



Medical Law and Ethics

Handout 1.2

Introduction to Medical Law and Ethics

Part 2: Interpersonal Ethics, Ethics Models, and Bioethics

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Actions performed by medical and health professionals must not endanger the lives and welfare of individuals. It is important to maintain the dignity of each individual in any situation.

Virtues help guide professionals towards ethical behavior. Important virtues in the medical and healthcare fields include:

- **Beneficence: action of helping others and performing actions that would benefit another person.** Our actions in the workplace affect other people (coworkers, patients, their families, etc.) so it is important to ensure their safety and prevent any harm.
- **Fidelity: loyalty and faithfulness to others.** This implies our loyalty to performing our specified duties for our employer. However, this does not mean that we should perform an unethical or illegal action if our employer directs us to. Preventing harm to patients is the most important part of our duty.
- **Gentleness: a mild, tenderhearted approach to other people.** The medical and health fields deal with both positive situations as well as more difficult situations. It is important to respect patients and their families and guide them through treatment and wellness.
- **Humility: acquiring an unpretentious and humble manner.** The opposite of vanity, humility helps us recognize our limits, become honest with ourselves, and report any mistakes so that they may be corrected.
- **Justice: fairness in all our actions with other people.** One of the four cardinal virtues (along with temperance, courage, and prudence), this states that our actions must be balanced and fair for everyone. There should not be any favoritism and the same rules apply to everyone.

- **Perseverance: persisting with a task or idea even against obstacles.** Medical and health professionals deal with many challenges throughout their career such as successfully completing their education, clinicals, examinations, and licensure requirements. Professionals carry on this determination during their careers to get the work done as they assist patients and their families navigate the treatment and healthcare processes.
- **Responsibility: a sense of accountability for one's actions.** This implies dependability and being accountable for any actions taken by the individual. The medical and health fields handle sensitive data and situations so professionals must take responsibility for their actions.
- **Sanctity of Life: the sacredness of human life.** This states that **ALL** human life has worth and must be protected. As medical and health professionals, we will advocate for people who may not be able to represent or speak for themselves such as the elderly, children, and individuals with disabilities.
- **Tolerance: a respect for those whose opinions, practices, race, religion, and nationality differ from our own.** Medical and health professionals must form fair and objective decisions and respect opinions/viewpoints that are different from theirs.
- **Work: an effort applied toward an end goal.** Satisfying work involves achieving a goal that we believe is worthwhile and utilizes our talents. Work not only includes regular paid hours, but also includes studying, performing home maintenance, or volunteering.

Interpersonal Ethics

- **Respect: the ability to consider and honor another person's beliefs and opinions.** Since professionals in the medical and health fields handle individuals and families (as well as work with coworkers) who come from diverse backgrounds, it is important to show courtesy considering that someone else's background and beliefs may be different than our own.
- **Integrity: the unwavering adherence to one's principles and dedication to maintaining high standards.** This includes performing duties such as proper hygiene before handling a patient or administering medication. Integrity also includes maintaining the highest standards when performing one's duties (such as being punctual to work/appointments and working to the best of one's ability).
- **Honesty: the quality of being truthful, regardless of the situation.** If a healthcare professional has made an error, is not sure of an order, or needs

assistance during a situation, he/she must be honest and admit to making the error or requiring assistance should they occur.

- **Fairness: not showing preference or bias towards specific individuals (whether it is a coworker, supervisee, or patient) and treating everyone equally.**
- **Empathy: ability to understand the feelings of others without experiencing their pain or distress.** Healthcare professionals handle a lot of emotionally charged situations with patients and their families, so they appreciate interacting with professionals who are caring and provide a listening ear.
- **Sympathy: feeling sorry for or pitying someone else.** Patients and their families prefer empathy over sympathy since empathy is on a more personal level.
- **Compassion: the ability to have a gentle, caring attitude toward patients, their families, and coworkers.** Since patients and their families experience emotions such as fear, isolation, anxiety, and sadness during times of illness, a healthcare professional's understanding and compassionate attitude can help alleviate any stresses related to these emotions.
- **Loyalty: a sense of faithfulness or commitment to people.** Similar to the situations related to fidelity (from the section above), an employee should be faithful to their employer/place of employment as long as they are not coerced into performing any unethical or illegal actions (such as covering up patient abuse/neglect or falsifying medical records).

