THE ETHICS CONSULT PROCESS

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Six steps in the analysis of ethical problems and resolution- lots of information, partial facts, strong reactions - allow you to take the situation apart and look at it in a more organized way

1. Get the story straight- Gather relevant information
   • Necessity for close attention to details
   • Fact finding mission
   • General checklist for data gathering
     a. Clinical indications
     b. Preference of the patient
     c. Quality of life
     d. Contextual factors
2. Identify the type of ethical problems
   a. Ethical distress
   b. Ethical dilemma
   c. Locus of authority problem
   d. Other

3. Use ethics theories or approaches to analyze the problem
   Utilitarianism / Deontology
   Principles / Policy / Legal

4. Explore the practical alternatives
   (what should be done / can be done....)
   Imagination enhances ethical decision making by allowing you to think more expansively about the alternatives

5. Suggest the Course of action based on review

6. Complete the action / Plan for evaluation and outcome assessment
PRINCIPLES OF BIOETHICS

• Respect for Autonomy
• Nonmaleficence
• Beneficence
• Justice
• Fidelity
• Veracity

RESPECT FOR AUTONOMY

• Greek *autos* (self) and *nomos* (rule, governance, or law)
• Self determination
• Self rule that is free from both controlling interference by others and from limitations, such as inadequate understanding, that prevent meaningful choice (B&C p. 58)
NONMALEFICENCE

- *Primum non nocere* (‘First, do no harm’)
- Hippocratic Oath
- It is at the very heart of what is meant by a caring response
- Asserts an obligation not to inflict harm on others.
- Nonmaleficence only requires *intentionally refraining* from actions that cause harm. *(B&C p. 115)*
- *Idea of ‘negative rights’*

BENEFICENCE

- Acts of mercy, kindness, and charity
- An action done to benefit others
- “I will use treatment to help the sick according to my ability and judgment” (Hippocratic Oath)
- One ought to prevent evil or harm
- One ought to remove evil or harm
- One ought to do or promote good *(B&C p. 115)*
JUSTICE

• Fair, equitable, and appropriate treatment in light of what is due or owed to persons.

• A holder of a valid claim based in justice has a right, and therefore is due something. Aristotle: Equals must be treated equally, and unequal's must be treated unequally. (B&C p. 227)

FIDELITY

• Faithful devotion to duty or to one’s obligations

• Loyalty
VERACITY

• The ethical element of veracity binds you to honesty – you will tell the truth.

• Kant gave veracity a central role, taking the position that veracity is an absolute to which no exception can be made. (p. 69).

4-BOX METHOD OF ETHICAL ANALYSIS

1. Medical Indications

2. Patient Preferences

3. Quality of Life

4. Contextual Features

**Medical Indications:**
- What is the patient's medical problem? History? Diagnosis? Prognosis
- What are the goals of treatment?
- What are the probabilities of success?
- What are the plans in case of therapeutic failure?
- In sum how can this patient be benefited by medical and nursing care, and how can harm be avoided?

**Patient Preferences:**
- Is the patient mentally capable and legally competent? Is there evidence of incapacity?
- If competent, what is the patient stating about preferences for treatment?
- Has the patient been informed of benefits and risks, understood this information, and given consent?
- If incapacitated, who is the appropriate surrogate? Is the surrogate using appropriate standards for decision making?
- Has the patient expressed prior preferences, e.g. advance directives?
- Is the patient unwilling or unable to cooperate with medical treatment? If so, why?
- In sum, is the patient's right to choose being respected to the extent possible in ethics and law?
• **Quality of Life:**
  - What are the prospects, with or without treatment, for a return to normal life?
  - What physical, mental, and social deficits is the patient likely to experience if treatment succeeds?
  - Are there biases that might prejudice the provider’s evaluation of the patient’s quality of life?
  - Is the patient’s present or future condition such that his or her continued life might be judged undesirable?
  - Is there any plan and rationale to forgo treatment?

• **Contextual Features:**
  - Are there family issues that might influence treatment decisions?
  - Are there provider (physicians and nurses) issues that might influence treatment decisions?
  - Are there financial and economic factors?
  - Are there religious or cultural factors?
  - Are there limits on confidentiality?
  - Are there problems of allocation of resources?
  - How does the law affect treatment decisions?
  - Is clinical research or teaching involved?
  - Is there any conflict of interest on the part of the providers or the institutions?

**NURSING PROCESS APPROACH:**

• **Assessment**
  (collect facts)

• **Diagnosis**
  (What is the ethical issue/dilemma? What moral theories/reasoning used)

• **Planning**
  (What are possible actions/alternatives?)

• **Implementation**
  (which act was chosen and why?)

