Introduction to Medical Law, Ethics, and Bioethics

Learning Objectives
After completing this chapter, you will be able to:

1. Define the key terms.
2. Describe the similarities and differences between laws and ethics.
3. Discuss the reasons for studying law, ethics, and bioethics.
4. Describe how to apply the three decision-making models discussed in this chapter.
5. Explain why ethics is not just about the sincerity of one’s beliefs, emotions, or religious viewpoints.

Key Terms
Amoral  Indigent  Principle of beneficence
Applied ethics  Integrity  Principle of justice
Bioethicists  Justice-based ethics  Principle of nonmalfeasance
Bioethics  Laws  Quality assurance
Comparable worth  Litigious  Rights-based ethics
Compassion  Medical ethics  Sanctity of life
Cost/benefit analysis  Medical etiquette  Sexual harassment
Due process  Medical practice acts  Sympathy
Duty-based ethics  Morality  Tolerance
Empathy  Precedent  Utilitarianism
Ethics  Principle of autonomy  Virtue-based ethics
Fidelity

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Jeanette, an 80-year-old widow, called her physician early one morning complaining of shortness of breath. She spoke to the office receptionist who asked if she was having any other difficulty. Jeanette said no. The receptionist said she would give the message to the doctor.

The doctor’s office was extremely busy that October day giving out flu shots. The receptionist immediately became busy answering telephone calls and admitting a long line of patients waiting for their annual flu shot. The telephone message from Jeanette was left unnoticed on the front office desk for several hours and was then placed on the physician’s desk with other messages.

Jeanette became so exhausted from her shortness of breath that she fell asleep. When she awoke in the afternoon she could not catch her breath. She called her neighbor and just said, “Help.” Paramedics arrived at Jeanette’s home shortly after the neighbor called 911 and found Jeanette to be unresponsive. She was taken to the local emergency room where she was diagnosed and treated for pneumonia and congestive heart failure. The emergency room staff tried to determine who her personal physician was, but Jeanette had no personal belongings or medical information with her. She never regained consciousness and died that evening.

When her neighbor went over to Jeanette’s home that evening to feed the cat, she noticed the light on the phone’s answering machine. The doctor had returned Jeanette’s call at 5:00 p.m. She apologized for not calling sooner.

1. Do you believe that this case presents a legal or an ethical problem or both?
2. In your opinion, is anyone at fault for Jeanette’s death?
3. Is the physician at fault? Is anyone on the physician’s staff at fault?
4. What could have been done to prevent this problem?
Medical professionals encounter healthcare dilemmas that are not experienced by the general population. They are faced with individual choices that must, of necessity, always take into consideration the common good of all patients. Medical–ethical decisions have become increasingly complicated with the advancement of medical science and technology. The topics of medical law, ethics, and bioethics, while having very specific definitions, are interrelated. One cannot practice medicine in any setting without an understanding of the legal implications for both the practitioner and the patient. Medical ethics is an **applied ethics**, meaning that it is a practical application of moral standards that are meant to benefit the patient. Therefore, the medical practitioner must adhere to certain ethical standards and codes of conduct. **Bioethics**, a branch of applied ethics, is a field resulting from modern medical advances and research. Many medical practitioners, patients, and religious organizations believe that advances in bioethics, such as cloning, require close examination, control, and even legal constraints.

One teacher of medical law and ethics clearly stated that our primary goal is to teach students to think independently and become sensitive to the risks and issues that pervade the field. The ultimate goal in teaching this topic is to enable students to understand complex public healthcare policy from legal and ethical perspectives, regardless of personal beliefs. We want our students to be able to conduct themselves in a manner that is ethical, legal, and exemplary.

**WHY STUDY LAW, ETHICS, AND BIOETHICS?**

Without a moral structure for their actions, people would be free to pursue their own self-interests. In many cases, people would behave in a moral fashion within the constraints and framework of their culture and religious beliefs. However, upon closer examination of living without the constraints and limitations imposed by moral standards and laws, a state of hostility may arise in which only the interests of the strong would prevail. The words *justice* and *injustice* would have little meaning. We all believe we know the difference between right and wrong. We may firmly believe that while some decisions are difficult to make, we would intuitively make the right decision. However, there is ample proof in medical malpractice cases that, in times of stress and crisis, people do not always make the correct ethical decisions. Because what is illegal is almost always unethical, it is important to have a basic understanding of the law as it applies to the medical world.

