

## *ETHICS CONSULTATION GUIDELINES*

### **PURPOSE:**

To establish guidelines for facilitating consultation with the Ethics Committee.

### **RATIONALE:**

1. Consultations are offered as a *service* and are *advisory* in nature.
2. Consultations are not binding on the requesting person.
3. THE FINAL DECISION IN AN ETHICS CONSULTATION IS RESERVED TO THE INDIVIDUAL(S) WHO ARE THE AUTHORIZED DECISION MAKERS.
4. Consultations are intended to provide a balanced discussion of a particular situation.
5. Consultations are intended to serve as a *support* and a *resource* to the requesting person.

### **FORMS OF CONSULTATION:**

1. The requesting person may only need some *information* to dispel confusion or a misunderstanding.
2. At times the requesting person simply needs *clarification* of his/her own concerns and interests in the particular situation.
3. A consultation may be needed to *correct dysfunctional communication* which has developed between conflicting parties.
4. There may be some prompt assistance required to *promote and process deliberative efforts when an urgent situation requires immediate attention*.
5. There may be a current case which presents particularly difficult issues and requires an *extensive discussion by the widest representation possible in the Ethics Committee*.

### **ETHICAL ISSUES (General Orientation):**

*Every clinical situation has an ethical dimension* since each involves making decisions in light of value commitments and respect for the persons who are interacting in the situation. Clinical judgments themselves are never made independently of a value commitment to some professional standards. Thus, an ethical issue may emerge as a focal element at any point in the clinical situation.

### **ETHICAL ISSUES (Specific Concerns):**

1. Issues may arise under the guise of *conflicts* between [persons] patients and family members, conflicts among family members, or conflicts involving health care professionals.
2. *Approaches to treatment* may be the conflicting issue.
3. *Disagreements about values* may be the issue
4. *Identification, clarification, or interpretation of patients' wishes* may be the issue.
5. *Patients' rights* may be the major concern.
6. The *appropriate ethical principles* that should govern a particular set of circumstances may need

exploration.

7. The *manner of communication* for the parties involved in a dispute may be an issue since inappropriate communication may violate the dignity of the persons involved in a decision.
8. *Conflicts* may arise *between the wishes of a patient or family and the policies of the hospital*.
9. The *professional integrity* of caregivers may be at stake.
10. The *prudent allocation of health care resources* may be an ethical component in a particular case.

#### **ETHICAL ISSUES (The Operative Principles):**

1. DECISIONS SHOULD BE MADE AS CLOSELY TO THE BEDSIDE AS POSSIBLE AND BY THE PERSONS MOST DIRECTLY INVOLVED IN THE SITUATION.
2. There is frequently an ongoing need for *clarity, negotiation, tolerance, and good will*.
3. When application of this principle cannot be achieved, then the need for an ethics consultation arises.

#### **SUGGESTED PROCEDURES:**

1. One member - 24-hour "on call" duty - one week with a back-up member who will be the primary "on call" member in the following week.
2. The schedule will be coordinated by the Chair of the Ethics Advisory Committee.
3. Any health care professional can initiate a consultation.
4. Patients or families can initiate a consultation by asking a healthcare professional to request a consultation on their behalf.
5. The requesting person will contact the "on call" member by calling the switchboard operator who will contact the Ethics Committee "on call" member by either page, beeper, or telephone.
6. Upon contact the "on call" member, along with the requesting person will:
  - a. determine the ethical issue to be addressed:
  - b. determine the most appropriate forum for addressing the concern,
  - c. gather the pertinent information necessary for an effective consultation.
7. Options for consultation:
  - a. the "on call" Ethics Committee member;
  - b. the Chair of the Ethics Committee,
  - c. an *ad hoc* committee of the Ethics Advisory Committee,
  - d. the full Ethics Advisory Committee.
8. Consultations must be concluded in a *timely manner* that is consistent with the demands of the issue raised and the possibility of providing maximum benefit to the patient.
9. The patient's attending physician should participate in any ethics consultation.
10. When an *ad hoc* committee is assembled every effort should be made to have a representative cross section of health care professionals. There should be a physician as part of this consulting *ad hoc* committee.
11. When engaged in a consultation, Ethics Committee members should utilize the "Process for Resolving Ethical Concerns in the Clinical Setting: Ethics Advisory Committee Consultations."
12. Every effort should be made by the "on call" Ethics Committee member to include in the consultation discussions all parties relevant to the ethical concern which generated the consultation.
13. When the consultation is concluded, the "on call" Ethics Committee member will complete a

"Consultation Report" which will be a part of the chart and will also be filed in the Medical Staff Office.

