Medical ethics and law

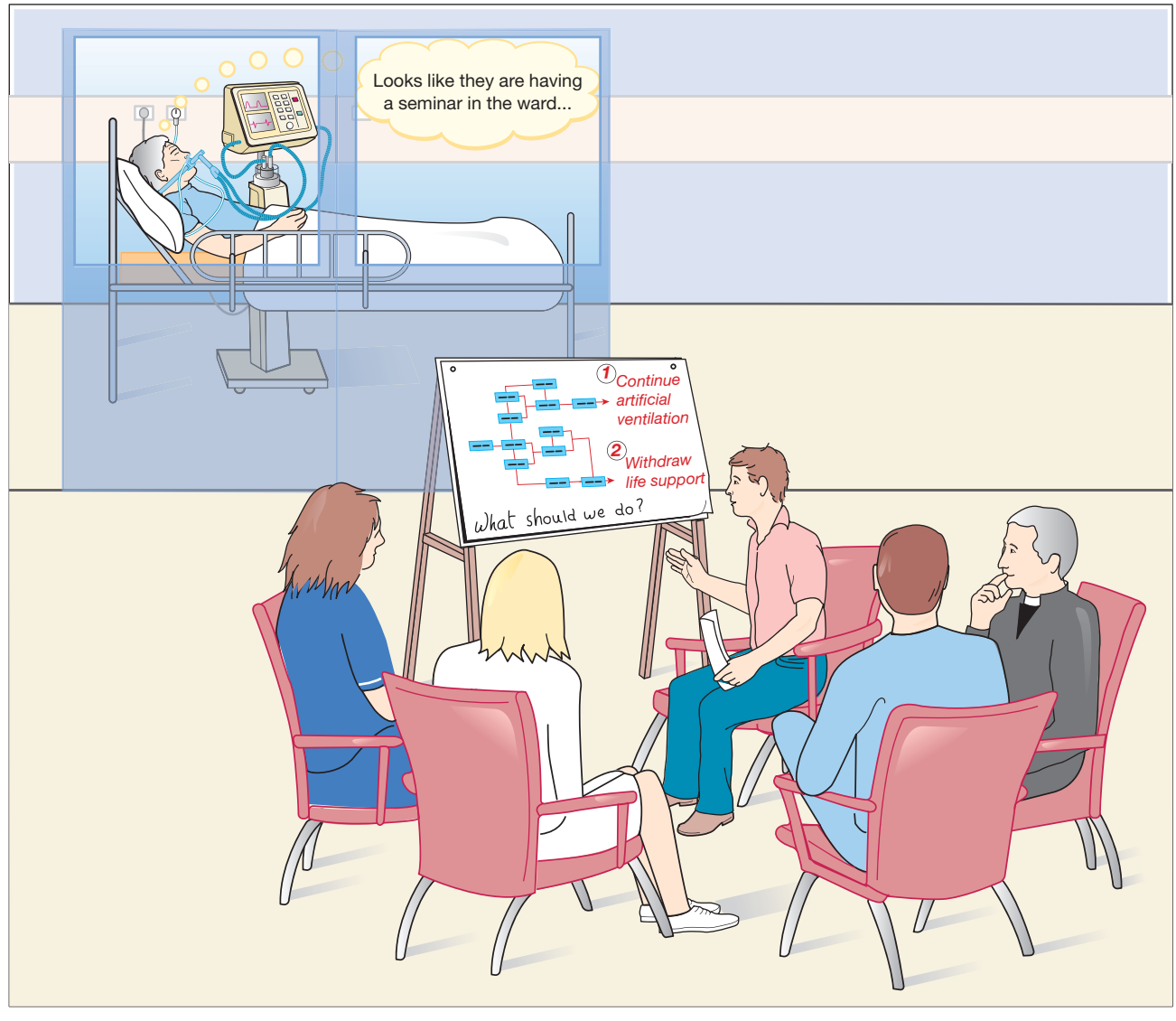**Part 1**

Chapters

1 What is medical ethics?

Figure 1.1 What is medical ethics?

Introduction

Medical ethics is a discipline concerned with the systematic analysis of values in healthcare.

But this definition only gets us so far. We need to be clear about what healthcare values are, what it means to systematically analyse these values, and what it means to do so in the varied policy and practice contexts in which healthcare takes place. The first issue relates to the content of medical ethics, the second to its methods and the third to its scope. Each of these issues will be considered in turn.

