

# Ethics and Medical Philosophy

## Group 4: The Principles Of Justice and Fairness

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### INTRODUCTION

Ethical decisions in clinical medicine (clinical ethics), addresses ways in which professional, religious, familial, financial, legal and institutional factors influence clinical decisions.

Clinical ethics also focuses on indications, and quality of life in particular cases of patient care. It also disables the relationship between two autonomous agents (the physician and the patient) as the writer put it, and how medical decisions between them is influenced by other contextual considerations such as nurses, insurers, friends, family and other health professionals.

The ethical task is to assess the importance of these contextual features in a particular case. Physicians often conflicted in terms of these contextual features and their main commitment to their individual patients, as they believe that they should have less impact in ethical decisions about patient care.

However, this belief is considered obsolete, as some of these features directly affect both patients and physicians. Although some ethical complexities that arise in patient care can not be solved apart from institutional reform. However, the focus of this text is on clinical cases that arise which must be managed ethically and medically within extant structures.

**Professional, Inter- professional, or business interests that might create conflicts of interest in the clinical treatment of patients**

The ethics of medicine has traditionally directed the physician to attend primarily to the needs of the patient. It is clearly unethical for a physician to do anything to a patient that is not intended to benefit the patient but rather only to benefit the physician or some other party. For example, a physician who performs diagnostic or therapeutic procedures that are not indicated, under pretense of caring for the patient but with the intent only of collecting a fee, clearly acts unethically.

In recent years, the absorption of the once very private relationship between physicians and patients into large organizations that employ or contract with physicians and that enroll and ensure patients have added a new dimension to the physician's duties. These dimensions may not be unethical but may create conflicts of interest that may be unethical.

Another ethical problem is posed when multiple responsibilities make it difficult to determine which responsibilities have priority in a particular case, such as when the duty to one's patient is in conflict with duties to others.

Physicians interact with other professionals, in particular with nurses. On occasion, nurses may believe that a patient is not being well served by the attending physicians. In such situations, ethicists speak of "moral distress when one knows the right thing to do but

institutional constraints make it nearly impossible to pursue the right course of action" (Jameton).

Relations Between Physicians and Medically Related Business. Physicians may interact with businesses in many ways. Their relationship with their hospitals, their financial investments in health care activities, their contacts with pharmaceutical industry may influence clinical decisions.

Physician's Duty to Self and Family. Every health professional must find the balances and compromises that reconcile duties to patients with these personal and familial responsibilities. Failure to manage these relationships leads to personal distress, decline in health, family crises, and diminished ability to care for patients.

**Other parties other than clinicians and patients which as family members, who have have an interest in clinical decisions**

The primary interested parties in a clinical relationship are the patient and the physical along with nurses and other health professionals caring for the patient.

However, other parties may also claim a legitimate role such as the patient's family, hospital and managed care administrators, public health authorities. Traditionally, patient's families have an interest in the care of the patient and physicians have recognized the legitimacy

of that interest. The relatives have various roles they play in this case like the decision makers, givers of emotional support, giving information, serving as interpreter of the patient's values or paying bills.

When patients and families are experiencing distress and suffering, it often is during time when decisions need to be made about the risky procedure or end of life care. Family members may want medical treatment for their loved one, while physicians or nurses may be explaining to the family that to continue treatment most likely would not be beneficial or futile for the patient.

When patients are weakened by disease and illness and family members are reacting to their loved ones suffering, decision regarding care and treatment become challenging for everyone concerned.

### **Limits imposed on patient Confidentiality by the legitimate interests of third parties**

Modern medical ethics bases this duty on respect for autonomy of the patient, on the loyalty owed to the patient by the physician. Patients privacy must be respected. Confidentiality is a strict but not unlimited ethical obligation.

Disregarding patients confidentiality would discourage patient from revealing useful but sensitive or embarrassing diagnostic information. Disclosure may

harm the patient or third parties as medical information can be used to exploit patient. Blackmailing and ruining of reputation may occur when a patient's medical information is disclosed.

Despite the principles and rules, confidentiality is sometimes treated rather carelessly by providers. Medical practitioners may speak about patients in hospital elevators, cafeteria, and even at home. Medical records are not well secured and are accessible to many persons.

What are the limits imposed on patients confidentiality by legitimate interest of third parties?

Common law duty of confidentiality includes but is not limited to;

Scans

X-rays

Test results

There is a consensus in the legislation that information can only be disclosed if the following conditions are met:

The patient consents to the release of information

Release occurs in connection with the administration of health legislation

Another lawful excuse, such as public policy/interest

**Financial factors that create conflict of interest in clinical decisions.**

The term conflict of interest is often used to describe a situation in which a person might be motivated to actions that his/her professional role makes possible but that are at variance with the acknowledged duties of that role

Cost are incurred whenever medical care is provided. Those cost are paid by patients, their families, by public or private insurers or they are subsidized by institutions or individuals. Methods of payment are complex involve many parties. This complexity provides many opportunities for conflict of interest and other unfair manipulations.