Workplace Issues

Ethics also play a role in the workplace in terms of legal issues:

- **Privacy/confidentiality: the ability to safeguard another person's confidences or information.** Healthcare professionals and their places of employment (such as clinics, hospitals, and schools) handle sensitive information such as a patient's medical record or billing information, so it is important to ensure their security so that only authorized personnel have access to them. Failure to comply will result in civil and criminal penalties. This will be discussed in detail later on when we cover HIPAA (The Health Insurance Portability and Accountability Act of 1996).

In addition, any information shared by family members or members of the healthcare team should be held in strict confidence and should only be shared with authorized individuals.

- **Due process: the entitlement of all employees to have certain procedures followed when they believe their rights are in jeopardy.**

The Fourteenth and Fifth Amendments provide individuals with the right to due process of the law meaning that individuals are entitled to a fair, unbiased hearing when they are accused of an offense. Since professionals in the healthcare field encounter risks of accusations such as negligence or malpractice, their rights to defend themselves in court are protected under the state (Fourteenth Amendment) and federal (Fifth Amendment) levels.

Under due process, the accused individuals must be notified of their charges, the accusations have to be investigated, and if there is evidence to warrant a court appearance, the individuals must attend their hearing. If the individuals are found not guilty of the accusations, they should not receive a penalty.

- **Sexual (gender) harassment: unwelcome sexual advances or requests for sexual favors.**

Under the Equal Employment Opportunity Commission Guidelines found in Title VII of the Amended Civil Rights Act of 1964, sexual (gender) harassment is defined as:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

These formal guidelines basically state that verbal or physical conduct that are of a sexual nature are used for purposes to approve or deny an individual's employment. This also covers terms when someone is already an employee. For example, getting a raise or promotion in exchange for a sexual favor with someone higher up. Finally, sexual harassment can also be used as a form of bullying, intimidation, and imbalances in power dynamics through inappropriate sexual jokes or gestures that make the workplace environment difficult for the employee.

Please note that **both men and women** can become victims of sexual (gender) harassment.

- **Comparable worth/pay equity: the theory that extends equal pay requirements to all persons doing equal work.**

This states that people who are on the same level (clinical doctors, staff nurses, researchers, technicians, etc.) should be paid the same regardless of their gender,

ethnicity, etc. Employers and human resources personnel should be aware that individuals who are in the same pay grade must be compensated accordingly. Paying someone a higher salary for equal work than another individual (of a different gender, race, etc.) performs results in injustice.

Ethics Models

We will take a look at three-decision making models when handling ethical dilemmas.

1. Three-Step Ethics Model

Formulated by Kenneth Blanchard and Norman Vincent Peale, three questions are asked in steps to make an ethical determination:

- **Is it legal?**
- **Is it balanced?**
- **How does it make me feel?**

When you start with the first question (Is it legal?), and the answer is obviously illegal (such as stealing controlled substances or physically abusing a patient), the answer is that it is also unethical so you do not have to progress further.

If the situation is legal, then you proceed to the second question (Is it balanced?). The second question examines how an action can negatively affect other individuals. It's basically asking if one person will benefit while another won't. For example, if a head nurse favors certain staff nurses and gives them the chance to work overtime while not telling the other staff nurses. There is an imbalance (from our example above covering fairness) where the favored staff nurses will have access to greater resources (in this case, additional overtime pay) while the other nurses do not have this same opportunity.

The final question (How does it make me feel?) covers an individual's feelings emotionally. If you were associated with the action or have to explain it to a loved one, how would you feel? Would you feel good or bad?

If you answered yes to the first two questions and feel fine with the final question, then your action will most likely be ethical.

The last two models are more analytical and require an individual to examine both the positive and negative aspects of situations. This is similar to evaluations and critiques where all sides are considered.

2. The Seven-Step Decision Model

This model is used to examine the facts from all angles.

