Ethical Issues From an Individual and an Organizational Perspective

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Ethics in the Hospital / Clinic: The Merging of Medical and Business Ethics

The primary source for much of the following material is:

*Business Ethics in Healthcare: Beyond Compliance*

Ethics in the Hospital / Clinic:
The Merging of Medical and Business Ethics

Despite an extensive literature in both medical ethics and business ethics, there is a relative lack of literature in the field of healthcare management or healthcare business ethics. Business ethics tends to focus on corporate compliance with laws and regulations, and generally has historically had a focus on conduct of employees:

– clarification of expectations regarding appropriate on-the-job behavior;
– avoidance of fraudulent practices; and
– avoidance of regulatory violations.

Healthcare management requires this and much more. Healthcare is best understood as a social or public good that must be responsibly managed to best meet the healthcare needs of the larger community, in the same way that a clean, safe water supply must be managed to meet community needs.

Healthcare management is fundamentally a service profession.
There are many reasons why healthcare is not, and should not be, considered only a commodity to be bought and sold. Among them:

– government subsidy of healthcare;
– state licensure of clinicians; and
– a great deal of the public treasury supports healthcare for the underprivileged.

Excluding elective services, healthcare is not a commodity for exchange between private parties – it is a social obligation that extends well beyond the domain of commerce.
So what does this mean for the ‘for-profit’ healthcare facility?

For-profit healthcare management must be accountable to investors to provide a reasonable return on investments. But this does not mean financial concerns can be assumed to be more important than concerns regarding obligations to the larger community.

- Established business ethics has accepted as fundamental the notion that corporations are responsible for balancing benefits against the costs of achieving those benefits relative to the community that indirectly as well as directly supports that business.
- For-profit healthcare management must be socially responsible as well as being fiscally productive (profitable).
- For-profit status does not preclude the necessity to sometimes forego profits when potentially significant harm to the community may result from pursuing those profits.
So what does this mean for the ‘for-profit’ healthcare facility?

Healthcare organizations have three fundamental but highly interrelated roles: caregiver, employer and citizen.

The ethical (healthcare) organization is:
– one in which the needs and interests of all relevant stakeholders are balanced on the basis of a consistent and explicit understanding of priorities; and
– one wherein there are clear processes and procedures in place that maintain work of a high ethical quality among employees (some of whom may be less motivated to maintain the highest ethical standards).
So what does this mean for the ‘for-profit’ healthcare facility?

The field of clinical ethics is not sufficient. Healthcare business ethics transcend clinical ethics by requiring an informed, sensitive and practical understanding of responsibilities to employees and the larger community, as well as to individual patients.
So what does this mean for the ‘for-profit’ healthcare facility?

In taking responsibility for consequences, the ethical healthcare organization must:

– forecast the impact of decisions and policies on all those affected by them,

– make decisions that minimize the potential negative impact on others,

– accept responsibility for unintended negative consequences,

– take corrective action when harm results from its activities, and

– consider the opinions of others, including ‘outsiders,’ in attempting to understand possible untoward consequences of planned actions or policies.
Four Fundamental Priorities

There are four fundamental priorities often involved in decision-making in healthcare organizations:

1) basic individual rights,
2) individual self-interest,
3) interests of the organization, and
4) public/community good.
Four Fundamental Priorities

Basic individual rights –
Those things that everyone, regardless of power, position or merits, should have respected or provided by virtue of being human (i.e., human rights); also, that which is due to persons because of agreements or promises.
Four Fundamental Priorities

Individual self interest –
The good things in life that individuals define and seek for themselves and for those persons close to them; the things people want.
Four Fundamental Priorities

Interests of the organization/institution –
The good of the organization as defined and interpreted by its leaders.
Four Fundamental Priorities

Public/Community good –
The well-being of the larger community:
– in which the organization exists,
– which supports the organization, and
– which is served by the organization.
General Priority Principles of Healthcare Business Ethics

1) The organization’s interests generally take priority over individual self-interest.

While individual preferences are worthy of respect when possible, respecting those preferences is not as high an ethical priority as is doing that which is in the best interest of the organization for whom one has some responsibility.
2) Individual rights generally take priority over the organization’s interests.

