Ethical Issues in Clinical Practice

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Objectives

- Describe historical events that have shaped our definitions and understanding of ethical dilemmas

- Apply a framework for decision making to an ethical dilemma
What is Ethics?

Even doctors make mistakes. Mine asked me to undress.
What is Ethics?

Simply stated, ethics refers to standards of behavior that tell us how human beings ought to act in the main situations in which they find themselves – as friends, parents, children, citizens, business people, teachers, and professionals.
What is ethics?

Ethics refers to well based standards of right and wrong that prescribe what humans ought to do, usually in terms of rights, obligations, benefits to society, fairness, or specific virtues.
What is ethics?

- Secondly, ethics refers to the study and development of one’s ethical standards.
- Feelings, laws, and social norms can deviate from what is ethics.
- So it is necessary to constantly examine one’s standards to ensure that they are reasonable and well-founded.
What is ethics?

- Ethics also means, then, the continuous effort of study our own moral beliefs and our moral conduct, and striving to ensure that we, and the institutions we help to shape, live up to standards that are reasonable and solidly-based.
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Ethical Dilemmas in Health Care

- Beginning of life issues
- Birth control
- Infertility
- The patient’s right to refuse treatment
- Allocation of scarce health care resources
- Patient competency
- Decision-making capacities of adolescents
- Allocation of scarce health care resources
- Ethical issues at the end of life
Ethical Codes

- Provide broad principles for determining and evaluating client care
- Are not legally binding, but in most states, the Board of Nursing has authority to reprimand nurses for unprofessional conduct that results from violation of an ethical code
- See The ANA Code of Ethics
The ANA Code for Nurses (Ethical Conduct)

- Written in 1985
- Available for purchase through ANA or can be read online as PDF
- “The nurse’s primary responsibility is to the patient”
- “The nurse owes the same duty to self as to others”
- Succinct statement of ethical obligations and individual duties
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What is a nurse practitioner?
What ethics is not:

- Not the same as feelings
- Not religions
- Not following the law
- Not following culturally accepted norms
- Not science
Why identifying ethical standards is hard

- On what do we base our ethical standards?
- How do those standards get applied to specific situations we face?
Medicine & Nursing in the 1940’s

- “The Country Doctor”
- “The doctor is the coach of the team and to a large extent the quarterback also.”
- Nursing stressed following the doctor’s orders
ANA Code of Ethics - 1950

- “Render service” – but no mention of patient advocacy
- “The nurse is obliged to carry out the physician's order.”
- It would take another 15 years before nurses would be required to use independent nursing judgment to advocate for patients’ well-being
Memorial vs. Darling - 1965

- 18 yr old Durance Darling spent 14 days in a poorly prepared cast and gangrenous leg had to be amputated.
- Courts found the nurses negligent along with the physicians for not reporting the condition of the leg cast, even though it meant reporting physician negligence.
- Lawsuit emphasized importance of independent nursing judgment.
Five Sources of Ethical Standards

- The Utilitarian Approach
- The Rights Approach
- The Fairness or Justice Approach
- The Common Good Approach
- The Virtue Approach
The Utilitarian Approach

- Focuses on the consequences that actions or policies have on the well-being ("utility") of all persons directly or indirectly affected by the action or policy.

- The principle states: “Of any two actions, the most ethical one will produce the greatest balance of benefits over harms.”
The Utilitarian Approach

- Some ethicists emphasize that the ethical action is the one that provides the most good or does the least harm.
- Produces the greatest balance of good over harm.
- Deals with consequences.
- Tries both to increase the good done and to reduce the harm done.
WW II

- The war created a **utilitarian** mind set
- “The few could be scarified for the good of the many”, especially if it produced miracle drugs & cures
WWII Experiments - 1941

- Widespread use of human participants in medical research
- Research physicians tested the dysentery bacteria on animals, then on orphans and the retarded
Ohio Soldiers & Sailors Orphanage

- Boys & girls, ages 13-17, were injected with the bacteria
- They developed severe systemic reactions, fevers >105 °
- Vaccine’s usefulness discarded
Post W W II era – 1945-1966

- Utilitarian, paternalistic mind-set continued
- Between 1945 – 1966, NIH funded 2000 research projects on human subjects without informing them about consequences.
Henry Beecher’s article - 1966