**MED TIP**

We must always remember that our primary duty is to promote good patient care and to protect our patients from harm.
We should also understand that we live in a litigious society in which people have become excessively inclined to sue healthcare practitioners. In addition, healthcare agencies, hospitals, nursing homes, and manufacturers of medical products and equipment are all at risk of being sued by patients and their families. In fact, in our society anyone can sue anyone else. Lawsuits take a great toll in terms of stress, time, and money for all parties involved. While being sued does not indicate guilt, nevertheless it can affect the reputation of a person or an institution even if judged to be innocent in a court of law.

**MED TIP**

A basic understanding of law and ethics can help protect you and your employer from being sued.

Another reason for studying ethics and the law is that people often convince themselves that what they are doing is not wrong. For example, plagiarism, which is using someone else’s words or ideas, may be both unethical and illegal, depending on the circumstances. It’s understandable that an author who has worked hard to write a book would not want another author to use his or her written material without permission and proper credit. In fact, lawsuits have been won when plagiarism is proven to have occurred. In this case, plagiarism is both illegal and unethical. But what happens when a student has someone else do his or her work? Or if students lift passages from another book and then claim the words as their own? Is this also illegal and unethical? It may be both.

A student entering the medical field is held to a high standard. Strong ethical values can begin with something as simple as turning in honest papers. There have been numerous examples of people lying on their job resume by embellishing duties and achievements on past jobs, stretching employment dates to cover gaps between jobs, inflating salaries, and even omitting criminal convictions. Many healthcare employers are sensitive to this problem and use consulting firms to perform background checks on potential employees. These examples illustrate current ethical, and even some illegal, acts.

Medicine is based on the professional skills of many persons, including physicians, nurses, physician assistants, medical assistants, radiology technicians, pharmacists, surgical technologists, phlebotomists, reimbursement specialists and coders, pharmacy technicians, and a multitude of other allied health professionals. The healthcare team, composed of these professionals, with the addition of healthcare administrators, often must decide on critical issues relating to patient needs. In some cases, the decisions of these professionals are at odds with one another. For example, when an obstetrician withholds resuscitation attempts on a severely handicapped newborn, such as one born without a brain (anencephalic), he or she may be acting in opposition to the law in many states and the ethics of many people. Does a nurse have an ethical responsibility to override this order if he or she believes it to be wrong? Is there a better way to handle such an ethical dilemma without the patient’s suffering in the process? It is generally understood that nurses and other allied healthcare professionals carry out the orders of their employer/physician. However, as illustrated in the above case, in some situations, confusion arises about what is the right thing to do. In the Jeanette M. case at the beginning of the chapter, does the physician’s receptionist have any responsibility for the physician’s delay in returning the patient’s call?

It is generally accepted that some behavior, such as killing, is always wrong. But even this issue has been in the news when, as Hurricane Katrina roared through New Orleans in 2005, several critically ill hospital patients who could not be moved, and
would certainly die, were allegedly given a lethal injection of morphine by a doctor and two nurses. In 2007 a grand jury determined not to indict the physician and cleared her of all accusations. There have been 194 Katrina-related claims filed by a Louisiana state agency that manages malpractice lawsuits. There is a concern, resulting from this case, that prosecutions against hospitals and medical staff could prevent doctors from helping in times of a disaster. As a result, two state laws were passed in 2008 protecting medical staff during states of emergency.

**MED TIP**

A study of law, ethics, and bioethics can assist the medical professional in making a sound decision based on reason and logic rather than on emotion or a “gut feeling.”

Ethics asks difficult questions, such as “How should we act?” and “How should we live?” The answers to such questions are often subjective and can change according to circumstances, so it is realistic to ask, “Why study ethics?” The short answer is that in spite of the many gray areas of ethics, we are expected to take the right action when confronted with an ethical dilemma. We must consider the consequences of wrongdoing. We must learn how to think about the ethics of an action and then how to translate those thoughts into action. So, even if the “right thing” isn’t always clear, we can prepare our minds to think about an action and to see how the experiences of others can influence our own actions. The important thing is to be able to think and then take action!