• **Evaluation**
  (What was the outcome?)
CONSULT ORDER RECEIVED:
DATA REVIEW

• Contact provider who ordered consult to assess what they believe the ethical issue is and what they expect from the ethics consultant
• If attending physician is not aware that a consult has been ordered, contact them and let them know that a consult has been called and why.
• Review the medical record and begin the case “story” from the beginning / admission up to this point
• Speak to all relevant providers, patient, and family members as appropriate related to the issue at hand (continue to gather facts / information
• Review relevant institutional policies / legal issues as needed
• Contact other key personnel as needed (example: legal office, risk manager, social work..)
• Other?

PATIENT / FAMILY INTRODUCTIONS

• It may be difficult to introduce yourself and explain why you have been called if the patient and/or family have not been advised that you would be coming to speak with them.
• My general introduction includes my name and that I have been asked to speak to them by their attending physician (or other..) to help them make decisions about the medical treatments of their loved one / self. I let them know I am a representative of our ethics committee and am also interested in making sure that their rights as a patient / family surrogate are not overlooked and that we will all work together to come up with the most appropriate treatment plan based upon clinical indications and the values that the patient has.

• Many of my consults begin without talking with patient / family and I need to arrange a meeting time that is good for patient/family/providers. I usually ask social work to assist me with arranging family/team meetings if needed.
FAMILY / TEAM MEETINGS

- I always introduce the folks at the table and also state the reason for the meeting and what we expect to accomplish during the meeting if possible, and that I will keep the meeting on task.

- It is important to have the attending physician or at least a senior resident present in the beginning of family meetings in order to answer the clinical questions that they may have.

- Once the clinical questions are cleared up much as possible, I usually act as the meeting moderator, asking questions and waiting for responses.

- I generally begin with a question like “Tell me what your loved one was like before this illness….. What kind of things did he/she like to do?”

- The next question is usually related to any type of advance directives…. If they have a written one, we review it, if not, I ask if the patient ever discussed specific issues related to quality of life or even end of life treatments.

- I ask about the patients religious values or general life values that me be helpful in making a treatment decision based upon what they think this person may want/decide

- The difficulty comes in when family members have no idea related to patient preferences and simply focus on what they , themselves want to happen.

SUMMARY / OUTCOME OF FAMILY MEETING

- It is important that I keep the meeting on topic and gate keep all through the meeting.

- At the end of the meeting, I always summarize what was discussed and what the outcome of the meeting is/was

- For example: The family will discuss DNR status this evening and will follow up with the team regarding their decision by 9am tomorrow morning.

- I ask for permission to phone / follow up with family the next week as well and I document this in the medical record.

- This is important and I can track if any decisions were made or treatment options were altered as a result. (in past 6 months with 18 consults code status has changed in 4 patients and comfort care resulted in 2 pateints.)
OPTIONS / PLAN

• Brainstorm about the possible options for the ethics plan / suggestions
• Choose the 2 best possible option plans
• Discuss options with attending physician / appropriate team members
• Choose the best option based upon all the data received and reviewed
• Discuss with patient / family
• Negotiate as needed (time frame for decision / policy review if not a lot of room for negotiation… for example naming a surrogate follows the law and policy)

IMPLEMENTATION / DOCUMENTATION

• Documentation should be done with each encounter of patient / family
• Documentation should be done even if patient / family were not part of the discussion
  • For example, consults can be for policy clarification and no contact with family / patient needed
  • Once the plan of action has been implemented, ethics consultant should follow up with team to evaluate any ongoing needs or change in action.
CONSULT NOTES:

- Logical Flow
- Begin with reason for consult
- Brief history per medical record
- Narrative date from discussion with providers / team / patient / family members
- Review of relevant policy or legal information (cut/ paste policy info into the note if you are able)
- Review of viable options
- Review of family meeting / family data (phone numbers / contact info)

ETHICS CONSULT NOTE:

- Ethical Issues / Suggestions
- SUMMARY / OUTCOME section
- Signature and contact information

CONSULT EVALUATION

- Evaluation of ethics consultation is somewhat controversial as it is not clear WHAT OUTCOMES SHOULD BE MEASURED AND HOW TO MEASURE THEM.
- Often consult evaluation is reduced to patient / family / team satisfaction with the process
  - For example, was the consult done in a timely fashion, was the consultant polite, were the issues discussed and explained so that the family could understand…
  - I struggle with what outcomes would suggest that the consult was successful or what outcomes would suggest that the consult was not successful:
  - If DNR order was consented for does that mean success?
  - There is a large amount of literature on this topic and the evaluation of ethics consultation is complicated and may not be useful for much except as a satisfaction survey tool.
QUESTIONS / COMMENTS