- “Ethics and Clinical Research”
- Detailed 22 examples of unethical experiments done between 1948 and 1965 on subjects without their understanding of the consequences and without their consent
Other Research

- Psychotic patients at Illinois State Hospital and prisoners at Joliet State Prison were injected with malaria.
- Conscientious objectors exposed to frigid temperatures to test survival under hardship conditions.
- Penicillin tested on soldiers & prisoners to find effective strength & dosage.
The Rights Approach

- The principle states: “An action or policy is morally right only if those persons affected by the decision are not used merely as instruments for advancing some goal, but are fully informed and treated only as they have freely and knowingly consented to be treated.”
Malformations due to maternal ingestion of thalidomide (Schardein 1982 and Moore 1993).
NIH

- On July 1, 1966 guidelines created to protect human subjects
AHA Patient’s Bill of Rights - 1973

- Patient’s right to privacy, the right to receive information about their medical treatment, and the right to consent or decline to participate in research studies
- Influenced attitudes of physicians, nurses, & patients

www.aha.org/resource/pbillofrights.asp
Karen Ann Quinlan - 1976

- Parents of Karen Ann Quinlan petitioned the New Jersey Supreme court to allow the removal of the respirator from their severely brain-damaged daughter.
- Argued that the patient, not the physician, had the right to decide when to decline treatment.
- Decision established the right of the individual and ended the era of physicians as the only decision makers.
- Prompted an interest in the Advance Directive and Living Will.
Advance Directives
Advance Directives

- Serve as a blueprint for how patients wish to be treated when their death becomes imminent and also can act as a catalyst for discussion
- Can reduce stress for clinicians, patients, and their families
- Patients, relatives, hospitals, clergy and attorney should all have copies
Nancy Cruzan - 1990

- In 1983, 25 yr old Nancy Cruzan was pronounced dead by police at scene of MVA; paramedics resuscitated but she persisted in chronic vegetative state
- Parents asked Missouri Supreme Court to remove feeding tube
- Court said that there must be “clear and convincing evidence” of a patient’s prior wishes before feeding tube could be terminated
- National focus on advance directives
Patient Self-Determination Act

- Based on Cruzan decision, the Patient Self-Determination Act became effective December 1, 1991
- Act requires all facilities receiving Medicare to inform patients about their right to refuse treatment and to ask if they want to prepare an Advance Directive, living will or durable power of attorney for health care
- Patients may ask nurses questions about their right to refuse treatment and nurses need to be able to answer those questions and advocate for them
Autonomy

- Comes from the Greek autos (self) and nomos (governance)
- The principle of respect for autonomy means that nurses have the obligation to help the patient act autonomously based on his or her values and beliefs
- The rules for informed consent derive from the principle of autonomy
Informed Consent

- Person with decision-making capacity is one who is:
  - Conscious
  - Who understands the nature and consequences of that to which he or she is consenting
  - Ability to decide can be hampered by lack of information, lack of mental capacity, physical restraints, and pain
Informed Consent

- The person who will perform the intervention is responsible for obtaining the informed consent.
- The physician has the responsibility to make sure the patient understands.
- The nurse’s legal responsibility is that of witnessing the patient’s signature; the nurse’s moral responsibility is to make sure the patient understands the purposes and significance of the intervention.
Informed Consent

- Accurate communication through process of clarification and negotiation is essential
- Rules of truthfulness, privacy, and confidentiality are all derived from the Principle of Autonomy
Factors Necessary for an Informed Decision

- Capacity
- Voluntariness
- Adequate information
First Question:

☐ Does the patient have the capacity to decide?
Assessment of Capacity

- Respecting the patient’s treatment decisions requires an assessment of their capacity and competence.
- Patient’s must have the mental, emotional, and legal ability to make decisions.
The Fairness (or Justice) Approach

“Treat people the same unless there are morally relevant differences between them.”
The Fairness or Justice Approach

- Comes from the idea that all equals should be treated equally.
- If cannot treat equally (i.e. CEO vs. employee), then treat fairly.
With invention of the shunt, there were 4 times as many people who needed dialysis than there were machines.

Committee was formed of citizens (lawyer, minister, housewife, govt. official, labor leader & surgeon) to decide who would get dialysis.