Of course, not all illegal or unethical cases end up with a lawsuit or in a court of law. However, brief descriptions of actual court cases are sprinkled throughout the book to illustrate the topics that are discussed in the chapter. These cases alert us to the variety of situations that have negatively affected the careers of physicians and healthcare professionals, as well as the patients who were harmed.

**MED TIP**

The reason we want to do the ethical thing is *not* because we could be named in a lawsuit but because we would not want poor care for anyone, including our family and ourselves.

While studying ethics, ask yourself the following questions. Do you know what you would do in each of the following situations? Do you know whether you are exposing yourself to a lawsuit?

- A fellow student says, “Sure, I stole this book from the bookstore, but the tuition is so high that I figured the school owed me at least one book.” What do you do? (Chapter 1, “Introduction to Medical Law, Ethics, and Bioethics”)
- An orderly working in a skilled-nursing facility is left alone in the dining room in charge of a group of elderly residents who are finishing their dinner. One of the residents does not want to eat but wishes to go back to his own room, which he cannot find by himself. The orderly has been instructed never to leave patients alone. Because he cannot leave the dining room full of patients, nor can he allow the one elderly resident to find his own room, the orderly locks the dining room door. The elderly resident claims he has been falsely imprisoned. Is he correct? (Chapter 2, “The Legal System”)
You are drawing a specimen of blood from Emma Helm, who says that she doesn’t like having blood drawn. In fact, she tells you that the sight of blood makes her “queasy.” While you are taking her blood specimen, she faints and hits her head against the side of a cabinet. Are you liable for Emma’s injury? If you are not liable, do you know who is? (Chapter 3, “Essentials of the Legal System for Healthcare Professionals”)

You are a recently hired registered nurse working in the office of an internist. You have agreed to answer the phone calls in a physician’s office while the receptionist is having lunch. A patient calls and says he must have a prescription refill order for blood pressure medication called in right away to his pharmacy, because he is leaving town in 30 minutes. He says that he has been on the medication for four years and that he is a personal friend of the physician. No one except you is in the office at this time. What do you do? (Chapter 4, “Working in Today’s Healthcare Environment”)

Terry O’Rourke, a 25-year-old female patient of Dr. Williams, refuses to take her medication to control diabetes and is not following her dietary plan to control her disease. After repeated attempts to help this patient, Dr. Williams has decided that she can no longer provide care for Terry. The office staff has been advised not to schedule Terry for any more appointments. Is there an ethical or legal concern (or both) regarding this situation? Is there anything else that either Dr. Williams or her staff should do to sever the patient relationship with Terry? (Chapter 5, “The Physician–Patient Relationship”)

You drop a sterile packet of gauze on the floor. The inside of the packet is still considered sterile; however, the policy in your office is to re-sterilize anything that drops on the floor. This is the last sterile packet on the shelf. The chances are very slight that any infection would result from using the gauze within the packet. What do you do? (Chapter 6, “Professional Liability and Medical Malpractice”)

The pharmaceutical salesperson has just brought in a supply of nonprescription vitamin samples for the physicians in your practice to dispense to their patients. All the other staff members take samples home for their families’ personal use. They tell you to do the same, since the samples will become outdated before the physicians can use all of them. It would save you money. What do you do? Is it legal? Is it ethical? (Chapter 7, “Public Duties of the Healthcare Professional”)

You feel a slight prick on your sterile glove as you assist Dr. Brown on a minor surgical procedure. Dr. Brown has a quick temper, and he will become angry if you delay the surgical procedure while you change gloves. As there was just a slight prick and the patient’s wound is not infected, will it hurt to wear the gloves during the procedure? Who is at fault if the patient develops a wound infection? Is this a legal and/or ethical issue? (Chapter 8, “Workplace Law and Ethics”)

Demi Daniels calls to ask you to change her diagnosis in her medical record from R/O (rule out) bladder infection to “bladder infection” because her insurance will not pay for an R/O diagnosis. In fact, she tested negative for an infection, but the physician placed her on antibiotics anyway. What do you do? Is this legal? Is it ethical? (Chapter 9, “The Medical Record”)

A physician from another office steps into your office and asks to see the chart of a neighbor whom he believes may have an infectious disease. He states that the neighbor is a good friend and that she will not mind if he reviews her medical chart. Is it legal for you to give the chart to this physician? (Chapter 10, “Patient Confidentiality and HIPAA”)

