

# Doctors' Duty to Disclose Error: A Deontological or Kantian Ethical Analysis

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**ABSTRACT:** Medical (surgical) error is being talked about more openly and besides being the subject of retrospective reviews, is now the subject of prospective research. Disclosure of error has been a difficult issue because of fear of embarrassment for doctors in the eyes of their peers, and fear of punitive action by patients, consisting of medicolegal action and/or complaints to doctors' governing bodies. This paper examines physicians' and surgeons' duty to disclose error, from an ethical standpoint; specifically by applying the moral philosophical theory espoused by Immanuel Kant (ie. deontology). The purpose of this discourse is to apply moral philosophical analysis to a delicate but important issue which will be a matter all physicians and surgeons will have to confront, probably numerous times, in their professional careers.

**RÉSUMÉ:** Le devoir du médecin de déclarer ses erreurs: une analyse éthique déontologique ou kantienne. On parle plus ouvertement de l'erreur médicale (chirurgicale) qui fait l'objet de revues rétrospectives ainsi que prospectives. Il s'agit d'un sujet délicat, à cause de la crainte d'entraîner une gêne vis-à-vis des pairs et des représailles de la part des patients, que ce soit une action en justice et/ou une plainte auprès d'un organisme professionnel. Cet article examine du point de vue éthique, à la lumière de la théorie philosophique morale d'Immanuel Kant, c.-à-d. la déontologie, le devoir des médecins et des chirurgiens de déclarer leurs erreurs. Le but de cet exposé est d'appliquer l'analyse philosophique morale à une question délicate et importante à laquelle chaque médecin et chaque chirurgien devra probablement faire face à plusieurs reprises pendant sa carrière professionnelle.

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Oliver Wendell Holmes, the American physician, poet, humorist, Dean of Harvard's Medical School from 1847-1853, and father of the famous Supreme Court Justice, stated: "The patient has no more right to all the truth than he has to all the medicine in the physician's saddlebag...He should only get so much as is good for him".<sup>1</sup> Some physicians still feel this way,<sup>2</sup> but both legal and bioethical thought have been steadily moving away from such a viewpoint and the trend has been toward an increase in the level of disclosure.<sup>1,3-7</sup> We examine the duty of physicians and surgeons (focusing on the example of neurosurgeons) to disclose errors they have committed, from a significantly less paternalistic perspective than that espoused by Holmes. An ethical analysis using the moral philosophy of Immanuel Kant, is used to support surgeons' moral responsibility to disclose error.

## CONTEXT – MEDICAL ERROR

Reporting of adverse events (ie. complications) by health care providers is essential, especially for surgeons, whose patients' complications can result in dramatic and catastrophic consequences for them.<sup>8,9</sup> Furthermore, it is morally right and a moral obligation for health care professionals to openly recognize their fallibility and to attempt to develop strategies and

tools for minimising the occurrence of medical errors which might contribute to such complications.

Medical error has fairly recently become a topic of research and discussion.<sup>3,4,10-12</sup> Recognition of errors and open discussion of them by members of the health care team would be expected to help produce a culture less dominated by fear and recrimination for making an error and therefore one conducive to learning from them.

Error is an inherent feature of human behaviour, and similarly, most complex systems such as the delivery of health care are subject to error. An attempt to understand and reduce errors appears to be an obvious and integral component of quality assurance in health care delivery but open discussion of error has not traditionally been encouraged or rewarded and has hindered the progress of developing systems to minimize the

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occurrence of error. In fact, many doctors have operated under a veil of fear at open disclosure of error; fear of punitive action by their superiors, fear of shame in the eyes of their peers, and fear of recrimination by patients in the form of legal action and/or a complaint to the health care provider's governing body.

One way to help eradicate the veil of fear and make discussion of error more transparent and acceptable is to study it openly and prospectively. Currently, the first author is prospectively studying error in neurosurgery with respect to incidence, type, severity, preventability, and impact on outcome, and interesting data are accruing.<sup>13</sup>

We focus herein on the issue of disclosure of medical error by doctors to patients, and examine this thorny issue from an ethical viewpoint using the moral philosophical theory espoused by Immanuel Kant.

#### DEFINITIONS – MEDICAL ERROR

For the purposes of this analysis we classify errors according to their severity (major vs minor), impact (bad outcome vs no bad outcome), and obviousness to the patient (obvious vs hidden). Examples from neurosurgical practice are used. Minor errors with minimal impact on outcome are frequent while major errors which result in bad outcomes are infrequent but not rare.

