

The Lawyer Who Made the Case for Clinical Medical Ethics

By Stephen Phillips

They were unusual classmates—intellectually eclectic, bound for careers in such disparate arenas as the operating theater, courtroom, and seminary. But for three academic quarters between 1977 and 1979, eight students from the Pritzker School of Medicine, eight from the Law School, and eight from the Divinity School met for ninety minutes a week in a University of Chicago Medicine conference room. The medical students presented a real-life ethical quandary from their rounds. Then, the case was opened up to the floor for discussion. The instructors were just as diverse: a physician, a graduate student in philosophical ethics and theology, and a lawyer from Pasadena, California, via Harvard Law School and Wall Street.

“This was the seventies; we had to tease the ethical issues out of students,” recalls the lawyer Ann Dudley Goldblatt, LL.M.’78, associate director of the MacLean Center for Clinical Medical Ethics and lecturer in the Social Sciences, Biological Sciences, and Humanities Divisions and Department of Medicine. “But it didn’t take long; they were pleased to have someone listening,” adds Ann Dudley, who is retiring this summer following almost 40 years at the University.

Funded by a federal grant, “Clinical Ethics and Human Values” is thought to be the first course offered in clinical medical ethics. At the time, medical ethics was the preserve of philosophers and theologians—a rarefied field rooted in the sacred canon of the so-called Georgetown Mantra: autonomy, beneficence, non-maleficence, and justice. This was a new departure—relating abstract principles to real life, using actual cases as teachable moments; bringing the perspective of the working physician to what had hitherto been a scholastic debate. “To this day it’s the best course I’ve taught,” says Mark Siegler, MD’67, FACP, Lindy Bergman Distinguished Service Professor of Medicine and director of the MacLean Center, one of Ann Dudley’s co-teachers.

It was a far cry from LeBoeuf, Lamb and Leiby, the New York law firm Ann Dudley Cronkhite, as she was then, joined out of Harvard in 1964—one of just 15 women among 498 men in her graduating class.

Ann Dudley had confounded expectations in reaching Harvard. She’d expected to attend now-defunct Briarcliff Junior College, which specialized in secretarial training. But at Westover School, a girls’ boarding school in Connecticut, she discovered an intellectual spark. In *Pinstripes & Pearls*, classmate Judith Richards Hope’s account of the careers of the women in Harvard Law’s class of 1964, Ann Dudley recounted this “drive,” and the corresponding disdain she felt for the field hockey games she had to endure at Westover: “Whack you on the shin! I wanted to be whacked in the brain!”

She won a place at Radcliffe College where she studied history and literature, becoming the first member of her family to graduate college. She aspired to take a PhD in history, but her father was worried she’d become an eternal student, so she chose law school.

“She was never going to have a career as a Wall Street attorney; that was just something you did after law school,” says Stanford J. (Stan) Goldblatt, LAB’54, EX’58, the fellow Harvard Law student Ann Dudley

married in 1968. Following the wedding, she quit New York for Chicago where Stan worked at the time in his family's business, Goldblatt Brothers' department stores. From 1970 to 1974, the couple had a daughter and two sons. Meanwhile Ann Dudley began volunteering at Children's Memorial Hospital.

Here, she instituted a liaison program in which she and others shuttled between the operating room and waiting area relaying updates to anxious parents. The experience piqued an interest in medical ethics.

Amid seismic developments in medicine and society it was a heady time in this nascent field.

Radically improved ventilators and other technological breakthroughs were empowering physicians to save patients previously deemed beyond hope. But this raised questions of how to equitably distribute these inevitably scarce resources. Meantime a groundswell of social forces was upsetting old dynamics in the doctor-patient relationship: doctor-knows-best paternalism was no longer tenable amid the emergence of patient rights advocacy and a new "consumer" mentality toward health care.

Collectively, these forces were ratcheting up the stakes of medical decision-making.

"Doctors couldn't do much until the mid-sixties. Then they could, and I was there at the birth," recounts Ann Dudley.

Around the same time, she enrolled as a student-at-large at the University of Chicago, auditing undergraduate and graduate classes in theology and philosophy. Here, she found a mentor in James M. Gustafson, PhD, professor of theological ethics in the Divinity School and a leading figure in bioethics.

Another person who'd beaten a path to Gustafson's door was Siegler. As Director of the University's first Intensive Care Unit in the early seventies, he found himself taking a crash course on ethical dilemmas in medicine.

"I was struggling with how to make decisions for patients who couldn't talk for themselves, how to decide who got [a bed], and how to decide to discharge one patient if another with a better chance of survival needed the bed," relates Siegler. "These were questions involving truth-telling, informed consent, end-of-life, death and dying, scarce resources, and even research, because a lot of what we were doing was innovative—all ethical issues."

