the sins of physicians, and this is Chaimis (c. 1474) who writes that a physician sins mortally if "he gives medicine to a pregnant woman for killing the child (puerum) in order to preserve the mother." He apparently was unaffected by John of Naples' and Antoninus' distinction.

It is surprising that only two of the summists surveyed include any reference to abortion when discussing the sins of physicians, especially when provided with such an opportunity by the prohibition in Cum infirmitas of physicians' advising anything sinful, although this did inspire several summists to list such offences as advising a patient to fornicate or to drink an intoxicating beverage. It is not that the rest of our summists were uninterested in the problem, since several include a discussion of abortion under homicidium or have a separate rubric aborsus or both. Any argument to the effect that abortion was not considered a grave enough sin to warrant their attention simply cannot be seriously entertained. Nor is it reasonable to say that the interpretive dilemma presented by the issue scared them away, lest they be forced to come down on one side of a question or on the other, since they


127. The Baptistina (c. 1480) discusses abortion under homicidium, Fumus (c. 1538) includes a separate section labelled aborsus, and the Angelica (c. 1486) does both.
demonstrate no such qualms about other difficult issues. The only even moderately appealing explanation that presents itself is that the majority of our summists simply did not regard the decision as something which physicians or surgeons had to face. It is likely that generally during the period under consideration a woman would not have turned to a male physician or surgeon for her obstetrical or gynecological needs, but rather to another woman such as a midwife or to one of the variety of female practitioners of the time. The inclusion of physicians in the discussions of abortion by John of Naples, Antoninus, and Chaimis may have been primarily for its theoretical value. Regardless of who should be involved, physician or midwife, by the early sixteenth century no theoretical defense or even definition of therapeutic abortion had yet been formulated, leaving the conscientious physician or midwife in a moral quandary.

The question was posed above as to what medico-ethical issue has generally most stimulated discussion by Catholic theologians. Abortion was suggested as a reasonable response. A second would certainly be euthanasia. What we would call passive euthanasia, although never so considered in the Middle Ages, must be subsumed under the broader subject of the obligation to treat and to attempt to cure hopeless cases. But what we would call active euthanasia is a different matter and is a subject never raised by our summists when discussing the sins of phy-
sicians. Active euthanasia, which we regard now as a moral category unto itself, was regarded throughout our period as simply homicide on the physician's part and suicide on the patient's, assuming the latter's willing involvement. Martin Aspilcuetta, better known as Navarrus, the leading canonist of the sixteenth century, and a post-Tridentine summist, writes in his *summa* (1568) that the physician sins who gives any medicine that he knows is harmful, "even if he administers it out of pity or in order to please the patient." Navarrus' statement seems abundantly clear and unambiguous: Active euthanasia, whether motivated by pity or by the wish of the patient, is sinful. This must be one of the earliest articulations regarding active euthanasia in such precise terms. Navarrus gives as authority for his statement the commentary of Panormitanus (after 1421) on the decretal *Tua nos* (which itself, of course, says nothing on the subject of euthanasia). Panormitanus had simply given the opinion that those having custody or serving a sick person sin greatly if, motivated by "a sort of pity," they obey or indulge the "corrupted desire" of the ill man. Before active euthanasia was seen as a separate category, the closest the summists could have come to including rele-

128. Navarrus, *Manuale sive Enchiridion confessariorum et poenitentium*, Lyons, 1574 (Gonzaga University), 25, 60, 2, sv., *De peccatis medici et chirurgi*. 
vant comments in their sections on physicians' sins would have been to have stated that it was a sin for a physician to kill or poison his patient intentionally, a statement as unlikely to be made as that it was a sin for a physician to steal a patient's property, rape his wife, or burn down his house, since it would be a sin not considered peculiar to the vocation under discussion.

Throughout the history of medicine a prerogative that physicians have usually guarded jealously is whether to inform the terminally ill patient of his condition. Although having no direct authority to cite on this matter from canon law, several of our summists made pronouncements on the question whether a physician foreseeing the impending death of one of his patients is obligated to tell him. Antoninus is the earliest of our summists to ask that question and, as in the case of abortion, it is to the Quodlibeta of the fourteenth-century theologian, John of Naples, that he turns to find an answer. John of Naples had distinguished as follows: Either the physician believes that it is very likely that such a prediction would be very useful for the patient, with a view toward his putting both his spiritual and his temporal affairs in order, or he believes the opposite, namely that it would not be useful, or he is in doubt about both. Now when the physician believes that the patient is in a state of mortal sin, and has made no provision for how his material possessions should be disposed of, thus resulting in grave dissension among his heirs,
and since the patient, if he hears that death is imminent, will prepare himself for dying well, and will get his affairs in order, then the physician is obligated to inform the patient either directly or through another. If he does not do so, he sins mortally. On the other hand, if the physician believes with all likelihood that the announcement would profit the patient little or nothing, because he believes that the patient is in a good spiritual state and that his temporal affairs are in order, then he is not obligated to inform him. But he would do better by doing so because any patient, regardless of how well his spiritual and temporal affairs might have been arranged, would set himself more in order having heard that death is near. If the physician is in doubt about the patient's spiritual and temporal state, he is obligated to inform him of impending death. This is especially important since both the condemnation of the patient's soul and harm to his temporal affairs can follow.129 John of Naples, perhaps via Antoninus, is followed in the above assessments by the Baptistina (c. 1480),130 Angelica (c. 1486),131 and Fumus (c. 1538).132

Antoninus pursues the matter further than these three

131. Angelica, sv., Medicus, 12.
132. Fumus, Summa Armilla, sv., De medico.
summists, citing Galen as saying that however much the physician despairs of the health of a patient he ought always to strengthen him and tell him that he will recover. Antoninus writes that John of Naples reacts to Galen’s statement with the assertion that it is not necessary to follow this, citing in contrast Gratian’s quotation from Ambrose that "the precepts of medicine are contrary to the divine position." Antoninus seems to appreciate both sides of the question, saying that "by predicting death much harm is done, and by being silent no damage is done. Nevertheless, in no case ought one to lie, as they are wont to do." His final assessment, as given in his recapitulation at the end of the section on physicians, is that a physician sins mortally if,

recognizing the impending death of a patient according to the art of medicine, he does not advise him or those caring for him or his confessor, so that they might make provision for him concerning the sacraments or concerning a will, if it is useful, and such like; fearing lest he get worse on account of this, or be in bad humor, or displease his family: following John of Naples in Quodlibeta.

Whether or not to inform the patient thus remained, for the conscientious physician, an onus requiring that he be certain of his terminal patient’s spiritual frame and the state of his arrangements for disposing of his affairs.

134. Antoninus, Summa theologica, p. 286.
135. Ibid., p. 291.
While the stipulation pertaining to informing the terminal patient has no direct basis in canon law, *Cum infirmitas* appears quite specific in requiring that "before all else" physicians, when called to the bedside of the sick, "advise and persuade" them to call for the physician of souls." There are two reasons given for this requirement. The first is that confession had a curative effect. Since much illness was caused by sin, the confession of sin would remove the cause thus either making the physician's attendance superfluous or more effective. The second reason is that if it was popularly believed that physicians advised the patient to call a confessor only if there was no hope of recovery, patients thus advised would "give up all hope and yield more easily to the danger of death."\(^{137}\)

To anyone attempting to understand how this canon should be applied, any of the following questions might arise: 1) Does this apply to every new case a physician takes on? 2) Since the physician must "advise and persuade" (*moneant et inducant*) the patient to call a confessor, is he also responsible to ensure that the patient both agree and comply? 3) If the patient is unwilling to call a con-

---

136. The Latin here reads *moneant et inducant*, literally "let them advise and persuade," considerably stronger than Schroeder's translation, "admonish."

137. That some physicians, even before Lateran IV, were wrestling with the problems posed by advising the patient to call a confessor, will be shown in Chapter V, below.
fessor, may the physician treat him anyway, or must he withdraw from the case? 4) May the physician "advise and persuade" through another, e.g., relatives, friends, or attendants of the patient or must he do so himself? 5) If physicians simply fail or refuse to comply on the grounds that it is contrary to the established precepts of their art, can this canon be abrogated through non-use and prescribed by contrary custom?

All our summists who wrote after Lateran IV include a discussion of Cum infirmitas although their discussions vary considerably in length, detail, and sensitivity to the problems posed by this canon. It should be noted that none of the summists surveyed dealt with all the questions posed above. Several give basically a short, rigid, and dogmatic demand that the physician persuade the patient to confess, without discussing the possibility of exceptions.138 Even Antoninus, although he discusses the problems at some length in his Summa (1477), simply makes the bald statement in his short Confessionale (1473) that a physician has sinned "if he has not abided by the precept made for physicians, namely that they should persuade their patients when they first are called to them that they must make con-

138. Astesana (c. 1317), 5, 16; Pisanella (c. 1338), sv., Medicus vel cirurgicus; Chaimis (c. 1474), Interrogatorium, sv., Medicis, phisicis, et cirosicis.
fession, because, following the authorities (doctores), it is a mortal sin." 139

Among those who considered the question whether physicians are obligated in all cases to advise the patient to call a confessor, opinions vary. Antoninus, in his Summa (1477), notes that some physicians comply with Cum infirmitas only when dealing with patients who they think are mortally ill and not under other circumstances. "But such physicians do not fulfil this constitution and that is clear from the text of the decretal itself. There it is stated: 'for the reason that some, when they are sick and are advised by the physician in the course of the sickness to attend to the salvation of their soul, give up all hope and yield more easily to the danger of death.'" He then quotes the commentary of Joannes Andreas on this section of Cum infirmitas, to the effect that "from this patients will truly know that physicians say this in every illness, in mortal illnesses and also in those not judged fatal; then fear and danger will cease." 140 Andreas' interpretation appears consonant with the stated intent of the decretal, since if physicians generally advised only terminal patients, or those suffering from dangerous illnesses, to confess, the effect of such advice on patients could well be dele-

139. Antoninus, Confessionale, sv., Circa medicos.
terious. But the other summists who address this question seem to move away from the intent of the canon. The Baptistina (c. 1480) lays it down that, "the safe judgment always being the better judgment," this constitution applies only to dangerous or doubtful ailments. He gives as examples "any accident or any pain of the head" and any ailment that is "dangerous in the physician's opinion, for instance continuous fevers, pleurisy, quinsy, colic pain of the kidneys, and such like." On the other hand, the physician is not obligated to advise the patient to confess if he has "an ephemeral fever and such like." The Angelica (c. 1486) states that in any sudden accident which requires immediate treatment the physician is excused. "Although it is best that he persuade in every illness," he is not obligated except in dangerous illnesses. "And I call it 'dangerous' when one can credibly demonstrate a danger of death." Fumus (c. 1538) holds the physician obligated whenever the patient is in a serious illness, "even if not in imminent danger of death." Cajetan (1525) feels that it must be an illness "from which a man truly lies ill. A physician is not held to this in every illness without distinction, lest the advice come into derision." He advises taking a middle road be-

142. Angelica, sv., Medicus, 8 and 9.
143. Fumus, Summa Armilla, sv., De medico.
tween extremely dangerous cases and ailments such as gout.144

Of the summists surveyed, only one addressed the question whether a physician is obligated to ensure the patient's compliance in making a confession, without also considering the obviously correlative question whether the physician must withdraw from the case if the patient does not call for a confessor. Chaimis (c. 1474) simply writes that their advice and persuasion must be *cum effectu*, i.e., with results, before they are permitted to undertake care. As authority for this he cites the commentaries of Hostiensis, Joannes Andreas, and Antonius de Butrio on *Cum infirmitas*.145 Antoninus (1477) instructs his readers to "note that physicians must observe this rule 'before all things.'" This he takes to mean "before they raise a hand to treat, or before they come to an agreement on a fee," citing Joannes Andreas. But must the physician ensure his patient's compliance? Antoninus says that Hostiensis, interpreting *inducant* to be *cum effectu*, insists that the physician not undertake the case otherwise. "But such an opinion as this," writes Antoninus, "seems harsh, since succor must be given *secundum ordinem caritatis*, to those who are in danger, however stubborn they may be." He maintains that the text itself does not specifically require that the physician's advice be followed and cites the opinion of


Petrus de Palude that physicians are only obligated to admonish. When the question is discussed in the Baptistina (c. 1480), Panormitanus is cited as having interpreted *moneant et inducant* as *cum effectu*, "namely that they (sc., the patients) call a priest; otherwise it does not satisfy this precept." Noting that others say "not unreasonably that when a physician does as much as he can to persuade the patient, even by threatening to abandon him," and still the patient absolutely refuses, the physician can proceed with the case, the Baptistina concurs. The reasoning is that if the physician withdrew, the patient might give up hope and die. But if he is cured, he might be able to be persuaded to tend to his spiritual needs.

The Angelica (c. 1486) is in agreement with the Baptistina here, holding that an interpretation requiring a physician to desert the recalcitrant patient would thus make "the precept of the church seem against the precept of God." Fumus (c. 1538) writes that if the patient "is not willing to confess, he ought not to be abandoned on that account, lest perhaps he despair and die, for this seems to be contrary to charity by which we are held to do good even to the bad and to the unjust, and this seems to me to be a good conclusion and sufficiently discreet."

