RSPT 1191
Introduction to Medical Ethics

Healthcare providers in general and respiratory therapists in particular face questions of ethics frequently in their respective practices.

Questions such as...

Questions

What about
- the patient’s right to decide?
- “Living Wills and Healthcare Proxies?”
- terminal care for the terminally ill?
- demands for futile treatment?
- euthanasia and assisted suicide?
- codes and DNRs?

When do we say “Enough is enough?”

Ethical decision making requires the therapist to search for an understanding of the patient’s life rather than to make an evaluation of it.

Joan C. Rogers, PhD, OTR, FAOTA

What Are Morals?

In general, morals are concerned with what people believe to be right and good conduct, and are transmitted from generation to generation, evolving and being reinterpreted for each age. This broad understanding of what is right and wrong in human conduct is taught to us by our families, religion, national culture and legal structure.

It appears to me that in Ethics, as in all other philosophical studies, the difficulties and disadvantages are mainly due to a very simple cause; namely to the attempt to answer questions, without first discovering precisely what questions it is to which you desire an answer.

G. E. Moore, Principia Ethica, 1903
What Are Ethics?

Ethics are defined as a system of moral principles and values which include good, proper, honest, and decent conduct. In our society, ethics are the social laws and values, the social code of right and wrong, and specific moral choices.

Wilkins, et al., Egan's Fundamentals of Respiratory Care, 8th edition.

What Are Our Professional Ethics?

- The AARC has a Statement of Ethics and Professional Conduct
- The TDSHS also defines Professional Ethical Standards
  - Texas Administrative Code, Chapter 123, Rule 123.12

Fundamental Questions of Ethics

- What makes acts right?
- What kinds of acts are right?
- How do rules apply to specific cases?
- What ought to be done in specific cases?

Basic Ethical Principles

- Autonomy
- Veracity
- Beneficence
- Nonmaleficence
- Confidentiality
- Role fidelity
- Justice

Autonomy

- From the Greek words autos (self) and nomos (governance)
- Form of personal liberty
- Produced the rules of “informed consent”
- May conflict with the principle of paternalism
Autonomy and Paternalism

1848 *Code of Ethics of the American Medical Association*, section 6

The obedience of a patient to the prescriptions of his physician should be prompt and implicit. He should never permit his own crude opinions....

*AHA Patient's Bill of Rights*, Rule 4

The patient has the right to refuse treatment to the extent permitted by law and to be informed of the medical consequences of his action.

Veracity

- Binds both the practitioner and the patient in an association of truth
- Practitioner/patient relationship
- Lack of veracity often hides behind "benevolent deception"
- Deception may lead to loss of credibility

Beneficence

- Suggests acts of mercy and charity
- Practitioner has duty to promote patient’s health and welfare
- Restoration of life in the "*human*" or "*biographical*" sense
- When does beneficence become maleficence?

- Biological life: "lifeforms" exhibit all the following phenomena at least once during their existence - growth, metabolism, motion, reproduction and response to stimuli
- Biographical life: the sum of one's aspirations, decisions, activities, projects, and human relationships
Beneficence

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Nonmaleficence

- Ethical principle not to do harm - from Hippocratic Oath
- Seems to be similar to beneficence
- Distinction is based on positives and negatives
- Principle of “double effect”

Nonmaleficence

- Nonmaleficence
  - One ought not to inflict harm
- Beneficence
  - One ought to prevent harm
  - One ought to remove harm
  - One ought to promote or do good

Nonmaleficence

- An action that is good in itself may have two effects - an intended attainable good effect, and an unintended yet foreseen adverse effect
  - the object of the act must be to do the good
  - the direct intention of the agent must be to achieve the beneficial effects and to avoid the foreseen harmful effects as far as possible
  - the foreseen beneficial effects must not be achieved by the means of the foreseen harmful effects
  - the foreseen beneficial effects must be equal to or greater than the foreseen harmful effects
  - the beneficial effects must follow from the action at least as immediately as do the harmful effects.
Confidentiality

- May be the most important aspect of the patient’s trust
- Perception of non-confidentiality places a barrier between the patient and the practitioner
- Without confidentiality, there will be no veracity

Confidentiality

AHA Patient’s Bill of Rights Rule 5

The patient has the right to every consideration of his privacy concerning his own medical care program. Case discussion, consultation, examination and treatment are confidential and should be conducted discreetly. Those not directly involved in his care must have the permission of the patient to be present.

Rule 6

The patient has the right to expect that all communications and records pertaining to his care should be treated as confidential.

Confidentiality

- Confidentiality of patient information is an integral part of the HIPAA regulations
- One must assure HIPAA regulations are adhered to
- Confidential patient information must only be shared with those members of the health care team who have a need to know

Confidentiality

- Furthermore, only the information pertinent to the patient’s treatment and welfare can be disclosed, and only to those directly involved with the patient’s care
- In some instances, violating the tenets of HIPAA is considered a felony offense

Role Fidelity
Role Fidelity

• Principle wherein healthcare practitioners understand the limits of their professional responsibilities, and act only within their scope of practice
  – Licensure boards and healthcare institutions set the scope of practice
  – Practitioners must have competence in performing all duties assigned to them, and not perform duties outside their scope of practice

Role Fidelity

• Implies an understanding of your part within the team of healthcare providers
  – More than 100 specialties and each has a unique role in contributing to the health and well being of the patient
  – Healthcare professionals must all work together, and respect the unique role each provider contributes

Justice

• Compensatory Justice

• Distributive Justice

Compensatory Justice

• Refers to recovery for damages that are incurred due to the action of others
• Plays a major role in increasing the cost of healthcare
  – Increased malpractice premiums
  – Defensive medicine

Distributive Justice

• Entails a fair and balanced distribution of healthcare services
• Implies that society has a duty to the individual in serious need and that all individuals have duties to others in serious need
Distributive Justice

- In decisions regarding the allocation of resources, such as rationing decisions, the duty of society is not diminished because of the person’s status or nature of illness
- Everyone is entitled to equal access to basic care necessary for living in a human way

Fair and Equal Access?

