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SHOULD MEDICAL INVENTIONS BE PATENTED?

By ARTHUR G. CONNOLLY

WILMINGTON, DELAWARE

FOR some years the medical profession has been confronted with the question of whether or not it is ethical to obtain patent protection on medical inventions. The pros and cons of this question have been argued ad infinitum, and so far as the writer can determine in his contacts with members of this profession no general agreement has as yet been reached. It appears that on this subject the medical profession is still split roughly into two groups, one of which asserts that it is quite proper to obtain patent protection on medical inventions, and the other of which asserts that such procedure is unethical and a violation of the doctor's duties to the public.

The writer has on frequent occasions been retained by doctors to obtain patent protection on their inventions, and during the course of this work he has invariably been requested to give his views on the desirability of patenting medical inventions from the standpoint of the doctor's duty to the public. Be-

cause of the apparent interest of the medical profession in this question it is believed that a brief résumé of the fundamentals of patent law and their application to medicine, biochemistry and related fields might be of assistance to those physicians who at some time during their careers may become inventors and be confronted with the difficult question of what they should do with their inventions.

Although the writer's profession is patent law every effort has been made to approach this question from as fair and impartial a position as possible. The reasoning upon which the conclusions are based has been reduced to practically axiomatic principles, and it has been attempted to explain these principles in such plain language that the non-legal reader should have no difficulty in forming his own opinions. In this manner it is believed that any unintentional bias will be most successfully avoided.

Before going into this article further it might be

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