1. Determine the facts by asking the following questions:

What do we need to know?
Who is involved in the situation?
Where does the ethical situation take place?
When does it occur?

2. Define the precise ethical issue.

What does the ethical issue cover? Does it deal with rights or justice? Was there a breach of privacy?

In this step, you target what issue you want to examine as we become more specific.

3. Identify the major principles, rules, and values.

Examine the principles and interpersonal ethics from above and determine which of those apply to the situation.

For example, if a medication was supposed to be administered to a patient every three hours, but a dose was missed, responsibility and honesty are two of the principles/values that the professional should identify for the situation.

4. Specify the alternatives.

What are the alternative actions that you could perform in the situation? Can you make a compromise or find a “middle ground?” Should an action be done or not done?

In our previous example above, a dose was missed during routine medication administration. After speaking with the physician, can the medication be administered as soon as possible and then adjust the time? OR could that dose be missed and then administer it for the next time schedule?

The main thing is to quickly address the situation (in this case, a nurse notifying the physician of the new course of action).

5. Compare values and alternatives.

In this step, you start to become more specific and integrate the principles and values with the alternatives. During this time, the individual assesses what proper alternative matches with which value or principle (or combination of values and principles) to provide a clearer path.

6. Assess the consequences.

What are the short-term, long-term, positive, and negative consequences for the alternatives? This step allows you to consider any new factors that can play a major role for the alternative choices.

In our example, with the missed dose, what would happen if the nurse did not notify the physician and instead, administered the next dose? What would happen if the nurse spoke to the physician and the medication was administered ASAP with the schedule readjusted?

What are the consequences for the patient's condition? Was that dose important? Would it have been okay if they missed a dose?

7. Make a decision.

In this final step, the individual balances the consequences with one's principles and values.

Similar to Step 5 where the principles and values were held up against the alternatives, we move further and do the same thing here by holding the consequences together with the principles and values. For example, we evaluate how a principle such as responsibility can help address the consequences in the situation of the missed dose.

Don't forget to double-check your decision!

As you can see, this model is more intricate and dives deeper than the Three-Step Ethics Model. However, they both have their uses. You can always start with the Three-Step Ethics model to assess a situation, and if you need further information, you can use The Seven-Step Decision Model.

3. Dr. Bernard Lo's Clinical Model

Dr. Lo's model focuses on patient-care issues. His model includes taking into consideration the patient's viewpoints and preferences and notes that patients should play an active role in the decision making process.

With his clinical model, it thoroughly examines how to address important patient-care issues such as determining when to proceed with life-sustaining interventions (such as performing cardiopulmonary resuscitation [CPR], kidney dialysis, or continuing with life support).

1. Gather information.

If the patient is competent, what are his or her preferences for care?

If the patient lacks decision-making capacity, has he or she provided advance directives for care?

If the patient lacks decision-making capacity, who should act as surrogate?

What are the views of the healthcare team?

What other issues complicate the case?

2. Clarify the ethical issues.

What are the pertinent ethical issues?

Determine the ethical guidelines that people are using.
What are the reasons for and against the alternative plans of care?

3. Resolve the dilemma.

Meet with the healthcare team and with the patient or surrogate.

List the alternatives of care.

Negotiate a mutually acceptable decision.

Dr. Lo's clinical model is commonly used in a hospital or clinical setting. The healthcare team composed of professionals such as doctors, nurses, social workers, and their students in training work together to collaborate on the decision-making process while including the patient and their families/caregivers along the way.

This provides a patient with greater autonomy and establishes a stronger relationship between the healthcare team and the patient and their families/caregivers. This comes into play when advance directives and moral objections are discussed. Advanced directives will be discussed in a later handout, but it states that a patient makes prior determinations for their care regarding issues such as living wills and proxies (person acting on their behalf) during their time of terminal or advanced stage illness.

Ethics: What it is and isn't

Ethics is more than one's feelings, emotions, viewpoints, and beliefs. Ethics have to be grounded in reason and fact. One person might feel that euthanasia is fine while another objects to it. So ethics cannot be based on emotions and beliefs alone.