- Maybe not...
- Emergency Medical Treatment and Active Labor Act (EMTALA)
  - Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1986
  - Also known as Section 1867(a) of the Social Security Act - included as part of the section of the U.S. Code which governs Medicare

Fair and Equal Access?

- EMTALA
  - Applies only to hospitals which have entered into "provider agreements" under which they will accept payment from the DHHS, CMS under the Medicare program

Distributive Justice

- In the context of health care, distributive justice requires that everyone receive equitable access to the basic health care necessary for living a fully human life insofar as there is a basic human right to health care
  - Do we have fair and equal access to healthcare?
  - Is healthcare a right?
  - What about futile treatment?

Fair and Equal Access?

- EMTALA
  - Anyone who comes to the ED requesting examination or treatment must be provided with an appropriate medical screening examination to determine if an emergency medical condition exists
  - If so, then the hospital is obligated to either provide treatment until the patient is stable or to transfer him to another hospital in conformance with the statute

Right to Healthcare?

- Concept derived from moral or religious teachings
- Based on principles of
  - human dignity (every human being is an inherently valuable member of the human community)
  - common good (presupposes respect for persons; obligates public authorities to respect the fundamental human rights of each person)
Right to Healthcare?

- But, distributive justice also refers to what society owes its individual members in proportion to the resources available to society
  - Increasing number of elderly and financial shortfalls in Medicare and Medicaid make this a difficult balancing act
  - Achieving a balance between healthcare expenses and the funds to pay for them may eventually lead to rationing of services

Futile Treatment

- Texas and California now have statutes, Vermont is considering
- Texas law
  - Provision requiring a consensus between physicians and ethics committees that treatment is futile
  - Requires a grace period to allow families to find another institution willing to take the patient

Ethical Theories

- Three dominant ethical theories
  - Formalism
  - Consequentialism
  - Virtue ethics

Formalism

- A decision-making approach based on strict adherence to ethical principles and rules - also called the duty-oriented approach
- Asserts that any action taken is morally justified, and correct, if the rules and principles of ethics are followed
Consequentialism

-Asserts that an action is correct and morally justified, if it is based on the possible and/or probable consequences of the action
-Each action is assessed on a case-by-case basis for the amount of good it will bring, versus the possible adverse effects of this action

Consequentialism

- The balance of good and harm is then weighed and balanced to come up with the best possible course to follow

Consequentialism

-Critics argue that
  - not all decisions can be based on good versus evil
  - this balancing act is not possible in some situations, and reliance on this principle to the exclusion of all else can result in the wrong action

Consequentialism

-A variation of consequentialism is rule utilitarianism
  - This is a combination of formalism and consequentialism
  - The process chooses the rules and principles, which promote the most good for the person based on the consequences of the actions

Consequentialism

-Many healthcare providers find rule utilitarianism to be a very good approach since it combines professional obligations, rules, human rights, and the consequences of our actions
-This combination is then weighted with normal judgments based on the human reality of each situation

Virtue Ethics

-The theory of virtue ethics has evolved based in part on the limits of both formalism and consequentialism
-Virtue ethics is founded not in rules or consequences but in personal attributes of character or virtue
  - The first question is not, "How do I act in this situation?" but, rather, "How would the good RT act?"
Virtue Ethics

- Virtue-oriented theory holds that professions have historical traditions
  - Individuals entering a profession enter into a relationship not only with current practitioners but also with those who have come before them
  - Traditions come with a history of character standards set by those who have previously distinguished themselves in that profession

- The established practices of a profession can give guidance, without an appeal to either the specific moral principles or consequences of an act
- When the professional is faced with an ethical dilemma, he or she need only envision what the “good practitioner” would do in a similar circumstance
  - For instance, it is hard to imagine the good RT stealing from the patient, charging for services not provided or performing euthanasia

Virtue Ethics

- Rapidly changing fields such as respiratory care do pose some problems for virtue ethics
  - What might be considered good ethical conduct at one time might be deemed wrong the next time
  - Example: the RT who is asked not only to disconnect a brain-dead patient from a ventilator but also to remove the feeding tubes and intravenous lines

Francoeur’s Model

- Step 1 - Identify the ethical dilemma
- Step 2 - List all persons involved
- Step 3 - Identify all applicable ethical principles
- Step 4 - Name the person responsible for making the final decision
- Step 5 - Summarize the role of the Respiratory Therapist

Francoeur’s Model

- Step 6 - Consider the alternatives along with the short-term and long-term consequences of each
- Step 7 - Make a decision for the best possible outcome
- Step 8 - Follow the case to observe the consequences
As a field, biomedical ethics presents a fundamental problem. As a branch of applied ethics, biomedical ethics becomes interesting and relevant only when it abandons the ephemeral realm of theory and abstract speculation and gets down to practical questions raised by real, everyday problems of health and illness.

Veatch and Flack, Case Studies in Allied Health Ethics, 1997