##### A. Serious, obvious error, bad outcome

During surgery for an aneurysm in the brain, the wrong side is exposed. The error is not recognized until significant brain retraction and dissection has been done. The wound is closed and the operation is then performed on the correct side. The patient awakens with a visible complication (eg. weak hand) related to the wrong-side exposure.

##### B. Serious, obvious error, no bad outcome

During surgery in the late evening for a large chronic subdural hematoma, the first bur hole is placed on the wrong side. The error is recognized after the dura is opened and no clot is found. The wound is closed and the operation carried out on the correct side. The patient has an uneventful postoperative course.

##### C. Serious, hidden error, bad outcome

A patient requiring a lumbar microsurgical discectomy for intractable sciatica has a poor outcome, and postoperative imaging demonstrates that the wrong level was operated. A second surgery is required to properly treat the culprit disc herniation.

##### D. Serious, hidden error, no bad outcome

During surgery for a frontal brain tumor, while the bone flap is being fashioned, the high-speed drill plunges into the brain producing a substantial brain contusion. The bone flap is removed, the contusion debrided, and the tumor successfully removed. The patient has a good outcome and is discharged home the next day.

##### E. Minor errors

Minor errors are common and are lumped together for this discussion. Examples include: 1) contamination of instruments causing a delay in surgery; 2) equipment failures causing further delays; 3) minor technical mishaps which cause no significant injury to tissue. Most cause no bad outcome for the patient and

almost all are hidden (ie. not apparent to the patient). Many, however, may negatively impact the system; for example delays prolong a surgical day which requires nurses to stay overtime to finish, and thus results in greater expenditures by the hospital.

#### DEONTOLOGICAL ETHICS: KANT'S MORAL PHILOSOPHY

Immanuel Kant was a German philosopher who spent most of his life in Königsberg, Prussia (1724-1804) where he studied philosophy and physics. His writings contributed to the development of deontological moral theory which is one of the major theories at the foundation of modern medical bioethics. There are two main types of normative ethical systems: teleological or consequence-based, and deontological, or duty-based. The main teleological theory is utilitarianism, based primarily on the writings of the British philosophers Jeremy Bentham and John Stuart Mill.<sup>14,15</sup> The main deontological theory is that based on the writings of Immanuel Kant. Kant's writings on moral philosophy (just one component of his writings) are translated in a number of volumes; the two main volumes we refer to are the Cambridge Edition<sup>16</sup> and the translation by H.J. Paton.<sup>17</sup> Everything that appears in quotation marks is a direct quote from one of these volumes.

We start to learn Kant's moral philosophy in the *Groundwork of the Metaphysics of Morals* (written in 1785). His main thesis is that the moral worth of an act is not related to the outcome it brings but whether it is done from a sense of duty or obligation. Kant states: "The moral worth of an action does not lie in the effect expected from it and so too does not lie in any principle of action that needs to borrow its motive from this expected effect"<sup>16</sup>(page 56); and "...though much may be done in conformity with what duty commands, still it is always doubtful whether it is really done from duty and therefore has moral worth"<sup>16</sup>(page 61). Duty is described as "that action to which someone is bound"<sup>16</sup>(page 377). According to Kant "all duties are either duties of right, that is, duties for which external lawgiving is possible, or duties of virtue, for which external lawgiving is not possible"<sup>16</sup>(page 394-395).

He goes on to define a categorical imperative. An imperative is a command: "the representation of an objective principle, insofar as it is necessitating for a will is called a command (of reason), and the formula of the command is called an imperative"<sup>16</sup>(page 66). Categorical means unconditional: "that which represented an action as objectively necessary of itself, without reference to another end"<sup>16</sup>(page 67). He goes on to state that there is only a single categorical imperative, or unconditional command governing the morality of human behaviour and it is this: "act only on that maxim through which you can at the same time will that it should become a universal law"<sup>17</sup>(page 29). He states it alternately: "...the supreme principle of the doctrine of morals is, therefore, act on a maxim which can also hold as a universal law...any maxim that does not so qualify is contrary to morals"<sup>16</sup>(page 380). In other words, all our acts must be such that they are universalizable to all other like situations and to all other moral agents (eg. doctors) so that to be moral, all human beings must act consistently and similarly in all cases.