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A well-known baseball Hall of Fame fielder received a liver transplant in 1995. It took only two days for his hospital’s transplant team to locate an organ donor for this national hero when his own liver was failing due to cirrhosis and hepatitis. The patient was a recovering alcoholic who also had a small cancerous growth that was not believed to be life-threatening. Because there are relatively few liver donor organs available, there were mixed feelings about speeding up the process for a famous person. He subsequently died a few years later from cancer. What are the ethics of giving a scarce liver to a recovering alcoholic? What are your thoughts about the statement “People should not be punished just because they are celebrities?” (Chapter 11, “Ethical and Bioethical Issues in Medicine”)

Your neighbor’s 18-year-old unmarried daughter has just given birth to a baby boy. The neighbor is concerned that neither she nor her daughter can take care of this baby. She asks you what you can suggest. Is it a violation of ethics to tell her about the Safe Harbor Law? (Chapter 12, “Ethical Issues Relating to Life”)

An elderly widow is rushed to the hospital in the middle of the night with a massive heart attack. She is in need of an emergency treatment which requires the services of a special surgical team. It takes almost two hours to gather the entire team back together as they have all left for the day. This patient has a good chance of recovering if the procedure is done within six hours after the heart attack occurs. But, as soon as the surgical team is together and the operating room is ready, another patient, a 45-year-old woman, is brought into the emergency room in need of the same procedure to save her life. It is agreed that the 45-year-old woman will receive the treatment first, but the procedure takes longer than expected. This procedure could not be performed on the widow because the six-hour “window of opportunity” to do the procedure had passed. The younger woman lives, and the elderly widow dies the next day. Is the decision on who will receive the procedure first an ethical or legal one, or both? (Chapter 13, “Death and Dying”)

A 40-year-old homeless man comes into a neighborhood clinic and asks how he can sign up for a new medical plan that a friend told him about. He said he doesn’t have any insurance and doesn’t know what to do. The clinic receptionist hands him a form for the new Affordable Care Act and tells him to fill it out. He says he will do it “at home” and bring it back. He throws the form away as he walks out of the clinic. What can be done to help this man? What do you think was the main reason he threw away the form for Affordable Care? (Chapter 14, “Future Trends in Healthcare”) These situations, and others like them, are addressed throughout this book.

MEDICAL LAW

Laws are rules or actions prescribed by an authority such as the federal government and the court system that have a binding legal force. Medical law addresses legal rights and obligations that affect patients and protect individual rights, including those of healthcare employees. For example, practicing medicine without a license, Medicaid fraud, and patient rape are violations of medical laws that are always illegal and immoral or unethical.

It is easy to become confused when studying law and ethics, because, while the two are different, they often overlap. Some illegal actions may be quite ethical—for example, exceeding the speed limit when rushing an injured child to the hospital. Of course, many unethical actions may not be illegal, such as cheating on a test. Law and ethics exist in
everyday life and, thus, are difficult to separate. An insurance company denying payment for a life-saving heart transplant on a 70-year-old male is not illegal in most cases, but it may well be unethical.

**MED TIP**

In general, an illegal act, or one that is against the law, is always unethical. However, an unethical act may not be illegal. For instance, a physician traveling on a plane does not have a legal obligation to come forward when an announcement is made requesting a doctor to assist with an emergency. But it may be an unethical action if the passenger dies without the help of an available doctor.

There is a greater reliance on laws and the court system, as our society and medical system have become more complex. In fact, some physicians have been practicing a form of medicine called “defensive medicine.” This means that they may order unnecessary tests and procedures in order to protect themselves from a lawsuit; because then they can say “I did everything that I could to treat the patient.” This type of preventive medicine is not only costly but also may put the patient through needless and uncomfortable tests and procedures. In some cases, physicians may even avoid ordering tests or procedures that may carry a risk for the patient because they do not want to take a chance that a lawsuit may result if the patient outcome is poor.