The ethical question for practitioners and institutions is how financial arrangements should influence medical decisions in particular cases. How should the legitimate interest of third parties health care institutions, insurance companies, labor unions, corporations and government be factored into clinical decisions about appropriate care. We have seen one example of financial conflict of interest in the self referral case in relations between the physicians and medically related business required by medical indications and personal preferences should be provided.

Patients should be informed of the cost so that they can consider this information when deciding which course is best for them, this approach would include for example, a discussion of the costs of alternative

treatments that could be properly recommended for the same treatment. Physicians rarely know the costs of what they prescribe and order.

**Problems of allocation of scarce health resources that might affect clinical decision.**

Scarce resources are distributed by various social mechanisms. Health care in the United States has long been allocated by market processes. The number of physicians, the location of their practices, the ability of the person to pay, and the different perceptions of medical need. These factors and many others result in medical resources being allocated in certain ways.

In recent years, the question has been raised whether medical resources should be allocated by explicit criteria. For example, the state of Oregon established priorities according to which particular treatments for particular disease conditions would be reimbursed by Medicaid. This questions belongs to the ethics of health policy and is not discussed in the book. However, any such policy will have effects at the clinical level.

Whether physicians should make allocation decision by balancing societal efficiency against the interests of individual patients will then become a topic for consideration. This is sometimes called “bedside rationing”. The question raised by the attending about bedside rationing is challenging and provocative. In our



view, bedside rationing is not appropriate or ethical. Clinical decisions should be made on the basis of medical indications patients preferences, and the quality of life rather than on societal use of resources unless clear policy guide lines are present, as they are for transplantation.

### **Religious issues that might influence clinical decisions**

Religion influencing on a patient care is expected. It offers powerful perspective on suffering loss and death. Some have their faith on religious belief some on cultural tradition. And because of this it plays a vital role in health care. However physicians have their own belief and don't let it influence their practices. Catholics and Judaism have extensive teaching about health and medicine that dictate or prohibit them from some cares

The place of religion in clinical ethics is complex

#### **Case**

Mr. Mr. a 66 year old man just had a whipped procedure for pancreatic cancer .his recovery has been difficult and 2 weeks after he remain in the hospital. His family. Wife and 5 adult children are present. They are devoted Christian. Dr k the surgeon who has no religious affiliation is asked to pray with them. Mr. M.rs son shows dr k an article about medical literature claiming patient who pray more have quicker recovery he reiterates the family invitation to common prayer

#### **Recommendation**

It reveals tension that arises between the physician maintaining integrity and families. If Mr. K is comfortable then allow them if permissible but if not, it is also permissible to decline. Refrain from depreciating comments about the quality of studies or about the prayer in healing.

### **Legal issues that might affect clinical decisions**

When ethical conflicts occur in healthcare, legal rules may sometimes set limit to ethical options or even create ethical conflicts. Example: a physician may conscientiously believe that he has a moral duty to assist patient to die by prescribing a medication such as barbiturates, so that the patient may take his own life is however prohibited medically. Assisting patient to die is a crime for physicians.

Health professionals may sometimes feel conflicted between the ethical duty to protect confidentiality communication and legal duties to make required reports to protect public health or safety. Physicians may sometimes feel frustrated by the laws that seem burdensome such as reporting requirements or the elaborate restrictions of HIPAA on communication of patient data.

Some physicians have an inordinate and uninformed fear of liability. Some physicians are not fully aware of the law e.g: informed consent, confidentiality, advanced directives etc . If a legal question presents itself in a

clinical ethic case, it is prudent to seek advice from persons knowledgeable about the law in bioethics .However, hospitals should be sure that it's legal counsel has this competency and that it's risk management division is similarly competent. The hospital's ethic committees should be able to identify among its own members or elsewhere suitable advisors about the law.

### **Considerations of clinical research and education that might affect clinical decision.**

Clinical research is any intervention involving human subjects, patients or Normal volunteers performed in accordance with a protocol designed to yield generalizable scientific knowledge.

The most obvious clinical ethical issue is that clinical research constitutes an intrinsic conflict of interest when the clinical is also a researcher. A clinician-researcher has an obligation to perform accurate research according to protocol and these two dates may conflict. Also, research often includes normal subjects who are not patients of the physician-researcher.

The research protocol is usually designed as a clinical trial in which patients are randomized between the investigative intervention and an alternative such as placebo or current best treatment. This randomization is ethically justified by clinical equipoise that is option of the relevant community of experts that in the basis of available evidence there is no known difference

between the trial interventions and alternatives. The purpose of the research is to demonstrate that this assumption is correct or wrong in favor of one or the other treatment.