When the effort to achieve certain goals for the organization places basic rights at risk, individual rights take priority over organizational goals. One must remember that rights are different from preferences. An individual right makes a binding claim upon others via obligation of others to respect those rights.
3) The good of the community takes priority over organizational interests.

When organizational goals threaten the good of the larger community, the public good takes priority over those organizational goals. This constitutes the essential citizenship responsibility of the organization. The organization’s responsibility to the public good is a very high priority regarding the obligation not to harm the larger community.
General Priority Principles of Healthcare Business Ethics

4) The welfare of the community takes priority over individual self-interest.

This principle should be obvious. Commitment to the public good takes priority over individual pursuit of the good life.
General Priority Principles of Healthcare Business Ethics

5) Individual rights take priority over individual self-interest.

When individual pursuit of the good life (or personal preferences) jeopardizes the rights of others, respect for individual rights takes priority over respect for individual self-interests.
6) The relationship between individual rights and community good cannot be simplified into a principle.

Individual rights and community good are highly interrelated aspects of the same fundamental principle of respect for individuals. One generally must strive to respect both at all times.
General Priority Principles of Healthcare Business Ethics

The hierarchy:

Individual rights and Community good

has priority over

Interests of the organization

has priority over

Individual self-interest

Now, to apply this information, let’s take a look at a couple of sets of suggestions for reasoning about ethical issues and making good ethical decisions.
A Step-by-Step Model for Reasoning About Ethical Issues

1) Gather all the relevant facts.
2) Determine the ethical issues that are relevant.
3) Determine what norms/principles/values are most relevant to the situation.
4) List the alternative choices of action and their outcomes.
5) Compare the alternative actions with the relevant norms/principles/values.
6) Weigh the consequences of the various alternatives.
7) Decide on the best course of action.
Twelve Questions for Promoting Good Ethical Decision-Making

1) Is the problem accurately defined?
2) Would the problem definition change if your position were opposite that which it currently is?
3) How did the situation develop?
4) To whom and what do you have loyalties? (You may have many loyalties.)
5) What is your intention in making this decision?
6) How does your intention compare with the most likely outcome?
Twelve Questions for Promoting Good Ethical Decision-Making

7) Whom could your decision injure?

8) Can you bring about a constructive discussion of the issues involving potentially affected parties prior to making a decision?

9) How confident are you that your decision will remain valid over a long period of time?

10) How comfortable would you be with disclosing your decision to superiors, stakeholders, and your community? (Imagine your decision-making process and final decision being telecast.)
Twelve Questions for Promoting Good Ethical Decision-Making

11) What is the symbolic meaning of your decision if properly understood? If misunderstood?

12) When, if ever, would you allow exceptions to your decision? What are the implications of those exceptions?

The best reasoning processes will not lead to a sound ethical conclusion unless one begins from an ethically sound foundation and then exercises sufficient strength of character to act on ethical imperatives.

Some suggestions for optimizing ethical reasoning:
Optimizing Ethical Reasoning

– Situate a particular concern in the context of a relevant major ethical issue within society.

The best ethical insights often result from seeing issues in the context of related social considerations.

Ethical healthcare decision-making often requires resolving individual dilemmas in ways that are relevant to justice concerns in society.
Optimizing Ethical Reasoning

– Situate a particular concern in the context of a relevant major ethical issue within society.
– Don’t change the subject.

When engaged in discussions with others about ethical issues, it often is extremely difficult to maintain a focus on the most relevant issues. A balance must be struck between focusing on relevant principles and being open to the input of others in open discussion.
Optimizing Ethical Reasoning

– Situate a particular concern in the context of a relevant major ethical issue within society.
– Don’t change the subject.
– Frequently consult others.

No one possesses an unlimited perspective. Enlargement of perspective may consist of hearing points of view not ordinarily heard, and it may consist of additional information regarding larger justice issues in society. Our ethics awareness will almost always benefit from public debate.
Optimizing Ethical Reasoning

– Situate a particular concern in the context of a relevant major ethical issue within society.
– Don’t change the subject.
– Frequently consult others.
– Keep the focus practical without losing ethical ideals.

