Role of the Ethics Committee

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Ethics
Committees

- How did we get here?
- Structure?
- Function?
Ethics Committees

A Brief History:

1981 - 1% of U.S. Hospitals have “Ethics Committee” (President’s Commission)

1979 - Belmont Report: Research improprieties lead to IRBs

1976 - Quinlan Case: N.J. Court Recommend Ethics Committee

1983 - Baby Doe I: Infant Care Review Committees

1989 - PSDA: Patients to be informed and counseled

JACHO: Requirement -- Now 80% of hospitals -- 100% of More than 400 beds
Ethics Committee
Function

- Consultation
- Education
- Policy
- Self-Evaluation
Ethics Consultation

- Deliberation, not decision-making
- Case Review, on request
  - Prospective (vs. Retrospective)
  - Access Open to: Physicians, Nurses, Social Workers, Patient and Family
- Most Controversial function, not most frequent
- Committee vs. Consultant
- Formal vs. Informal
Ethics Consultation
Administrative Authority

- Medical Staff Committee
- Administrative Committee
Consultative Process:

- **Access:** How is committee reachable?
- **Response:** How quickly?
- **Location:** Patient Room or Unit Conference Room?
Ethics Consultation
Who is Invited?

- Attending or Consulting Physician
- Nurse, social worker, pastoral care
- Family?
Ethics Consultation
The Meeting

- Introduction & Purpose
- Case Presentation by Physician
- Identification of Ethical conflict and limiting factors
- [ Family Brought to Table ]
- Determine patient’s preferences and best interests
- Discuss (and justify) possible alternative and resolution
- Make Recommendations
Questions:

- Do we keep family there for decision?
- Do we keep physicians and health care team there?
- Do we vote?
  - Must all decisions be unanimous?
  - What do we do with split decision?
- Do we keep a record?
  - Do we enter a note in the chart?
Ethics Committee - Structure

Rule

- Form dictated by function.
- Membership should be appropriate to needs

- Consultation
- Education
- Policy
The Institutional Ethics Committee

- Large, Full Committee – Recommends & Reviews Policies
- All subcommittee members plus
  - Administrator – Ex officio (non-voting)
  - Hospital Lawyer – Ex officio (non-voting)
  - Chair of Committee
- Consultation subcommittees (4-6 members)
  - Medical/Surgical subcommittee
  - Perinatal (OB/Neonatal)
  - Pediatric
- Education Committee
- IRB ?
Consultation
Subcommittee: Membership

- Chair [and ex officio (non-voting)]
- 2 - 3 Physicians in the Specialty Area
- Nurse (Head Nurse ?), Social Worker
- Pastoral Care ?
- Community Member ?
- Ethicist ?
Ideal Ethics Consultant

- Fellowship or graduate degree (5%)
- Clinical Expertise
- Experience (not even half have 5 years or more)

AMED News 8/11/08
CHARACTER AND ETHICS CONSULTATION

- Tolerance of other viewpoints
- Compassion and patience with suffering/inexperience
- Humility and prudence
- Integrity
- Courage
HOSPITAL ETHICS CONSULTATION

Purpose:

- To provide a forum or sounding board for moral reflection on an ethical dilemma or conflict
- Not authoritarian—consultant is not the decision maker
- Not purely facilitation—consensus is not the primary goal, but a full understanding of values involved and the range of morally acceptable options
- To recognize and resolve, if possible,
  - Social values
  - Law
  - Institutional policy
The purpose of ethics:
- Clarification of concepts and analysis
- Normative—develop moral action guides

Assumptions:
- All viewpoints are not equally valid
- Orderly resolutions of dilemmas are possible
ETHICAL ANALYSIS

Rules for polite but spirited discussion:

- You may dispute anyone’s position, once you have been able to state it to their satisfaction.
- Recognize arguments from different levels of ethical development and bases on different ethical theories or principles.
- Be systematic in approaching and identifying the problem; ie, don’t argue until you know what you’re arguing about.
- Robert’s Rules of Order are not necessary; Marquis of Queensbury rules are!
ETHICS AND
THE LAW

- We must know applicable laws and hospital policy
- Law can limit our ethical actions but the law does not define what is ethical
- Therefore, first ask what is ethical, then ask what the law allows or prohibits
- In conflicts, it is usually better to be challenged for not observing legal dictums rather than for behaving unethically. (Your attorney may disagree.)
- Laws change.
ETHICS Committees: Medical/Consultative Model

- Analogous to Medical Consultation
- Physician and Nurse or Chaplain Respond
- Emphasizes Expertise
- Interviews “stakeholders”, may even examine patient
- Recommends “ethically appropriate” actions
ETHICS Committees: Judicial Model

- Analogous to Legal Hearing
- Hears Evidence
- Applies Precedents from Similar Cases, especially if Ruled On by the Courts
- Seeks Consent from Legally Appropriate Decision-maker
ETHICS Committees: Multi-disciplinary Collaboration/Education

- Seeks “Full Discussion” and Mediation
- Process, Not Goal-Oriented
- Open Communication Will Resolve Problems
- Values Clarification More Important Than Recommendations
Committee Access & Triage:

1. Who has initiated the contact with the Bioethics Committee on-call team?

2. What is the purpose of the call?
   a. How does the caller characterize the issues?
   b. Does the caller want a recommendation?
   c. Does the caller want a committee to review the issue?

3. Does the issue(s) merit deeper investigation by you before determining what to do with the request?
   a. Who else is involved (who are the parties affected)?
   b. What medical or institutional info might be needed or useful?
   c. Does the caller wish to remain anonymous (if possible)?

4. Is the issue primarily ethical, or is it better handled by some other person or body of people?
   a. If not primarily an ethical concern, what other person or body might best help with the caller’s concern?
Triage Responder:

After covering these issues, you must determine (in conjunction with the caller) whether or not the situation merits one of the following:

- Nothing further from you or the Bioethics Committee at this time
- A specified time in the future to readdress the issue with the caller
- Full Bioethics Committee Review

As a member of the on-call team for the Bioethics Committee, you are authorized to and responsible for gathering enough information to help determine the best approach for handling the concern raised by the caller. However, you are not authorized to, or responsible for, making official and substantive ethics recommendations on behalf of the Committee.
Ethics Committee
and Education

- Articles discussed at Regular Meetings
- Retrospective Case Review at Meetings on Nursing Units
- Medical / Ethics Rounds
- Lecture, Grand Rounds, etc.
- Larger Seminars
- Providing -- Journal Subscriptions
- -- Meeting Attendance
- Introduction to Ethics for new Committee Members
Ethics Committees
and Hospital Policy

- **Policy Initiation:** DNR, Foregoing Treatment, Nutrition/Hydration and Futility
- **Policy Review:** CPR, Brain Death, HIV Testing, Organ Transplantation
- **What about Administrative / Corporate Ethics?**
Committee
Self-Evaluation

- Post-Consult, From: Requestor
  Physician
  Family
- From Medical Community / Hospital and Nursing Staff
- From Committee Members – What Have They Learned / Need to Know?