The Seattle Artificial Kidney Center selection committee made its decisions about who would be treated on “social worth criteria”.

LIFE magazine published this process in 1962 and huge public outcry resulted.
The Common Good Approach

“What is ethical is what advances the common good.”
The Common Good Approach

- This approach suggests that the interlocking relationships of society are the basis of ethical reasoning and that respect and compassion for all others – especially the vulnerable – are requirements of such reasoning.

- Calls attention to the common conditions that are important to the welfare of everyone.

- The may be a system of laws, effective police and fire departments, health care, a public educational system, etc.
Tuskegee - 1972

- In 1932, the USPHS began the Tuskegee Study of Untreated Syphilis in the Negro Male
- Sharecroppers in Macon County, Alabama were part of an experiment from 1932 – 1972 in exchange for free medical care
- Men were injected with syphilis without their knowledge or consent and were never offered treatment in order to study the long-term effects of the disease
The Virtue Approach

- Focuses on attitudes, dispositions, or character traits that enable us to be and to act in ways that develop our human potential
- “What is ethical is what develops moral virtues in ourselves and our communities.”
The Virtue Approach

- Ethical actions ought to be consistent with certain ideal virtues that provide for the full development of our humanity.
- These virtues are dispositions and habits that enable us to act according to the highest potential of our character.
- Honesty, course, compassion, generosity, tolerance, love, fidelity, integrity, fairness, self-control, etc.
- “What kind of person will I become if I do this?”
Virtue Approach

- The ethical action is the one that embodies the habits and values of humans at their best
The Nuremberg Tribunal - 1941

- 42 Nazi physicians indicted for war crimes
The Nuremberg Code

“The voluntary consent of the human subject is absolutely essential. This means that the person involved should have the legal capacity to give consent.”
Common Good Approach

- The ethical action is the one that contributes most to the achievement of a quality common life together.
- Would you want to become the sort of person who acts this way (e.g., a person of courage or compassion?)
Fairness or Justice Approach

☐ The ethical action is the one that treats people equally

☐ Or, if unequally, that treats people proportionately and fairly

☐ Which option would help all participate more fully in the life we share as a family, community, society?
The ethical action is the one that most dutifully respects the rights of all affected.

Which option is fair to all stakeholders?
Utilitarian Approach

- The ethical action is the one that will produce the greatest balance of benefits over harms.
- Even if not everyone gets all they want, will everyone’s rights and dignity still be respected?
Make a Decision and Test It

- Considering all these perspectives, which of the options is the right or best thing to do?
- If you told someone you respect why you chose this option, what would that person say? If you had to explain your decision on television, would you be comfortable doing so?
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Review

- WW II – 1960’s – paternalistic attitude and utilitarian mind set
- 1960’s – Scribner shunt & lack of dialysis machines
- 1965 – Memorial Hospital v. Darling
- 1966 – Beecher’s article
- 1973 – AHA Patient’s Bill of Rights
- 1976 – Quinlan
- 1990 – Cruzan
- 1991 – Patient Self-Determination Act
Putting the Approaches Together: Problems with Agreement

- We may not agree on the content of some of these specific approaches.
- We may not all agree to the same set of human and civil rights.
- We may not agree on what constitutes the common good.
- We may not agree on what is a good and what is a harm.
Putting the Approaches Together: What is ethical?

Different approaches may not all answer the question in the same way.
Jonsen Model for Case Analysis

- Medical Indications
- Patient Preferences
- Quality of Life
- External socioeconomic factors
Medical Indication

- Diagnosis and treatment of patient’s pathologic condition
- Goals and benefits of treatment
Patient Preferences

- Preferences of the patient, based on patient’s own values and evaluation of risks and benefits
- “What does the patient want?”
- “Does the patient comprehend?”
- “Is the patient being coerced?”
Quality of Life

☐ What is the patient’s quality of life?
☐ Can it be improved?
External socio-economic factors

- Psychological
- Emotional
- Financial
- Legal
- Scientific
- Educational
- Religious
Case Presentation

☐ Is Ms. Long terminally ill?
☐ What are the treatment decisions at this point?
☐ Should she be given artificial nutrition and hydration?
☐ Should she be a full code or a DNR?
☐ On what basis will these decisions be made?