Avoid the temptation to embrace vague generalities. Ethical decision-making will have implications regarding concrete decision-making, and those implications must be considered. For example, decisions regarding employee rights should be evaluated with regard to the specific rights jeopardized by a specific management decision or policy. The best decision should be both practical and idealistic.

What about issues of cost?
Ethics and Cost

Cost control is an ethical value, not just a practical requirement. The task at hand is to determine when the cost-saving impact of a decision justifies that decision, and when it does not.

– Healthcare resources are limited.

– All members of the healthcare community are therefore responsible to exercise careful stewardship of those limited resources.

The ethical allocation of healthcare resources requires that everyone be treated fairly, not that everyone have everything possible regardless of cost.
Principles Regarding the Relationship Between Ethics and Cost

1) Wise stewardship of resources requires reducing unnecessary utilization of those resources.

2) More expensive healthcare does not necessarily mean higher quality healthcare.

3) If the essential healthcare needs of patients are met and they are treated fairly with regard to promised benefits, then they are not treated unjustly when they do not receive all potentially beneficial care.

There is no ethical obligation to provide a more expensive intervention with marginal additional benefits.
Principles Regarding the Relationship Between Ethics and Cost

4) As a general rule, the least costly treatment should be provided unless there is substantial evidence that a more costly intervention will produce a superior outcome.

This is the practical meaning of stewardship of resources. The burden of proof is on justifying the more expensive intervention, not the least expensive one, when different acceptable treatment options exist.
Principles Regarding the Relationship Between Ethics and Cost

5) *Employees* should not be harmed or treated unjustly as a result of policies instituted in the service of providing good care with reduced resources.

Excessively burdensome staffing patterns and/or unfair compensation rates are never justified when attempting to provide high quality care while containing costs.

6) Advocacy for quality patient care may require appeals for more adequate coverage from payors for individual patients, and strenuous efforts on your part to improve the payment system for all persons.
Principles Regarding the Relationship Between Ethics and Cost

7) Discretionary decisions regarding which patients to exempt from care should reflect an acknowledgement of the responsibility of the organization to have one’s ‘fair share’ of high financial risk patients.

It is not acceptable to routinely refuse all patients who appear likely to present a high financial risk. Likewise, it is not acceptable to disregard the burden such patients may place on the provider organization.
Conflicts of Interest

A situation in which a healthcare provider has a personal interest
– resulting from practices or policies of the healthcare organization;
– that is antagonistic to the best interests of the patient (and/or the community); or
– substantial enough that they might reasonably affect independent judgment that the healthcare provider should exercise on behalf of the patient.

Conflicts of interest must be avoided or minimized; at the very least they should be made known to others involved, and not hidden or ignored.
Patient Rights in a Just Organization

– It is a paramount obligation to respect the right of patients to refuse treatment, as a basic protection of human dignity.
– The refusal of one aspect of treatment should not abrogate all treatment, unless that other treatment is made futile or unsafe by virtue of the first refusal.
– The patient’s decision to refuse a treatment should not alter the essential relationship between the care provider and the patient.
– (The patient’s right to refuse unwanted treatment does not imply a right to get medically inappropriate treatment. The right to refuse what is medically indicated does not mean a right to demand (and get) what is not medically indicated.)
Proposed Guidelines for Honoring Patient Rights

1. Honor the refusal of treatment of informed, competent adult patients:
   - except when such refusal places others at serious risk of significant avoidable harm;
   - even when such refusal appears to place the patient at unnecessary risk of harm; and
   - even when the patient’s values are not accepted in the dominant culture.
Proposed Guidelines for Honoring Patient Rights

2. Respect (do not interfere with) the informed, competent adult patient’s decisions to act in certain ways, *even if that might place them (but not others) at risk of accidental harm.*

3. The exercise of normal control over one’s life is a right, not just a preference or want.

4. Do not provide or facilitate the provision of services expected to cause harm to the patient, *even when the patient requests those services with full knowledge of the likely harmful consequences.* There is no right to harmful treatment.

5. Do not provide useless treatment, treatment not expected to be beneficial, or treatment not appropriate to health goals, even when requested or demanded by the patient.
Proposed Guidelines for Honoring Patient Rights

6. Provide cost-effective treatment when treatment is paid for from shared resources, even if the patient does not want cost to influence treatment decision. There is no right to demand everything possible from public resources.