Kant puts the categorical imperative to the test by examining the issue of the lying promise. He asks: "May I not, when I am hard pressed, make a promise with the intention of not keeping

it?"<sup>17</sup>(page 67). This relates directly to the dilemma of disclosure of error as we shall see below. A surgeon might say: "There is really no substantive harm done, the patient might be more harmed if he/she knew, and I have a right to protect myself so I will lie." Kant examines various scenarios and then concludes: "Should I really be content that my maxim (the maxim of getting out of a difficulty by a false promise) should hold as a universal law...? ...I then become aware at once that I can indeed will to lie, but I can by no means will a universal law of lying; for by such a law there could properly be no promise at all..."<sup>17</sup>(page 68). He is thus concluding that there can be no exceptions to the categorical imperative, and that lying is always wrong, but we will have occasion to revisit this below.

We are then introduced to the concept of the kingdom of ends, in which every rational being must regard himself as giving universal law through all the maxims of his will. "For, all rational beings stand under the law that each of them is to treat himself and all others never merely as means but always at the same time as ends in themselves"<sup>16</sup>(page 83). This is our first clear exposure to one of Kant's central themes that all persons must be treated with respect. It is also an introduction to Kant's concept of the autonomy of the will. In the kingdom of ends, Kant says, each person has a dual role; he is a sovereign or legislator and he is also a subject, obligated to obey the very rules he lays down as sovereign. Thus Kant envisages a moral community as a group of autonomous persons who prescribe for themselves the rules that they shall live by.

We have now learned that we must behave out of a sense of duty or obligation and not from any other motive. The duty or obligation, of course, is to do the right thing. Just what the right thing is (and also what is morally wrong) is developed in Part I of *The Metaphysics of Morals* (written in 1797). Firstly, Kant reiterates his belief that an act cannot be right unless it is done from a sense of duty. "A deed is right or wrong in general insofar as it conforms with duty or is contrary to it...a deed contrary to duty is called a transgression"<sup>16</sup>(page 378). The first definition of a right Kant offers us is: "Right is therefore the sum of the conditions under which the choice of one can be united with the choice of another in accordance with a universal law of freedom. Any action is right if it can coexist with everyone's freedom in accordance with a universal law..."<sup>16</sup>(page 387).

Kant believed there was only one innate right. "Freedom (independence from being constrained by another's choice), insofar as it can coexist with the freedom of every other in accordance with a universal law, is the only original right belonging to every man by virtue of his humanity"<sup>16</sup>(page 393). This was a most articulate and compelling statement of what we refer to in modern bioethics as autonomy.

In Part II of *The Metaphysics of Morals*, Kant writes of virtue and of duties of virtue. He describes perfect duties which are duties to perform (or abstain from performing) which are binding in all circumstances. Regarding the perfect duty to oneself to abstain from lying, he states that "the greatest violation of a human being's duty to himself...is the contrary of truthfulness, lying. In the doctrine of right an intentional untruth is called a lie only if it violates another's right; but in ethics where no authorization is derived from harmlessness, it is clear of itself that no intentional untruth in the expression of one's thoughts can refuse this harsh name"<sup>16</sup>(page 552). "Lying...need not be

harmful to others in order to be repudiated;...the speaker may even intend to achieve a really good end by it"<sup>16</sup>(page 553). By this statement it appears that Kant is categorical in his decrying of the act of lying; there appear to be no exceptions. He proceeds to speak of imperfect duties to oneself and finally duties of virtue to others, and vices that violate duties of respect, all of which are pertinent to the discussion of disclosure of error.

#### DOCTORS' DUTY TO DISCLOSE ERROR – KANTIAN ETHICAL ANALYSIS

Let us examine the question of whether medical errors should be disclosed to patients, irrespective of whether or not they produce a bad outcome, and whether or not they are obvious or apparent to the patient.

In cases like A and B above (serious, obvious errors), to not disclose would require the telling of an obvious lie which would be unacceptable to Kantian ethics. Most patients would ask: "Why are there two incisions on my head?" To not answer accurately would be to lie. Clearly it would be every doctor's duty to report obvious and egregious errors to patients who would also, by circumstance, have some knowledge of the existence of error because of obvious markers of the error (ie. an incision on the wrong side of the head). To not disclose this type of error would require the surgeon to practice an act of obvious deception, the commission of a lie, the only purpose of which would be to serve only his own interests. "Thus a lie, defined merely as an intentionally untrue declaration to another, does not require what jurists insist upon adding for their definition, that it must harm another. For it always harms another, even if not another individual, nevertheless humanity generally, inasmuch as it makes the source of right unusable"<sup>16</sup>(page 612); "...the duty of truthfulness...makes no distinction between persons to whom one has this duty and those to whom one can exempt oneself from it, since it is, instead an unconditional duty, which holds in all relations"<sup>16</sup>(page 614).