149. Fumus, *Summa Armilla*, sv., *De medico.*
Three of the summists speak directly or indirectly to the question whether the physician may advise and persuade through another. The Pisanella (c. 1338) flatly states that it is a rule that the physicians "themselves advise and order" that patients call the confessor.\textsuperscript{150} Cajetan (1525), on the other hand, tells his reader: "Stop! lest you too quickly judge a physician guilty of mortal sin, because physicians are accustomed to do this not through themselves but through relatives or others."\textsuperscript{151} And Fumus (c. 1538) simply says that it is sufficient for them to have those near the patient urge the patient to call a confessor.\textsuperscript{152}

Seven of our summists consider the question whether Cum infirmitas can be abrogated through non-use and prescribed by contrary custom. A general principle in late medieval canon law was that a custom that prevailed throughout Christendom, if the custom was reasonable, abrogated the written law. The classic doctrine was that the custom must be in accord with reason and that no custom could claim to be reasonable if it was prejudicial to ecclesiastical liberty and discipline. Gregory IX admitted this doctrine in the decretal Cum tanto (Quum tanto).\textsuperscript{153} A clear defi-
nition of what was and what was not "prejudicial to ecclesiastical liberty and discipline," of course, could not be achieved with the inclusiveness necessary to cover every exigency. The Astesana (c. 1317), \textsuperscript{154} Pisanella (c. 1338), \textsuperscript{155} and Antoninus in his Summa (1477)\textsuperscript{156} simply say that it cannot be abrogated by any custom, with the former two adding "since it was introduced for the health of souls." The Baptistina (c. 1480) says the same, citing Panormitanus, and maintaining that "such a custom does not have in itself any reason (ratio). On the contrary, from it many evils result, as in the text."\textsuperscript{157} The Angelica (c. 1486) is quite forceful, saying that "it cannot be said to be abrogated on account of contrary custom, for it is not custom but is corruption and against good morals and therefore does not have strength."\textsuperscript{158} Fumus (c. 1538) says the same, nearly verbatim, but then concedes that considering that the requirement of Cum infirmitas "opposes their art which always predicts good hope, they do not sin mortally" if they merely advise those near the patient to urge him to confess.\textsuperscript{159} In this he is close to Cajetan's develop-

\begin{tabular}{l}
\textsuperscript{154} Astesana, 5, 16. \\
\textsuperscript{155} Pisanella, sv., Medicus vel cirurgicus. \\
\textsuperscript{156} Antoninus, Summa theologica, p. 285. \\
\textsuperscript{157} Baptistina, sv., Medicus vel cirurgicus, pr. \\
\textsuperscript{158} Angelica, sv., Medicus, 8. \\
\textsuperscript{159} Fumus, Summa Armilla, sv., De medico. 
\end{tabular}
ment of the question. After mentioning that physicians are accustomed to advise patients through relatives or others, Cajetan (1525) writes:

For if this constitution has been thus accepted by consensus of those practising, and the prelates, who have the authority to discipline such physicians, ignore those who violate it, physicians are excused from mortal sin, since it is established that decretals of substantive law (ius positivum) are abrogated by non-use, especially those never having been received accurately, as seems to be the case here. And this decree seems reasonable so far as it was written, but never affirmed by the consensus of those practising, because it is opposed to the role (officium) of physicians and on account of this they always seem to have withstood it. Physicians indeed are bound by the precept of their art always to present pleasant things which are of health and hope for the patient. On that account they say not to look to them to bring in sorrowful tidings of such a kind if there is danger; and if there is no danger, they ought not to expose themselves or their words to ridicule. Understand these things to excuse the custom of good physicians.

It should be obvious that there was no uniformity either of practice or of interpretation of the major provisions of Cum infirmitas by the early sixteenth century. A very few decades after Cajetan wrote his Summula peccatorum (1525), and three years after the adjournment of the Council of Trent, that is in 1566, Pope Pius V renewed Cum infirmitas in his constitution Super gregem. There it was declared that physicians were to discontinue their treatment of a patient after the third day if he failed to produce a document signed by a confessor certifying that the

patient had duly confessed. Physicians violating this rule were to be declared infamous, denied the privilege of practising, and ejected from their university or medical/surgical associations.\footnote{161}

We have seen that many of the summists were quite thorough in detailing and analyzing the sins to which physicians were considered most susceptible. They were concerned to impress upon physicians that they sinned mortally in failing to have the requisite expertise, to exercise the necessary diligence, and to be faithful to the traditions of the art. The obligation to extend charity to the poor was an important matter to most of our summists, as was the treatment of the rich miser. Also the physician's obligations to the spiritual well-being of the patient weighed heavily on the minds of the summists.

Now that we have seen the scope of the summists' interests and the details of their analyses, an obvious ques-

\footnote{161. See R. J. Schroeder, \textit{Disciplinary Decrees}, pp. 263 f. When the \textit{Cum infirmitas} was promulgated, it applied to all physicians, and any physician who attempted to live in accord with the dictates of the church would have endeavored to achieve some modus operandi consistent with at least a liberal interpretation of its provisions. By the time that the post-Tridentine \textit{Super gregem} was promulgated, many physicians were at least nominally within the ranks of protestantism and thus no longer subject either under canon law or in conscience to the regulations of Roman Catholicism. Catholics receiving doctorates in medicine were apparently obligated to swear by oath that they would honor the provisions of \textit{Super gregem}. For an example, see Martha Teach Gnudi and Jerome Pierce Webster, \textit{The Life and Times of Gaspare Tagliacozzi, Surgeon of Bologna 1545-1599} (New York: Herbert Reichner, 1950), 55 f. for a translation, 388 f. for the Latin text of such an oath.}
tion must be posed: Just what if any effect might all this have had on the shaping of medieval medical ethics and on actual practice? As we consider the question just posed, it is absolutely necessary that we bear in mind that medieval society was, with the exception of a small number of Jews and heretics, exclusively Christian. There was only one church and everyone was a member of it. The allegiance, willing or otherwise, of virtually the entire population of Western Europe to the church, coupled with the prestige of ecclesiastical institutions, enabled the church to exercise coercive jurisdiction over areas of life that now would be the concern of either secular authority or the individual's conscience. The church promulgated laws and expected obedience and her coercive jurisdiction was exercised through her courts where penalties ranging from penance to imprisonment to excommunication were exacted. The church's courts were of two different but complementary kinds, the forum externum and the forum internum. The former, the external, also called the ius fori, represented the right of the Church to judge her members in relation to the social body of Christendom. The external forum was simply the jurisdiction of the Canonical courts. On the other hand, the internal forum, termed the ius poli in the Middle Ages, represented the right of the Church to judge her members in view of their personal and intimate relationship to God. This forum was simply the confessional in which the believer confessed his sins to his priest and received moral and spiritual guidance.162

The extent to which the confessional exerted influence on ethics and conduct simply cannot be gauged with any certainty. A few observations, however, can legitimately be made. Thomas Tentler, whose studies of the *Summae confessorum* probably qualify him as one of the leading authorities on the historical significance of the genre, likes to speak of the confessional as an instrument of social control. While he concedes that he "cannot prove the importance of confession quantitatively," nevertheless he "can say a great deal about the teachings that religious authorities wanted the Christian community to believe and put into practice." 163 It cannot reasonably be denied that the confessional literature was written for the purpose of educating the clergy to the end that they, in turn, could educate the laity as part of the confessional objective. For the goal of confession was not only to forgive known sins committed but also 1) to educate the laity so that they might be able to identify previously unknown sins, both of commission and of omission, in their lives, and 2) to correct sinful practices. The best confession was one that led to a change of life, and that changed life should be one in as close conformity to the expectations and standards of the church as possible. Were the expectations and standards expressed in this literature quite unrealis-

tic products of the ascetic minds of theologians far removed from the realities of life? Tentler writes that "it would have been impractical and self-defeating" for these authors "to appeal to ideas and expectations that were novel, irrelevant, or unintelligible." For what he sees in this literature "is the practicality of men who understood the inherent power of the system placed at the disposal of every rank of ecclesiastical authority."¹⁶⁴ For men in the forum internum - in the forum of conscience - were responsible not only to God but also, and quite directly, to men who had the authority "to loose and to bind." And this authority "to loose and to bind," although ultimately of eternal consequences, was applicable to the present life in that it included the authority, indeed the responsibility, to grant forgiveness only to those who satisfied the requirements of the confessional and to impose sanctions upon those who refused. And the ultimate sanction, excommunication, when imposed upon anyone who exercised his vocation by license, would deprive such a one of his livelihood.

There was a strong tradition in the church, from Augustine through Gratian, in canon law and conciliar legislation, that whatever was gained through dishonest practices had to be restored in full before remission of

¹⁶⁴. Ibid.
sin could be given, before *ego te absolvo* could be pronounced efficaciously.\(^{165}\) Restitution was an absolute condition of forgiveness and the confessor had considerable freedom of discretion in determining situations in which restitution must be made. The principle of restitution was applied to much besides ill-gotten gain, indeed to damages generally. The *Angelica* defines the nature of the obligation as "any satisfaction that must be done to someone else."\(^{166}\)

Tentler considers the confessional system of the late Middle Ages a "most effective means of social control" because of its "clear and explicit expectations, clear and direct accountability" and, in the same context, he says of the *Summae confessorum* that "they are, if any books ever were, devoted to the clarification, definition, and publication of expectations, as well as to the assertion of the legitimacy of the authority of priest over penitents and the hierarchy over the church."\(^{167}\)

Medieval economic historians have commented on the possible effects of the *forum internum* on merchants' acti-


\(^{166}\) As quoted by Tentler, *Sin and Confession*, p. 341.

\(^{167}\) Tentler, "Response and Retractatio," p. 137.
vities in the late Middle Ages. Their conclusions are generally expressed thus: "... although undoubtedly of influence, gives no assurance that the penitent merchant followed the ideals of his confessor." 168 "Unfortunately, we have no direct indication of what the merchant thought. He was not a moralist and he did not write moral treatises. Nor did the confessor assess the effects of his work quantitatively. The connective doubtless was there, but the historian has no means of accurately charting it." 169

The medical historian also cannot "accurately chart" the influence of the confessional on medical ethics and practice if "accurately chart" means to subject to anything even approaching statistical certainty. But the medical historian has at his disposal various types of medical and surgical literature that directly or indirectly shed some light on the state of medical deontology in the late Middle Ages. It is to an analysis of these resources that we now turn in the final chapter.

169. Gilchrist, The Church and Economic Activity, p. 50.
A wide variety of medical and surgical literature has survived from the late Middle Ages. Most of it is what one would classify as scientific literature—literature designed to instruct in specifically medical or surgical knowledge. In such literature one occasionally encounters comments made directly on matters of medical ethics or etiquette. This particularly holds in the case of surgical manuals where the authors often begin with a discussion of the moral and educational qualifications of a practitioner, bedside manner, fees, and a variety of related matters. Sometimes, quite incidentally, one encounters in the medical and surgical literature comments that indirectly reveal aspects of the ethical standards of the author. This has been found to be true especially in the pest tractates written by physicians attempting to understand and deal with the various outbreaks of pestilential disease that struck Europe during the late Middle Ages.

In this final chapter such literature will be examined with a view to seeing what information it will provide on
the state of medical ethics, both in theory and in practice, in the late Middle Ages. We shall first consider the few specifically deontological statements and shall then examine the ethical standards demonstrated by physicians and surgeons in their response to the especially trying circumstances of plague. The chapter will end with a consideration of what conclusions might be drawn from the material discussed in this entire study.

We surveyed, toward the end of Chapter II, a variety of deontological treatises written during the early Middle Ages, in which there was a distinct blending of various principles of "Hippocratic" etiquette, discussed in Chapter I, with early Christian medical ethics, developed in Chapter II. During the early Middle Ages the monasteries had held a virtual monopoly on the production and preservation of medical literature. They did not, however, exercise a monopoly on medical practice. There is abundant evidence, some of which was presented in Chapter III, of secular practitioners during the early Middle Ages. But if they produced any medical literature (save at Salerno, and that produced is not particularly early), it has not survived. Loren C. MacKinney, in his survey of medico-ethical literature of the early Middle Ages, demonstrates a shift, by the twelfth century, from monastic to secular domination, a "shift of emphasis from ideals to practical considerations," a "despiritualization of the medieval
physician," particularly in the introduction of various "tricks of the trade," and a predominant concern with fees. He credits this change to such factors as, e.g., rapid urbanization, and he is probably right to a degree. But it is important to note the different walks of life from which the authors of our sources came. While the writers on medical ethics in the early Middle Ages were probably monks, those of the late Middle Ages were predominantly either laymen or clerics who were not religious (i.e., were in orders but not living apart from society under a rule). It is therefore not surprising that the tone of the sources that we shall be discussing in the present chapter is less other-worldly than those with which we finished Chapter II. Additionally we should be reminded that we are unable to determine the purpose for which these early medieval deontological treatises were written. Three possibilities were suggested: 1) As purely literary efforts. 2) To be used in general or advanced clerical education. 3) To be used in the training of physicians. In the case of the deontological statements of physicians of the later Middle Ages, we can say with certainty that they were made with the clear intention of providing other practitioners

---


2. Above, Chapter II, after n. 143.
with two types of information: 1) The ideals for a physician's character, preparation, and practice. 2) Very practical and sometimes quite unethical advice on how best to survive in the profession.

MacKinney provides a translation of a very short deontological treatise that has survived in at least eleven manuscripts dating from as early as the ninth, and as late as the fifteenth, century. The little tract reads:

Meanwhile I warn you, Physician, even as I was warned by my master. You ought always to read, and to shun indolence. Visit with care those whom you accept for treatment, and safeguard them. Hold fast to the cures that you know. Never become involved knowingly with any who are about to die or who are incurable. Do not take up with the daughter or wife of your patient. Cherish modesty, follow chastity, guard the secrets of the homes [you visit]. If you know anything derogatory concerning a patient, keep quiet about it. Do not detract from other [physicians]; if you praise the character and cures of others you yourself will have a better reputation. At the outset, accept at least half of the remuneration without hesitation, for he who wishes to buy [your services] is disposed to pay and to beg [for treatment]. Get it while he is suffering, for when the pain ceases, your services also cease. You will win more thanks if you do all these things, and no physician will be greater than you [in reputation]. Read felicitously, be progressive, fare well, and God's grace be with you, in the practice of medicine and [your other] undertakings. Let healing come from God, who alone is the physician. Amen.³

The first of the italicized sections occurs only in the manuscripts dating from the eleventh century or later. The second is in a tenth-century, South-Italian, version.