The content of medical ethics

Medical ethics is founded on the idea that there are discrete ethical values specific to healthcare. Put another way, practitioners working in health owe something to those whom they care for precisely because they are involved in healthcare provision, and such provision is importantly different from other professions and the general obligations that human beings owe to each other. The justification for this special set of ethical values is usually articulated by observing that one's health is fundamental, in some sense, to one's life plan. Because being healthy is a prerequisite to pursuing other valuable goals, having access to healthcare, being able to make decisions about the care one receives, and being treated well within the healthcare relationship, is morally significant.

Much work in medical ethics is concerned with specifying the correct ethical values that underpin good healthcare. This project is one that is necessarily sensitive to moral theory, and that most commonly takes the form of identifying so-called 'mid-level principles' that seek to reflect and combine different theoretical considerations to provide a coherent, and ethically justifiable, roadmap for good practice (see Chapter 2).

Once ethical principles for healthcare have been determined, the medical ethics project broadens out. One other activity is to attend carefully to how these abstract principles ought to be applied to specific healthcare decision-making settings in diverse parts of the world. The challenge of translating ethical values into practice is no small feat. The varied social, cultural, and economic differences that are characteristic of different healthcare institutions means that careful analytic work needs to be undertaken to know precisely what it means to do good for a patient, **here**.

Another activity that medical ethicists attend carefully to is the common situation in which it is evident that value conflicts arise between competing principles, and therefore where there is genuine uncertainty about what a healthcare practitioner or policy-maker ought to do. Such conflicts can take different forms. On the one hand, they might be akin to a traditional moral dilemma, where there are good ethical reasons for pursuing two different and mutually exclusive courses of action. What ought to be done, for example, when a teenage patient refuses a straightforward and life-saving blood transfusion on the basis that such a procedure would go against the religious beliefs that they hold dear? On the other hand, the conflicts might be less fundamental in nature, perhaps where a doctor is clear about what ought to be done, but is unable to act as they ought due to practical constraints, such as institutional rules or cultural expectations in her workplace. Addressing conflicts of this kind raises questions about the role of medical ethics in advocating for policy or practice changes, and also shifts the locus of analysis onto issues such as 'moral distress' that can arise when practitioners are prevented from acting as they ought.

The methods of medical ethics

Medical ethics is a broad church. Those contributing to medical ethics use a variety of methodological approaches, including both ethical analytic and empirical methods.

Methods of ethical analysis are deployed in order to develop arguments that aim to settle these conflicts – to determine what ought to be done in a situation of ethical uncertainty. Justification and argument are the methodological characteristics of this normative enterprise. A defence to the claim that 'Doctors ought to do X' depends on providing a justification, based on the reasons in support of this argument, against the reasons supporting the claim that 'Doctors ought not to do X' or 'Doctors ought to do Y'. The extent to which a claim counts as a satisfactory answer to the question 'What ought a doctor to do here?' is judged in light of the standards of reasoning that apply to arguments generally. Thus, while rational argumentation of this form is generally seen to be philosophical in nature, it is in fact closely related to other analytic approaches, including the scientific method. Further information about ethical reasoning is provided in Chapter 3.

Empirical methods, on the other hand, are used primarily to describe how value conflicts arise within healthcare practice. Empirical methods can also be used to contribute to ethical argumentation by specifying evidence that can give substance to the reasons in favour, or against, a particular claim. If we think, for example, that a particular course of action is justified only if it would be widely accepted by the public, we need evidence that shows us whether the public would indeed accept that course of action. Finally, medical ethicists might draw on empirical methods to evaluate the impact of an ethical claim. If, for example, a research ethics committee is introduced in a healthcare setting to ensure that patients' well-being is safeguarded when these patients are recruited to a clinical trial, we need to be able to show that the intervention does indeed safeguard well-being. If not, there is no ethical justification for introducing the committee on the basis of this argument.

The scope of medical ethics

As well as being an academic pursuit, medical ethics is also practised 'on the ground' in healthcare settings. Ethicists provide ethical guidance by the bedside, in the hospital boardroom, or as part of committees working in health settings. These ethics support functions are described in Chapter 7. In addition to recommending a specific course of practice, arguments within medical ethics might also focus on the regulations or laws that govern healthcare practice.

Similarly, the boundaries of what counts as a medical ethics issue is also open to dispute. Medical ethics might be differentiated from healthcare ethics, where the former is more narrowly focused on the moral duties of doctors, while the latter broadens its analytic lens to other professionals and to non-medical settings such as social and community-based care services. Equally, the boundaries between medical ethics and bioethics are difficult to ascertain, with the latter orientated more towards biotechnological issues than the professional world of healthcare. In common parlance, these different terms are used interchangeably, and little hangs on where the boundaries are drawn.