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Making Ethical Decisions

A six-step process should guide ethical decision making in healthcare.

No one would deny clinical and administrative healthcare professionals regularly encounter ethical challenges. For clinicians, the challenges may relate to a conflict regarding withholding or withdrawing life-sustaining interventions or breaching patient confidentiality. For the executive, the conflict may involve a decision concerning a needed service that is a financial drain on the organization or the abusive behavior of a highly productive administrator.

Ethical conflicts are best addressed when all the people who are legitimately involved have an opportunity to discuss their values, perceptions and concerns in an open and respectful environment.

What is the same for clinician and executive decision makers is the potential for an ethical conflict or controversy. All ethical conflicts are characterized by a number of common components. An ethical conflict occurs when an uncertainty, a question or a controversy arises regarding

competing ethical principles, personal values, or organizational and professional ethical standards of practice. Examples of such standards include the American College of Physicians' *Ethics Manual* or the American College of Healthcare Executives' *Code of Ethics*.

Once an ethical conflict is identified, the challenge becomes how healthcare leaders and other staff involved in the situation should respond. The use of a systematic process can enhance the analysis leading to a response that is ethically justifiable. For the clinician, executive or ethics committee member, applying a systematic process can diminish the possibility of making quick decisions lacking thoughtful reflection and sound ethical reasoning.

The Importance of a Standard Process for Resolution

A little over a decade ago, I was changing positions. Because I talked frequently about the importance of systematic ethical reasoning, during a farewell gathering, I was given a small poster that hangs in my office today. It reads, "Ethics, schemethics; flip the damn coin." The cynicism serves as a constant reminder of the need for the

opposite—to *always* apply a carefully developed process to address ethics conflicts. The process will take time and effort, yet it can lead to ethically defensible decisions rather than convey the general attitude, "Because I said so." The process can foster a focused application of ethical principles, institutional values and policies to ethical conflicts. It promotes thoughtful and, hopefully, respectful dialogue between the parties involved in the ethical conflict.

Unlike some decision-making models, the application of a uniform systematic process for addressing both clinical and administrative issues is a subtle-but-important distinction. It emphasizes that a process should not be based on such a distinction, in no small part because the distinction between clinical and administrative issues can be fuzzy, leading to challenging questions regarding which process is the most appropriate to follow in any given ethics situation. Therefore, using one process to address either type of conflict has clear benefits.

In a July/August 2005 *Healthcare Executive* column, "An Organizational Ethics Decision-Making Process," I described a process for facilitating systematic ethical reasoning in response to an ethical conflict. I still adhere to the basic elements of that process; however, after teaching and applying the process in practice, I recognize the need for refinements.

The following is an updated decision-making process for making ethical decisions.

Recognize the background (the circumstances leading to the ethics conflict). Identify all the relevant factors contributing to the ethical conflict. For a clinical case, it's important to understand the medical issues involved, such as the patient's diagnosis, prognosis, treatment options and goals of care. Additional key factors are the patient's preferences; personal values; decision-making capacity; and, when the patient lacks that capacity, determination of the appropriate decision maker. Each individual with a stake in the decision—the patient, the patient's family and staff members—should have an opportunity to express his or her perspectives regarding the various factors surrounding the ethical conflict. This discussion can take place during a group conference or in individual meetings. The importance of these discussions cannot be minimized to clarify the various perspectives. Additionally, understanding the relevant economic, policy, social and legal implications is essential. In this step, all the relevant factors from the perspective of all involved should be reviewed.

After identifying all the conflict-related factors, situations may arise in which it becomes clear the perceived ethical conflict is really a disagreement about the facts of the case. In exploring the factors giving rise to a clinical ethics conflict, such as with the nurses, patient, family and physicians, it can become obvious there are different interpretations of the facts. For example, in an end-of-life-care situation, the family may have a different understanding of the patient's prognosis than the physicians. This

can be similar for organizational ethics situations. If the involved parties reach agreement concerning the facts, the ethical conflict may be diminished or even eliminated; however, in situations where the discussions reinforce that a conflict exists, the parties should move to the next step.

