

Bioethics in the Clinical Setting

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What is Ethics (or Morality) ?

- Ethics is the art of us taking other persons seriously as the centers of a life
- Where our words and actions can harm or benefit those other persons, sometimes irreversibly

Ethics versus Law

- The goal of the law is justice and the maintenance of social order through a dynamic system that includes statutes, case law, constitutional law, and local ordinances, all of which are supported by (the possibility of) sanctions
- The goal of ethics is to embody respect for others in our own behavior but without the codification and sanctions of a system like the law

Ethics versus Law

- It is possible for one of us to believe that a particular action is morally correct even if it is illegal
- We may believe that when there is a conflict between the law and our moral judgment, we should follow our own moral compass (to maintain our own integrity)

Ethics and the Law

- Ethics and the law overlap to the extent that many moral values are embodied in the law
- Actions that we may favor morally might also be supported by the law

Goal of Medicine: To Promote Healing

- “The end of medicine ... is ... a right and good healing action taken in the interest of a particular patient” [Pellegrino & Thomasma, 1981, p. 211]
- Medicine has long been seen as a calling or a service where the patient’s welfare comes first
- You, the physician, help the patient to heal,
- Where healing may be seen as moving toward a dynamic state of effective, balanced, harmonious functioning of body, mind and spirit

Patient-Physician Relationship

- The patient-physician relationship entails special obligations for you, the physician, to serve the patient's interest because of
 - the specialized knowledge that you as physicians hold and
 - the imbalance of power between you as physicians and your patients

[Ethics Manual, 4thEd, ACP-ASIM]

Patient-Physician Relationship

- The patient is vulnerable:
 - Ill or injured
 - Cannot live her/his life as normally able
 - Not able to advocate for self as normally able
 - In need of specialized (medical) help
 - Must reveal secrets and expose normally private areas of the body to you, another person, who does not do the same in return

Medicine versus Business

- The fundamental value of medicine is service – doing no harm and hopefully doing good – for the patient who is vulnerable and in need of that which you, the physician, is trained and privileged to offer – medical care
- The fundamental value in business is to make a profit (whether or not one believes that this must be done within a moral framework), where the parties are purportedly equally empowered and voluntarily enter the relationship

Medicine and Business

- In order for medicine to meet its primary goal of service to the vulnerable patient and secondary goal of service to society, the business side of healthcare must support but not subdue the ethical practice of medicine/surgery.

Medicine: at Heart a Moral Activity

- Hippocratic Oath:

- “I will apply dietetic measures for the *benefit* of the sick according to my ability and judgment; I will *keep them from harm and injustice*”

- American Medical Association:

- “As a member of this profession, a physician must recognize responsibility to *patients first and foremost*, as well as to society, to other health professionals, and to self” [Preamble to Code of Ethics]

Medicine: at Heart a Moral Activity

- American College of Obstetricians and Gynecologists:
 - “The *welfare* of the patient (*beneficence*) is *central* to all considerations in the patient-physician relationship”
 - “The *respect* for the right of individual patients to make their own choices about their healthcare (*autonomy*) is fundamental”
 - “The *principle of justice* requires strict avoidance of discrimination on the basis of race, color, religion, national origin, or any other basis that would constitute illegal discrimination (*justice*)” [Code of Professional Ethics, Ethical Foundations, #1)]

Medicine: at Heart a Moral Activity

- American College of Surgeons:
 - “I pledge myself to pursue the practice of surgery with *honesty* and to *place the welfare and the rights of my patient above all else*” [Preamble to Statement of Principles]
- American Academy of Family Practitioners:
 - “The *ultimate concern* of all physicians must be the *welfare* of each patient in the context of the family” [Core Education Guidelines]

Medicine: at Heart a Moral Activity

- American College of Radiology:
 - “The *principle objective* of the medical profession is to render *service* to people with *full respect for human dignity and in the best interest of the patient*”
[Principles of Ethics, #1]
- American Dental Association:
 - “The ADA calls upon dentists to follow high ethical standards which have the *benefit of the patient as their primary goal*” [Preamble to Principles of Ethics and Code of Professional Conduct”]

Medicine: at Heart a Moral Activity

- American Society of Internal Medicine; American College of Physicians:
 - The physician's *primary commitment must always be to the patient's welfare and best interests*, whether the physician is preventing or treating illness or helping patient to cope with illness, disability, and death.
[Ethics Manual, 4th Edition]

Medicine: at Heart a Moral Activity

- American Society of Anesthesiologists:

The hallowed and time-honored patient-physician relationship, now housed in a relentlessly dehumanizing milieu of hostile influences, is the ultimate context in which most clinical decisions and actions are made. It is in this *noble relationship of trust and caring* that the *physician's moral obligation to serve as the patient's protector and advocate* must emerge as the *primary focus* of ethics in anesthesiology” [ASA Committee on Ethics, Syllabus on Ethics]