The law provides a yardstick by which to measure our actions, and it punishes us when our actions break the laws. Many of the actions punishable by law are considered morally wrong, such as rape, murder, and theft. The problem with measuring our actions using only the law, and not considering the ethical aspects of an issue, is that the law allows many actions that are morally offensive, such as lying and manipulating people. Laws against actions such as adultery, which most people agree is immoral, exist, but they are rarely enforced. Some situations involving interpersonal relationships between coworkers, such as taking credit for someone else’s work, are difficult to address with laws. Other work issues such as lying on job applications, padding expense accounts, and making unreasonable demands on coworkers are usually handled on the job and are typically not regulated by laws.

A further caution about relying on the law for moral decision-making: the requirements of the law often tend to be negative. The standards of morality, on the other hand, are often seen to be positive. The law forbids us to harm, rob, or defame others; but in most states it does not require us to help people. Morality would tell us to give aid to the drowning victim even if the law does not mandate that we do so.

Many people believe that something is wrong, or unethical, only if the law forbids it. Conversely, they reason that if the law says it’s all right, then it is also ethical. Unfortunately, these people believe that until the law tells them otherwise, they have no ethical responsibility beyond the law. Finally, laws are often reactive and may lag behind the moral standards of society; slavery is the most obvious example. Sexual harassment and racial discrimination existed as moral problems long before laws were enacted to suppress this behavior.

There are a multitude of laws, including criminal and civil statutes (laws enacted by state and federal legislatures) as well as state medical practice acts that affect healthcare professionals. **Medical practice acts**, established in all 50 states by statute, apply specifically to the way medicine is practiced in a particular state. These acts define the meaning of the “practice of medicine” as well as requirements and methods for licensure. They
also define what constitutes unprofessional conduct in that particular state. While the laws vary from state to state, the more common items of unprofessional conduct include the following:

- Practicing medicine without a license
- Impaired ability to practice medicine due to addiction or mental illness
- Conviction of a felony
- Insufficient record keeping
- Allowing an unlicensed person to practice medicine
- Physical abuse of patients
- Prescribing drugs in excessive amounts

As we study law and ethics as they relate to medicine, we will frequently use court cases to illustrate points. For our purposes it is not necessary to memorize the specifics of a lawsuit, such as the legal citation, that has been decided in a court of law. But it is important to keep in mind that unless a decided case is overturned in an appeals court, it is considered to have established a precedent. This means that the decision of the case acts as a model for any future cases in which the facts are the same.

ETHICS

Medical law addresses rights and obligations that affect patients and protects one’s rights; ethics also addresses issues that affect patients and their rights. Ethics is the branch of philosophy related to morals, moral principles, and moral judgments. A more practical explanation from ethics experts tells us that ethical behavior is that which puts the common good above self interest. Ethics is concerned with the obligation of what we “should” or “ought to” do. Morality is the quality of being virtuous or practicing the right conduct. A person is said to be amoral if he or she is lacking or indifferent to moral standards. However, the terms ethics and morality are used interchangeably by many people. Ethics, as part of philosophy, uses reason and logic to analyze problems and find solutions. Ethics, in general, is concerned with the actions and practices that are directed at improving the welfare of people in a moral way. Thus, the study of ethics forces us to use reason and logic to answer difficult questions concerning life, death, and everything in between. In modern terms, we use words such as right, wrong, good, and bad when making ethical judgments. In other cases, people refer to issues or actions that are just and unjust or fair and unfair. Medical ethics concerns questions specifically related to the practice of medicine. This branch of ethics is based on principles regulating the behavior of healthcare professionals, including practitioners such as physicians, nurses, and other allied health professionals. It also applies to patients, relatives, and the community-at-large.

MED TIP

Ethics always involves people. This includes patients, caregivers, healthcare professionals, and the general public.

Ethics is meant to take the past into account, but also to look to the future and ask, “What should I do now?” Unfortunately, using moral views based only on those of parents and peers can lead to radical subjectivism that can make ethical discussion
of issues such as euthanasia, abortion, or cloning difficult, if not impossible. Many of our beliefs are based on emotions—for example, we believe that something is wrong if we feel guilty when we do it. While most healthcare practitioners, other than physicians, will not be required to make life and death decisions about their patients, it is still important for everyone to develop his or her own personal value system. Whenever you are involved in an ethical dilemma, you must analyze actions and their consequences to all concerned parties. Law also does this by directing actions into “legal” and “illegal” human actions. Ethical issues are not so easily divided into two categories such as “right” and “wrong.”