7. Accommodate a patient’s request for culturally sensitive special treatment to the extent feasible and reasonable, provided that there is little likelihood of harm to the patient or to others. While patients have a general right to have their cultural and religious values respected, this does not mean they take absolute priority over all other considerations.
Patient Requests for Healthcare Providers of a Specific Race or Sex

– While patients sometimes may request caregivers of a certain race, job assignment based on race is “a harmful form of discrimination.”

– Such assignments will violate worker dignity and workplace fairness.

– Overall, just treatment of employees trumps patient preferences.

– However, patient requests for same-sex caregivers certainly has greater ethical standing than same-race preferences, as they are typically based on a desire for privacy with respect to one’s body or on feelings of vulnerability. (But it’s unlikely a male surgeon will be more efficacious than a female surgeon. There should be a reasonable basis for the request.)
Weber (2001) offers the following guidelines:

– Restrictions must be compatible with respect for essential patient rights.
– Restrictions must be compatible with respect for different points of view within the organization.
– “The right to refuse unwanted treatment cannot be consented away in advance.”

Healthcare organizations are never neutral and many will prohibit the provision of certain types of care they find objectionable or unacceptable. Examples include assisted suicide where it is legal, assisted reproduction, genetic testing for certain indications, research on human embryos, and sterilization.
When the Organization restricts Treatment Options

Example: A nursing home refuses to accept a patient from a hospital because that patient has a DNR order and will refuse tube feeding. The nursing home claims that they will not be a party to "starving patients to death." This example demonstrates a violation of a fundamental ethical principle of respect for the right to refuse treatment. As such, it is not an acceptable policy. Even with prior warning regarding such a policy and consent at the time of admission, “The right to refuse unwanted treatment … is a fundamental right of consent that should not have to mean transferring [to another facility] in order to be exercised.”

Healthcare organizations may refuse to provide nonessential treatments, but they have an obligation to provide information to facilitate the exercise of personal freedom by patients. The organization has an obligation to recognize and respect the patient’s legal options and moral freedoms. If transfer to another facility becomes necessary, competent and compassionate care must be provided during the transfer to another facility. Patient abandonment is unacceptable.
Case Reviews for Discussion:

A young woman is admitted to a rehab program with a TBI:

– She was 17 y.o. when injured, just turned 18 y.o.
– She is at a Rancho Level III-IV.
– Examination reveals her to be 2 months pregnant.
– Her father, her court-appointed guardian, demands that her pregnancy be aborted.

Apparently the woman did not know she was pregnant. Her father insists she has a right to an abortion. Her prognosis is excellent for survival of the patient and fetus, but the patient is unlikely to ever recover sufficiently to raise her child independently. Her father says he would raise the child, but this would be a burden on him, since he is in frail health and not likely to survive more than 3-5 years.

What are the major ethical issues in this case?
Case Reviews for Discussion:

Is an abortion necessary in this case?
– No

Does she have a right to this elective treatment?
– Yes

Would she want it?
– A good question

If not, does her father have a right to:
   a) demand it as her surrogate?
   b) impose it on her as her surrogate?

Let’s complicate things a bit more:
Case Reviews for Discussion:

A young woman is admitted to a rehab program with a TBI:

- She was 17 y.o. when injured, just turned 18 y.o.
- She is at a Rancho Level III-IV.
- Examination reveals her to be 2 months pregnant.
- Her father, her court-appointed guardian, demands that her pregnancy be aborted.
- The attending physician refuses to allow such a procedure, as it violates her principles regarding the sanctity of the unborn as persons with the right to live.
- She refuses to authorize even a leave from the unit during which an abortion may be performed.
Case Reviews for Discussion:

- The attending physician refuses to allow such a procedure, as it violates her principles regarding the sanctity of the unborn as persons with the right to live.
- She refuses to authorize even a leave from the unit during which an abortion may be performed.

Can a physician be compelled to perform an abortion on demand?
- No, of course not; there is no ethical requirement that every healthcare person provide every requested service.