There is nothing in Kant's moral philosophy that would allow for a surgeon attempting to hide this type of error from a patient. To reiterate Kant's viewpoint, the duty not to lie is right strictly because it conforms to a rule of conduct which meets the requirements of a supreme principle of duty, this principle of duty not being itself related to the production of a good consequence. The moral rightness of an action does not consist in its being instrumental, directly or indirectly, in a good outcome, but in its being a kind of action which all physicians should perform as a matter of principle. The person of good will not only acts in accordance with duty but he acts for the sake of duty. This means that his sole motive for doing what is right is his recognition of the fact that it is the right thing to do. Furthermore, he does what is right because he is duty-bound to do so, and for no other reason and it must also be universalizable. To revisit the lying promise: "And could I really say to myself that everyone may make a false promise if he finds himself in a difficulty from which he can extricate himself in no other way? I then become aware at once that I can indeed will to lie, but I can by no means will a universal law of lying"<sup>17</sup>(page 68). Thus Kant appears to categorically decry the act of active lying.

The same reasoning could obtain for cases like C and D above (serious, nonobvious errors) but there is a potentially fundamental difference in that the error is not obvious to the

patient or family. Most people would contend that it is right for patients to have knowledge about significant errors that occurred during their treatment, even if they are not aware of them and even if they were completely unintentional (as all medical errors are) and perhaps even not that preventable. If the patient asks “Did everything go well?” then to not disclose the error would be to actively lie, a situation we have addressed above. But what about patients who do not actually ask this question; what is the surgeon’s duty to disclose major error when an active lie would not be required to conceal the full truth?

One reason that common sense would suggest that reasonable patients would wish to know about errors, is that patients would need to know this information if they require another surgery, which is common in neurosurgery. For example, if a brain tumor recurs, the patient should have the requisite information to give fully informed consent for the second surgery. This would include information which would allow the patient to decide whether or not he wishes the same surgeon to operate or whether he wishes to find another surgeon who has no track record (for that patient) of making errors.

In a more immediate cause and effect scenario, if during the course of treatment an error occurs, then any follow-up treatment required to rectify the problem will require the disclosure of the shortcomings of the previous procedure. In order for a patient to properly consent to a follow-up treatment needed because the first treatment included a medical mistake, the patient needs material information about what transpired during the first treatment including the fact that an error was made. If a surgeon has operated on the wrong lumbar disc, his explaining that: “There seems still to be compression of the nerve root and further surgery is needed” would be inadequate disclosure, as opposed to: “I operated on the wrong level; would you like me to fix the problem or would you like another surgeon involved?” So respect for the patient’s autonomy to make an informed decision for a second surgery, a central thesis in Kant’s writings, would dictate that major errors be disclosed. However, the fact that the patient would benefit from the disclosure of errors, while making practical sense, is not germane to Kant’s philosophy. The simple fact that it is a doctor’s duty and moral obligation to do the right thing is the correct reason to disclose. Kant clearly states that acts have moral content only if the action is done not from inclination but from duty. In other words, if a doctor is inclined to disclose for whatever reason, this is insufficient in Kant’s thinking; the act must be done from a sense of duty or obligation in order to have moral worth. Furthermore, the categorical imperative instructs that we all must disclose to all patients in all circumstances.

What about the argument that disclosing a significant but nonobvious error to a patient (like those described in cases C and D) might produce more harm than good, in the sense that it might confuse and overwhelm the patient and fill him with doubt about his care? This could add to the anxiety level of a patient already psychologically and physically burdened with a major illness and having just undergone major surgery and could, therefore, actually be seen as a maleficent act. Kant’s moral philosophy was not absolute and inflexible; it may be interpreted as allowing for compromise when conflicting duties arose. “But since duty and obligation are concepts that express the objective practical necessity of certain actions and two rules opposed to each other

cannot be necessary at the same time...so a collision of duties and obligations is inconceivable. However, a subject may have, in a rule he prescribes to himself, two grounds of obligation...When two such grounds conflict with each other, practical philosophy says...that the stronger ground of obligation takes precedence”<sup>16</sup>(page 378-379).