14. All consultations will be reported by the "on call" member to the full Ethics Committee.

## PROCESS FOR RESOLVING ETHICAL CONCERNS IN THE CLINICAL SETTING

*The following process is designed to fit the widest range of cases and may be individually tailored as circumstances require. Thus, some of the questions may not be appropriate in particular cases. It is intended as a guide for identifying and exploring issues whose examination may lead to a resolution of the issues which may be troublesome in a particular case. It can be used by either individuals or groups who may be involved in a case discussion. It is designed to move any discussion along so that the necessary breadth of issues will be examined without unduly dwelling on those which have been adequately discussed. Finally, it is devised to move discussions beyond merely producing clarification to generating resolutions, strategies for communicating outcomes, and generating appropriate documentation. The ultimate goal of the process is to promote the well-being of patients and the integrity of caregivers.*

### **I. BACKGROUND - FACTS, VALUES, CAPACITY, INFORMATION.**

1. What is the issue which has generated this ethical examination?
2. Medical Components.
  - A. What are the medical facts?
  - B. What is the diagnosis and prognosis?
  - C. How certain/probable are the diagnosis and prognosis?
  - D. What are the time constraints for decision-making?
  - E. What significant information still needs to be gathered?
3. Patient/Family Components.
  - A. What does the patient/family know?
  - B. What is the patient's/family's current level of experience with the matter at hand?
  - C. What are the patient's wishes, values, beliefs, and priorities?
  - D. How do the patient's previous life choices provide a context for this current situation and the decisions being considered?
  - E. What has been the patient's experience with the interventions being considered?
  - F. What are the family's wishes, values, beliefs, and priorities?
  - G. What is the patient's/family's previous level of participation in the current decision?
  - H. At what level does the patient/family want to participate in the current decision?
  - I. Of what level of participation is the patient/family capable (degree of competency or decision-making capacity)?
4. Factors Involving the Member(s) of the Healthcare Team.
  - A. What are the recommendations, values, beliefs, and priorities of the member(s) of the healthcare team?
  - B. Who is responsible for making the therapeutic decision?
  - C. Does(Do) the member(s) of the healthcare team have a special personal or professional interest in the outcome of the decision?
5. External Considerations.
  - A. Are there special legal considerations?
  - B. Are there special considerations regarding hospital policy?
  - C. Are there special considerations regarding the concerns of society at large?

### **II. OPTIONS - MEDICAL BENEFITS, RISKS, AND BURDENS?**

1. What treatment options are available?
2. What benefits are realistically available for each option?
3. What benefits might be remotely attainable for each option?
4. What are the risks or burdens of the various options?
5. What are the probabilities of the benefits, risks, and burdens involved?
6. How do the benefits, risks, and burdens fit into the overall value context of the patient/family?
7. Are any professional standards of the member(s) of the healthcare team which will be compromised by any of the options being considered?
8. Do any of the options place the institution or society at large at risk?

### **III. PROBLEM OR DISAGREEMENT.**

1. Is there a disagreement about what is to be done?
2. If there is no disagreement, what kind of support can be offered to those involved in the decision?
3. If there is a disagreement, what is the nature of the problem or disagreement?
4. What option does the patient want?
5. What option does the family want?
6. What option does(do) the member(s) of the healthcare team want?
7. What option is desirable within the policies, priorities, and practices of the institution or society at large?
8. What is the rationale for the options chosen in terms of the wishes, values, and beliefs of the parties involved, i.e., patient, family, members(s) of the healthcare team, institution, and society?
9. How are the benefits, risks, and burdens for the parties involved to be weighed against each other?

### **IV. ETHICAL VALUES AND PRINCIPLES.**

1. What values are at stake in this case?
2. What ethical principles, e.g., autonomy, beneficence, fidelity, and justice, are at stake in this case?
3. What ethical principle(s) should govern this case?
4. What ethical system governs this case?
5. How does the patient's/family's choice of options fit into the principle(s)?
6. How do the options chosen by the member(s) of the healthcare team fit into the principle(s)?
7. Are there institutional/societal values which must be considered in this case within the context of the governing principle(s)?

### **V. RESOLUTION.**

1. Do the parties agree on the decision and only need clarification of issues and support in the decision-making process?
2. If there is no agreement, is it possible for the parties to negotiate?
3. What are the areas of commonality shared by the parties involved?
4. What is the patient's limit of compromise?
5. What is the family's limit of compromise?
6. What is the limit of compromise for the member(s) of the healthcare team?
7. What is the institution's/society's limit of compromise?
8. In the absence of a compromise, whose decision finally governs?
9. What is the decision of the authorized decision-maker?
10. What are the reasons for the decision in terms of values and principles?

### **VI. STRATEGIES FOR COMMUNICATING THE RESULTS OF THE DELIBERATIONS.**

1. Who communicates the results of the deliberations?
2. In what order among the interested parties is notification given?
3. How detailed should the communication be?
4. What support mechanisms need to be utilized as a follow-up to the deliberations?
5. Should the services of a trained/skilled communicator be utilized to help interested parties process the results of the deliberations?

### **VII. DOCUMENTATION.**

1. Should the case deliberations be recorded in the patient's chart?
2. If the deliberations are not recorded in the chart, how should they be recorded?
3. Should special measures be taken to protect the patient's confidentiality?
4. Should there be any special institutional follow-up to address the issues raised in this case?

---

*Lawrence P. Ulrich, Ph.D.*

*©1996 Breckenridge Bioethics*