Healthcare providers have the right to conscientious objection to providing treatments that violate their own moral standards, BUT:

Patients DO have a right to be given access to care that is legal, appropriate, and generally available, regardless of the values of the attending physician.
Case Reviews for Discussion:

– The attending physician refuses to allow such a procedure, as it violates her principles regarding the sanctity of the unborn as persons with the right to live.
– She refuses to authorize even a leave from the unit during which an abortion may be performed.

What if the hospital is a Catholic facility? Can that hospital block the patient’s access to an abortion?

- No, they cannot. The hospital can decline to provide the abortion, but they then have a clear and compelling obligation to allow the patient to exercise her civil rights.

Let’s go back to the patient:
Case Reviews for Discussion:

A young woman is admitted to a rehab program with a TBI:

– She was 17 y.o. when injured, just turned 18 y.o.
– She is at a Rancho Level III-IV.
– Examination reveals her to be 2 months pregnant.
– Her father, her court-appointed guardian, demands that her pregnancy be aborted.
– The attending physician refuses to allow such a procedure, as it violates her principles regarding the sanctity of the unborn as persons with the right to live.
– She refuses to authorize even a leave from the unit during which an abortion may be performed.
– Further inquiry reveals that the patient is not able to maintain an awareness of her status as pregnant, but she consistently says that she opposes abortion and declines it.
Case Reviews for Discussion:

- Further inquiry reveals that the patient is not able to maintain an awareness of her status as pregnant, but she consistently says that she opposes abortion and declines it.

The patient’s father is acting in what he says is her best interests. He says that she will probably never be able to care for a child. Her prognosis is consistent with this – she will probably always need some supervision.

Can her surrogate act in her “best interests” while violating her apparent moral values? The answer is, of course, no he cannot. He is responsible to protect her from such violations of her values. He does not have an ethical right to insert his values into the decision-making process regardless of the best of intentions.
Case Reviews for Discussion:

- Further inquiry reveals that the patient is not able to maintain an awareness of her status as pregnant, but she consistently says that she opposes abortion and declines it.

What appeared to be a conflict between guardian and hospital system turns out here to be a conflict between the guardian and patient. In this conflict, the HOSPITAL cannot insert its morality into the decision-making process when the service, at odds with the hospital’s values, is a legal and commonly available service.

In a case very similar to this one, the court upheld the patient’s right to decline the abortion. Her rights were legally (and ETHICALLY) central and decisive, regardless of her status and the preferences of others.
Case Reviews for Discussion:

- An 80-year-old woman with Alzheimer’s is admitted to a hospital for treatment of pneumonia.
- She accuses the African-American hospital staff of stealing her possessions and attempting to rape her.
- Her family asks that she be provided only with white caregivers, only for the purpose of reducing her agitation and fear.

What ethical issues are relevant to this case?

Special care arrangements are being requested for a patient. Are such types of special care generally provided?
Case Reviews for Discussion:

- An 80-year-old woman with Alzheimer’s is admitted to a hospital for treatment of pneumonia.
- She accuses the African-American hospital staff of stealing her possessions and attempting to rape her.
- Her family asks that she be provided only with white caregivers, only for the purpose of reducing her agitation and fear.

What would be the implications of providing such special care? That the hospital “aims to please its customers” whenever possible?

The ethical issue here is one of altering a patient’s care on the basis of racism. Does the patient’s well-being trump the rights of staff to be assigned to cases without regard to race?

The primary issue here is one of the patient’s well-being vs nondiscrimination in the assignment of staff.
Case Reviews for Discussion:

- An 80-year-old woman with Alzheimer’s is admitted to a hospital for treatment of pneumonia.
- She accuses the African-American hospital staff of stealing her possessions and attempting to rape her.
- Her family asks that she be provided only with white caregivers, only for the purpose of reducing her agitation and fear.
- An administrator for the hospital is called in to assist with this situation.
- That administrator decides not to acquiesce to the request for all-white caregivers, as this may suggest that the allegations have some foundation and may incur liability for the hospital.
Case Reviews for Discussion:

- An 80-year-old woman with Alzheimer’s is admitted to a hospital for treatment of pneumonia.
- She accuses the African-American hospital staff of stealing her possessions and attempting to rape her.
- Her family asks that she be provided only with white caregivers, only for the purpose of reducing her agitation and fear.
- An administrator for the hospital is called in to assist with this situation.
- That administrator decides not to acquiesce to the request for all-white caregivers, as this may suggest that the allegations have some foundation and may incur liability for the hospital.

