

also must be insightful regarding the impact of his or her behavior on others and cognizant of appropriate professional boundaries.

- **Communication/collaboration** is crucial to providing the best care for patients. Pediatricians must work cooperatively and communicate effectively with patients and their families and with all health care providers involved in the care of their patients.
- **Altruism/advocacy** refers to unselfish regard for and devotion to the welfare of others. It is a key element of professionalism. Self-interest or the interests of other parties should not interfere with the care of one's patients and their families.

## Chapter 3

# ETHICS AND LEGAL ISSUES

## ETHICS IN HEALTH CARE

The ethics of health care and medical decision making relies on **values** to determine what kinds of decisions are best or appropriate for all. Sometimes ethical decision making in medical care is a matter of choosing the least harmful option among many adverse alternatives. In the day-to-day practice of medicine, although all clinical encounters may have an ethical component, major ethical challenges are infrequent.

The legal system defines the minimal standards of behavior required of physicians and the rest of society through the legislative, regulatory, and judicial systems. Laws exist to provide for social order and adjudicate disputes, not to address ethical concerns. The laws support the principle of **confidentiality** for teenagers who are competent to decide about such issues. Using the concept of **limited confidentiality**, parents, teenagers, and the pediatrician may all agree to openly discuss serious health challenges, such as suicidal ideation and pregnancy. This reinforces the long-term goal of supporting the autonomy and identity of the teenager while encouraging appropriate conversations with parents.

Ethical problems derive from **value differences** among patients, families, and clinicians about choices and options in the provision of health care. Resolving these value differences involves several important ethical principles. **Autonomy**, which is based on the principle of **respect for persons**, means that competent adult patients can make choices about health care that they perceive to be in their best interests, after being appropriately informed about their particular health condition and the risks and benefits of alternatives of diagnostic tests and treatments. **Paternalism** challenges the principle of autonomy and involves the clinician deciding what is best for the patient, based on how much information is provided. Paternalism, under certain circumstances (e.g., when a patient has a life-threatening medical condition or a significant psychiatric disorder and is threatening self or others), may be more

appropriate than autonomy. Weighing the values of autonomy and paternalism can challenge the clinician.

Other important ethical principles are those of **beneficence** (doing good), **nonmaleficence** (doing no harm or as little harm as possible), and **justice** (the values involved in the equality of the distribution of goods, services, benefits, and burdens to the individual, family, or society). End-of-life decision making must address quality of life and suffering in the provision of palliative and hospice care (see Chapter 4).

## ETHICAL PRINCIPLES RELATED TO INFANTS, CHILDREN, AND ADOLESCENTS

Children vary from being totally dependent on parents or guardians to meet their health care needs to being more independent. Infants and young children do not have the capacity for making medical decisions. Paternalism by parents and pediatricians in these circumstances is appropriate. Adolescents (<18 years of age), if competent, have the legal right to make medical decisions for themselves. Children 8 to 9 years old can understand how the body works and the meaning of certain procedures; by age 14 to 15, young adolescents may be considered autonomous through the process of being designated a mature or emancipated minor or by having certain medical conditions. It is ethical for pediatricians to involve children in the decision-making process with information appropriate to their capacity to understand. The process of obtaining the **assent** of a child is consistent with this goal.

The principle of shared decision making is appropriate, but the process may be limited because of issues of confidentiality in the provision of medical care. A parent's concern about the side effects of immunization raises a conflict between the need to protect and support the health of the individual and the public with the rights of the individual and involves ethical issues of distributive justice in regard to the costs and distribution of the vaccinations and responsibility for side effects.

## LEGAL ISSUES

All competent patients of an age defined legally by each state (usually  $\geq 18$  years of age) are considered autonomous with regard to their health decisions. To have the capacity to decide, patients must meet the following requirements:

- Understand the nature of the medical interventions and procedures, understand the risks and benefits of these interventions, and be able to communicate their decision.
- Reason, deliberate, and weigh the risks and benefits using their understanding about the implications of the decision on their own welfare.
- Apply a set of personal values to the decision-making process and show an awareness of the possible conflicts or differences in values as applied to the decisions to be made.

These requirements need to be placed within the context of medical care and applied to each case with its unique characteristics. Most young children are not able to meet the requirements for competency and need others, usually the parent, to make decisions for them. Legally parents are given great discretion in making decisions for their children. This discretion is legally limited when there is child abuse and neglect, which triggers a further legal process in determining the best interests of the child.

It is important to become familiar with state law because state law, not federal law, determines when an adolescent can