In other words, if in a doctor’s opinion, disclosing an error which the patient is not obviously aware of and the knowledge of which might do more harm than good by the anxiety and lack of confidence it might evoke, then perhaps the stronger ground of obligation would reside in the not telling of the error and the weaker ground of obligation would reside in the telling of the error. In this circumstance and based on this interpretation of Kant, the doctor would apparently be morally justified in not disclosing the error. Furthermore, Kant may possibly leave an opening for us to use some discretion in passive lying, especially in the situation of protecting others’ feelings and welfare. He gives us some examples which might leave an opening for some discretionary use of passive lying, depending on how we interpret. He speaks of an example in which an author inquires if someone likes his work. If one does not like the author’s writing and hesitates in responding (apparently as he ponders the right thing to say or do) the author will interpret the slightest hesitation as an insult. Kant concludes this discussion with the question: “May one, then, say what is expected of one?”<sup>16</sup>(page 554) but does not answer his own question, apparently leaving us to do so. This could be liberally interpreted as Kant saying “Perhaps I don’t know for absolutely sure whether or not a passive lie to protect others could be morally justified and I will not commit myself”.

As we have seen, a contravention on lying alone would not allow us to moralize about all issues related to duty to disclose errors. Let us turn away from lying, and examine other tenets within Kant’s writings to help us with the scenario of cases C and D in which active lying might not be required to conceal the full truth from a patient. One important platform of Kant’s philosophy relates to the issue of respect for people, which would argue strongly in favour of informing them of information a reasonable person would wish to be informed of. He writes: “Every human being has a legitimate claim to respect from his fellow human beings and is in turn bound to respect every other”...he is under obligation to acknowledge, in a practical way, the dignity of humanity in every other human being. Hence there rests on him a duty regarding the respect that must be shown to every other human being”<sup>16</sup>(page 579). Telling the truth in an open, unforced manner surely would be considered highly respectful treatment of a patient, whether the information relates to bad news, or to errors committed by accident in the course of trying to help the patient.

Another important discourse which is very pertinent to this discussion is Kant’s section entitled *On the Human Being’s Duty to Himself as His Own Innate Judge*. He defines conscience as: “consciousness of an internal court...before which...a human being’s thoughts accuse or excuse one another. Every human being has a conscience and finds himself...kept in awe (respect coupled with fear) by an internal judge; and this authority watching over the law in him is not something that he himself (voluntarily) makes, but is something incorporated in his being”<sup>16</sup>(page 560). He goes on to say that we all answer to our



conscience which warns us before we make a decision, but he does not specify what our conscience should dictate. We would contend that conscience dictates that we disclose significant medical errors to our patients out of a sense of duty.

Kant also speaks of several virtuous duties to others. Of beneficence he states: "...to promote according to one's means the happiness of others in need, without hoping for something in return, is everyone's duty"<sup>16</sup>(page 572). Perhaps we would add the words "for important information" after Kant's word "need" to relate beneficence to the act of disclosure of error. He speaks of gratitude as "...honoring a person because of a benefit he has rendered us"<sup>16</sup>(page 573). Patients would clearly qualify as deserving gratitude as they have certainly benefited us by giving us the greatest gift – that of their trust, and by providing us with a means to exercise our skills and to earn our living. He also speaks of sympathetic feeling: "...while it is not in itself a duty to share the sufferings...of others, it is a duty to sympathize actively in their fate..."<sup>16</sup>(page 575). We believe that this sympathy or empathy would argue in favour of sharing vital information about errors with our patients.

Kant also speaks of vices which violate duties of respect for other human beings. The first and most important is arrogance, which is: "as it were, a solicitation on the part of one seeking honor for followers, whom he thinks he is entitled to treat with contempt"<sup>16</sup>(page 581). We believe that secretly withholding information about significant errors from our patients could be interpreted as representing the epitome of arrogance through contemptuous behaviour.

Finally, let us return to Kant's discussion of the kingdom of ends, in which he states: "Act in such a way that you always treat...another person, never simply as a means, but always at the same time as an end"<sup>17</sup>(page 32). What is meant here is that it is acceptable to benefit from an interaction with someone as long as that is not the sole motivation. For example, when a doctor is reimbursed for services he performs for a patient, he is not treating the patient only as a means to an end, but an end and a means. Withholding information about error from a patient is treating him only as a means to an end, that of self-protection of the surgeon, self-aggrandisement, and avoidance of the possible embarrassment associated with admitting to an error that might be perceived negatively by the patient and/or the surgeon's peers and students.