Of the latter MacKinney asks, "Was this brutally practical factor in medieval medical ethics Salerno's first contribution to the de-spiritualization of 'the art'?" The unitalicized portion of this treatise was discussed in Chapter II. Some of the advice found in the later manuscripts and italicized in the above translation is not without parallel in the early medieval treatises. Guarding the secrets of the art is advised in at least one of the earlier treatises as well as an admonition to abstain from immorality in practice. It is the advice on fees that is starkly different from the sentiments we encountered in the early treatises where emphasis is given to charity and compassion. It is not, however, significantly different in tone from some statements on fees found in Greco-Roman medical literature and discussed in Chapter I. We shall find late medieval deontological literature quite preoccupied with the subject of fees.

A short treatise, very much in the tradition of the early medieval deontological literature, is ascribed to Constantine the African (died 1087), who was the earliest and most productive of the medieval translators of Arabic medical literature into Latin. To him is attributed a wide variety of works translated from Arabic. The treatise in

4. Ibid., p. 23, n. 37.
5. Above, Chapter II, at n. 137.
6. Above, Chapter II, at n. 133.
question appears in some manuscripts (of the thirteenth and fourteenth centuries) and in the earliest printed edition as a prologue to Constantine's Liber Pantegni, a translation of the al-Maliki of 'Ali ibn 'Abbas (Haly Abbas) who lived in the late tenth century. The treatise is not part of the original al-Maliki and whether or not it was penned by Constantine the African remains an open question. MacKinney says that it is possible that it was compiled from Arabic material or from works of the nature of the early medieval deontological treatises, and "at any rate . . . appears to be a synthesis of materials long in circulation."7 The treatise opens with some advice on the relationship of a medical student to his master. Then the master is urged to teach only worthy disciples, to do that without any pay, and to "keep unworthy persons from entering this learned profession." The physician's concern should be the healing of the sick. "He should not heal for the sake of gain, nor give more consideration to the wealthy than to the poor, to the noble than to the ignoble." He should not teach "anyone how to give a harmful potion, lest some ignorant person should hear of it and on his authority mix a death potion. He should not teach anyone how to bring about an abortion." He should refrain from sexual contact with patients and their families and maintain con-

fidentiality. The treatise continues with exhortations on personal uprightness (e.g., fleeing luxury and drunkenness) and on the importance of reading. The physician "should never refuse to visit the sick for thus, by experience, he may become more efficient." It ends with the advice that he be pious, humble, gentle, likeable, and "seek divine assistance." 8

There is nothing in this treatise that is not fully consonant with the ideals of early Christian medical ethics or with classical Arabic medical ethics. Whether it came from Arabic or from early medieval sources is irrelevant. An examination of classical Arabic medical ethics 9 reveals a borrowing and adapting (with an emphasis on the latter) of Greco-Roman (primarily Hippocratic and Galenic) medical ethics quite similar to the borrowing and adapting accomplished by Christians in the late Empire and in the early Middle Ages. Classical Arabic medical ethics is not simply Islamized Greco-Roman medical ethics any more than early medieval medical ethics is simply Christianized Greco-Roman medical ethics. Classical Arabic medical ethics is neither Greco-Roman nor Christian but distinctly Islamic. However, it shares certain features in common with Greco-Roman and

8. Ibid.

medieval Christian medical deontology. Many aspects of Greco-Roman medical ethics (particularly those exemplified by the so-called Hippocratic Oath, which was itself atypical of the broad spectrum of ancient medical ethics) were as harmonious with Islamic as they were with Christian morality. This holds true also with many ancient principles of medical etiquette as well. Thus during the centuries before the introduction of Arabic medical literature into the Latin West, many of the same principles of medical ethics and etiquette were shared by both cultures. The deontological principles of Arabic medicine that were consonant with medieval Christian medical deontology were not adopted or even adapted by the latter since they were already an integral part of medieval Christian medical ethics and etiquette.

An anonymous Salernitan treatise entitled De adventu medici ad aegrotum (On a Physician's Visiting His Patient) is part of the famous twelfth-century Breslau codex. It is variously described as an abridgement of a longer treatise written by the Salernitan physician Archimathaeus or the source from which a longer treatise was later written and then falsely attributed to Archimathaeus. It also, in somewhat different form, makes up about one half of a


treatise entitled De cautelis medicorum (On Precautions of Physicians) which is (probably falsely) attributed to the late thirteenth- and early fourteenth-century physician, Arnald of Villanova. The Latin text\textsuperscript{12} of De adventu medici ad aegrotum as well as several partial translations\textsuperscript{13} have been published. Since this little treatise was widely circulated in its own form, and as it contains the essence of the longer treatise attributed to Archimathaeus and also is closely similar to a large part of the deontological treatise attributed to Arnald of Villanova, its medical and surgical audience, from the twelfth century to the end of the period under consideration, was undoubtedly relatively large. Much of the treatise is devoted to the physician's bedside manner, to taking the pulse, inspiring the patient's confidence in the physician, and raising his spirits. The physician's deportment around the patient's family, what kind of pleasantries in which he should engage, how to conduct himself if he is asked to stay for dinner, and so forth, are discussed in detail. The physician is urged "not to turn a lingering eye" upon the patient's wife, daughter, or maid-servant, "for this sort of thing blinds the eye of

\textsuperscript{12} S. DeRenzi, Collectio Salernitana (Naples, 1852-1857), vol. 2, pp. 74 ff.

the physician, averts the favor of God, and makes the physician abhorrent to the patient and less confident in himself. Be therefore careful in speech, respectable in conduct, attentively seeking Divine aid."

What the physician is advised to do before seeing the patient and upon departing is of interest:

When you reach his house and before you see him, ask if he has seen his confessor. If he has not done so, have him either do it or promise to do it. For if he hears mention of this after you have examined him and have considered the signs of the disease, he will begin to despair of recovery, because he will think that you despair of it too.14

Now this advice appears in a twelfth-century treatise, in a work composed some time before the promulgation of *Cum infirmitas* by Lateran IV in 1215,15 thus before physicians were required "before all else to advise and persuade" their patients to call a confessor. The author of this anonymous Salernitan treatise does not appear unusually devout. Indeed, were one to attach an adjective to the work, "eminently practical" would describe it better than any other. The author, of course, was a member of a society in which the belief in the necessity of confession before death was deeply ingrained. While he may not have considered it especially his own spiritual duty to look after his patient's spiritual as well as his physical health, he

15. Discussed at some length in Chapter IV, above.
must have considered the alternative of advising the patient to confess only when in dire straits to be potentially dangerous to the patient. The action recommended by this physician and the motivation behind it is identical to that of Cum infirmitas, except that the decretal includes an additional motivation: since sickness is often caused by sin, the act of confession will itself have a curative effect that will either render the physician's care unnecessary or make it more effective. The advice on confession, as it appears in the treatise attributed to Arnald of Villanova, is significantly different in emphasis from that in the anonymous Salernitan piece:

... when you come to a house, inquire before you go to the sick whether he has confessed, and if he has not, he should immediately or promise you that he will confess immediately, and this must not be neglected because many illnesses originate on account of sin and are cured by the Supreme Physician after having been purified from squalor by the tears of contrition, according to what is said in the Gospel: "Go, and sin no more, lest something worse happens to you." 16

This version, written after Lateran IV, strikingly resembles part of Cum infirmitas, even quoting the same scripture, and it demonstrates the direct influence of a constitution of canon law on a strictly secular piece of deontological literature. Whether this is simply lip service to ecclesiastical authority or reflects genuine approbation of the underlying principle upon which the legislation was based must remain an open question.

The anonymous Salernitan treatise advises the physician just before leaving to promise the patient that with the help of God you will cure him. As you go away, however, you should tell his servants that he is seriously ill (ipsum multum laborare), because if he recovers you will receive greater credit and praise, and if he dies, they will testify that even from the beginning you despaired of his health.17

I had previously described this treatise as "eminently practical," an attribute that certainly applies to this bit of advice. Whether it should be labelled "ethical" is highly doubtful. The parallel passage in the treatise attributed to Arnald of Villanova is nearly identical, with the significant difference that instead of promising the patient "that with the help of God you will cure him," which still leaves the matter in doubt and at least partially in God's hands, the later treatise advises more crassly that "you promise health to the patient who is hanging on your lips."18 This treatise attributed to Arnald consists of four parts, the third being the section nearly identical to the anonymous Salernitan treatise. The second section, which is extremely short, demonstrates that the treatise was not written by one man (whether Arnald or not) but rather was hastily thrown together, since it flatly contradicts the advice that the physician promise health to the patient. The second section includes the statement that the physician "must be ... circumspect and cautious in

answering questions, ambiguous in making a prognosis, just in making promises; and he should not promise health because in doing so he would assume a divine function and insult God. He should rather promise loyalty and attentiveness. ..." 19 For two such opposing pieces of advice to be found in the same treatise is unusual. But for such conflicting opinions to be expressed, and for a wide range of opinions in between to be available in other sources, is typical of the state of medical ethics in the late Middle Ages.

A variety of medical deontological sources is extant from the late thirteenth through the early fifteenth centuries. A survey of their contents is essential if we wish to have a reasonably complete picture of the broad range of ethical standards of medical and surgical authors as demonstrated by their direct statements on matters of ethics or etiquette. For the sake of organization, attention will center on a tract written by John Mirfeld. Statements made in other sources will be brought in for comparison and contrast.

John Mirfeld (or John of Merfeld or Mirfield), who died in 1407, was long regarded as having been a physician. Between 1380 and 1395 he wrote an extensive encyclopedia of medical (and quasi-medical) information, entitled Breviarium

19. Ibid., p. 141.
Bartholomei, being named after St. Bartholomew's Hospital and Priory in London, with which Mirfeld was associated. Medical historians have, until a few decades ago, generally considered him to have been a physician (although also a cleric) of some importance. Fielding Garrison describes him as "a monkish physician who worked in the cloisters of St. Bartholomew." 20 It is now well established that he had had no training as a physician and if he ever practised medicine at all it was as an amateur. 21 His Breviarium is a compilation made from a wide variety of medical authors and deals with remedies for innumerable diseases. He also throws in some original observations that he had made in the hospital of St. Bartholomew. A second work he is known to have written is entitled Florarium Bartholomei and was completed about 1404. This is a theological book consisting of a prologue, 175 chapters, and an epilogue, and belongs to a genre that enjoyed great favor at that time. It is a speculum of theological tracts arranged alphabetically and dealing with a wide variety of subjects relating to spiritual life (e.g., the virtues, the vices, the sacraments, heaven, hell, and much else besides), written "to

20. Garrison, An Introduction to the History of Medicine, p. 165.

be a readily accessible guide to every department of the Christian life." 22 Mirfeld's *Florarium* is similar to but not nearly as well known as his contemporary, John Bromyard's, *Summa Predicantium*. 23 In one way that is significant for our subject, Mirfeld's *Florarium* differs from other works of the same genre: it includes a chapter entitled *De medicis et eorum medicinis* ("On physicians and their medicines"). 24 This chapter treats two different subjects: the first one-third deals with medical ethics and the remainder, containing general rules for preserving health, is basically a "home medical guide" for laymen. It is the first part that is of interest to our study. Mirfeld was not a physician but he was closely associated with a hospital and had written an extensive medical work that shows a commanding grasp of both subject matter and sources, giving him both interests in and insights into the current medical scene. If his section on medical

22. Hartley and Aldridge, p. 103.


24. Chapter 88. The Latin text and an English translation are in Hartley and Aldridge, pp. 122 ff. References to Chapter 88 will be by page numbers in Hartley and Aldridge.
ethics consisted simply of his own observations as a theologian who was interested in medical matters, it would certainly not qualify for inclusion in this section of our study. But Mirfeld wove together with much skill statements of sources which he identified (sometimes inaccurately) either in his text or margins. For the most part these sources are medical or surgical authors.

Mirfeld’s section on medical deontology opens with a defense of medicine based on Ecclesiasticus 38. He then turns to the qualifications that a good physician should possess, "namely that he should be skilful, and diligent, and that he should work in accordance with the generally accepted rules" (literally, "should practise in accord with the art"). Mirfeld attributes this to Haly Abbas, although he had extracted it from the late thirteenth-, early fourteenth-century physician Bernard Gordon. Gordon, in his De ingenio sanitatis, had repeated the five qualities Haly Abbas had recommended that a physician have: good vision, quick dexterity, a good memory, clear judgment, and a sharp intellect. Gordon then adds the three qualifications that Mirfeld wrongly attributed to Haly Abbas. Gordon


26. The physical, mental, as well as the moral qualities that were considered requisite for becoming a physician or surgeon are given in the literature on medical ethics and etiquette in classical antiquity, in the early Middle Ages, by classical Arabic medical authors, and by the sources presently under examination. These vary some from source to source, but the five given in the text are included quite consistently.
describes these qualifications in greater detail: Skilful - able to deal with the abstract theories and able to apply them to specific circumstances. Diligent - should visit the patient three times a day; during each visit the physician should do several things that Gordon prescribes. Practising according to the art - avoid such quackeries as magic, incantations, and soothsaying. These are the same qualifications that the summists, who were surveyed in Chapter IV, considered as essential in medical practice, with any significant deficiency in them constituting a mortal sin.