Instead of just saying, "I think euthanasia is wrong." A better way to discuss it is to include why: "I think euthanasia is wrong because a main duty of a healthcare professional is to ensure that a patient is not harmed."

Although ethics overlaps with religious beliefs, people can still hold strong moral and ethical beliefs without following an organized religion.

Bioethics (Biomedical Ethics)

Bioethics (Biomedical ethics) is a branch of applied ethics. **It deals with the moral dilemmas and issues of advanced medicine and medical research.** This covers issues such as research with human and animal subjects, cloning, stem cell research, and allocation of scarce resources such as organ transplants.

As medicine becomes more complex, the healthcare field requires a more thorough decision making process. This includes examining the facts, assessing them through the lens of moral principles and values, and considering the alternatives and their consequences.

Four principles serve as guidelines when handling bioethical dilemmas.

1. **The principle of autonomy: people have the right to make decisions about their own life.** Informed consent falls under this where patients must be debriefed on what the treatment involves, any risks to the treatment, chances of being successful, and other alternative choices.

For procedures such as surgery, patients must be informed of these facts so that they can make their own decision on whether they will proceed with it or not.

2. **The principle of beneficence: the principle of doing good; we must not harm patients while assisting them.**

The choices in medical science must do what is best for the patient. Together with a patient's wishes, they can decide on how to proceed (principle of autonomy) when they are informed about any risks that may be involved with the procedure.

3. **The principle of nonmaleficance:** from the Latin "*Primum non nocere*" meaning "**First do no harm.**"

Together with the principle of beneficence, healthcare professionals must perform actions that will benefit the patient while ensuring their safety (protection from harm).

The risks of a procedure might outweigh the benefits. For example, removing a tumor from a pregnant woman's uterus may harm the unborn child in the process. This is why the consequences and alternatives in the decision-making process must be thoroughly considered before any action can be taken.

4. **The principle of justice: everyone must be treated equally.**

Simply stating, equal care and treatment should be given to all patients regardless of their background (gender, ethnicity, financial status, educational status, disability status, veteran, religion, sexual orientation, etc.).

Bioethicists are people who specialize in the field of bioethics. They are usually researchers and teachers who examine the abstract and complex issues related to ethical dilemmas in medicine and medical research. They examine the social and scientific consequences of problems such as in vitro fertilization (IVF) and stem cell research and how they make an impact on society.

Ethics Committees and Quality Assurance Programs

Ethics committees consist of healthcare professionals as well as a wide range of individuals from other disciplines such as lawyers, clergy, ethicists, and psychologists who assist patients, families, and staff when reviewing difficult cases.

They examine the facts related to the case and provide recommendations based on a set of criteria such as the severity of the illness and chances of survival. Through their assistance, they can help guide professionals, patients, and their families/caregivers on how to approach various treatments and procedures.

Quality assurance (QA) programs in many hospitals and healthcare agencies gather and evaluate information about the services provided as well as the results achieved. They then compare the results with an accepted standard.

QA programs came as a result of holding the health professions accountable for quality medical care. This is to ensure that patient care is up to high standards while working on improvements that can be made on areas that have deficiencies.

QA committees evaluate issues such as:

- Infection control
- Errors in medication dispensing
- Patient complaints related to breaches in confidentiality
- Safety and monitoring practices for laboratory and radiology areas
- Adverse reactions to treatments and/or medications

Medical Etiquette

Medical etiquette are standards of professional behavior that physicians use for conduct with patients and other physicians.

Patients expect that physicians will be punctual for appointments and vice versa. This is also seen during consultations when a patient's primary care provider needs to share information with a specialist who will treat the patient. The physicians are expected to communicate with each other promptly and provide information that can assist in a patient's treatment. Physicians should also be honest and not hide any information about a patient that is necessary for a patient's care and well-being.

Another courtesy is addressing a doctor as "Doctor + Surname (Last name)" unless they give you permission to call them by their first name. Likewise, doctors and other healthcare professionals should address their patients as "Mr./Ms./Mrs./Dr. + Surname" unless they tell you otherwise. The elderly usually prefer to be addressed in this manner.

In the next handout we will discuss the legal system in detail.