Let us extrapolate a little further and explore what Kant is intending for such a kingdom. In such an ideal community as the kingdom of ends, persons are not only autonomous but take responsibility for themselves and their actions and presumably would want to know about error if they were patients, and would wish to disclose error if they were doctors. In this kingdom, there is likely an implicit promise by doctors to patients to disclose major errors. Hence, making such a promise with no intent of keeping it is a false promise, or a lie. Reneging on the promise by not disclosing would represent a breach of trust, contrary to the moral ideal of this community. If everyone routinely broke promises it would make promise-making futile because no one would take them seriously.

We have shown that according to the moral philosophical writings of Immanuel Kant, moral duty and obligation would dictate disclosing major medical error in the vast majority of cases. In selected patients in whom a major error has caused no

impact on outcome and who would be overly distraught and/or could not properly comprehend the meaning of the error, it might be more beneficial (or less maleficent) to not disclose. In fact there is an "escape clause" in Kant's writings which provides for different treatment of irrational beings (for example those with psychiatric disease or altered cognition). He states: "...morality is a law for us only as rational beings..."<sup>17</sup>(page 108) and "...duty...must therefore hold for all rational beings..."<sup>17</sup>(page 88). We also believe that minor errors do not generally need to be disclosed to patients and while Kant's writings do not specifically address the distinction between small and large lies, for example, our "escape clause" here simply is an interpretation of the practical aspects of Kant's intentions. He writes: "...take a step into the field of practical philosophy...about the correct function of this principle in comparison with maxims based on need and inclination, in order that it may escape from the embarrassment of antagonistic claims..."<sup>17</sup>(page 70). The methodology of studies that have examined this issue is imperfect, but it appears that most patients wish full disclosure of errors that cause harm<sup>18</sup> and the majority of patients may wish even minor errors to be disclosed.<sup>19</sup>

Kant actually makes a direct reference to the committal of errors from which we may be able to draw a direct inference on how we should treat our colleagues who err and how patients should treat us health care providers when we err. He writes: "On this is based a duty to respect a human being even in the logical use of his reason, a duty not to censure his errors by calling them absurdities, poor judgement and so forth, but rather to suppose that his judgement must yet contain some truth and to seek this out...and so by explaining to him the possibility of his having erred, to preserve his respect for his own understanding"<sup>16</sup>(page 580). It sounds like Kant is advising us to be forgiving of those who err and to learn from our mistakes, a lesson we could all stand to learn, and a lesson which would revolutionize doctors' attitudes about disclosing error if they felt that patients and peers would be less judgmental of them if they disclosed more openly.

## CONCLUSIONS

Kantian ethical theory has been extremely influential in the development of bioethical theory to guide the moral conduct of physicians and other members of the health care profession. It appears clear from analysis of his moral philosophical writings, that Kant would have strongly believed that all major errors accidentally befalling patients should be disclosed because the physician is duty-bound to do the right thing. The right thing includes not lying, respecting the patient's dignity, acting with beneficence, sympathy, gratitude, conscience, and without arrogance, and never treating the patient as a means to an end. One might interpret that Kant would allow withholding such information from a patient, if imparting that information would be clearly judged to do more harm than good but, in fact, purists might not even grant this much discretion in Kant's theses. These views resonate with the modern views that are emerging on disclosure of error, in the medical, ethical, and legal literatures. However not all the answers are in on this thorny issue, and further studies both of error itself and of disclosure of error are needed.

When the first author was a resident, he recalls being told a

maxim describing the “good doctor” in terms of possessing characteristics described as the three “As”: availability, affability, and ability. We would respectfully borrow from this maxim and propose three “As” to describe the way surgeons should handle significant errors they have made during the well-intended care of a patient: acknowledge (the error); apologise (to the patient/family); and acquire (knowledge which will help avoid committing the same error again). We believe it is unavoidable for doctors to err but that it is unethical for doctors to not attempt to learn from their mistakes. We can take support and encouragement from a great moral philosopher and from our own basic goodness, in guiding us to perform our duty to disclose significant errors to patients, an act which many external influences and pressures might try to deter us from doing.

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