

NETWORK NEWS

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MODEL FOR DECISION MAKING IN CLINICAL ETHICS

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Several models have been proposed for case analysis in clinical ethics. The most widely used is that proposed by Drs. Jonsen, Siegler and Winslade in their book Clinical Ethics, initially published in 1982. Their "structured approach to decision making"¹ in clinical ethics consists of four features that "can be explicitly and systematically considered in any clinical case..... The four topics that designate the essential features of clinical care are: (1) medical indications; (2) patient preferences; (3) quality of life; and (4) the contextual features surrounding the case such as social, economic, legal, and administrative features."²

The purpose of this paper is not to offer a detailed critique of Dr. Jonsen and his colleagues' method, but to propose an alternative model. Although their method fully describes the circumstances surrounding the situation, it is more like an interview seeking information than a method for solving difficult ethical problems. Their method fails to identify the ethical problem. It also fails to present a clear discussion of the choices available, or indicate how one might reach a final decision.

The alternative strategy I propose offers a consistent and unified method that explores issues in a logical sequence, but still pro-

vides the flexibility to acknowledge that there may not be a perfect solution to the problem. The sequential method I introduce here offers a progression not found in other models, and is similar to scientific problem solving.³ An additional advantage to the model is that both the process and the language may be clearer for health care professionals.

Rather than a set of rules, this method provides a framework to analyze clinical cases. As part of this framework, principles and theories of ethics⁴ often ignored in other approaches are utilized. Principles and theories may complement and provide greater specificity in the appraisal of the clinical situation by bringing attention to aspects or implications that otherwise may not be obvious.

The starting point in the scientific method of inquiry consists of the identification of a problem or situation. The second step includes the formulation of a hypothesis. This step requires the inquirer to precisely specify the key elements of the identified situation, phenomenon, or problem. To determine whether the hypothesis is correct, it is investigated or tested by "experimentation." In this the third phase, feedback is obtained. This may verify or refute the hypothesis. In some instances testing may be impossible since the circumstances surrounding the observed phenomena may

not be reproducible. The fourth step involves the solution to the problem, and the formulation of a theory, or the following of a different or new direction. There may not be an end point in the investigation since negative results provide the opportunity for further investigation. Frequently, scientific research is based on trial and error.

A classic example of the application of this method is a well known story in science, that of Isaac Newton and the falling tree, why does it fall toward the ground? 2. Observation and hypothesis: since the apple does not move upward or laterally, there must be some force that compels the apple or any other object to move down. 3. Testing: an experiment or situation is devised to simulate the observed falling apple. An apple or any similar object is placed on the edge of a table and pushed off. The apple or object pushed falls toward the ground. Conclusion and formulation of a theory: since any free falling object falls down, a force exists in earth that attracts objects to itself (gravity).

According to Newton, "all interpretations are subject to revision in the light of further evidence."⁵ A demonstration of the object moving in an upward or lateral direction would have been a negative finding. This would have opened the door for further inquiry, a different understanding of the situation, and for the formulation of other hypotheses.

The model I propose consists of the following features: (1) identifying the problem; (2) understanding the situation; (3) "testing" the solutions to the issues identified and understood; and (4) deciding how best to solve the problem. The following includes a discussion of the methodology, and its application to a case.

Mrs. Perez, a 40 year old heterosexual woman, discovers that she has AIDS. She is a phlebologist for a private laboratory. She requests that her employer is not notified of her diagnosis.

1. Identifying the problem

To identify the problem, some reflection concerning the situation is needed. One must ask what is the ethical problem? Or, why is this an ethical problem? In asking these questions, one may find that the disagreements identified may be caused by lack of communication, personality clashes, or other situations that may have no inherent ethical implications.

Examining the case one would **identify** the ethical problem as follows. Is it ethically appropriate to respect the patient's request, or does the potential danger override the patient's confidentiality?

2. Understanding the problem

To understand the problem, a detailed medical and social history of the current situation is required. It is impossible to conduct a good ethical analysis unless the facts are clear. One should ask how this situation became an ethical problem or, "what features make it an ethical issue?"

Careful analysis of the situation should identify who are all the agents involved, where and when is the situation taking place, and what are the values involved. It is in this stage of the analysis that I find Jonsen et. al.'s model helpful. Their four topics that include medical indications (including futility of treatment), patient preferences, quality of life and contextual features provide a good framework for the understanding of the current

situation. The analytical context of the situation should identify not only the moral, religious, and cultural values of the patient, but also those of the decision maker or makers (are there any conflicts of interest?). One also should evaluate the social, financial, legal and institutional (administrative) dimensions of the problem.