Next Mirfeld draws verbatim from the *Magna chirurgica* of Bruno of Calabria (c. 1252). Here he enlarges on the qualification of skill, saying that it is necessary "that medical men should be well educated, or at least that they should learn their profession from a man of literary attainment; for I consider that an illiterate person is hardly capable of competently performing the functions of a physician." Bruno (as quoted by Mirfeld) then bitterly laments that "at the present time, ignorant amateurs, to say nothing of - what is worse, and is considered by me more horrible - worthless and presumptuous women, usurp this

profession to themselves and abuse it." Such quacks, since they possess "neither natural ability nor professional knowledge, make the greatest possible mistakes . . . and very often kill their patients." This is strikingly similar to the statements made by various medical faculties and surgical guilds in seeking and protecting their monopolies on medical and surgical practice, as was seen in Chapter III, above.

Mirfeld next quotes from the thirteenth-century professor of surgery at Bologna, William de Saliceto's introduction to his *Cyrurgia*. The section quoted was abstracted from *De adventu medici ad aegrotum* attributed to Archimathaeus which was itself a longer version of the anonymous Salernitan treatise, bearing the same title, already discussed above. In this section, Mirfeld quotes Saliceto that the physician should "comfort his patient, and on every occasion should promise him restoration to health, even if the physician himself shall regard the case as desperate." He justifies this on the grounds that this will greatly encourage the patient, thus increasing his chances of recovering. He goes on to recommend that the physician

acquaint the friends of his patient with the truth, and discuss the case fully with them as he shall deem best, lest he incur scandal or loss of reputation from inability to proffer a satisfactory statement of the case, and lest the friends of the patient regard him with distrust; nor will he then be held responsible for having caused the death of a patient who shall die; but he will be given credit for having cured the man who lives and is restored to health.29

---

Now this advice is somewhat similar to that which we saw in the anonymous Salernitan treatise and in the third section of the treatise attributed to Arnald of Villanova, although it is of a higher standard than either. Saliceto's reason for giving a favorable prognosis to the critically ill patient was strictly for the latter's benefit, and he recommends that the physician tell the patient's friends the truth for his own protection, a far different piece of advice from that in the two treatises previously discussed which recommend that the physician, regardless of the patient's actual condition, advise those close to him that the case is dangerous and that the patient is not faring well.

Henri de Mondeville, a French surgeon who taught at Montpellier and Paris in the early fourteenth century, wrote that the surgeon "ought to promise a cure to every sick person, but he should refuse as far as possible all dangerous cases, and he should never accept desperately sick ones." We have seen in Chapter III, above, that physicians were indeed charged with the death of patients.

in the late Middle Ages and the fear of being faced with blame for a patient's death still motivated the occasional physician to recommend, as Mondeville, that dangerous cases not be taken on. But such statements simply are not encountered in late medieval sources with anything approaching the frequency with which they occur in classical medical literature. Instead are the recommendations of which we have seen several examples, namely that the physician protect himself either by telling the relatives or friends of the patient that the situation is critical regardless of the patient's condition or at least to tell the truth in cases that actually are critical. That physicians were more and more taking on dangerous cases is further demonstrated by the statements of summists mentioned in the last chapter to the effect that physicians were violating the provisions of *Cum infirmitas* by advising confession only when taking on dangerous cases.

This change is very significant for the history of medical deontology. It has been suggested above that it was probably brought about in great part by the redefining of the practice of medicine and surgery from a right to a privilege, a consequence of licensure and guild monopolies.

31. Mondeville talks at some length about how to ensure that a patient's friends or relatives can be made to exonerate the surgeon if a case should end in the patient's death. See Welborn, "The Long Tradition," p. 351.
with a correlative sense of obligation to the sick in the community. It may also have been bolstered in part by the theological sentiments of the time which find their expression in some of the casuistic treatises to the effect that physicians not only were quite rightly due their fees in cases that ended fatally but also should stay with the patient to the end or nearly to the end, since the outcome of the case is known only to God.

Mirfeld's borrowing from William de Saliceto continues with the assertion that

it is not seemly for the physician to converse in secret with any woman of the patient's household (except it be in connection with his treatment), nor is it consistent with his professional dignity that he should speak shamefully to them or turn bold glances upon them, and particularly when in the presence of the patient. For from this is born contempt for his labours, and the faith of the patient in him is weakened and lessened by his distorted imagination. The result could thus be a worsening of the patient's condition. That such activity could prove detrimental to the patient's state is a new twist to an ancient principle of medical etiquette. We have seen emphasis placed on avoiding relations with the women of the patient's household from the the Hippocratic literature on. In the treatises already discussed in the present chapter we have seen this deontological imperative given on several occasions. Jan Yperman, a Flemish surgeon who died around 1330, suggests that a surgeon
devote himself entirely to the patients; in the latter's house he may not broach any other subject than that which concerns the treatment; neither may he chat with the mistress of the house, the daughter or the maidservant, nor look at them with leering eyes. For people are soon suspicious, and by such things he is apt to incur enmity while the doctor had better keep on friendly terms with them.32

Another example is found in the introduction to the Treatises of Fistula in Ano by John Arderne, a fourteenth-century English surgeon, who writes that the surgeon should "not observe too openly the lady or the daughters or other fair women in great men's houses nor seek to touch, either privately or openly, their breasts, their hands, or their private parts, that he may not encounter the indignation of the lord or any of his."33 Arderne does not indicate whether he considered such activity less reprehensible when the surgeon was practising somewhere other than "in great men's houses."

Mirfeld's quotation from Saliceto continues with advice on proper deportment with the patient's servants and urges that the physician not "behave dishonourably or in a manner which may reasonably give offence. For all these things destroy the good reputation of the physician, and


33. There is a translation of the Treatises of Fistula in Ano, ed. by D'Arcy Power (London: Early English Texts Society, Original Series, no. 139). The quotation is from The Portable Medieval Reader, ed. by J. R. Ross and M. M. McLaughlin (New York: The Viking Press, 1942), 150.
cause him to be lightly esteemed." 34 A wide variety of points of etiquette are given in the literature of medical deontology from the classical period through the end of the Middle Ages that was intended as a guide to the practitioner's conduct, with a view to protecting his reputation and the honor of the art. Indeed most of what is discussed in treatises devoted to medical ethics was devoted to such concerns. Often these treatises include the advice next given by Saliceto and quoted by Mirfeld that a physician should "not take delight in the friendship of laymen, for they make it their practice to disparage the members of his profession." Further, if the physician is too intimate with the patients, he then will find it difficult to demand adequate fees from them. He turns next to a discussion of fees to which we shall return when dealing with Mirfeld's treatment of the subject.

At this point Mirfeld considers physicians' spiritual obligations to their patients. He departs from his medical sources and turns to the Decretales, decretalists, and one theologian, the Venerable Bede. He begins this section mixing paraphrase of, with quotation from, Cum infirmitas:

The physician, when called in to attend the sick, ought, before everything else, to warn them, and to persuade them at the outset to call in physicians of

34. Hartley and Aldridge, pp. 124 ff.
the soul, that is to say, Confessors; and then, when provision has been made for their spiritual health, he may lawfully proceed to apply his remedy to the body and make use of medicine. And if any physician shall disobey this ordinance, let him be forbidden to enter a church until he has made due amends for his fault.

He then quotes Bede's Commentary on Luke 2 where Bede discussed Christ's healing of the cripple followed by the admonition: "Sin no more lest a worse thing come upon you" (John 5:14). We should note that Mirfeld does not equivocate in his presentation of this requirement of canon law. We should remember that Mirfeld wrote his Florarium late in life after having been associated with St. Bartholomew's Hospital for many years. Yet he does not bring in objections that physicians might have raised to it. Nor did he indicate any exceptions to it. Indeed the only place where he deviates from the text of the relevant portion of Cum infirmitas is where he writes that once the patient has made his confession, the physician "may lawfully (licite) proceed to apply" his medicine, where the text of the decretal does not include licite. Mirfeld thus emphasizes the legal necessity of abiding by the letter of canon law in this case. We know from the comments of summists on this requirement that many physicians were loathe to follow its provisions and we also know from subsequent developments that the church had significant difficulty in attempting to enforce it.

35. Ibid., pp. 126 ff.
How did physicians in the late Middle Ages react to this obligation in their writings? We have already seen that the anonymous Salernitan treatise and its adaptation which was included in the treatise attributed to Arnald of Villanova contain the recommendation that the physician urge the relatives of the patient to have him call a confessor before the physician examines him. The first of these was written before the promulgation of *Cum infirmitas* and the latter by its wording quite obviously was written with the decretal clearly in mind. We will see later that the author of one of the pest tractates strongly urges his medical readers to follow the provisions of this canon. Little other direct comment appears in the medical literature of the late Middle Ages on this matter. Henri de Mondeville, however, does write: "Do not let the patient be concerned about any business except about spiritual matters only, such as confession and his will and arranging similar affairs in accordance with the rules (*documenta*) of the catholic faith." \(^{36}\) It should be observed that Mondeville includes, along with confession, the matter of a will, which Mirfeld does not include in his discussion, a requirement only included in some of the casuistic literature.

\(^{36}\) Paul Diepgen, *Die Theologie und der ärztliche Stand* (Berlin-Grunewald: Dr. Walther Rothschild, 1922), 51, n. 287.
Mirfeld's treatment of medical ethics continues with a further comment from Cum infirmitas: "It is prohibited, under threat of anathema, that any physician should persuade a sick man to do anything for the benefit of his earthly body, which may jeopardise the safety of his eternal soul."^37 This is a subject upon which our medical sources do not appear to have commented. Mirfeld then cites a gloss on Tua nos as his authority for asserting that the physician should "be on his guard, for he incurs an irregularity, if by his negligence, the sick man dies, or suffers the mutilation of a limb."^38

In his chapter on physicians Mirfeld never cites the summists (although he cites sources upon which they depended). In one paragraph, however, he adopts some of their conclusions and even follows their wording so closely that a direct dependence is suggested. The close similarity of the paragraph in question to the statements of the summists on several areas pertaining to the necessary competence and diligence of physicians and surgeons discussed in Chapter IV, above, should be obvious:

37. Hartley and Aldridge, p. 128. Although Harley's and Aldridge's loose translation does not so demonstrate, the Latin text here is identical to that of Cum infirmitas.

38. Ibid.
The physician, when prescribing, should diligently weigh in his mind everything which demands consideration, so that he may make use only of those remedies which, according to his knowledge, he is confident will produce advantageous results; for he does amiss in prescribing a medicine of which he is in doubt as to whether it will be dangerous or beneficial. Similarly he does wrong in failing to give a medicine that is needful, as well as in giving one that is not required. And if any physician says that he is competent to treat a disease when he is not; and if he does, or does not do, something by reason of which the sick incur danger; then he sins grievously, and is made irregular by any consequent disaster. If, however, the physician is convinced that, according to the principles of his Art, a surgical operation would be beneficial, then he may safely order it to be performed, provided that he obtains a skilful and discerning surgeon for his patient; nor does he incur an irregularity even if death should supervene owing, perchance, to the fact that the patient has not the normal arrangement of limbs or of veins. The surgeon, however, should leave the sick man alone rather than operate, if he is in any doubt: for it is safer to leave a man in the hands of his Creator, than to put trust in surgery or medicine concerning which there is any manner of doubt. 39

Many of the concerns about the required competence and diligence of physicians and surgeons articulated and analyzed by the summists and mentioned by Mirfeld, although generally not dwelt on directly by individual medical and surgical authors of the late Middle Ages, 40 were central to the efforts of medical faculties and surgical

39. Ibid., pp. 129 ff. Mirfeld also includes a discussion of the practice of medicine and surgery by clerics.

40. The summists probably would have approved of Bernard Gordon's advice found in his De ingenio sanitatis. I quote here from Demaitre, "Theory and Practice," p. 122. Gordon "suggested that the physician, if he discovered that his treatment was ineffective, should prescribe a placebo - 'that neither helps nor harms' - in order to gain precious time. Meanwhile, rather than 'to persist in his error,' the physician should 'correct his course' by observing more carefully the patient's complaints and condition and by 'bending over his books day and night.'"
guilds in their efforts to obtain and preserve their protected privileges, as discussed in Chapter III, above.

Next Mirfeld quotes Bernard Sylvester (twelfth-century theologian): "Beware of the physician who wishes to experiment upon thyself how he may cure others suffering from a similar disease." Mirfeld now turns briefly to physicians' relations with their colleagues, quoting from a letter of Peter of Blois, a clerical physician who died shortly before 1212, written to a fellow physician: "The common fault of physicians is, that when three or four of them come to visit a sick man, they never agree either in defining the cause of the disease, or in the suggested line of treatment." That bedside bickering should be avoided is a theme that recurs with regularity if not with frequency in the literature of medical etiquette. Mondeville writes that a surgeon "ought not to quarrel before the laity." He also

41. Hartley and Aldridge, p. 130.


43. Hartley and Aldridge, p. 130.
suggests that the patient be warned against consulting more than one doctor at a time; otherwise he will be subjected to endless disagreements and conflicting recommendations. Other aspects of the physician's relationship with his colleagues come up occasionally, for example, refusing to speak derogatorily about other physicians. John Arderne advises that if any other surgeon is talked about, one should "neither set him at nought nor praise him too much nor commend him but answer thus courteously: 'I have no true knowledge of him but I have not learned nor heard of him anything but what is good and honest.' And from this shall the honour and thanks of each party increase and multiply to him. . . ."  

