

17e Ethical Issues in Clinical Medicine

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Twenty-first-century physicians face novel ethical dilemmas that can be perplexing and emotionally draining. For example, electronic medical records, handheld personal devices, and provision of care by interdisciplinary teams all hold the promise of more coordinated and comprehensive care but also raise new concerns about confidentiality, appropriate boundaries of the doctor–patient relationship, and responsibility. **Chapter 1** puts the practice of medicine into a professional and historical context. The current chapter presents approaches and principles that physicians can use to address the ethical issues they encounter in their work. Physicians make ethical judgments about clinical situations every day. Traditional professional codes and ethical principles provide instructive guidance for physicians but need to be interpreted and applied to each situation. Physicians need to be prepared for lifelong learning about ethical issues and dilemmas as well as about new scientific and clinical developments. When struggling with difficult ethical issues, physicians may need to reevaluate their basic convictions, tolerate uncertainty, and maintain their integrity while respecting the opinions of others. Discussing perplexing ethical issues with other members of the health care team, ethics consultation services, or the hospital ethics committee can clarify issues and reveal strategies for resolution, including improving communication and dealing with strong or conflicting emotions.

APPROACHES TO ETHICAL PROBLEMS

Several approaches may be useful for resolving ethical issues. Among these approaches are those based on ethical principles, virtue ethics, professional oaths, and personal values. These various sources of guidance encompass precepts that may conflict in a particular case, leaving the physician in a quandary. In a diverse society, different individuals may turn to different sources of moral guidance. In addition, general moral precepts often need to be interpreted and applied in the context of a particular clinical situation. When facing an ethical challenge, physicians should articulate their concerns and reasoning, discuss and listen to the views of others involved in the case, and call on available resources as needed. Through these efforts, physicians can gain deeper insight into the ethical issues they face and often can reach mutually acceptable resolutions to complex problems.

ETHICAL PRINCIPLES

Ethical principles can serve as general guidelines to help physicians determine the right thing to do.

Respecting Patients Physicians should always treat patients with respect, which entails understanding patients' goals, communicating effectively, obtaining informed and voluntary consent for interventions, respecting informed refusals, and protecting confidentiality. Different clinical goals and approaches are often feasible, and interventions can cause both benefit and harm. Individuals place different values on health and medical care and weigh the benefits and risks of medical interventions differently. Generally, the values and informed choices of patients should be respected.

OBTAINING INFORMED CONSENT To help patients make informed decisions, physicians should discuss with them the nature of the proposed care; the alternatives; and the risks, benefits, and likely consequences of each option. Informed consent involves more than obtaining signatures on consent forms. Physicians should promote shared decision-making by educating patients, answering their questions, making recommendations, and helping them deliberate. Patients can be overwhelmed by medical jargon, needlessly complicated explanations, or the provision of too much information at once. Patients can make informed decisions only if they receive honest and understandable information. Competent, informed patients may refuse recommended interventions and choose among reasonable alternatives. If patients

cannot give consent in an emergency and if delay of treatment while surrogates are contacted will place their lives or health in peril, treatment can be given without informed consent. People are presumed to want such emergency care unless they have previously indicated otherwise.

Respect for patients does not entitle the patients to insist on any care they want. Physicians are not obligated to provide interventions that have no physiologic rationale, that have already failed, or that are contrary to evidence-based practice recommendations, good clinical judgment, or public policies. National policies and laws also dictate certain decisions—e.g., allocating cadaveric organs for transplantation and, in most states, prohibiting physician-assisted suicide.

Physicians should disclose and discuss relevant and accurate information about diagnosis, prognosis, and treatment options. To help patients cope with bad news, doctors can adjust the pace of disclosure, offer empathy and hope, provide emotional support, and call on other resources such as spiritual care or social work. Physicians may be tempted to withhold a serious diagnosis, misrepresent it by using ambiguous terms, or limit discussions of prognosis or risks for fear that certain information will make patients anxious or depressed. Providing honest information about clinical situations preserves patients' autonomy and trust and promotes sound communication with patients and colleagues. However, patients may choose not to receive such information, asking surrogates to make decisions on their behalf, as is common with serious diagnoses in some traditional cultures.

AVOIDING DECEPTION Health care providers sometimes consider using lies or deception to obtain benefits for patients. *Lying* refers to statements known to be false and intended to mislead the listener. *Deception* includes statements and actions intended to mislead the listener, whether or not they are literally true. For example, a physician might sign a disability form for a patient who does not meet disability criteria. Although motivated by a desire to help the patient, such deception is ethically problematic because it undermines physicians' credibility and trustworthiness.

MAINTAINING CONFIDENTIALITY Maintaining confidentiality is essential in respecting patients' autonomy and privacy, encourages them to seek treatment and to discuss problems candidly, and prevents discrimination. However, confidentiality may be overridden to prevent serious harm to third parties or to the patient. Exceptions to confidentiality are justified if the risk is serious and probable, if there are no less restrictive measures by which to avert risk, if the adverse effects of overriding confidentiality are minimized, and if these adverse effects are deemed acceptable by society. For example, the law requires physicians to report cases of tuberculosis, sexually transmitted infection, elder or child abuse, and domestic violence.

CARING FOR PATIENTS WHO LACK DECISION-MAKING CAPACITY Some patients are not able to make informed decisions because of unconsciousness, dementia, delirium, or other medical conditions. Although only the courts have the legal authority to determine that a patient is incompetent for making medical decisions, in practice, physicians determine when patients lack the capacity to make health care decisions and arrange for surrogates to make decisions for them, without involving the courts. Patients with decision-making capacity can express a choice and appreciate the medical situation; the nature of the proposed care; the alternatives; and the risks, benefits, and consequences of each alternative. Their choices should be consistent with their values and not the result of delusions or hallucinations. Psychiatrists may help assess decision-making capacity in difficult cases. When impairments are fluctuating or reversible, decisions should be postponed if possible until the patient recovers decision-making capacity.

If a patient lacks decision-making capacity, physicians should ask: Who is the appropriate surrogate, and what would the patient want done? Patients may designate someone to serve as their health care proxy or to assume durable power of attorney for health care; such choices should be respected. (See **Chap. 10** for further details about advance care planning.) Unless a patient without decision-making capacity has previously designated a health care proxy, physicians