As we study ethics, we will also analyze various actions and their effects. When following a moral line of reasoning it is advisable to carefully take apart the issues, restate them in your own words, and offer an interpretation, and even a criticism, of them.

**MED TIP**

Remember that ethics always involves formal consideration of the interests of others in deciding how to act or behave. In fact, some philosophers believe that almost every decision to do anything is an ethical decision.

**Theories of Ethics**

Basic questions relating to the study of ethics have been the subject of much debate and analysis, particularly among philosophers. Various philosophers have defined ethics under several categories, such as utilitarianism, natural rights, or rights-, duty-, justice-, and virtue-based ethics. A division is often made between *teleological* and *deontological* theories in ethics. A teleological theory asserts that an action is right or wrong depending on whether it produces good or bad consequences. Utilitarianism is an example of this theory. Deontological ethical theory asserts that at least some actions are right or wrong and, thus, we have a duty or obligation to perform them or refrain from performing them, without consideration of the consequences. Duty-based ethics is an example of deontological theory. These ethical theories are the basis for many of our country’s regulations, such as the Occupational Safety and Health Act (OSHA), and the norms of our society.

**Utilitarianism**

*Utilitarianism* is an ethical theory based on the principle of what is the greatest good for the greatest number of people. This ethical theory is concerned with the impact of actions, or final outcomes, on the welfare of society as a whole. In other words, the “rightness” or “wrongness” of an act is determined solely by its consequences. This view looks at what would satisfy the interests, wants, and needs of most people. Additionally, utilitarianism is a consequences-based ethical theory that follows the premise that the ends (consequences) justify the means (methods for achieving the ends). For example, in the case of limited financial resources, money would be spent in a way to benefit the greatest number of people. In this respect, utilitarianism is considered to be an efficient allocation of resources. In a professional context, a *cost/benefit analysis* justifies the means of achieving a goal. In other words, if the benefit of a decision outweighs the cost (financial or otherwise) of achieving a goal, then the means to obtain the goal would be justified. A problem arises when utilitarianism, or cost/benefit analysis, is used for making ethical decisions, because some people will inevitably “fall through the cracks.”
This could result in serious consequences if a person is denied treatment, and eventually suffers and/or dies because of this denial.

The nation’s Medicare system, in which persons over the age of 65, as well as other qualified individuals, receive healthcare benefits, is one example of utilitarianism. Congress has limited amounts of funds to allocate for medical coverage and uses those funds to cover the elderly and others, such as the disabled, under the government Medicare Act. However, not all people require the benefit. In the case of Medicare, for example, not all elderly persons need to have medical coverage provided for them by this act, because some are wealthy and can afford their own coverage. On the other hand, there are people with low incomes who are not yet 65, and are not indigent (impoverished) enough to qualify for Medicaid, but still require some type of medical insurance. Another example of utilitarianism occurs when there is a limited supply of donor organs. Under a utilitarianism approach, patients with the most immediate need (and who would benefit the most) would receive the organ. Using this approach for organ distribution, terminally ill or elderly persons with a limited lifespan would not be the first to receive a scarce resource such as a new heart. A weakness of the utilitarianism approach to moral reasoning is that it is impossible to quantify all the variables. Therefore, it can result in a biased allocation of resources, ignoring the rights of some vulnerable people such as the young, sick, handicapped, or elderly who lack representation or a voice.

Rights-Based Ethics

Rights-based ethics, or a natural rights ethical theory, places the primary emphasis on a person’s individual rights. This ethical theory states that rights belong to all people purely by virtue of their being human. Under our rights-based democracy, all Americans have the right to freedom of speech. Employees have the right to due process, which entitles them to a fair hearing in the case of dismissal from their jobs. In the previous example of limited donor organs, using a rights-based ethical approach, every patient needing a donor organ would have the same right to receive the available organ.

The strength of rights-based ethics is a strong attempt to protect the individual from injury. Laws such as OSHA (Occupational Safety and Health Act) benefit society as a whole because everyone in the workplace is protected by this act. The downside to this approach is that there can be incidents of individualistic selfish behavior which is independent of the outcomes (consequences). For example, unions protect their membership while excluding the rights of the non-union members of society.