Immediately after quoting Peter of Blois on bedside bickering, Mirfeld adds a comment of his own: "In truth they trouble themselves in no wise about the patient, except it be to collect and pile up fees from him." Here is a subject about which physicians and laymen were particularly vocal. Apparently even the mention of fees was adequate to launch Mirfeld onto a vitriolic denunciation of the vices of physicians: "Modern physicians appear to possess three special qualifications, namely, to be able to lie in a subtle manner, to show an outward honesty, and to kill with audacity." Mirfeld apparently is not here quoting

---

45. The Portable Medieval Reader, p. 150.
46. Hartley and Aldridge, p. 132.
directly from anyone, but such allegations are extremely common themes in literature, themes that can be found occurring in a wide variety of cultures. Earlier, Mirfeld had closed out his quotation from Saliceto with the latter's recommendation that

it should be known that a good recompense for his labour, and a high salary, if demanded, imparts to the physician an air of authority, which strengthens the confidence of the patient in him (even though he be particularly ignorant) so that the sick man imagines from this that he is more skilful than others,\textsuperscript{47} and ought therefore to be successful in curing him.\textsuperscript{47}

It is in the realm of fees that some of the most mercenary advice is found in the medical and surgical authors of the late Middle Ages. Mondeville is especially known for this and seems to follow faithfully in the tradition of the tenth-century addition to the early medieval deontological treatise quoted above: \textsuperscript{48} "Get it while he is suffering, for when the pain ceases, your services also cease." Such an attitude likely is the fruit of bitter experience. In official documents from the late Middle Ages there are many cases where physicians had to sue patients in attempts to collect their fees. In most cases where the treatment had been unsuccessful, the suit went in favor of the patient.\textsuperscript{49}

Mondeville laments that

\begin{itemize}
\item the chief object of the patient, and the one idea which dominates all his actions, is to get cured, and when once he is cured, he forgets his own obligations and omits to pay; the object of the surgeon,
\end{itemize}

\begin{flushright}
\textsuperscript{47} Ibid., p. 127. \\
\textsuperscript{48} Above, at n. 3. \\
\textsuperscript{49} Talbot, \textit{Medicine in Medieval England}, p. 138.
\end{flushright}
on the other hand, is to obtain his money, and he should never be satisfied with a promise or a pledge, but he should either have the money in advance or take a bond for it.\textsuperscript{50}

One area in which the physician acts against his own selfish interest is in providing prophylactic advice that will keep the potential patient from needing his services. Bernard Gordon "accused his too pragmatic fellow physicians of venality because they were more interested in the lucrative treatment of diseases than in the preventive application of a good regimen."\textsuperscript{51} Mondeville wrestled with the problem presented by the surgeon's advising his patients on how to stay healthy because the treatment which stops the onset of a new disease is more useful to a patient than all other treatments. But this is, as one can see, useless and harmful to the surgeon because he thus stops the appearance of a disease whose treatment would be advantageous to himself. Thus he should give this advice (i.e., prophylaxis) to only five classes of people:

1) To those who are really poor, for the love of God
2) To his friends from whom he does not wish to receive a fixed revenue or a definite sum of money
3) To those whom he knows to be grateful after a complete recovery.
4) To those who are notoriously bad payers, such as our nobility and their relatives, government officials, judges, and bailiffs, and lawyers whom we are obliged to treat because we dare not offend them. (In fact the longer we treat these people the more we lose. It is best to cure them as quickly as possible and to give them the best medicines).
5) To those who pay in full and in advance, and they should be prevented from getting ill at all, because we are paid a salary to keep them in health.\textsuperscript{52}


\textsuperscript{51} Demaitre, "Theory and Practice," pp. 113 f., citing \textit{Liber de conservacione vite humane}, 4, 17.

Neither Mondeville nor Arderne seemed to feel any embarrassment over pressing for as high a fee as possible. The former recommends that "the surgeon should pretend that he has no living nor capital except his profession, and that everything is as dear as possible, especially drugs and ointments; that the fee is nothing as compared with his services; and the wages of all other artisans, masons for example, have doubled of late." He considered it essential that the fee not be reduced too low. It would be better, then, to charge nothing.\(^5^3\) Arderne writes that "according to the status of the patient" the surgeon ought to "ask boldly more or less; but always let him be wary of asking too little, for asking too little sets at nought both the market and the thing."\(^5^4\)

In determining how much to charge, Mondeville recommends that the surgeon consider three things: "First his own standing in the profession, then the (financial) condition of the patient, and, third, the seriousness of the illness."\(^5^5\) It was the second of these that was probably the most trying. Mondeville advises the doctor not "to have too much faith in appearances. Rich people have a bad habit of appearing before him in old clothes, or if they do happen to be well dressed, they make up all sorts of excuses for demanding lower fees."\(^5^6\) So strong, though,

\(^{53}\) Hammond, "Incomes," p. 156.
\(^{54}\) The Portable Medieval Reader, p. 151.
is the sense of obligation to succor the poor gratis, or at least to give the appearance of doing so, that physicians and surgeons were likely quite frequently faced with quite difficult judgments.

The imperative to charity is strongly expressed in the casuistic literature and frequent references to it are found in the medico-ethical treatises of the late Middle Ages. Sometimes the reputation of the physician and the honor of the art are stressed as sufficient motives for extending charity, as for instance by William de Saliceto. The greed of physicians is an extremely durable prejudice and medieval practitioners were quite sensitive to it, at least in their writings. That physicians were also unreligious was a common belief in the late Middle Ages and was often expressed by the adage Tres medici, duo athei. Thus Mirfeld comments that

the physician, if he should happen to be a good Christian (which rarely chances, for by their works they show themselves to be disciples, not of Christ, but of Avicenna and of Galen), ought to cure a Christian patient without making even the slightest charge if the man is poor; for the life of such a man ought to be of more value to the physician than his money.

Here Mirfeld cites the “Gloss” (probably the Glossa ordinaria of Joannes Teutonicus) on D. 83, 1. Pars.

A variety of ways was available for the physician to extend charity to the poor. One, which we shall also

58. Hartley and Aldridge, p. 132.
encounter when dealing with plague, was providing medicines for the poor that were as effective as those dispensed to the rich, but differing in taste, appearance, and, most important, in cost. The thirteenth-century surgeon William de Congenis writes: "These are the good and inexpensive ointments for those who cannot go to great expense for where the surgeon cannot earn money, at least he can obtain friends without any damage." Many herbal works were written by medical men, lists of simple herbs which could be gathered by the poor in the fields. One of the most famous in this genre is the Thesaurus pauperum (A Treasury for the Poor) probably written by the physician Peter Hispanus who, in 1276, became pope under the name John XXI.

Mondeville complains that when the rich come to the surgeon masquerading as paupers,

they claim that charity is a flower when they find someone else who will help the poor, and thus think that a surgeon should help the unfortunate; they, however, would never be bound by this rule. . . . I tell these people, then pay me for yourself and for three paupers and I will help them as well as you. But they never answer me, and I have never found a person in any position, whether clerk or layman, who was rich enough, or honest enough to pay what he had promised until I made him do so.

Mondeville advises that surgeons should be medical Robin Hoods: "... the surgeon ought to charge the rich man as much as possible and get all he can out of them, provided that he does all that he can to cure the poor."

59. Talbot, Medicine in Medieval England, p. 95.
His motivation for extending charity to the poor was more than the advantages that might accrue to his reputation and to the honor of the profession, but was a product of enlightened self-interest, with eternal consequences, fully compatible with the theology of his time:

You, then, surgeons, if you operate conscientiously upon the rich for a sufficient fee and upon the poor for charity, you ought not to fear the ravages of fire, nor of rain nor of wind; you need not take holy orders or make pilgrimages nor undertake any work of that kind, because by your science you can save your souls alive, live without poverty, and die in your house.°2

The last subject with which Mirfeld deals is one that several summists emphasized:

And even if the sick man is wealthy and as yet unwilling to give anything, the physician is nevertheless obliged to cure him at his own expense and then, should the man recover, let him demand his fee again, because he has successfully performed his task; and even if the sick man shall die, he may nevertheless sue for what is due him, for it is sufficient if he laboured competently, although the result be unfortunate; nor can his claim for payment be barred on the ground that he attended the rich man for motives of charity, unless he should happen to be a relative of his patient. For he who fails to preserve the sick from death, when he is able to do so, is held to have caused their death.63

This last sentence is a quote from D. 83, 1. Pars; Mirfeld again cites the "Gloss" on this passage. This matter of the obligation to treat the rich miser does not appear to have been broached by medical authors of the late Middle Ages.

62. Ibid.
63. Hartley and Aldridge, p. 132.
Guy de Chauliac, a fourteenth-century French surgeon and personal physician to three popes, included in his major surgical treatise a short description of the standards that a good physician should have. Although it does not touch on all aspects of medical deontology by any means, this brief paragraph expresses succinctly some of the highest medical ideals of the late Middle Ages:

I say that the doctor should be well mannered, bold in many ways, fearful of dangers, that he should abhor the false cures or practices. He should be affable to the sick, kindhearted to his colleagues, wise in his prognostications. He should be chaste, sober, compassionate and merciful: he should not be covetous, grasping in money matters, and then he will receive a salary commensurate with his labors, the financial ability of his patients, the success of the treatment, and his own dignity. 64

We turn now from the literature in which the standards are expressed to the literature that demonstrates the extent to which certain of these standards were put into practice: the medical literature that was produced as a direct response to the plague. 65 What were the ethical principles of the late medieval medical profession when faced with pestilential disease of unprecedented magnitude that subjected the physician to an extremely trying test of fortitude and conscience? During plague epidemics the ethics of the medieval physician were taxed by conditions much more extreme than those normally encountered in practice. Although the

---

65. This section is based in great part on my "Medical Deontology and Pestilential Disease in the Late Middle Ages, Journal of the History of Medicine and Allied Sciences, 1977, 32: 403-421."
available sources do not supply any quantifiable data, they do provide observations on the conduct of some physicians and their responses to the plague. 66

With few exceptions the contemporary sources, medical and lay, that discuss the various outbreaks of pestilential

66. The numerous "plague tractates" (the general significance of which will be discussed below) will provide the major source material for this section. Although several of these tractates have been published elsewhere, the majority of those written up to the beginning of the sixteenth century have been published, in whole or in part, or summarized, by Karl Sudhoff in a series of articles entitled "Pestschriften aus den ersten 150 Jahren nach der Epidemie des 'schwarzen Todes' 1348," in Archiv für Geschichte der Medizin und der Naturwissenschaften between 1910 and 1925:

I. Archiv, 1910-11, 4: 191-222
II. Archiv, 1910-11, 4: 389-424
III. Archiv, 1911-12, 5: 36-87
IV. Archiv, 1911-12, 5: 332-396
V. Archiv, 1912-13, 6: 313-379
VI. Archiv, 1913-14, 7: 57-114
VII. Archiv, 1914-15, 8: 175-215
VIII. Archiv, 1914-15, 8: 236-289
IX. Archiv, 1915-16, 9: 53-78
X. Archiv, 1915-16, 9: 117-167
XI. Archiv, 1918-19, 11: 44-89
XII. Archiv, 1918-19, 11: 121-178
XIII. Archiv, 1922-23, 14: 1-25
XIV. Archiv, 1922-23, 14: 79-105
XV. Archiv, 1922-23, 14: 127-168
XVI. Archiv, 1924-25, 16: 1-69
XVII. Archiv, 1924-25, 16: 77-188
XVIII. Archiv, 1925, 17: 12-139
XIX. Archiv, 1925, 17: 241-291

These will be cited as "Sudhoff," followed by the article number and page number(s).
disease in the late Middle Ages reveal a strong belief in
the extremely contagious nature of the "pest." Many as­
sert that, merely by being in the vicinity of the sick,
one was doomed to become infected with diseases from which
there was then no hope of recovery. Numerous sources de­
scribe in chilling detail fathers and mothers who deserted
their dying children, sons and daughters their parents,
husbands who fled from their sick wives, and wives their
husbands. Fear of contagion and death set at nought every
moral value: love and compassion were destroyed, every
sense of obligation was forgotten. All who could, nobles,
magistrates, merchants, physicians, and clergy, fled the
towns and cities and sought refuge in rural areas. Not
only were the sick deserted by their families but also the
physicians would not approach them. As a final blow, even
the priests would not minister to their ultimate spiritual
needs. Such accounts abound. If not exaggerated in
specifics they are undoubtedly so in the pervasiveness of
the actions described. They must be balanced by the equally
plentiful documentation of responsible action by, for example,
magistrates, physicians, and clergy. For every account of
a magistrate fleeing his office, of a physician hiding in

67. The most famous and frequently quoted is in Boc­
caccio's "Preface to the Ladies" that introduces his Deca­
meron. This mass hysteria and flight is often overempha­
sized in modern accounts, e.g., by William L. Langer, "The
terror, and of a priest refusing to tend to the spiritual needs of his suffering parishioners, there are descriptions of magistrates seeking to do all in their power to serve the public good, of physicians trying desperately to help their patients, and priests administering the sacraments to the dying. Richard W. Emery has performed a valuable service by investigating the notarial records of Perpignan for the period of the Black Death. His conclusion is that "the evidence for panic, terror, and general demoralization is entirely lacking; the evidence for a considerable resiliency, and for people simply carrying on, is, after the initial two-week period, reasonably strong. The social organization would seem to have remained cohesive, intact, and functioning." 68 Similar studies of individual cities or regions may indeed require a drastic revision of opinions now popularly held. 69

The question is how the physician's responsibility in such circumstances was conceived both by physicians and those outside the profession. Did the physician who fled, or who refused to diagnose those perhaps afflicted with pestilence, or to attempt to treat patients actually


suffering from plague, thereby violate responsibilities inherent in his profession as conceived at that time? Such questions must be explored in historical perspective. It is well known that Galen fled Rome during the great plague of the second century. He readily admitted having done so. 70 Later in life he gave other reasons for his hasty departure from Rome and glossed over the impetus provided by the plague. 71 Probably in any period physicians, as they are at least ostensibly devoted to healing and ideally motivated by compassion, may have been viewed with a degree of disdain if they fled from possible contagion. If, however, as in Galen's time, the title of physician might be claimed by anyone, if the practice of medicine were a right and the "physician" might exercise his art completely at his own discretion on whomsoever, whenever, and wherever he might wish, bound to his fellow men by no obligation, however ill-defined, other than by whatever ethical principles he might choose to adopt, would it then be meaningful to speak of a deontological basis for the practice of his art? As we have seen in Chapter I, there were in classical antiquity no professional standards enforceable by sanctions against physicians who violated the ethics of the profession. Even to speak of "ethics of the profession" is misleading. At no time were physicians required

70. Galen, De libris propriis, 1.

71. Galen, De praenotione ad Posthumum, 9.
to swear any oath or to accept and abide by any formal or informal code of ethics. Moreover, the physicians sold his services at his own discretion to those who asked and paid for treatment; he exercised his art as he wished. Although, as we have seen in Chapter II, in the early Christian centuries and during the early Middle Ages, Christian charity and moral principles effected some significant changes in the perception of medical ethics, yet it is not until the late Middle Ages that we can speak of the development of a clearly-defined medical deontology and professional ethics, generated from within by guilds (Chapter III) and imposed from the outside by ecclesiastical authority (Chapter IV).