"Every week or two for a couple years, I'd walk to the divinity school and bring Jim a case. We'd talk about it and he'd reach up to his incredibly high bookshelves and come down with a volume or article he wanted me to read. In one tutorial, he said, 'I've been working with a quite brilliant young attorney with a particular interest in medical ethics. The two of you should meet.' This was around 1975."

Siegler and Ann Dudley hit it off immediately. "She was witty, a bit acerbic, obviously a deep thinker, and she wrote beautifully," he recalls.

Siegler, Ann Dudley, and Gustafson formed part of a diverse cadre of UChicago scholars that in the late seventies was converging on a new medical ethics; one that brought bioethics to the bedside. This cohort later included Leon R. Kass, LAB'54, BA'58, MD'62, PhD, the Addie Clark Harding Professor

Emeritus of Social Thought, who would be appointed by President Bush to chair the President's Council on Bioethics (he served from 2001 to 2005), and philosopher Stephen E. Toulmin, PhD, a proponent of pursuing philosophical inquiry in real-life scenarios.

In 1978, Ann Dudley earned a master of laws (LLM) from the law school. Her thesis analyzed early contraception and abortion legal cases. The following year, building on the course they'd just taught, Siegler and Ann Dudley collaborated on a paper that further elaborated how this new form of bioethics might proceed.

*Clinical Intuition: A Procedure for Balancing the Rights of Patients and the Responsibilities of Physicians*¹ explored how physicians could plot an ethical path between these countervailing forces by examining two possible outcomes of post-paternalist health care: patients who decline life-saving treatment, and patients who assert their right to a certain treatment based on their own evaluation of their condition.

Considering the latter scenario was novel and highly prescient.

"A lot of people were writing about the first issue, though not with the philosophical and legal insights Ann Dudley brought to this paper," says Siegler, "but nobody had brought up the second question. Ann Dudley came up with this...The notion of the positive rights patients could assert was a major breakthrough. It became a very important topic in health care and in clinical ethics through the eighties and nineties."

With its practitioner perspective, grounding in real-world cases, close scrutiny of clinical circumstances to help determine whose rights might prevail in a given situation, and emphasis on the doctor-patient relationship as the foundation for ethical care, the paper also anticipated the MacLean Center, founded in 1984 as the first academic institute dedicated to clinical medical ethics.

Ann Dudley's chief contributions to medical ethics would not come on paper though.

Carolyn and Matthew Bucksbaum Professor of Clinical Medical Ethics and MacLean Center Associate Director Lainie Ross, PhD, MD, calls Ann Dudley's "Health Law and Ethics" class a "cornerstone" of the Center's ethics fellowship program.

"Ann Dudley is a master teacher," says Siegler. "For 35 years, her classes have reflected her penetrating intellect, sharp wit, and deep understanding of medicine, law, and ethics. More than 350 fellows and countless faculty colleagues have been the beneficiaries."

"I've sat in on her course, not once, but twice," admits Ross. "Her teaching is such fun."

"Mark Siegler gets credit for bringing the doctor back into the [ethics] conversation," says Ross. "Yet he did not do it alone; Ann Dudley deserves to share in the credit."

Ross also credits Ann Dudley with broadening the Center's "doctor-centric" outlook.

¹ In Spicker SF, Healey JM, Engelhardt HT Jr. eds. *The Law-Medicine Relation: A Philosophical Exploration*. Boston and Dordrecht, Holland: D. Reidel, 1981: 5-31.

“She could talk from her legal mind, from a patient perspective, or from that of a family member—doctors can be reticent to do this. People come to the health care encounter from various backgrounds with different goals in mind. She’s been a role model for considering these different perspectives.”

She has managed a similar balance of viewpoints and interests in her life, says Ross. “She knows the importance of family, she knows the importance of academics, her knowledge of jurisprudence is expansive, and she has incredible fashion sense. Take away any part and it wouldn’t be Ann Dudley.”

It’s a balance founded on eschewing hard-and-fast rules as assiduously in personal and professional matters as she did in the ethical inquiry she helped pioneer at the MacLean Center.

“One of the best things my mother taught me is that you don’t come up with a plan and just stick with it,” reflects daughter Alexandra Nikitas, executive director of the philanthropic Cancer Research Foundation. “The trick is to constantly adjust.”

In her University career, “she never had a plan; it was all ad-hoc,” adds husband Stan, a University Trustee for 35 years and founding chairman of the University of Chicago Medical Center’s Board. Despite teaching for years in the law school and College—where her courses were among the most popular with undergraduates—Ann Dudley never pursued a formal appointment beyond the MacLean Center. “I didn’t have ambitions in that area,” she says. From the hockey fields of Westover to the quadrangles of Hyde Park though there was one abiding passion: an implacable intellectual curiosity.

“I liked what I was doing,” she reflects. “That’s why I did it; I really liked doing it.”

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