Living Ethically (or Morally)

- We identify our moral values
- We strive to embody our moral values in the way we talk and act
- We formulate strategies to help us make good moral decisions

Moral Values in Bioethics

- Four Fundamental Values (Beauchamp, Childress, 1994):
 - Non-maleficence
 - Beneficence
 - Autonomy
 - Justice
- A Fifth Value
 - Trustworthiness

Non-maleficence

- Disvaluing harm
- Caution: what is experienced as harm by one person may not be experienced as harm by another
- Therefore, you, the physician, should seek to understand your patient as an individual

Beneficence

- Valuing the prevention of harm
- Valuing the elimination or removal of harm
- Valuing that which is good or beneficial, realizing that your patient might have a different understanding than you, the physician, do about what constitutes good or benefit for the patient

Autonomy

Autonomy is self-determination or self-legislation as expressed through authentic decisions and the actions based on such decisions

Respect for Autonomy

Valuing the individual as one who makes self-defining choices upon which she or he then acts and for which she or he is accountable

Respect for Autonomy: Integrity

- Part of what it means to act autonomously is to act with integrity
- A person's integrity refers to that person's dynamically integrated system of values, commitments, and beliefs
- Both you, the physician, and the patient have an interest in maintaining integrity

Respect for Autonomy: Informed Consent

- Informed consent is a major way in which patient autonomy is promoted in the clinical setting
- Informed consent is more than a signed document; it is an on-going, evolving feature of your relationship with your patient

Respect for Autonomy: Informed Consent

The elements of informed consent are:

1. Be sure that your patient is competent
(legal concept) or has decisional capacity
(non-legal concept)

Respect for Autonomy: Informed Consent

2. Inform your patient and confirm
that she or he understands the
information

Respect for Autonomy: Informed Consent

3. Be sure that your patient's choice is voluntary, that is, not coerced by internal or external constraints

Justice

Justice can be said to refer to actions that are “fair, equitable, and appropriate treatment in light of what is due or owed to persons” (327, B&C, 1994)

Justice

- In the healthcare setting, problems of justice are often those related to how we distribute scarce resources
- Micro-allocation
 - Such as patient advocacy
- Macro-allocation
 - Such as contribute to policy formulation

A Fifth Value: Trustworthiness

Trustworthiness asks you to:

- act with integrity (including being true to your understanding of your professional values)
- be truthful and honest
- protect confidentiality
- keep promises....

Trustworthiness

- Trustworthiness is essential to the successful practice of medicine
- To the extent that the business side of healthcare gains ascendancy over medicine, which is first and foremost a profession of service, then you as the physician risk losing the trust of those whom medicine is supposed to serve, your (actual and potential) vulnerable patient

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Moral Goals of Medical/Surgical Residency Training

Promote the embodiment of moral values in your actions by

- Fostering moral attitudes in you, the resident
- Helping you articulate and apply moral principles in your medical practice
- Helping you develop an awareness of how your words and (in)actions might harm or benefit your patients (and society)

Moral Attitudes

1. Your appreciation for the value and dignity of human life
2. Your understanding of cultural, social and religious customs and beliefs that differ from your own
3. Your understanding of individual, cultural, institutional and societal biases that may affect ethical decision making

Moral Attitudes

4. Your commitment to ethical practice in each encounter with every patient
5. Your willingness to embrace the ethical dilemmas presented by your patient, to discuss options with your patient and her or his family, when appropriate, and to work toward solutions that are mutually acceptable

Moral Attitudes

6. Your understanding of and appreciation for the value of institutional ethics committees and a willingness to serve on such bodies.

[Recommended Core Educational Guidelines for Family Practice Residents]

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Principles of Medical Ethics: AMA, June 2001

- I. A physician shall be dedicated to providing competent medical care, with compassion for human dignity and rights.

- II. A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities

Principles of Medical Ethics: AMA

III. A physician shall respect the law and also recognize a responsibility to seek changes to requirements which are contrary to the best interests of the patient.

IV. A physician shall respect the rights of patients, colleagues, and other health professionals, shall safeguard patient confidences and privacy within the constraints of the law.

Principles of Medical Ethics: AMA

V. A physician shall continue to study, apply, and advance scientific knowledge, maintain commitment to medical education, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated.

Principles of Medical Ethics: AMA

VI. A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical care.

VII. A physician shall recognize a responsibility to participate in activities contributing to improvement of the community and the betterment of public health.

Principles of Medical Ethics: AMA

VIII. A physician shall, while caring for a patient, regard responsibility to the patient as paramount.

IX. A physician shall support access to medical care for all people

Jonsen's Case Study Method

As described on the American Society of Anesthesiologists' website, "Jonsen has proposed a method of expressing the features of a clinical ethics case into four categories that will help us to organize and evaluate the problem...The four categories ...can be expressed in the form of four questions"

Jonsen's Case Study Method

1. What are the medical indications , risks and benefits, and alternatives of the treatment being proposed?

Illustrates the principles of beneficence and non-maleficence from the medical point of view

[from ASA, www.asahq.org/wlm/Ethics.html]

Jonsen's Case Study Method

2. What are the quality of life expectations from the alternative choices?

(That is, what will the patient's quality of life be with and without the procedure?)