From the tone of various historical sources, physicians who fled during the plague seem to have been viewed as acting shamefully, both by the public and by colleagues. When writers commented on instances of physicians who fled from the plague, their tone was condemnatory. The extent to which physicians did flee cannot be determined from the evidence with any certainty. The number of physicians who did flee from plague-ridden cities may have been relatively small. I have not found, in the pest tractates, any allusion to

physicians who fled from areas infected by pestilence. Physicians might avoid such a topic, but medieval physicians were not at all timid in criticizing their colleagues in writing. Vehement condemnations of fellow physicians occur frequently in the medical literature of the Middle Ages, untempered by humility. The authors of pest tractates frequently condemned the theories and techniques of their colleagues. If the flight of physicians were as extensive as some modern scholars suggest, then among the pest tractates one might expect to find many statements as: "While many physicians fled in terror, I, however, remained. . . ." Even if some such statements were found, they would be proportionally so few as to prove little concerning the conduct of the majority of physicians.

Many physicians advised flight from plague-infected areas as the most effective means of prophylaxis. Such advice was often followed by the statement that since flight "rarely is easy even for the few, I advise that, while remaining, you. . . ." Although only a minority of the

73. E.g., Nicolo de Burgo (1382), Sudhoff, IV, p. 355; Ncolaus de Utino (1390), Sudhoff, V, p. 361; anonymous tractate of 1405, Sudhoff, XI, pp. 79 f.; Sigmund Albichs (1406), Sudhoff, X, p. 132; Petrus de Kothobus (first half of the fifteenth century), Sudhoff, XII, p. 126; Hermann Schedel (1453), Sudhoff, XIV, p. 92; Hartmann Schedel (c. 1463), Sudhoff, XV, pp. 139 f.

74. Nicolo de Burgo (1382), Sudhoff, IV, p. 355. Cp., Ncolaus de Utino (1390), Sudhoff, V, p. 361: "Although flight from pestilence has been much praised by expert physicians, it cannot be conveniently done by some people; therefore. . . ."
plague tractates do, in fact, advise flight, all are at least partially addressed to prophylaxis, and prophylaxis is indeed the major concern of most of the tractates. Even if the tractates were unanimous in urging flight, it would not follow that the physicians who wrote them thereby intended to justify flight for themselves and their colleagues. Many of the authors of the pest tractates seem to have assumed that their readers would have access to the services of physicians during the time of plague. The physician Jacme d'Agramont (writing at Lerida in 1348 shortly before the city was invaded by the Black Death) did not discuss the regimen of treatment which "properly belongs to the physician, since in this anybody without the art of medicine could easily err. . . ."75 Johannes Widman (second half of the fifteenth century) included only prophylaxis in his pest tractate, leaving the curative side "to the skill and industry of the physicians at hand."76 Johannes Hartmann (also in the second half of the fifteenth century) likewise dealt only with prevention in his tractate, saying "I entrust the cure to the faithful physician."77 Gentile da Foligno in 1348 recommended that those afflicted follow their doctors' orders,78 Matthaeus Genevensis (near


76. Sudhoff, XVI, p. 10.

77. Sudhoff, XVI, p. 48.

78. Sudhoff, III, p. 85.
the end of the fifteenth century) stressed the importance of following the advice of one's physician, and the author of an anonymous pest tractate of the first half of the fifteenth century urged the sick to "follow the advice of a good physician." Thomas fforestier (1485) devotes part of his tractate to "teaching the poor how to choose to which physician they ought to have recourse . . . so that they may follow good and sound advice without falsity of deception." The author of an anonymous pest tractate composed early in the fifteenth century pleaded that those afflicted should not forsake the advice of their physicians. Nicolo de Burgo (1382) wrote that "all things should always be done with the advice of a physician." Especially since the unexpected may occur and since there are many differences between individuals, "all must be left for the physician who is handling the case." An anonymous tractate written before 1400 and another from the first half of the fifteenth century recommend consulting one's physician for certain types of procedures.

79. Sudhoff, XVI, p. 67.
81. Sudhoff, XVIII, p. 94. See also Dorothea Waley Singer, "Some Plague Tractates (Fourteenth and Fifteenth Centuries)," Proceedings of the Royal Society of Medicine (Section of the History of Medicine), 1915-16, 9: 197.
82. Sudhoff, XII, p. 168.
83. Sudhoff, IV, p. 365.
84. Sudhoff, II, p. 393, and III, pp. 43 and 46.
Undoubtedly some physicians did flee. Venice in 1382 forbade physicians to leave the city during epidemics "under pain of loss of citizenship." Similar action was taken during the sixteenth century at, for instance, Barcelona and Cologne. Ilza Veith writes that Thomas Sydenham, in the seventeenth century, behaved entirely within the framework of acceptable ethics when in 1666 he left plague-stricken London and joined his well-to-do patients who had sought refuge in their country places. The possibility that he might have stayed in the city and helped the unfortunate sufferers of the plague who had not previously been his patients never entered his mind.

It is doubtful that Sydenham, in his case, did act "entirely within the framework of acceptable ethics." Compare the comments made by the physician and surgeon Guy de Chauliac concerning his own activities during the Black Death: "It was so contagious . . . that even by looking at one another people caught it . . . . And I, to avoid infamy, dared not absent myself but with continual fear preserved myself as best I could."

The ethical quandary of the physician when faced both with extreme peril to himself and the knowledge of his own


88. Campbell, The Black Death, p. 3.
inability to be of any real help is mentioned by Chauliac: "It was useless and shameful for the doctors the more so as they dared not visit the sick, for fear of being infected. And when they did visit them, they did hardly anything for them, and were paid nothing." Chauliac is saying that physicians feared to visit those suffering from the plague, but nevertheless did so, although they could accomplish little. Various contemporary lay accounts from the time of the Black Death remark that some physicians shut themselves up in their houses and would not visit the sick for fear of infection. The authors of many pest tractates did advise the general public to avoid contact with those afflicted with plague. For example, Johannes Jacobi (c. 1373) writes that "one must flee from those who are infected;" an anonymous tractate written before 1400 advises that "you should not leave your home . . . or visit the sick;" Sigmund Albichs (1406) urges people to beware of contact with the infected; and two

89. Ibid.

90. See, e.g., Gasquet, The Black Death, pp. 31, 45, and 71 f., and Campbell, The Black Death, p. 98.


92. Sudhoff, III, p. 57.


94. Sudhoff, X, p. 125.
anonymous tractates written during the first half of the fifteenth century include the recommendation to beware of visiting the sick and to abstain from contact with the infected.

That the authors of the plague tractates did not direct such advice to their colleagues is clear from the extent of comments in the tractates on special prophylaxis that should be employed by physicians when visiting plague victims. Johannes Jacobi was just quoted above as writing that "one must flee from those who are infected." He then observes that

on this account, prudent physicians, since they must (debent) treat the ill, on visits to the sick stand at a distance from the patients, holding their face toward the window. I was not able to avoid contact because I went from home to home in order to treat the ill for the sake of my poverty and then I kept in my hand a piece of bread, or a sponge or a cloth, dipped in vinegar, and held it to my mouth and nose and thus escaped such pestilence, though my friends did not believe that I would survive.

The author of an anonymous pest tractate composed during the first half of the fifteenth century echoes some of Johannes

96. Sudhoff, X, p. 159.
97. Sudhoff, III, p. 57.
98. causa paupertatis meae. This can mean "compelled by need," either in a purely material or in a spiritual sense. In the latter case it would have the force of "compelled by Christian charity."
Jacobi's advice. After speaking of the highly contagious nature of the plague, he wrote: "And therefore prudent physicians, since they must (debent) treat or visit the ill, stand at a distance from the patients and keep their face toward the door or window." Some tractates simply stressed the dangers and need for precautions. For example, Sigmund Albichs, in 1406, writes: "You should take care, physician, because this takes hold of the young physician just as it does the old." But the majority of those that acknowledge the dangers faced by physicians have specific recommendations for protection, for example, an anonymous tractate of the second half of the fourteenth century:

... physicians, before they enter the rooms of the ill, first ought to have the windows opened and remove all superfluities and sputum. The room ought to be fumigated with frankincense and juniper and then the physician may enter the patient's room and take his pulse. The physician should not examine him with his face close to the patient's, lest he be infected by breathing in fetid air; [otherwise] it would be better not to visit him at all.

100. Sudhoff, XII, p. 135.
102. Sudhoff, V, p. 338. Some other examples of prophylactic techniques of physicians: Johannes de Tornamira (c. 1372), Sudhoff, III, pp. 50 f.; Nicolo de Burgo (1382), Sudhoff, IV, p. 365; Pietro di Tussignano (1398), Sudhoff, IV, p. 394; Bartholomeus de Ferraria (near the end of the fourteenth century), Sudhoff, XVII, p. 127 f.; anonymous tractate of the early fifteenth century, Sudhoff, XII, p. 175; Michael Boeti (c. 1400-1420), Sudhoff, XVIII, p. 47; Johannes de Piscis (1431), Sudhoff, XVIII, p. 52; Hermann Schedel (1453), Sudhoff, XIV, p. 94.
One short tractate (c. 1400), written for physicians, was devoted exclusively to the subject of precautions "to be followed when you visit a plague victim." It contained sixteen points:

1) The physician should bring a urinal covered with three or four layers of linen so that the fumes of the urine could not escape.

2) He should note whether the home had sufficient air space. If it did not, the urine should be examined in the street.

3) The urinal should be held by a member of the patient's household. If the physician did hold it himself, he should wear gloves.

4) Any voided matter should be viewed at a distance and in the open air.

5) If the patient's room were small and poorly ventilated, the physician should not enter it, but rather have the patient carried outside the room and held higher than the physician, if possible. The pulse should be taken without the physician's touching the patient's clothes or anything around him.

6) In taking the pulse, the physician should use whichever wrist was more easily reached.

7) The physician should order the windows and the door of the patient's room to be left open, at least from sunrise to sunset. If this bothered the patient, it should
be done at least for a certain time before the physician's arrival. Otherwise the physician should not enter the room.

8) All voided matter should immediately be removed from the room and "be kept in a suitable and remote place."

9) The patient's linen and bedclothes should be changed daily.

10) Rose water mixed with vinegar should be sprinkled often throughout the room, "and perhaps it would be good for some vases to be filled with equal amounts of heated rose water and vinegar, so that, by means of their vapors, they might mix better with the air."

11) As long as the physician was present in the home of the patient, he should hold to his nose a sponge soaked in vinegar and other substances. The physician should do this whenever he was with the patient but should not remain with him long.

12) The physician should enter the patient's home slowly, "lest the necessity of attracting air be increased."

13) The physician should wear under his clothes, extending clear up to his head and also in his hood, many odiferous things.

14) The patient's room should frequently be fanned with the windows and door open, both during the day and in the middle of the night.

15) In the patient's room various cold, odiferous sub-
stances should be hung and he should have various precious stones around and on him.

16) The physician should always carry with him some of the above-mentioned stones. 103

Regardless of how ineffective such precautions may have been, the frequency with which they are encountered in the pest tractates shows the extent to which they were thought to be effective. Prophylaxis in general was one of the major concerns of the authors of the pest tractates. Most of the tractates were written for the general public. While their authors advocated flight from an infected area as the best means of protection, they were aware that for most people it was not a real alternative. Thus they recommended a wide variety of protective measures for the general public. Although it was considered important to avoid contact with the sick, physicians necessarily came into frequent contact with patients suffering from pestilence. Various prophylactic techniques were developed and adopted by physicians to protect themselves from contagion. The tractates reveal a high degree of faith in these methods and in most instances where they mention such techniques it is the intention of sharing them with those outside the medical profession who might have occasion to visit or tend

103. Sudhoff, II, pp. 405 f.
Johannes Jacobi (c. 1364 or 1373) wrote that physicians "must treat the ill" and the author of an anonymous pest tractate of the first half of the fifteenth century declares that "they must treat or visit the ill." The difference between these two statements may seem slight, but the distinction was of considerable importance. While Jacobi holds that the physician must treat the plague victim, the author of the anonymous tractate thinks that the physician must treat or visit the afflicted. The physician who fled from a plague-infected area or hid in fear, refusing to expose himself to possible contagion, failed in his primary duty to diagnose the illness. But if the sick person were afflicted with the plague (since not everyone who became ill during a time of plague was necessarily afflicted with the plague), and if the variety of pestilence with which he suffered were considered by the physician as rendering the patient incurable, did the physician have an ethical obligation to attempt treatment? To take on hopeless cases was considered by some to be the mark of a charlatan and the motive for doing so was thought to be avarice.

