Managerial Choice & Organizational Ethics: Aligning Budgetary Decision-Making with Mission, Vision, Values & Organizational Culture

Health Care Association of New Jersey
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John Donnellan, MPA, FACHE
Today’s Theme

“It often requires more courage to dare to do right than to fear to do wrong.”

- Abraham Lincoln
About Me

• Work experience:
  • 40 years of Federal Service
  • 18 as CEO of a Veterans Hospital

• Teaching experience:
  • Preceptor of Administrative Residents and Fellows since 1991
  • At NYU Wagner since 2006
    • Expanded teaching at NYU/Wagner - June 2009
      • Capstone
      • Health Services Management
      • Ethics in Healthcare Management

• Fellow in American College of Healthcare Executives (ACHE)
• MPA – NYU Wagner
Today’s Objectives

1. Discuss ethical conflict in operational, financial and strategic decision-making in a health care organization
2. Discuss the characteristics of an ethical organization and an ethical leader
3. Discuss the benefits of an “Institutional Ethics” program
4. Review methods to respond to ethical conflict in health care organizations
Health Care Ethics

• Health care ethics includes:
  • Clinical ethics
  • Research and quality improvement ethics
  • Organizational ethics
Clinical Ethics

Annals of Internal Medicine
American College of Physicians Ethics Manual
Sixth Edition

Some aspects of medicine, like the patient-physician relationship, are fundamental and timeless. Medicine, however, does not work in a vacuum. Physicians must reflect on the ethical and moral implications of our decisions and actions. The sixth edition of the Ethics Manual contains emerging issues in medical ethics and professionalism and revised issues that are still very pertinent. Changes in the Manual since the 2003-2004 edition include expanded discussions of expanded issues, such as overlapping patient-confidentiality and electronic health records, transparency, patient rights, genetics, software, conflict of interest, and the use of the internet. It also includes new topics on the ethical implications of social media and online professionalism, such as the ethical implications of social media use and web-based communication, patient-physician communication, and the patient-centered medical home.

The Ethics Manual is available online at http://ethicsmanual.acponline.org. It is updated regularly to reflect new developments in medical ethics and professionalism.

The Ethics Committee,

American College of Physicians

See also:
- Editorial comment:
- Web-only

Annals of Internal Medicine (on page 101)
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Hippocratic Oath

The Hippocratic Oath is a traditional ethical code for physicians, written in ancient Greece. It is often used as a symbol of the oath of professional ethics that physicians take before beginning their medical practice.

The oath contains 24 phrases, each beginning with the words "I swear by...", which are meant to bind the individual to the principles outlined in the oath. The oath is often recited by medical students and physicians when they take their oaths of office.

The Hippocratic Oath is considered one of the most important documents in the history of medicine, and it continues to be widely used today as a symbol of professional ethics.
Regulations and Ethical Guidelines

Munsterberg Code

1. The voluntary consent of the human subject is absolute essential. This means that the person involved should have legal capacity to give consent; should be so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, overreaching, or other ulterior form of constraint or coercion; and should have sufficient knowledge and comprehension of the elements of the subject matter involved as to enable him to make an understanding and enlightened decision; the latter element reposes that before the acceptance of an affirmative decision by the experimental subject there should be made known to him the nature, duration, and purpose of the experiment; the method and means by which it is to be conducted; all inconveniences and hazards reasonably to be expected; and the effects upon his health or person which may possibly come from his participation in the experiment.

The duty and responsibility for ascertaining the quality of the consent rests upon each individual who initiates, directs or engages in the experiment. It is a personal duty and responsibility which may not be delegated to another with impunity.

2. The experiment should be such as to yield fruitful results for the good of society, unpalpable by other methods or means of study, and not random and unnecessary in nature.

3. The experiment should be so designed and based on the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study that the anticipated results will justify the performance of the experiment.

4. The experiment should be conducted as to avoid all unnecessary physical and mental suffering and injury. No experiment should be conducted where there is a prior reason to believe that death or disabling injury will occur, except, perhaps, in those experiments where the experimental patients also serve as subjects.

5. The degree of risk to be taken should never exceed that determined by the humanitarian importance of the problem to be studied by the experiment.

6. Proper preparation should be made and adequate facilities provided to protect the experimental subject against even remote possibilities of injury, disability, or death.

7. The experiment should be conducted only by scientifically qualified persons. The highest degree of skill and care should be observed through all stages of the experiment of those who conduct or engage in the experiment.

During the course of the experiment the human subject should be at liberty to bring the experiment to an end if he has reached the physical or mental state where continuation of the experiment seems to him to be impossible.