Illustrates the principles of beneficence and non-maleficence from the point of view of the patient's values.

Jonsen's Case Study Method

3. What are the patient's preferences ?

Illustrates the principle of respect for patient autonomy.

Jonsen's Case Study Method

4. Are there any contextual features that should be considered?

(That is, are there familial, financial or legal pressures to act? What about schedule conflicts, just distribution of scarce resources, political pressures?)

Illustrates consideration of the principle of justice.

Refusing Care – Case Study

“ Mr. A, a 60-year-old man with severe peripheral vascular disease, presents for placement of a jejunostomy feeding tube because of inability to eat following a below-the-knee amputation. As a result of multiple cerebrovascular accidents, he has a right hemiparesis and an expressive aphasia. Because of difficulty swallowing, he has problems with chronic aspiration and has been hospitalized multiple times for treatment of pneumonia.”

Refusing Care (continued)

“During the current hospital admission, he has refused medications and has "given up" trying to eat. He indicates with difficulty that he "only wants to die." He refuses to discuss anesthesia, beyond saying that he does not want surgery and wants to die. Is he competent to refuse therapy?”

Refusing Care (continued)

“Mr. A’s wife appears tearful and confused about the medical issues. She is unwilling to sign a consent form for the surgery, saying that she does not want to go “against” her husband’s wishes. His daughter...insists that surgery proceed and, at the request of the surgeon, has signed a consent form.”

Question 1

Medical Indications

The medical indications for the proposed procedure are to provide nutrition for the patient, in whom inability to eat combined with complications of attempts at oral nutrition have lead to a search for alternative methods of alimentation.

Question 1

Medical Indications

The patient's inability to eat had

- failed
- resulted in aspirations
- been difficult for patient, causing
 - exhaustion,
 - discouragement
 - perhaps a “giving up” on life itself

Question 1

Medical Indications

- Alternative methods of dealing with the nutritional issues include:
 - 1) placement of a feeding tube into the jejunum by oral or nasal route
 - 2) gastrostomy
 - 3) jejunostomy
 - 4) hyperalimentation via central venous access

Question 1

Medical Indications

1) placement of a feeding tube into the jejunum by oral or nasal route

- disadvantages
 - physical discomfort
 - patient may try to pull it out
 - possible nasal erosion

Question 1

Medical Indications

- 2) gastrostomy or jejunostomy
 - disadvantages
 - physically invasive
 - requires surgery
 - possible complications from surgery and anesthesia

Question 1

Medical Indications

2) gastrostomy or jejunostomy

- advantages
 - alimentation is simplified
 - GI tract is utilized

Question 1

Medical Indications

- 3) hyperalimentation via central venous access
 - disadvantages
 - requires central venous access
 - may be complications
 - requires more specialized care
 - nutritional supplies expensive

Question 2

Quality of Life

Quality of life from the patient's perspective would probably improve with successful alimentation

- Fewer aspirations
- Fewer hospitalizations for IV antibiotics
- Better able to fight off infection
- Better able to respond to physical therapy
- Less depression and hopelessness

Question 2

Quality of Life

But would successful alimentionation and the attendant prolongation of his life be considered by him to be a benefit?

Question 3

Patient Preferences

The patient says that he doesn't want the surgery, that he wants to die

- Is he able to make an informed and voluntary decision?
 - Has he received enough information to make and informed decision?
 - Is he able to understand what he has heard?
 - Is he sufficiently depressed to be unable to make a voluntary decision?

Question 3

Patient Preferences

- What can be done to determine the patient's competency or decisional capacity?

Question 4

Contextual Features

- Is the patient worried about finances or being a continuing burden on his family?
- Are family members inappropriately influencing his decision?
- Are the physicians and other caregivers influenced by subconscious motives?
- Are physicians influenced by possible litigation?
- Are medical resources being used responsibly?

Educational Points

This case raises the several questions:

- Is Mr. A competent to refuse therapy?
- What resources would you use to make this determination?
- If not, who would be the appropriate surrogate decision-maker here?
- What resources might you use when, as here, family members disagree?

Targeted Clinical Issues

- Informed Consent – with special attention to knowing and respecting your patient as an individual
- Advance Care Directives – forms being currently reworked in Tennessee
- Truthfulness with patient when a medical mistake takes place
- Pain assessment and treatment

UTMCK Hospital Ethics Committee

- Call Gary Thomas: 544-6646
- Co-chairs of the committee:
 - Inga Himelright (physician)
 - Sheryl Wurl (chaplain)