104. One must then doubt the validity of the assertion made by Philip Ziegler, The Black Death (1969, reprinted, New York: Harper Torchbooks, 1971), 131, that "the only defense against the plague in which the doctors had the slightest faith was flight from the affected area."

105. Sudhoff, III, p. 57.

106. Sudhoff, XII, p. 135.
Jacme d'Agramont (1348) stressed the highly contagious nature of the plague, mentioning cases where "the master and the servants died of the same disease, and even the physician and the confessor." He then wrote: "Therefore all physicians should guard, in times of pestilence, against financial cupidity, because he, who has such a motive, may bring about his own death and that of his friends. Unless he be the son of avarice and greed he would have given all the treasures of the world to avoid such a result." 107

The conscientious physician was in a delicate position in relation to public opinion that impugned his actions with charges of avarice if he seemed too eager to take on cases (especially if they ended with death) and with charges of cowardice or irresponsibility if he were not willing to undertake the care of those ill with contagious disease. Some chroniclers living at the time of the Black Death complained that no amount of money could get physicians to treat the sick. 108 Other physicians attempted to treat the sick without thought of remuneration. One physician, for example, wrote in his diary concerning a female patient "who died of the worst and most contagious kind of plague, that of blood spitting," that he treated her "out of com-

passion as I would not have done it for money.\textsuperscript{109} Quacks appeared to thrive during outbreaks of pestilence, moved by greed to promise recovery to the hopeless.\textsuperscript{110}

The extent to which medical practitioners during different outbreaks of pestilence viewed the plague as untreatable cannot be determined with certainty. When the Black Death struck, it was, to the physicians of the time, a new disease and so also were the various pestilences that beset Europe in the ensuing centuries. They felt acutely the need to investigate such diseases, to seek ways both to prevent and to cure them. Although many authors of pest tractates tried desperately to find the answers in the writings of classical and Arabic medical authorities, some dismissed the ancient writings as useless in the existing circumstances and called for experimentation and experience.\textsuperscript{111}


\textsuperscript{111} E.g., John of Burgundy (1365), Sudhoff, III, pp. 68 f. (A translation of this passage is available in Campbell, \textit{The Black Death}, p. 122.); Johannes Jacobi (c. 1364 or 1373), Sudhoff, XVIII, p. 23. Cf. the recommendations for research made by Jacme d'Agramont (1348), (Duran-Reynals and Winslow), p. 85.
Many of the authors of pest tractates discuss treatment, distinguishing among different varieties of pestilence. The majority of them stress their faith in the efficacy of their curative methods.

That some physicians considered plague to be incurable is manifest in a statement made by Theobaldus Loneti in his pest tractate written in the second half of the fifteenth century:

When . . . there was a debate among physicians over incurable diseases such as leprosy, paralysis, pestilence, and the like, they finally came to the conclusion that no remedy for the pestilence could be found, especially since Galen and Hippocrates and other ancient physicians made no mention of one. But after much discussion, it was I alone who maintained that many remedies against this plague could easily be employed.  

It was considered necessary to visit the patient to determine whether or not he was suffering from pestilence. If the condition were diagnosed as plague, some physicians would then seek to determine whether or not the patient were curable. The author of an anonymous plague tractate composed in 1411 gives some advice that demonstrates that he was familiar with and faithful to the provisions of Cum infirmitas, discussed above, in Chapter IV:

... if it is certain from the symptoms that is ac-

112. Sudhoff, XVIII, p. 54.

113. Many authors of plague tractates stress the extent to which physicians may be confused by the symptoms. See, e.g., Jacme d'Agramont (1348) (Duran-Reynals and Winslow), p. 73; Johannes Jacobi (c. 1364 or 1373), Sudhoff, XVIII,
tually pestilence that has afflicted the patient, the physician first must (debet) advise the patient to set himself right with God by making a will and by making a confession of his sins, as is set forth according to the Decretals: since a corporal illness comes not only from a fault of the body but also from a spiritual failing as the Lord declares in the gos-
pel and the priests also tell us. Next the physician should examine the patient's urine and feces and take his pulse. If the patient is curable, the physician will undertake treatment in God's sake. If he is in-
curable, the physician should leave him to die,114 in accord with the commentary on the second of the aphorisms.115 Those who are going to die must be distin-
guished by prognostic signs and then you should flee from them. He labors in vain who attempts to treat such as these.116

The physician did not act totally within the strictures of accepted ethics by refusing to treat a patient for whom he had no hope of recovery. It is a subject about which there were conflicting attitudes. We have seen (Chapter IV) that theological opinion was in favor of a physician's attendance at least nearly to the end. That there were popular senti-
ments against such practice is demonstrated by the casuistic argument that physicians were still entitled to their fees

p. 23; Johannes de Tarnamira (c. 1372), Sudhoff, III, p. 48; Nicolaus Florentinus (first half of the fifteenth cen-
tury), Sudhoff, V, p. 340.

114. Sigmund Albichs (1406) writes in his pest trac-
tate that the physician should not immediately inform the patient if his condition is diagnosed as hopeless. He then writes that "the expert (peritus) physician should refrain from administering anything to the patient that will cause him to die quickly, for then he would be a murderer" (Sud-
hoff, X, p. 139).


under such circumstances. The major criticism that most contemporaries might make would be that he was in error to regard the condition as untreatable.

Those who wrote the pest tractates did so in an attempt to inform and help the public. While some authors maintained that there simply was no effective treatment for victims of the plague, nearly all agreed on the importance and efficiency of prophylactic measures. The frustrations of physicians generated by a sometimes unresponsive public are illustrated by the comments of Johannes de Saxonia in his pest tractate written during the first half of the fifteenth century. Johannes lists various reasons why "so few attempt the recommended prophylaxis:"

1) Some people feel that the length of every individual's life and the time of his death are established and fixed.

2) Some lack faith in medicine and have confidence that is bred of good health.

3) Some have hope in their own virtue.

4) Some desire death. He writes that during one plague episode in Montpellier, "when many men desired to die, the pope gave to the dying absolution from punishment and guilt and thus they hoped immediately to be translated to heaven; for this reason they did not want physicians to prolong their lives."
5) Many men are extremely parsimonious and loath to spend on medicines and "will not do so unless the physician guarantees them a certain and healthy state of preservation, for they fear that otherwise they are squandering their fortunes, but they are not afraid to lose life, body, and possessions."

6) Many are debilitated by the use of laxative medicines "by which they hoped to be able to preserve themselves."

7) Some use their wild imaginations about wells and water poisoned by the Jews and others. 117

8) There is a lack of faithful helpers for the sick (parents deserting children, etc.), thus causing the ill to provide for their own necessities.

9) The problem is complicated by the immense folly of physicians' diverse theories, thus making them "objects of derision and mockery." 118

But in spite of such obstacles, many physicians composed pest tractates in what appears to have been a sincere effort to do all in their power to help in such crises. Many authors stated their reasons for composing their trac-

---


tates, and for the most part they were motivated pro bono publico. Jacme d'Agramont (1348) wrote:

As I am a native of this city and have received my being in it, and am constantly receiving, and have received, divers honors and great profits from the whole city and from its notables, I want . . . to render some service and save from damage the city aforementioned and its notables, and to save all men and women from becoming sick in times of pestilence. Therefore I decided to prepare the following tract which . . . I present to you, honorable Aldermen and Councillors of the city of Lerida, as to all who represent the aforementioned city. . . . And as the said tractate, as already expressed above, is prepared for the common and public good, may it please you, my Lords, to give it to anybody who wishes to make a copy of it.\(^{119}\)

Johannes Jacobi (c. 1364 or 1373) composed his tractate in honor "of the trinity and the Virgin Mary and for the utility of the republic and for the preservation of the healthy and for the healing of the ill."\(^{120}\) John of Burgundy (1365) began his tractate with the assertion that his intention was to ensure "that if someone lacks a physician, then each and everyone may be his own phisicus, praeservator, curator et rector."\(^{121}\) He concluded the work with this statement: "... moved by piety and anguished by and feeling sorrow because of this calamity . . . I have composed and compiled this work not for a price but for your prayers, so that when anyone recovers from the diseases discussed above, he will effectively pray for me to our Lord God. . . ."\(^{122}\) Francischino de Collignano (1382)

\(^{119}\) D'Agramont (Duran-Reynals and Winslow), pp. 57 f.
\(^{120}\) Sudhoff, III, p. 56.
\(^{121}\) Sudhoff, III, p. 62.
\(^{122}\) Sudhoff, III, p. 69.
wrote that he was moved "by pure love, by affection and charity for all the citizens and especially for friends," while Michael Boeti (c. 1400-1420) wrote "in response to the requests of certain of my friends, for the service of God and for the common good." The author of an anonymous tractate of 1411 wrote because he was sorely troubled that "many near to me and, as it were, the majority of the population are devoured by the pestilence which, as if it were a stepmother of mankind, harasses and destroys the whole human race." The author of an anonymous tractate, probably written during the fifteenth century, composed his work "sorrowing for the destruction of men and devoting myself to the common good and . . . wishing health for all . . . ." Not only did the authors of the pest tractates write them generally without thought of profit, but also they attempted to make their advice employable by the poor as well as by the well-to-do. Many of the tractates list for the various recommended substances, both prophylactic and curative, alternates readily available to the poor.

123. Sudhoff, IV, p. 384.
124. Sudhoff, XVIII, p. 46.
125. Sudhoff, XII, p. 144.
126. Sudhoff, XV, p. 162.
127. E.g., John of Burgundy (1365), Sudhoff, III, p. 63; Bernhard of Frankfurt (1381), Sudhoff, VIII, p. 248; Johannes de Noctho (1398), Sudhoff, IV, p. 386; Magister
How many hundreds of these tractates were written is not known, but over 280 are extant. Ziegler's overall appraisal is negative:

The plague literature as a whole, drawn from some half-dozen countries, was voluminous, repetitious and of little value to the unfortunate victims of the epidemic. . . . It seems unlikely that the intelligent and enlightened men who worked out these preventive measures had any great faith in their efficacy. Essentially they were a morale-building exercise: the morale of the physician, in that they made him feel at least remotely in control of the situation, and of the patient, in that they offered a slight hope of escape from death. But if the doctors lacked confidence in their capacity to keep the plague at bay, still more did they doubt their ability to cure it once it had struck. They knew too well how few of the sick recovered. But this knowledge of their helplessness did not stop them putting forward a host of remedies.128

If Ziegler's assessment be correct, the authors of these tractates were either deluded or dishonest. The evidence does not support the latter conclusion. The faith that these medical authors showed in the efficacy of the prophylactic measures that they took when visiting patients, is demonstrated by the numerous artistic representations of physicians who employed such measures while visiting plague

Henricus (late fourteenth century), Sudhoff, VI, p. 89; Bartholomeus de Ferraria (late fourteenth century), Sudhoff, XVII, p. 128; anonymous tractate of the late fourteenth century, Sudhoff, II, pp. 411 f.; anonymous tractate written sometime after 1400, Sudhoff, XVIII, p. 135; anonymous tractate of the early fifteenth century, Sudhoff, VI, p. 78; anonymous tractate of 1405, Sudhoff, XI, pp. 79 f.; Sigmund Albichs (1406), Sudhoff, X, pp. 123, 131, 134, 149, 155 f.; anonymous tractate of 1411, Sudhoff, XII, p. 158; Johannes Hartmann (second half of the fifteenth century), Sudhoff, XVI, p. 50.

victims. Many tractates were devoted exclusively to prophylaxis on the grounds that treatment had to be left to the individual physician handling the case. Of those that do include a discussion of treatment, some distinguish cases thought to be curable from those considered incurable. But for the greater part, the tractates that discuss treatment show faith in the curative methods prescribed. Many of these were written from a strictly academic point of view, beginning with theories of etiology and ending with theories of treatment that are fully in accord with medical theory of the time. Many introduce new methods that are declared effective by physicians who claim to have employed them. We should be hesitant to question the honesty and integrity of such medical authors. It is easy to dismiss the cures recommended since from the perspective of modern science they are known to be ineffective. Such knowledge gives rise to assessments such as Ziegler's, quoted above, and to statements such as: "... trained physicians tried any expedient, no matter how irrational, if it promised relief." Although some of the medieval physician's methods are now assessed as irrational, they would not have been considered so by the physicians employing them. One might object that if the treatments


were not effective, the physicians employing and recom-
mending them could not have failed to recognize their in-
effectiveness. But some people did recover from the pla-
gue, from some strains of the disease more than from others, 
and, while it is now recognized that such cases of recovery 
may have been in spite of the curative methods employed, 
the physicians administering the treatment would have 
thought that their techniques had been effective. The 
success rate in medieval medicine was generally lower than 
in modern medicine and accordingly the expectations both 
of physicians and of the general public were not nearly as 
high as those of the present day. Although the efforts of 
the medical profession to combat and cure the plague may be 
considered of little value in the history of medical science, 
such an assessment does not hold in the social history of 
medicine. Sylvia L. Thrupp's evaluation deserves to be 
quoted:

The general effect of plague crises was to heighten 
individual concern about all diseases, and to make 
people deeply dependent on their doctors. . . . The 
prestige of doctors was not weakened by heavy plague 
mortality, for they could take credit for cases of 
recovery and by personal concern and courage they 
eased the atmosphere of fear. Popular devotion to 
a favorite doctor was expressed in terms of love and

discussion of the tractate of John of Burgundy (1365): 
"Having shown the exalted combination of learning and ex-
perience needed for successful treatment, John modestly 
proceeds to explain that he therefore has himself written 
a series of works on the plague, and that this, the latest 
flower of his wisdom, is especially designed for the plain 
man. . . ."
of the honor due a father by a son. This relationship was strengthened by the fact that medieval doctors were interested in advising people how to preserve their health. . . . 131

Although to the modern reader the plague tractates may seem at worst fraudulent and at best esoteric, they were in reality exoteric in the best sense of the word. While they provide sidelights on the ethics of medieval medical practice, they also illustrate a high degree of ethical motivation on the part of their authors, because almost all were written for the use of the public and, when taken together, represent a massive effort at popular health education.