In the course of this intensive analysis, other ethical issues may be identified. These may be taken through the same process as the initially identified situation.

To **understand** our patient's situation, social and medical histories are needed. For the past year, Mrs. Perez has had several episodes of pneumonia. Cultures taken revealed organisms commonly seen in AIDS patients. With her consent, the physician ran several tests which confirmed a diagnosis of AIDS.

The patient is a widow with four children. She is their only source of income. Her health care is provided by a physician employed by the company for which she works. She denied having any type of accidents at work which could have caused her condition. She explains that she needs her job to provide for her children, therefore, she does not want her condition known by her employer. She states that she will take any additional precautions to the ones she already takes in order to protect her patients.

3. Testing

At this point, this model departs from the scientific model. In science, experimentation is performed to corroborate or disprove a hypothesis. In ethical decision making, we cannot actually "experiment" with all available approaches to see which result turns out best. Although it is possible in some situations to do so. For example, one may attempt aggressive life support measures to see whether an incapacitated patient improves, before concluding that indefinite continuation of such measures is unwarranted and treatment may be or should be ethically withdrawn. Nevertheless, in general, the testing stage of this proposed model involves the projected application of various alternative methodological approaches to bioethical issues, which may be used to solve the problem. After the first two steps, one should have an idea of ways to solve the problem. In this third testing step, one asks, "What alternatives are there to solve this problem?" Each alternative is then analyzed and evaluated according to the methodological paradigm (or combination thereof) which one chooses to use. These paradigms may include principles and theories of ethics benefits versus burdens (consequentialism/proportionality), similar cases (casuistry), general moral rules (deontology), and others (theory of virtue, ethics of care, etc.). One also must ask what the legal system has decided concerning the situation and alternative solutions. Other important questions are: What are the consequences of the different solutions? Are these consequences significant?

To apply the **testing** phase to the case at hand, the physician involved in this situation may choose to maintain the patient's confidentiality, request that the patient inform her employer herself, or inform her employer.

- A. Analyze the alternatives: (two of the above alternatives will be analyzed).
 1. The physician chooses to maintain patient's confidentiality: examining this choice by using the principle of autonomy, one finds that the patient's self-determination is preserved. Based on the principles of beneficence/nonmaleficence, however, an argument could be made that due to the

nature of her work, others may need to be protected from exposure to the AIDS virus.

The patient believes that justice is served in keeping her condition confidential. She believes that because of her sex and her nationality, she has been passed up for promotions in the past.

She also believes that her children are in a better financial and emotional situation if they remain under her care as long as she is able to work. The physician reflects upon these facts, but also wonders if it is unjust to expose patients to a health care provider with the AIDS virus. The medical practitioner also wonders about a physician's personal duties toward an employer versus duties toward patients.

What would be the benefits vs. the burdens of not revealing the information? What would be the consequences? Would these consequences be significant?

2. The physician decides to reveal the information to the employer: once again, using the principles of ethics to analyze the situation one finds that the patient's autonomous decision is violated. From the point of view of beneficence/nonmaleficence, the patient could be harmed in terms of loss of employment, and societal discrimination. Her children also will suffer from discrimination and loss of adequate financial support.

Another way to analyze Mrs. Perez's situation is by using an analogous case. For example, one could examine similar cases either reported in the literature, or cases presented in medical ethics committees. One would then compare how those cases were solved and what were the implications of the solution. Would Mrs. Perez's situation be solved in a similar or dissimilar manner? Were the laws regarding this situation consulted?

4. Deciding

This section brings us to the final decision. What is the best moral choice? Why is it the best choice in solving the problem? (Why was this chosen over the other alternatives?) What are the possible critiques to this solution? Is the test of universality applicable?

One must remember that not deciding has consequences too, and therefore is a decision in itself. This last step also has the flexibility to say, "We do not know how to resolve this situation." Are we able to live with the tension?

Returning to our example, how would the reader decide? What would be the best choice in this situation? What reasons support this choice? Would this decision apply to everyone in similar circumstances?

Once acquainted with this method of inquiry, one can see that its features also correlate with the method of case presentation in clinical medicine. The patient's chief complaint becomes the identification of the problem. The history of present illness, past medical history, social history, results of physical and laboratory examinations are included in the understanding of the problem. Differential diagnosis, final diagnosis and treatment may correlate with the testing and deciding sections of the model.

Conclusion

A model for decision making in clinical ethics is presented. This model is based on the scientific method of inquiry. It loosely correlates to the case presentation method widely used in medical practice, therefore, this model may be easier to use for those in the health care profession.