8. During the course of the experiment the scientist in charge must be prepared to terminate the experiment at any stage, if he has probable cause to believe, in the exercise of the good faith, superior skill and careful judgment required of him, that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject.

An employee of NewYork-Presbyterian Hospital/Weill Cornell Medical Center was charged on Saturday in federal court in Manhattan with stealing nearly 50,000 patient files and selling some of them, according to a criminal complaint.

WASHINGTON — The number of whistleblower cases reported at the Department of Veterans Affairs remains "overwhelming," a year after a scandal broke over chronic delays for veterans seeking medical care and falsified records covering up the delays, a top federal investigator said Monday.
Relationship between Ethics, Law & Compliance

• Health care ethics overlaps with law and compliance but is not the same

  • Compliance is generally concerned with making sure that conduct conforms to specific rules, especially external legal or regulatory requirement, while ethics is generally concerned with clarifying and promoting ethical practices that may or may not be clearly defined

  • Law establishes required or prohibited conduct whereas ethics seeks to clarify and promote what is right or good
Ethics and Health Care Ethics

• Applied (Practical) Ethics
  • The discipline that considers what should or should not be done or what is the right thing to do in the face of uncertainty or conflict in values

• Health Care Ethics
  • The area of ethics that deals with decisions or action relating to health care
Ethics as a Foundation
(Nelson; *HE* 2011)

- **Foundation**
  - Ethics defines *what* and *who* the organization is at its core; its mission and values

- **Framework**
  - Ethics serves as *how* the organization will fulfill that foundation in its practices and culture
  - And, *how* it will address ethics conflicts when they arise
Ethics as a Foundation

Health Care Organizations

Pt. & Pop. Health
Effectiveness
Comparative
System Design
Quality & safety
Informed Choice
Clinical & Admin
Management
Finance
Health Care’s Common Morality

• **Respect for patients** (Autonomy)
  - Promoting self-determination through shared decision-making, maintaining confidentiality, truthful communication, promise-keeping, etc.

• **Promote patients’ best interest** *(Beneficence, nonmaleficence)*
  - Promoting beneficial, evidence-based care within a fiduciary relationship and the avoiding actions that cause harm, etc.

• **Distributive and social justice** *(justice)*
  - Allocating resources fairly and providing value for services rendered, etc.

• **Transparency** *(Honesty)*
  - Fully disclosing relevant information (clinical, operational, financial) to stakeholders.
The Relationship Between Morals and Ethics

- **Morals**
  - Common values, traditions, customs, laws, intuition, faith-based personal beliefs that an individual calls upon for regular guidance
  - Basic shared values forming our common morality

- **Ethics**
  - Ethics is the formal and systematic study of morality. A course of action that has been reflected on, after which the reasoning directs that some course of action seems to be the right thing to do
Organizational Ethics

- Organizational ethics is the application of an ethical framework to a system of care, including its structure, policies and practices

- Most often articulated in:
  - Mission/vision/values statements
  - Organizational code of ethics
  - Codes of ethics of the various professionals and practitioners that constitute the organization’s staff, associates and affiliates

- No clear boundary between clinical and organizational conflicts
Organizational Ethics: Creating Structural and Cultural Change in Healthcare Organizations

David C. Blake

DOING ETHICS DIFFERENTIALLY

The arrival of organizational ethics on the bioethics or healthcare ethics’ scene may mean for some simply the addition of new topics to the healthcare educator’s annual of topics as he or she goes about performing any one of the distinct activities that currently constitute the field. For example, a healthcare ethicist could take up the issues of organizational ethics as a new item for discussion of public policy and public education, i.e., as a cause for renewing professional training or professional codes, or as fertile scholarly work in which to plant new publications. Standards of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) regarding care might even lend themselves to this sort of activity or to work of improving operations and management, and less as a theoretic, cognitive, or scholarly exercise.

My proposal for organizational ethics as a “demon change” in healthcare ethics ultimately rests on a wing and a prayer. The wing is the growing recognition in healthcare that few substantive changes in practice are as noteworthy over the last 10 years as the results of activity in healthcare ethics. The prayer is actually on the experience (not totally without foundation) that healthcare ethics will endow practicing benefit for American patients if and only if it manages into a process for structural and cultural changes in healthcare organizations.