During the various attacks of pestilence some physicians fled or refused to treat the ill, but many (probably most) remained and attempted to help the sick. Statements made by some physicians show that their treatment of plague victims was motivated by compassion, charity, and a sense of duty. The very fact that so many plague tractates were produced, in the attempt to explain the plague and educate people in prevention and treatment, is in itself evidence of a high degree of ethical and professional responsibility.

**CONCLUSIONS**

The deontological literature surveyed earlier in this chapter, although addressed to medical ethics, by itself

does not provide us with an exhaustive picture of the ethical standards of the late medieval physician and surgeon. It is part of a genre at least as old as the Hippocratic corpus. Most of the attention in these treatises is directed toward traditional concerns such as the physician’s character and basic etiquette. Nevertheless, we do see in these treatises written during the early Middle Ages a blending of Hippocratic etiquette with Christian morality, particularly with charity. The late medieval treatises remain loyal to the traditional concerns of the genre and preserve the early medieval blending of classical medical etiquette with Christian ethics. A new pragmatism, however, is present, a pragmatism born of the realities of medical practice by secular, although Christian, practitioners in a society starkly different from that serviced by the monastic authors of the early medieval medical literature. The late medieval deontological treatises display traditional medical etiquette and basic Christian morality tempered by contemporary conditions. Although no mention of guilds or universities appears in this literature, its tone and emphasis when dealing with basic qualifications and responsibilities of physicians, demonstrates that the practice of the art was considered to be a privilege that had attached to it both requisite training and skill and consequent responsibilities for those exercising the role of physicians or surgeons. There is
no outright statement of the physician's obligation to his immediate community in this literature. Yet the obligation to the Christian community at large, an obligation to extend medical charity to the poor and destitute occurs with emphasis. Although not stated in the literature as a specific obligation, treating dangerous and even desperate cases is generally not discouraged as it had traditionally been. While it is occasionally warned against, these warnings are so infrequent in comparison to advice on what to tell the critically-ill patient and his relatives or friends, that one must conclude that there was a growing tendency to take on dangerous or even hopeless cases. This seems to have been the product of two complementary although possibly related sources. The first is itself the very basis for medical practice in the late Middle Ages: It was a specific authority (whether royal, ecclesiastical, or municipal) that granted to a select few the privilege of practising. That privilege, although perhaps respected elsewhere by other authorities, was limited to a specified region. The authorities which granted what was essentially a monopoly also were (in theory) responsible for protecting that monopoly, as we have seen in Chapter III, above. That responsibilities were clearly recognized as being attached to the privilege of holding a monopoly is demonstrated by the contents of the documents either requesting or granting the privilege to exer-
cise a monopoly in supplying medical or surgical service within the community. That one responsibility was to service the sick of the community indiscriminately is self-evident. The second source of the growing tendency to take on dangerous or hopeless cases is the increasing theological support in the late Middle Ages that the physician do all he could to cure until the end, or nearly the end, and for his right to receive his fee under such circumstances.

There is in the casuistic literature the seeds of what was later to blossom into a medical duty to prolong life. We have seen in Chapter IV the strongly articulated view that the physician is religiously obligated to extend care to a rich miser even if he both refused to pay and resisted treatment. Additionally, some summists maintained that even if a patient should refuse to call a confessor the physician must not desert him since succor must be given to those who are in danger regardless of how stubborn they are. While this is still far from an imperative to prolong life, it is a significant change from what had been traditional medical attitudes and practice.

We look nearly in vain in the deontological literature of the late Middle Ages for statements on two topics of medical ethics: abortion and euthanasia. The former is mentioned only very infrequently in this literature. In classical antiquity no condemnation of abortion appears in the literature of medical etiquette except in the Oath. Its
inclusion in the Oath simply lends further evidence for the esoteric nature of this document. The same holds true for the condemnation of assisting a patient in terminating his life. Both abortion and euthanasia were relatively common practices in classical antiquity, practices emphatically condemned by early Christians. Nevertheless in the several deontological treatises of the early Middle Ages, there is only one reference to abortion and perhaps one to euthanasia. There is no mention of euthanasia in the casuistic literature of the late Middle Ages. With the exception of two of the summists surveyed, abortion is not even mentioned in discussions of physicians' obligations and failings. Only one deontological treatise from the later Middle Ages mentions abortion and euthanasia, and that is the piece attributed to Constantine the African. We cannot conclude from this that the practice of abortion and euthanasia was considered as ethical for physicians by both theologians and physicians themselves. Rather it would seem that the performing of an abortion was 1) so well-known as ethically unacceptable (at least in later stages of fetal development) that mention of its prohibition was generally considered superfluous, if considered at all, and 2) a procedure for which women seeking it generally would turn to someone other than a male physician or surgeon. Assisting in the death of a patient by giving him poison was undoubtedly also so repugnant to medieval moral principles
that to mention it as unethical for a physician to do would have been gratuitous, at least in a general treatise on medical etiquette.

When the contents of the late medieval deontological treatises are supplemented by guild and university ethics and the rigid moral guidelines of the confessional, as well as by the evidence of physicians' conscientious response to the various outbreaks of pestilential disease, the picture that emerges is of relatively high ethical standards circumscribed by, and in part the result of, clearly-delineated expectations of ecclesiastical authority and the secular community.

The Middle Ages contributed most significantly to the development of Western medical ethics. Although "Hippocratic ideals" persisted throughout the period and provided the basis for medical etiquette, the role and responsibilities of the physician and surgeon were defined in accordance with Christian morality. This is particularly evident in concern for the gratuitous treatment of the poor, both by individual physicians and by professional associations. The formalization of Christian thought by theologians, moralists, and canonists provided distinct criteria for medical ethics from a religious perspective. Secular law and medical organizations established regulations for medical licensure, and guilds and university faculties set precise codes of conduct. Essentially, the
creation of medical licensure, medical faculties, and professional organizations formulated medical professionalism and ethics in a sense that is still very much present today.
Bibliography of literature cited.

I. Primary sources:

Abbreviations:


M.G.H. - Monumenta Germaniae Historica (Hanover, etc., imprint varies, 1826 --).


Aeschines, Speeches (Loeb).

Ambrose, Opera omnia, P.L., vols. 14-17.


Antoninus of Florence, Confessionale-defecerunt, Esslingen, 1474 (College of Physicians of Philadelphia).

- - - - Summa theologica (1740, reprinted Graz: Akademische Druck- und Verlagsanstalt, 1959).


- - - - Metamorphoses, ed. by Rudolf Helm (Leipzig: Teubner, 1955).

Aquinas, Thomas, De regimine principum, ed. by Joseph Mathis (Turin: Marietti, 1971).

- - - - Summa theologica (New York: McGraw-Hill, n.d.).

Aristotle, (Complete works) (Loeb).


Astesanus de Asti, Summa de casibus conscientia, Venice, 1478 (Free Library of Philadelphia).

Augustine, City of God (Loeb).

- - - - Opera omnia, P.L., vols, 32-47.

Avianus, Fables, in Minor Latin Poets (Loeb).

Babrius, Fables (Loeb).

Baptista Trovamala de Salis, Summa de casibus conscientia, Venice, 1495 (College of Physicians of Philadelphia).


Bartholomaeus de Sancto Concordio, Summa casuum, Venice, 1473 (University of Pennsylvania).

Bartholomaeus Fumus, Summa Armilla, Coloniae Agrrippinae, 1627 (Catholic University of America).

Basil of Caesarea, Opera omnia, P.G., vols. 29-32.


Cajetan, Summula peccatorum, Florence, 1525 (University of Pennsylvania).


- - - - Variae, M.G.H., Auctores Antiquissimi, vol. 12.

Celsus, De medicina (Loeb).

Chrysologus, Peter, Opera Omnia, P.L., vol. 52.
Cicero (Complete works) (Loeb).


Collectio Salernitana, ed. by S. DeRenzi (Naples, 1852-1857).


Decretales - See Corpus iuris canonici.

Demosthenes (Complete works) (Loeb).

Didache, in *The Apostolic Fathers* (Loeb).

Digesta - See Corpus iuris civilis.

Epistle of Barnabas, in *The Apostolic Fathers* (Loeb).


Euripides, *The Phoenician Women* (Loeb).

Eusebius, *Ecclesiastical History* (Loeb).

- - - - *Opera omnia*, P.G., vols. 19-24.

Frederick II, *Liber Augustalis*. The *Liber Augustalis or Constitutions of Melfi Promulgated by the Emperor Frederick II for the Kingdom of Sicily in 1231*, trans. by James M. Powell (Syracuse: Syracuse University Press, 1971).


Gratian, *Decretum* - See *Corpus iuris canonici*.

Hippocrates (Select works) (Loeb).


- - - - *Commentary on Song of Songs*, A.N.F., vol. 5.


Jerome, *Select Letters* (Loeb)

- - - - *Opera omnia*, P.L., vols. 22-30.


*Leges Visigothorum*, M.C.H., Legum Sectio 1, 1.


Lucian (Complete works) (Loeb).


Menander, *Phanium* (Loeb).

Minucius Felix, *Octavius* (Loeb).
Montpellier, University, Cartulaire de l’université de Montpellier (Montpellier: Richard Frères, 1890-1912).

Navarrus, Manuale sive Enchiridion confessariorum et poenitentium, Lyons, 1574 (Gonzaga University).

Nazianzen, Gregory, Opera omnia, P.G., vols. 35-38.


Origen, Opera omnia, P.G., vols. 11-17.


Plato, Dialogues (Loeb).

Pliny the Elder, Natural History (Loeb).

Pliny the Younger, Letters and Panegyricus (Loeb).

Plutarch, Moralia (Loeb).


Sacrorum conciliorum nova et amplissima collectio, ed. by J. D. Mansi (Florence and Venice, 1795-1798).

Seneca (Complete works) (Loeb).

Sextus Empiricus (Complete works) (Loeb).

Shepherd of Hermas, in *The Apostolic Fathers* (Loeb).


Tacitus, *Annales* (Loeb).


Thucydides, *History of the Peloponnesian War* (Loeb).
II. Secondary works: A. Books:

Anciaux, Paul, La théologie due sacrement de pénitence au XIIe siècle (Universitas Catholicia Lovaniensis, Dissertations in facultate theologica vel in facultate iuris canonici, Series II, 41, 1949).


Briau, Rene, L'archiatrie romaine ou la médecine officielle dans l'empire romain (Paris: Librairie de l'académie de médecine, 1877).


Deichgräber, Karl, Der hippokratische Eid (Stuttgart: Hippokrates-Verlag, 1955).

Diepgen, Paul, Die Theologie und der ärztliche Stand (Berlin-Grunewald: Dr. Walther Rothschild, 1922).


Gasquet, Francis Aidan, The Black Death of 1348 and 1349 (London: George Bell and Sons, 1908).


Levey, Martin, Medical Ethics of Medieval Islam with Special Reference to Al-Ruhawi's "Practical Ethics of the Physician" (Transactions of the American Philosophical Society, n.s., vol. 57, Philadelphia, 1967).


Schroeder, R. J., Disciplinary Decrees of the General Councils (St. Louis: Herder, 1957).


Weinzierl, Karl, *Die Restitutionslehre der Fruscholastik* (Munich: M. Hueber, 1936)


**ADDENDUM**

II. Secondary works:  B. Articles:


- - - - "History of Medical Ethics: Ancient Greece and Rome," ibid., vol. 3, pp. 930-938.


- - - - "Medical Deontology and Pestilential Disease in the Late Middle Ages," Journal of the History of Medicine and Allied Sciences, 1977, 32: 403-421.


- - - - "Medicine and Surgery as Art or Craft: The Role of Schematic Literature in the Separation of Medicine and Surgery in the Late Middle Ages," Transactions and Studies of the College of Physicians of Philadelphia, 1979, n.s., 1: 43-57.

- - - - "Medieval Canon Law on Medical and Surgical Practice by the Clergy," Bulletin of the History of Medicine, 1978, 52: 22-44.


LaMonte, J. L., "Three Questions concerning the Assises de Jerusalem," Byzantina-Metabyzantina, 1946, 1: 201-211.


- - - - "L'attuale validità delle prospettive deontologiche negli scritti del 'Corpus Hippocraticum,'" ibid., 1971, 15 (1): 80-94.


- - - - "Étude preliminaire sur les sources et la composition de 'Livre des Assises de Bourgeois,'" ibid., 1954, 31: 198-227, 358-382.


Singer, Dorothea Waley, "Some Plague Tractates (Fourteenth and Fifteenth Centuries)," Proceedings of the Royal Society of Medicine (Section of the History of Medicine, 1915-1916, 9: 159-212.


- - - "Response and Retractatio," *ibid.*, pp. 131-137.