MODEL FOR DECISION-MAKING IN CLINICAL ETHICS

1. Identify the problem (Chief complaint)

A. What is the ethical dilemma?

2. Understand the problem (Medical and social history)

A. Assess the situation: detailed history of current situation plus social history.

Who are the agents involved? Patient preferences, medical indications, quality of life.

B. Context: Why is it a dilemma? How did it become one? Where? When?

C. Analyze the values involved: moral, religious, cultural, etc. Financial resources.

3. Testing (P.E. and lab tests)

A. Analyze alternatives: Examine each alternative by evaluating it against theories or principles of ethics. Best interest/proportional interest std., or benefits vs. burdens, or desired paradigm.

B. Are the consequences of the different alternatives important?

C. Are there any laws?

D. Read literature regarding problem. How have others solved similar situations?

4. Deciding (Differential diagnosis, and final diagnosis)

A. What is your MORAL CHOICE? What reasons support this choice?

B. Critique: What reasons challenge the choice?

C. Test of Universality

REFERENCES

1. JONSEN, A.R., SIEGLER, M., WINSLADE, W.J. **CLINICAL ETHICS**. New York: McGraw-Hill, Inc., 1992, p. 1.
2. IBID, p. 2.
3. KNELLER, G.F. **SCIENCE AS A HUMAN ENDEAVOR**. New York: Columbia University Press, 1978.
4. BEAUCHAMP, T.L., CHILDRESS, J.F. **PRINCIPLES OF BIOMEDICAL ETHICS**. New York: Oxford University Press, 1989.
5. LOSEE, J. **A HISTORICAL INTRODUCTION TO THE PHILOSOPHY OF SCIENCE**. Oxford: Oxford University Press 1984, p. 94.

REGISTER NOW FOR FBN CONFERENCES

Submitted by **Kathryn A. Koch, M.D., F.C.C.P.**, Associate Professor of Medicine, Director, Critical Care Services, Chief, Division of Critical Care Medicine, University of Florida Health Science Center, Jacksonville.

Basic Course for New Ethics Committee Members Wednesday, September 21, 1994 - Clarion Plaza Hotel - Orlando

Offered as a service to FBN members and to any interested ethics committee members, this one-day course is offered either independently from or as an introduction to our annual seminar, to be held on September 22-23, 1994. This one-day course will provide a review of the basic principles of biomedical ethics, the role of the hospital ethics committee, and several approaches to ethics consultation.

For further information, contact **Ann Morrow** at 904/549-4075 or fax to 904/549-3087.

Annual FBN Seminar: Diversity - The Challenge to Ethics Committees September 22-23, 1994 - Clarion Plaza Hotel - Orlando

Respected speakers throughout the U.S. and the state of Florida will address issues relevant to medical ethics and health care in our pluralistic society. Lectures, workshops, and mock consultations will be used as educational methods. The seminar will be preceded by an optional day-long orientation seminar for new ethics committee members on September 21, 1994.

For further information, contact, **Ann Morrow** at 904/549-4075 or fax to 904/549-3087.

OTHER MEETING NOTICES

The first concurrent meeting of the American Society of Law, Medicine & Ethics, Society for Health and Human Values, Society for Bioethics Consultation and the American Association of Bioethics will be featuring American Society of Law, Medicine & Ethics 1994 Annual Meeting: "Starting, Sustaining, and Stopping Life." It will be held October 6-9, 1994 at the Pittsburgh Hilton and Towers, Pittsburgh, Pennsylvania. Call 617/262-4990 for further information.

POSITIONS AVAILABLE

The University of Minnesota invites applications for Program Director of the Center for Biomedical Ethics. The eight-year old Center fosters education, interdisciplinary scholarship, and public discussion on a wide array of ethical issues and dilemmas in health care and health policy. Its multi-disciplinary faculty represents the schools of the health sciences, humanities, law, and social sciences. The Director will lead this Center on a wide range of research and scholarship in concert with a health care community with a keen interest in bioethics.

Nominations and/or applications should be forwarded by September 30, 1994 to Susan A. Berry, M.D., Chair, Bioethical Ethics Search Committee, University of Minnesota, Box 293 UMHC; Attn: S. Jackson, 420 Delaware St., S.E., Minneapolis, MN 55455-0392.

WELCOME NEW MEMBERS!

The Florida Bioethics Network welcomes **D. Hall**, Chaplain, St. Anthony's Hospital, St. Petersburg, 813/825-1103; **Joel Mattison**, Plastic & Reconstructive Surgeon, Tampa, 813/879-0648; and **Daniel Stoltzfus**, Assistant Professor, Department of Anesthesiology, University of Florida College of Medicine, Gainesville, 904/376-1611x6206.