In healthcare organizations (as with other organizations), the structures and cultures that are changed are analogs of policies and perspectives strategic goals, and strategic actions of individuals and systems.
Organizational Ethics

• Ethics is the foundation for IOM’s value-based aims

  • Safe
  • Effective
  • Patient-centered
  • Timely
  • Efficient
  • Equitable
## Organizational Ethics

<table>
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<th>Basic Ethics Principles and Concepts</th>
<th>Institute of Medicine’s Quality Aims</th>
<th>Application of Ethics Principles to Quality Care</th>
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<td>Autonomy</td>
<td>Patient-centered</td>
<td>Supporting, facilitating, and respecting self-determination in shared decision-making</td>
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<td>Beneficence</td>
<td>Effective, safe, timely, patient-centered</td>
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<td>Nonmaleficence</td>
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<td>Distributive and social justice</td>
<td>Equitable, efficient, safe, patient-centered</td>
<td>Allocating fairly the benefits and burdens related to health care and promoting access to health care services in an equitable manner and value for services</td>
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Ethical Conflicts

- Occur when there is uncertainty, a question, or a conflict regarding competing ethical principles, personal values, or professional and organizational ethical standards of practice.
Ethics Situations

• **Ethics Case**
  • A situation involving patients that includes an ethical question

• **Ethics Issue**
  • A recurring ethical situation (case) that exist at the systems level and that includes an ethical question

• **Ethics Question**
  • An ethics question asks what action a particular ethical agent should take in the face of uncertainty or conflict over the right thing to do
Impact of Ethical Challenges

- Ethical conflicts have a significant impact on clinics and hospitals:
  - Staff – caregiver stress, morale, job turn over, diverted staff time
  - Patients – patient satisfaction, self-referrals
  - Organizations’ culture – professionalism,
  - Quality of care

What About Resource Allocation?

• Proton Beam Therapy is a new form of radiation therapy; it is expensive to build and operate - $100 - 225 million per unit (1)

• The most targeted type of cancer using PB therapy is prostate cancer
  • Medicare pays $32,000 for PB Therapy for a patient with prostate cancer, as compared to $19,000 for a patient receiving standard radiation (1, 2)

• With the exception of a very limited number of very specific forms of cancer there is little evidence that PB therapy better than standard radiation (1,2,3)

• Several large and prestigious Medical Centers in the US have a PB Therapy Unit
  • The Mayo Clinic has begun building two – one in Minnesota and one in Arizona (2)

1) American Cancer Society
2) Winslow-WSJ-Aug, 2013
3) Emanuel - NYT-Jan 2012
Ethical Reasoning

• Ethical reasoning is the process and reasoning that a person applies in determining what is right or wrong or what one should or should not do

• Ethical reasoning is the answer to the question, “why is an action right or wrong?”
Ethical Reasoning

• Personal values

• Group specific morality

• General ethical principles

• Ethical theories
Ethical Reasoning

- Ethical reasoning is used to address ethics cases or issues
- Serves as the basis for ethical standards of practice and policy
- Ethical reasoning should be consistent, impartial, and rational
- Ethical reasoning does not always lead to one morally correct answer
Nelson’s Model for Ethical Decision-Making

- **Background** – the circumstances leading to the ethics issue
- **Ethics Question** – the specific ethics question to be clarified
- **Ethics Values** – the related ethics principles and/or organizational values
- **Options** – the options in response to the ethics question
- **Recommended Option** – the recommended option; why
- **Preventing the Conflict** – the general guidelines for preventing or anticipating the ethics issue
Case Study – Closing a Clinic

• Memorial Medical Center (MMC) is a nonprofit, urban-based HC system that includes a 165 bed hospital, an ECC, a NH and 3 OPCs.

• One of the three clinics, the one located in the lowest income sector of MMC’s catchment area, is placing a significant financial burden on the overall system

• Several members of MMC’s leadership team believe there is no alternative other than to close the clinic

• The clinic administrator voices ethical concerns about any decision by MMC to close the clinic
Case Study – Closing a Clinic

• The CEO agrees, at a minimum, that further discussion about closing the clinic requires some ethical reflection
• She tables further discussion until the following week, and invites a member of MMC’s ethics consult team to join the conversation
  • *That would be you!*
Case Study – Closing a Clinic

• In preparation for the meeting you consider the following:
  • Is this an *ethical* issue or conflict?
    • If so, what is the conflict?
    • Why?
  • What is the specific ethical question?
  • What ethical principles:
    • Are relevant?
    • Are in conflict?
  • What are the options in response to the conflict?
    • Which option do you recommend?
  • How might this conflict be prevented in the future?
Ethical Issues in HC Organization & Mgmt

