Principles of Medical Ethics

Basis for how we weigh various options

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Nature of Clinical Ethics

- An ethical dilemma is a situation in which two courses of action are available and completely opposite each other, and for which a decision must be made.
- Each opposing course of action is equally urgent, and each choice carries with it the sense that it alone is the right one.
- New PAs will find that they are in new roles of authority and independent decision making

Nursing and Physician Codes of Ethics

- Duty to Practice with compassion and respect
- Primary commitment is to the patient.
- Duty to advocate for the patient
- Acceptance of accountability
- Duty to preserve integrity, maintain competence and continue personal / professional growth
- Duty to participate in improving the health care environment

Code of Ethics

- Duty to advance the profession through participation in practice, research and administration.
- Duty to collaborate with other professionals and the public to promote health
- The profession has a duty to maintain the integrity of the profession and shape public policy.

Ethical Principles

- Autonomy (respect for people)
- Beneficence (the duty to do good)
- Nonmaleficence (the duty to NOT cause harm)
  - Primum Non Nocere “first do no harm”
- Justice (fair allocation)
- Usually your dilemma will come from competing claims from different parties regarding these principles, and an action which may be “good” for your patient may harm one of their family members
  - Beauchamp and Childress, 1980

Ethical Principles

- Autonomy
  - The right to self – Determination
  - Individual's right to make their own decision
    - Must be informed
    - Must be free of constraint / Duress
    - Does not have to match what YOU think the decision should be
      - More on this in the Decision making capacity talk

Ethical Principles

- Beneficence
  - Providing benefit to the person and contribute to their welfare
  - A way to help others
  - Providing comfort to a dying patient
  - Assisting with tasks a patient cannot perform independently.

Ethical Principles

- NonMaleficence
  - Primum Non Nocere
  - First, do no harm
  - This is often at odds with Beneficence since we often have to harm the patient (poke with needles, insert lines, give Chemo) in order to get them the treatment they need for the underlying condition.

Ethical Principles

- Justice:
  - Equals should be treated equally and unequals unequally
  - For example, if Jack and Jill both do the same work, and there are no relevant differences between the work they are doing, then in justice they should be paid the same wages
  - criteria—need, desert, contribution, and effort—we acknowledge as justifying differential treatment, are numerous.
  - However, in Medical care, there should not be Big differences in treatments, unless the particulars of the case demand it.
    - Lower doses of Chemo based on BSA, or due to pre-existing bone marrow responses like leukopenia.

Outcomes

- Utilitarian (do the most good for the most people)
- Outcome analysis that helps define which action does the most good for the most people.
- Sometimes it means looking at how your choice would apply to many cases, not just one individual case.
- Sometimes you have to look beyond this one decision, (such as whether to place a trach and PEG) and follow through how the patient's life will be once they get out of the hospital (will they be in an ECF?)

Robert Veatch 1984

- Good Old fashioned Hippocratic Ethics – serve the welfare of the patient
- However, this must be placed in severe constraints:
  - First, if we are only to serve the patients welfare, Research would be ethically unacceptable.
  - Second, there are limits that must be placed on the welfare of the individual if it impacts the welfare of society, i.e., there are limits based on limitations of resources.
    - Institutional Ethics Committees and Health Care Decision Making, Cranford and Doudera, Ann Arbor MI, 1984

California Medical Board

- *The relationship between a physician and a patient must be inviolable. Included among the elements of such a relationship of trust are open and honest communication, including disclosure of all information necessary for the patient to be an informed participant in her/his care. This relationship is not to be constrained or adversely affected by any consideration other than what is best for the patient. The existence of other considerations, including financial or contractual concerns, is, and must be, secondary to the fundamental relationship.*[19]

Post, Blustein and Dubler

- 2007, Hopkins and Montifiore hospital, Baltimore MD.
- Important to resist the temptation to employ principles in a mechanistic fashion. If applicable and used with judgment and sensitivity, they can inform sound ethical reasoning. If used rigidly and with reference to context and narrative, principalist ethics can lead to a distorted and unhelpful analysis.
- It is equally useful to consider clinical situations in terms of Key ethical concepts, such as decisional capacity, power imbalances, Decision making authority, truth telling, informed consent, the family's role in decision making, the patient's best interest, , forgoing treatment, and quality of life and death.

- Handbook For Health care Ethics Committees, Johns Hopkins Univ Press, 2007.

