

The Bioethics Advisory Board of Puerto Rico: Personal Reflections on an Initial Agenda

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In 2005 the new Governor of Puerto Rico appointed a panel of experts to evaluate the healthcare system of Puerto Rico and make recommendations. Among other things, the panel recommended the creation of an advisory board on bioethics for the commonwealth of Puerto Rico.

The advisory board was created by an Executive Order issued by the Governor.¹ In January of 2007, I was honored to be asked to serve as the Bioethics Advisory Board's (BAB) first president, joining eight other members. In this essay, I review the BAB's composition and mandate and make some personal reflections on how the establishment and function of the BAB can illustrate the state of bioethics in our Commonwealth.

Mission, Composition, and Rationale of the Bioethics Advisory Board

It is the mandate of the BAB to advise the Governor in ethical matters raised as a consequence of advances in healthcare, medicine, science, and biotechnology. The BAB also has to delineate the scope of bioethics in public life and its implications for a range of government agencies. Finally, the board has to promote the teaching of bioethics and represent Puerto Rico in international bioethics.

The BAB is a multidisciplinary group, with the participation of experts in medicine, the health sciences, ethics, theology, and the law. The pharmaceutical and medical technology sectors in Puerto Rico are also represented on the BAB. The appointed members are a heterogeneous group of persons interested in bioethics at both the theoretical and practical levels.

The legal and public policy foundations for the establishment of the BAB are found, first, in the Constitution of Puerto Rico and various laws related to healthcare, which give the government jurisdiction in matters of health and, second, in the need to establish certain ethical safeguards to guide the development of biotechnology in the economic development projects of the government. Additionally, it was necessary to have a high-level forum to critically reflect on the ethical implications of science and technology and their ability to affect human life, the quality of the global environment, and the health of nonhuman living beings. It was expected that the forum would represent the plurality, the heterogeneity, and the diversity of opinions and approaches that are the essence of Puerto Rican life.

Personal Reflections

I approach the creation of the BAB with mixed thoughts and feelings. Like many other governmental initiatives, this one may open a window of opportunity, but

it can also cause mischief. There is no doubt that bioethics can contribute enormously to the formulation of public policies guided by values such as transparency and responsibility and ethical principles such as justice, beneficence, nonmaleficence, and respect for the dignity and autonomy of human beings and concern for the environment. A bioethical approach should promote respect for a diversity of opinions while looking for consensus through dialogue. But a not-so-well-articulated bioethics could be manipulated and have the opposite effect. To be successful, this initiative will need to attend to three factors: the milieu, the composition of the BAB, and its agenda. In the next paragraphs I explore each of these variables more closely.

The Milieu

My students have heard me repeat that the relationship that should exist between the medical profession and the pharmaceutical industry should be similar to a minuet, which is danced only on special occasions and where the steps are strictly predetermined, so that the partners never step on each other or even get too close.

The same metaphor applies to the relationship between the government and an advisory board such as the BAB. The relationship should be fluid, but also at a certain distance. The BAB's authority rests on its capacity for moral persuasion by means of rational analysis of reality and the intellectual soundness of the arguments put forward to clarify and orient the government's decisions. The board should have space for deliberation and direct access to the Governor and his/her Cabinet in order to ensure that they hear what they need to hear, even if that is not what they would like to hear. This dynamic requires BAB proximity to government and a healthy distance from authority.

The Composition

The quality of the BAB's deliberations and recommendations will depend on the knowledge and prudence of its members. As a multidisciplinary group, members should have as a common ground the capacity to deliberate respectfully until they reach consensus or recognize that their differences are irresolvable. In addition, members should have the capacity to deal with the political context within which they must operate, without being seduced by it.

The Agenda

There are many relevant ethical issues to study and discuss, but we will have to prioritize which are the most relevant to Puerto Rico, even at the risk of tackling controversial and politically thorny issues. This determination will be a fundamental step, and thus far I believe there are four sets of issues that need urgent discussion today in Puerto Rico.

First, aspects related to the professional-patient/family relationship and the integrity of the healthcare professions. For this relationship to be healthy and trustworthy it is necessary to protect and strengthen the integrity of the healthcare professions, especially the medical profession, focusing on the following three very relevant aspects related to integrity and questions of medical practice.

In order, they relate to regulation of third parties, which intrude on the doctor-patient relationship, medical error and malpractice, and the role of government.

The triangulation of the dyad. The private and unique relationship between the professional and her patient and the family, known as the therapeutic dyad, is becoming a thing of the past. The scientific and technological advances and the complexity of healthcare services have fostered the participation and led to the intervention of third parties in the doctor-patient relationship. Hospitals, insurance companies, managed care organizations, the pharmaceutical industry, and the government intervene and frequently determine the scope and quality of the therapeutic dyad. Today it is more of a triangle than a dyad.