Identify the specific ethical question that need clarification. After determining all the facts, the various competing value perspectives and the contextual issues related to the ethical conflict, the next step is to specifically articulate the ethics conflict. Because these occur when competing values are at play, the ethical question should focus on identifying and agreeing on the competing values.

For example, are healthcare professionals morally obligated to provide an intervention requested by the patient they deem to be nonbeneficial—the conflict focuses on the underlying issue of whether patient autonomy should be limited in any way? Ethical questions should be identified and reviewed in such a way that consensus is reached among all the relevant parties. Failing to identify the specific ethical conflict(s) creates significant barriers to achieving a clear response to that conflict.

Consider the related ethical principles and/or organizational values. The next step is to acknowledge the relevant ethical principles and/or the organization's values related to the



ethical conflict. Do any particular organizational policies or, in some situations, legal perspectives, relate to the ethics question?

This step is an extension of the previous step—and in some situations, this step can be addressed at the same time as when the ethical question is identified. The precise order in this portion of the process is less important than ensuring that clear identification of the specific competing values is achieved.

Determine the options for response.

In this step, the decision makers should recognize all the potential options for responding to the ethical question. This step includes reviewing the ethical justification for each option. What are the arguments for and against each option? Many people avoid this step or rarely look beyond the first suggested option. Such an approach can be attractive from a time perspective; however, it can lead to a decision lacking a critical analysis. Ethical decision making is more than following the steps in a quick, lock-step manner; it involves an appreciation for the complexity of each step and how each relates to the others.

Recommend a response. Following a thoughtful review of the various options and the ethical justification for each, decision makers should propose a response. One aspect for determining which option is morally justifiable is to assess the likely consequences of each option along with the underlying intention. This step is intended to prioritize the ethical principles or values related to each of the options. Ideally, consensus

should be reached around the recommended option.

Once a recommended option is selected, it should be shared with all involved parties. The ethical justification should be included in the recommended course of action. For a clinical ethics case, the recommendation should be noted in the patient's chart or EHR.

Anticipate the ethical conflict.

Unlike many decision-making models, this multiple-step process does not end with the resolution of the conflict response. I encourage this final step in the process—which, in some situations, may be the most challenging step in a systematic ethical-decision-making process.

Most ethical challenges focus not on isolated events, but on recurring issues. The presence of recurring ethical conflicts can undermine quality of care, staff morale, efficiency and productivity, operational costs and the organization's culture. Due to the recurring nature and impact of ethical conflicts, clinical and/or administrative staff—with assistance from the ethics committee and quality improvement program—should pursue an inquiry to determine how future conflicts can be prevented. To do so requires a thorough exploration of two fundamental questions:

- Why did the ethical conflict occur?
- What can be done to prevent the situation from recurring?

Exploring these questions can lead to a better understanding of how administrative and clinical leaders can develop

strategies for anticipating and preventing similar conflicts before they escalate. This approach, as described in “Preventing Ethics Conflicts and Improving Healthcare Quality Through System Redesign” (Nelson, W.A., et al., *Quality and Safety in Health Care*, 2010), features the application of methods and tools familiar to quality improvement. The process could lead to the development of ethics practice guidelines that can diminish the presence and impact of ethical conflicts throughout the organization.

Final Thoughts

Because no healthcare decision is made in a vacuum, ethical conflicts are best addressed when all the people who are legitimately involved have an opportunity to discuss their values, perceptions and concerns in an open and respectful environment.

Depending on the situation, greater or lesser attention may be required for a particular step in the process; however, no step should be ignored. The process is not an algorithm providing one clear answer to every ethical conflict, but rather it is a method for understanding different perspectives on the conflict and enhancing ethical reasoning. Just as ethical reasoning is not limited to the purview of healthcare ethicists or ethics committee members, the process can be applied by any healthcare professional when confronted with an ethical conflict. ▲

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