Evidence Based Medicine

- The hospital manager bears responsibility to at least three parties: the patients who are being treated in the hospital; the staff; and the community that provides the funding for the institution. The longstanding guidelines on *Ethical conduct and relationships for health care institutions* of the American Hospital Association, (AHA) (first version issued in 1973),[1] describe three corresponding areas of ethical concern: the responsibility of health care institutions for their patients; organisational issues within the hospital; and the community role of health care providers. These areas mirror the relevant interests which come together in the hospital: the interest of society to have effective health care institutions; the interest of patients to be treated adequately in the hospital; and the interest of hospital staff to work in an institution with appropriate ethical and social standards.

History of BioMedical Ethics

- Nuremburg 1948 Establishes Moral guidelines for medical experimentation.
- Willowbrook Case 1950's institutionalized children infected with hepatitis to follow natural history of disease.
- H. Beecher article 1955 "*The Powerful Placebo*"
  - Later 1958 article emphasizing DBPC trials
- Thalidomide cases 1962 led to congressional hearings.
- FDA law on drug trials requires consent 1962.

History of Ethics

- 1964 Declaration of Helsinki furthers protection of study participants.
- 1966 FDA regulations, AMA Ethical Guidelines for Research.
- Informed consent coming into use via common law and malpractice law in 1962.
- Movement toward subjects as “partners” in research. Medical students thought to be ideal subjects for medical research. (missed the obvious that they were mostly healthy white males).

History of Medical Ethics

- Tuskegee experiment comes to light 1968.
- 1967-8 American Academy of Arts and Sciences Conference on Experimentation on Human Subjects.
- Formed by Gaylin/Callahan 1969 Center for the study of Value and the Sciences of Man would become the Hastings Center.
- Belmont Report “Ethical Principles and Guidelines for the Protection of Human Subjects of Research 1979”

Evolution of Futility

- In the 1970’s, doctors would not remove life support even if the family ASKED for it. You didn’t die in a hospital without getting CPR first.
- Once there was a safe harbor for withdrawal of care, doctors became comfortable with it.
- The safe harbor came after Quinlan 1976.
- Now called inappropriate care or Nonbeneficial care.

Social norms regarding cancer

- 1950's – call it something else.
- 1960's – Inform pt of diagnosis
- 1970's – Informed consent
- 1990's - Informed Demand

Futility, a History

- Smith Papyrus, 1700 B.C.
  - Entreaty to not intervene if spinal cord is transected
- Hippocrates, 460 – 377 B.C.
  - “On The Art” – the physician should refuse to treat in cases where medicine is powerless

Religious Principles

- Life is a gift, and we are its stewards
- Limits to stewardship
  - Illness is a burden
  - Costs and burden to family/caregivers
  - Futile care need not be given.
    - Peligrino, Sulmasy OFM MD, 2004

Texas Advance Directives Act (TADA) 1999

- A patient may be removed from life support and a doctor may refuse to provide inappropriate treatment to a patient if
  - The doctor believes it is non beneficial
  - Must be confirmed by the hospitals ethics committee.
  - Surrogate has 10 days to try to find another provider.
  - On the 11th day, facility may withdraw treatment even against the surrogates wishes.
  - Doctor has immunity if process is followed.

Texas Statute

- “I don’t want people to like Texas. I prefer if they hate and FEAR it.”

    - H Tristan Englehart, PhD.

Texas Statute

- Three components:
  - 1. Process
  - 2. Competencies of Doctor and ethics committee members.
  - 3. Cultural Norms
    - Has everything been done?
    - Are ethics comm members biased / acting in the interest of the institution or the patient?

Texas Statute

- Texas Advance Directive Act (TADA)Fine et al Annals of Int Med2003, vol 138, 743-746.

- Probably a thousand cases have been withdrawn since the act was enacted.
- The process helps resolve intractable cases
- The process establishes a community standard of care.

GDAHA Response to COVID 19 - 2020

- Recognized the need for a community Standard of Care
  - No hospital wanted to be the “first to withdraw patients from life support”
  - But we recognized this may have to happen
  - Developed criteria for ranking patients
  - Established a policy that patients who need ventilator should get a ventilator, even if it means transferring to another network, or across county lines.
  - If the region reached a “Crisis Level of Care” then GDAHA itself would declare the medical emergency, and educate the public on the need to ration ventilator (and dialysis) support.