Clinicians may use innovative approach in care of a particular patient and they have to do so prudently with solid convictions that the newly procedure is likely to be safe and effective.

Investigative treatments should be recommended with great caution. Their promise is often unfulfilled and their negative effects are often underestimated. At the same time, patients may not have no other recourse and medicine advances by these tentative steps. Physicians should ensure that patients should see both the risks and benefits in a realistic light. Administrators of health plans should formulate clear policies on provision and reimbursement for investigative procedures and establish means of assessing such treatment.

All clinician-researcher should honor the ethics of clinical research by adhering to the requirements of informed consent of subjects and review of protocols by competent bodies. Above all, they must be aware of the intrinsic conflict of interest between their duties to their patients and their responsibilities to the research protocol. It might be asked whether a particular patient who is in general an appropriate candidate for an approved protocol should be approached because the risk-benefit ratio is questionable. In double blind trials, neither the doctor nor the patient knows whether the patient is receiving that drug or a placebo. Some

physicians find this situation clinically and ethically unacceptable.

For purposes of the medical school course on history taking and physical diagnosis, many patients provide their histories to five or more students to allow their bodies to be probed without complaints, it is particularly important that when the occasional patient refuses to participate in one or another teaching exercise, the student and the faculty respect that and not threaten or intimidate the patient in any way.

Any senior person who orders a student to perform a clinical procedure assumes responsibilities for the safe execution of the procedure and its consequences. They should remain present when inexperienced students make their early attempts.

Procedures involving any risk should be performed only for diagnostic or therapeutic purposes. It should never be done exclusively or even partially for their teaching value.

A surgeon insisting that a student do his first pelvic examination in a unconscious patient is ethically unacceptable because the patient has to consented to this particular intimate procedure and even though unconscious suffers an offense to dignity and a violation of patient-physician contract.

Many teaching programs use the cadavers of newly dead patient to teach various procedures. It is ethically obligatory to seek consent from next of kin. This acknowledges that we recognize and respect the special status of the newly dead person; omitting consent is a

violation of trust. Many families have religious or cultural beliefs that should be respected. Autopsy also requires permission of the family of the deceased. Families should be approached with particular sensitivity.

### **Issues of public health and safety that affects clinical decisions**

The objective of public health is to control communicable disease, safety of water and food supply, ensuring preventive care and on a recent note they deal with bioterrorism attack and help develop plans to deal with biologic, chemical and nuclear threats.

The questions on public health is that are there issues of public health and safety that affect clinical decisions?

Public health intersects with clinical care at several points e.g. the protection of public from communicable is occasionally in conflict with the medical duty of confidentiality.

**Case:** A worker in an industry working with potential harmful chemical visit the company's physician about a persistent cough. The physician describes a cough medicine. It is company policy not to investigate symptoms of this sort too aggressively until they become more serious.

**Comment:** As a "public health and safety issue", The company policy is unethical because it causes a person who may be benefited by early diagnosis and treatment

to be deprived and the physician who accepts such policy is unethically, because duties to patients are disregarded without patient being aware of physician's dual role.

### **Conflicts of interest within institutions and organizations (e.g. hospitals) that may affect clinical decisions and patient welfare**

There are a lot of conflicts of interest within institutions and organizations which may affect clinical decisions because professionals are often employees of institution and these professionals may also be involved in overseeing practices which may cause certain conflicts of interest. These conflicts of interest within institutions and organizations can be taken care of when an institutions ethics is reviewed by either a committee or members of staff to make sure that the institution has a clear policy and program regarding their mission and continuous quality improvement in the care of patients in which it adheres to.

Many of the problems and conflicts can be well managed only within such policies and programs. These policies are developed by committees on matters such as management of cases on non-beneficial care. They also review problem cases of request of family or clinicians and use dispute resolution techniques, such as informal negotiation or mediation, as an alternative to litigation when conflicts arises between patients or

families, which would minimize the damage that could be caused to patient's welfare is the conflicts of interest within institutions are not properly handled.

### **In Conclusion**

Contextual features address the ways in which professional, family, religious, financial, legal, and institutional factors influence clinical decisions. These factors are the context in which the clinical case occurs.

The above summary is essential to the explanation and solution of a case in clinical ethics; Although clinical ethics focuses on the medical indications, patient preferences, and quality of life in a particular case of patient care, medical decisions are not only influenced by the preference of the physician and the patient, but by decisions impacted on and restricted by the context in which they take place.

The principles of justice and fairness is very crucial in decision making pertaining every aspect of patient-physicians relationship. Each subtopic explains the different conflicts of interest which can arise at any given point and summarizes the with examples , case and comments on how these conflicts affect clinical decisions both in a positive and negative light.