What are the ethical issues now? Does the hospital have the right to place concerns for liability above concerns for patient welfare?

What other harms might result from either giving in or refusing to do so?
Case Reviews for Discussion:

- An 80-year-old woman with Alzheimer’s is admitted to a hospital for treatment of pneumonia.
- She accuses the African-American hospital staff of stealing her possessions and attempting to rape her.
- Her family asks that she be provided only with white caregivers, only for the purpose of reducing her agitation and fear.
- An administrator for the hospital is called in to assist with this situation.
- That administrator decides not to acquiesce to the request for all-white caregivers, as this may suggest that the allegations have some foundation and may incur liability for the hospital.

An organization’s desire to minimize liability often inappropriately trumps other priorities, here seemingly those of patient welfare. Is this appropriate?

Should liability not be given any consideration?

Let’s consider a slightly different situation:
Case Reviews for Discussion:

- An 80-year-old woman with Alzheimer’s is admitted to a hospital for treatment of pneumonia.
- She accuses the African-American hospital staff of stealing her possessions and attempting to rape her.
- Her family asks that she be provided only with white caregivers, only for the purpose of reducing her agitation and fear.
- Some of the African-American staff on the unit say they are being treated very badly by this obnoxious patient, and they claim to have the right to conscientiously object to caring for her.

What are the ethical issues now?

The patient is insulting and at times physically abusive to staff. Does the staff have an obligation to provide care to such a patient?
Case Reviews for Discussion:

- An 80-year-old woman with Alzheimer’s is admitted to a hospital for treatment of pneumonia.
- She accuses the African-American hospital staff of stealing her possessions and attempting to rape her.
- Her family asks that she be provided only with white caregivers, only for the purpose of reducing her agitation and fear.
- Some of the African-American staff on the unit say they are being treated very badly by this obnoxious patient, and they claim to have the right to conscientiously object to caring for her.

What has greater ethical weight – patient comfort, the desire of the hospital to minimize liability, or the right of staff to avoid being treated disrespectfully by abusive patients?
Case Reviews for Discussion:

- An 80-year-old woman with Alzheimer’s is admitted to a hospital for treatment of pneumonia.
- She accuses the African-American hospital staff of stealing her possessions and attempting to rape her.
- Her family asks that she be provided only with white caregivers, only for the purpose of reducing her agitation and fear.
- Some of the African-American staff on the unit say they are being treated very badly by this obnoxious patient, and they claim to have the right to conscientiously object to caring for her.

What if the administration decides to support the right of African-American staff to NOT care for her, so they assign only white caregivers? What are the ethical implications of such a decision? Does this show respect for the staff?
Case Reviews for Discussion:

- An 80-year-old woman with Alzheimer’s is admitted to a hospital for treatment of pneumonia.
- She accuses the African-American hospital staff of stealing her possessions and attempting to rape her.
- Her family asks that she be provided only with white caregivers, only for the purpose of reducing her agitation and fear.
- Some of the African-American staff on the unit say they are being treated very badly by this obnoxious patient, and they claim to have the right to conscientiously object to caring for her.

Healthcare professionals do not have the right to conscientious objection to the routine care of certain patients, whether they are racist, demented, addicted to drugs, have AIDS, or have any other socially undesirable quality. The right to exercise conscientious objection does not extend to certain patients with certain qualities or conditions.
Case Reviews for Discussion:

The assignment of certain staff to certain patients on the basis of race constitutes prejudicial work assignments and *cannot* be defended on the basis of the lower priorities of:

- Race-based patient preference for caregivers,
- Desire by staff to avoid “nasty” patients, or
- Administrative desires to minimize liability.

Staff may be provided with additional supports such as patient behavior management strategies/services and/or staff stress management services, to facilitate optimal care at minimal harm to staff.
Ethics in the Hospital / Clinic: The Merging of Medical and Business Ethics

With the perspectives and strategies presented here at your disposal, you should be better able to help your healthcare organization provide optimal ethical care to your patients within your community.

You should now close this window and return to the Healthcare Management Ethics page to complete the post-test.