• Leaders of healthcare organizations are responsible for:
  • Assessing & improving the quality of care
  • Assuring access to care, consistent with the organization’s mission
  • Assuring an institutional “culture” consistent with the organization’s mission
  • Assuring the financial integrity of the institution
  • Assuring institutional compliance
Ethical Issues in HC Organization & Mgmt

• Assessing and improving the quality of care
  • What is measured?
  • How transparent is performance data?
  • What are the pros & cons of pursuing strategic excellence v. acceptable minimum?
  • Are performance goals realistic and supported with resources?
  • Have “thresholds” below which performance cannot fall been established and communicated?
Ethical Issues in HC Organization & Mgmt

• Access to care
  • Is it assured, consistent with organizational mission?
    • How?
  • Are all relevant communities involved?
  • Is it consistent with community demand/need?
    • Must demand always be met?
Ethical Issues in HC Organization & Mgmt

• Assuring an ethical culture
  • Does it promote community/socially responsible agenda?
  • Is it a steward of community values & resources?
  • Does it *promote/reward/celebrate* honesty & transparency?
    • How easy is it to:
      • Report a problem?
      • Admit a mistake?
  • Duty to report v. “whistle blowing”
  • How is disclosure managed?
  • How transparent is the organization?
Ethical Issues in HC Organization & Mgmt

• Assuring financial integrity
  • No margin, no mission?
  • Acceptable minimum v. strategic excellence?
  • What happens when community need conflicts with fiscal solvency?
  • Creating demand v. meeting demand (including unrecognized or unrealized demand)
Ethical Issues in HC Organization & Mgmt

• Assuring institutional compliance
  • Ethical business practices
  • Internal controls and fraud prevention
  • What happens when one’s personal or professional interests conflict, or appear to conflict, with their duty to protect the interests of patients or staff, conflicts with loyalty to the organizational?
One More Case

Southern Heights Metro Hospital *(Nelson)*

- Comprehensive facility with reputation for excellence
- Level I Trauma Center (busiest in region)
  - 400 beds
  - 30,000 d/c per year
  - 8,000 employees
- Significant financial strain x 4 years
- 2 recent malpractice cases highlighted in media
Southern Heights Metro Hospital (continued)

• Board, concerned about SHMH diminishing reputation, dismissed CEO and hired new CEO – Jerry Hanford

• Jerry Hanford, FACHE
  • Former CEO at large university medical center
  • Reputation for “righting” HC orgs that are “upside down”
  • Expected to bring about a financial turnaround without sacrificing quality
Southern Heights Metro Hospital (continued)

• Hanford’s assessment from various sources:
  • Financial challenges are considerable
  • Staff survey indicates significant problems with staff morale and culture:
    • Poor communication
    • Poor behavior by colleagues
  • Lack of transparency
  • Culture of “compliance with rules” v. addressing ethical issues in a retribution-free environment
Southern Heights Metro Hospital (continued)

• SHMH stands out dramatically above national average re: end-of-life interventions & expenditures
• Malpractice cases highlighted in media involved serious medical errors, and not readily disclosed to patient and family
• A serious case of physician-biotech firm conflict-of-interest has recently been brought to the attention of senior leadership
• And others...
Southern Heights Metro Hospital (continued)

- Hanford’s conclusions:
  - SHMH has experienced “mission and values drift”
    - Focused too heavily on financial return from high tech innovations, interventions, and procedures
    - Lack of emphasis regarding the staff’s ethical practices and behaviors

*Need to establish an ethically grounded culture at SHMH that will increase quality and financial success*
Southern Heights Metro Hospital (continued)

- Hanford’s plan of action:
  - Create a Task Force charged with developing and implementing a multi-year effort to make NHRH an “ethically grounded” organization that is fully aligned with its stated mission and values
  - The Task Force’s first charge is to prepare an outline regarding a general strategy to achieve its task
  - You are a member of this Task Force
• As a member of the Task Force:
  • What basic strategies would you recommend that the Task Force pursue over the next few years, to create a more ethically-grounded organization?
    • Your recommendations should offer basic strategies for change, including “action” steps.

• What metrics would you propose to use to measure an improved culture?
Characteristics of an Ethically Grounded Health Care Organization

1. Ethical leadership - there is no leadership tool more powerful than your own example as someone who consistently demonstrates the importance ethics and the organization’s values

2. Integrated ethical values – mission, vision and values are fully integrated into the life and culture of the organization

3. Ethics-grounded clinical and administrative practices – consistent with organizational values; evidence-based; and, consistently applied and monitored

4. Ethics program – an effective clinical and administrative resource that integrates ethics throughout the organization by promoting and clarifying ethical practices
Suggested Readings

• *ACHE Code of Ethics*, November 2011.