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Rethinking the Traditional Ethics Committee

This resource should address both clinical and organizational issues.

Ethics committees are a well-recognized resource in healthcare institutions. In an acknowledgment of their importance, The Joint Commission established standards requiring an "ethics mechanism" to address ethical conflicts. As a result, the vast majority of hospitals in the United States have ethics committees that focus primarily on clinical ethics challenges, namely those issues and conflicts that relate specifically to patient care.

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Along with the growth and recognition of ethics committees, concerns have been expressed about them, including the level of competency of committee members, the lack of an organization-based focus, an emphasis on the inpatient setting—and an absence of attention to other health delivery settings—and limited use of evaluations verifying that these committees are making a demonstrable difference in patient care and the organization's overall culture. These and other concerns should encourage executives to review the role and functions of their facilities' ethics committees to ensure the efficacy of this critical resource.

One aspect of the review should focus on the need for ethics committees to create a linkage between clinical and organizational issues. While clinical ethics addresses individual patient care issues, organizational ethics relates to the healthcare organization's mission, values, structure, policy, practices and culture. Ethics committees are mainly clinically oriented, and thus organizational ethics challenges rarely receive a thoughtful review by ethics-trained resources in today's healthcare organizations. Hospitals and health systems should build and maintain a committee that is capable of addressing both clinical and organizational issues.

Overlap Between Clinical and Organizational Ethics

In the July 2011 issue of *Bioethics*, Sally Bean, JD, ethicist and policy advisor, Ethics Centre, Sunnybrook Health Sciences Centre and University of Toronto, Ontario, writes about the "murky intersection" of clinical and organizational ethics. Bean points out that "despite the dichotomous issue-based categorization … no clear delineation can be asserted between clinical and organization ethics."

From my experience, her statement is valid. Consider the classic end-of-life conflicts occurring in adult intensive care units. We often see a patient's family pushing for interventions that the healthcare team believes are non-beneficial and inappropriate given the patient's prognosis. Are these conflicts of a clinical nature, or are they organizational ethics conflicts? Most likely both. The clinical conflict regarding a specific patient's care management typically occurs in the context of applying an organization's policies and procedures about withdrawing life-sustaining treatment and guidelines related to questions of medical futility.

The overlapping relationship between clinical and organizational ethics issues also was acknowledged in the American Society of Bioethics and the Humanities' February 2013 *Core Competency Report*, published in the *American Journal of Bioethics*. The report describes the knowledge and skills required of those performing healthcare ethics consultations and gives more attention than in the past to organizational ethics. It offers guidelines, including that ethics committee members should expand their knowledge base beyond clinical issues to understand healthcare management and financing issues related to healthcare delivery. This competency is crucial for ethics committees moving toward a blended model that reflects both clinical and organizational concerns.

Expanding the Scope of Ethics Committees

The need for an ethics committee capable of addressing both clinical and organizational issues is clear in today's healthcare environment. The end-of-life conflict example previously noted underscores how a specific patient's clinical ethics issue overlaps with an organization's policies and culture. When an ethics committee provides clinical ethics consultation, its members need to be aware of the organizational context and consider its influence when offering a response and exploring what can be done in the context of the organization to decrease conflicts.

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Important to note is that issues will arise that are primarily organizational but also have clinical ramifications. Some examples include organizational actions regarding downsizing and mergers. Each activity raises a multitude of ethics issues that require thoughtful ethical reflection.

Another organizational issue that calls for ethics reflection on both the clinical and organizational sides is the development of accountable care organizations. The ACO model aims to reduce healthcare costs and improve quality and patient satisfaction by offering financial incentives to providers for integrating a range of health services systems. The goal of this coordinated care is to ensure patients receive the right care at the right time while avoiding unnecessary duplication of services and unnecessary interventions.

The implementation of ACOs, however, raises ethical challenges for healthcare executives and clinicians. Federal ACO guidelines include the Medicare Shared Savings Program, in which providers and organizations will be paid more by keeping their patients healthy and out of the hospital. How will ACOs address the potential conflicts of interest for clinicians and organizational leaders created by the incentives for shared savings? Could a perception of conflict of interest undermine the clinician-patient relationship? Again, healthcare executives need to acknowledge the presence of not only clinical but also organizational ethics issues.

Executives, like physicians, also need to see ethics programs as useful resources for fulfilling their tasks of leading mission- and value-based organizations. As Jim Sabin, MD, director of the Harvard Pilgrim Health Care Ethics Program, has stated, when the CEO does not see himself as the chief ethics officer, there is little hope that organizational ethics will be addressed, regardless of whether the CEO is a member of the expanded ethics committee.

No universal model exists for expanding ethics committees to include organizational ethics, as noted in a previous *Healthcare Executive* column (March/April 2008). Some organizations that have tested the water in terms of addressing organizational ethics issues have done so by creating a separate committee; others have addressed clinical and organizational ethics issues as part of the operations of a single committee. Each organization must assess which approach best meets its unique needs; I most often see greater advantage gained by one committee capable of addressing both.

Guidelines for Including Organizational Ethics Issues

In the summer 2016 issue of the *Journal of Clinical Ethics*, Sabin offers practical guidelines for clinical ethics committees moving to include organizational ethics. First, educate committee members about various administrative functions, such as payment models, financial management, human resources, compliance regulations and laws.

Second, build clear relationships with administrative leaders, for example, by exploring which administrative issues might benefit from an ethics review process. Relationship building is a matter of committee members developing a linkage with executives through face-to-face dialog, allowing executives to see the ethics committee as an ally and a competent resource available to assist leadership in addressing the complex challenges they face.

Third, the committee should broaden its membership to include staff from administration. Not only can these staff members bring their unique insights when the committee is reflecting on organizational issues,

but their participation also is a way to build trust and respect between the committee and the C-suite.

And fourth, Sabin suggests committees move slowly and avoid a "fix-it" approach. As Sabin notes, with "organizational ethics, which is much less understood and established than clinical ethics, having the committee spend time educating itself, developing relationships, and piloting the consultation process before it launches 'for real' will be time well spent."

The presence of ethical challenges related to organizational decisions and actions emphasizes the need for a comprehensive and capable ethics committee similar to that used to address clinical issues. Just as healthcare delivery is changing, the traditional model of a hospital-based clinical ethics committee must evolve.

For ethics committees and programs to effectively serve an important role for healthcare organizations and leaders, policy-makers and others, they will need to review and likely revise their traditional role in today's healthcare environment. An expanded role, focusing on the overlap of clinical and organizational issues, is essential to ensure changes in healthcare delivery reflect our common ethical concepts for health and healthcare. ▲

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