Historically, there has been much emphasis on the role, the behavior, and the responsibility of the physician or professionals in this relationship, but little has been said about the new actors in the healthcare relationship. Today, we see that the standards of altruistic behavior demanded from health professionals are much more relaxed in relation to the owners, directors, and executives of the healthcare-related industries and organizations, who should serve patients above any other consideration.

If professionals are obliged to go the extra mile for a sick person and should limit the benefits they derive from that relationship and avoid using their patients' vulnerability for their own benefit, should not the same rules be applied to the intermediaries who are dealing with the same sick and vulnerable person? I believe that the BAB in Puerto Rico should explore these issues in our socio-economic context.

Medical malpractice and medical error. Even if it is true that human beings are responsible for taking care of their health, it is also true that in taking care of the sick, professionals have a major responsibility. Professional interventions, due to incompetence or error, may result in injury to the patient. When that occurs there should be a reasonable compensation to the patient and his or her family for the injury suffered. But again the professional and her patient are not the only ones involved in the situation but also his or her family, the insurance companies, and the state, through the Executive Branch and the Courts. The BAB should help clarify the ethical parameters to fairly address these conflicts and should help discern the responsibilities of each party.

Integrity and regulation. The medical profession is tightly subjected to Government regulation in order to guarantee the technical and human competence that defines medical practice. The state licenses health professionals and proceeds against practice beyond their scope of competence or training to the point that they have to be separated from the profession. The Board thus will have to define the ethical aspects that should guide the regulation of the health professions and of the agencies that supervise them.

The second group of issues that would need to be approached by the BAB are those related to the scientific and biotechnological research in Puerto Rico. One of the pillars of the island's economic development is to provide incentives to the pharmaceutical and biotechnological industries, which bring investment and quality jobs to the commonwealth. Incentives include the promotion of alliances with academic institutions to facilitate sound scientific and biotechnological research.

However, certain aspects of this relationship can present ethical conflicts of interest, for the companies reserve for themselves the right to use and publish the results of research that has been carried out by universities under their sponsorship. The BAB should help articulate the proper way to establish the alliance between industry and academia, to ensure that government incentives foster the search for the truth and the transmission of knowledge for the benefit of all humankind. The BAB will have to explore ways that regulation can protect the profession from the attempts of the industry to adversely influence and control the dissemination of scientific information.

The BAB will have to address the ethical implications of the organization of the Puerto Rican healthcare system. The changes that have occurred in health services over the past 15 years make it especially necessary to identify the ethical parameters that should guide the organization and operation of an integrated system of healthcare services. There is a vast array of topics that should be approached, such as problems of distributive justice in allocating scarce resources that could be otherwise used for education, security, or housing. These social services priorities will need to be balanced against access to healthcare. Finding a proper balance among those competing needs is especially critical, given Puerto Rico's broader socioeconomic challenges as a Caribbean commonwealth of moderate means.

Finally, there is the set of problems that has to do with the environment. If any country should take good care of the environment, that country is Puerto Rico, a small, industrialized and overpopulated Caribbean island with exuberant fauna and flora. The BAB has to frame questions of stewardship and ecosystemic ethics to approach the care of the environment and the protection of Puerto Rico's rich biodiversity.

Concluding Remarks

This is our task on Puerto Rico's BAB. We are here to start the dialogue. After selecting the substantive agenda and deciding about the priorities of the issues to be attended, the deliberations at the BAB should be nurtured by experts in different areas, including consultants who can help define the ethical problems and propose recommendations.² The product of this subsequent deliberative process should be a balanced report that reflects the opinion of both the majority and the minority.

It will be our initial group that will establish the specific priorities that will be addressed by others with rigor and depth. The milieu, the members, and the agenda will give us an idea of how independent or domesticated will be the BAB. In setting this agenda, we will also demonstrate whether the BAB and its progeny will be an independent space of reflection or just another bureaucratic entity.

Notes

1. Executive Order of the Governor of the Commonwealth of Puerto Rico to establish a Bioethics Advisory Board. Administrative Bulletin Number: OE-2006-29.
2. It is a sign of hope that simultaneously with the creation of this Bioethics Advisory Board, a Professional Graduate Certificate in Bioethics was inaugurated, sponsored by the School of

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Public Health of the University of Puerto Rico. I am sure that in the future there will be many opportunities of collaboration between the BAB and this program, and also with the Instituto Hostosiano de Bioética of the MSC-UPR, the Center of Biomedical Humanities at the Universidad Central del Caribe, the Program of Ethics for the Professions of the UPR-Mayagüez, the Puerto Rican Federation of Bioethics and others. I hope we can benefit from all of these initiatives and know how to do it properly.