Duty-Based Ethics

Duty-based ethics focuses on performing one’s duty to various people and institutions such as parents, employers, employees, and customers (patients). This line of moral reasoning follows the belief that our actions should be universal which means that everyone would act the same way with the same set of circumstances. For example, Americans have some duties, such as to adhere to laws enforced by government authorities. Duties also arise from our own actions. Therefore, we have a duty to keep promises, not to lie, and to make reparations to those whom we have harmed. These reparations include compensation for any damage to another person. An example is the financial compensation a medical practitioner would make if he or she caused harm to a patient.

One of the problems encountered with this moral line of reasoning is the mandate to do things out of a sense of duty regardless of the consequences. In addition, we may hear conflicting opinions about what is our “duty” or responsibility in particular circumstances. If our employer asks us to do something that we are sure is wrong or unethical, we have a duty not to perform the action. You will come across some malpractice cases
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later in the book that demonstrate this. However, this violates our duty to our employer.
Most religions have statements that address one’s duty as a member of that faith or reli-
gion. However, many people do not accept their faith’s beliefs concerning issues such
as birth control and working on the Sabbath, but do adhere to other doctrines of their
religion. Many people claim that a sense of duty is not enough when dealing with ethical
dilemmas. Rules do not always work. And people from different cultures may have a
different sense of what “duty” means.

Justice-Based Ethics

Justice-based ethics is based on an important moral restraint called “the veil of igno-
rance.” The philosopher John Rawls believed that all social contracts, such as who
should receive a scarce organ donation, should be handled so that no one would know
the gender, age, race, health, number of children, income, wealth, or any other arbitrary
personal information about the recipient. This “veil of ignorance,” meaning we would
not see the recipients of our choices, would allow the decision-makers (such as Congress
or medical experts) to be impartial in their decisions. The so-called “veil of ignorance”
means that no one person is advantaged or disadvantaged. In effect, the “least well off”
person would then have the same chance for scarce resources and justice as the more
educated and wealthy. Rawls, who equated justice with fairness, assumed that people
have a self-interest when forming social contracts such as who will receive medical care.
The justice-based model of ethics infers that every citizen should have equal access to
medical care. For example, children with genetic diseases which would require large
financial resources deserve good care simply as a matter of justice. Proponents of justice-
based ethics believe insurance premium rates and risk should be spread over all members
of the nation such as in a federal single-payer system.

Opponents of this theory believe it is unfair for the healthy to subsidize the unhealthy.
Furthermore, under the current gigantic healthcare system and media coverage it is
impossible to have the “veil of ignorance” that is demanded by this ethical model.

Virtue-Based Ethics

A moral virtue is a character trait that is morally valued. The emphasis of virtue-based
ethics is on persons and not necessarily on the decisions or principles that are involved.
Most people agree that virtues are just good habits, such as fairness and honesty. Other
examples of virtues and good character traits are integrity, trust, respect, empathy,
generosity, truthfulness, and the ability to admit mistakes.

Virtue-based ethics, or seeking the “good life,” is our legacy from the philosopher
Aristotle. According to him, the goal of life, for which we all aim, is happiness. He
believed that happiness is founded not solely on what we gain in life, but also on who
we are. For example, the joy of being a medical professional cannot be present without
having the traits or virtues that make one a good physician, nurse, medical assistant,
technologist, or other healthcare professional. These virtues include perseverance, integ-
rity, compassion, and trust. Aristotle’s theory is considered inadequate by many because
it does not take into account the consequences of an action, as in utilitarianism, or the
rights of others, as in rights-based ethics. In addition, there are some who believe that
people might take advantage of someone who is too trusting.

While each of these five ethical theories can have positive outcomes and are useful in
certain circumstances, no one ethical theory or system is perfect.

Ethical standards that relate to the medical profession are set and defined by profes-
sional organizations such as the American Medical Association. All professional disci-
plines, such as nursing and medical assisting, have their own organizations and standards
of guiding ethical codes of conduct. Codes of ethics are discussed more fully in Chapter 5.
In general, people believe an action is wrong or unethical if it:

◗ Causes emotional or physical harm to someone else.
◗ Goes against one’s deepest beliefs.
◗ Makes a person feel guilty or uncomfortable about a particular action.
◗ Breaks the law or traditions of their society.
◗ Violates the rights of another person.

No one ethical theory is perfect. The medical community and the healthcare professional use a combination of many theories to determine the correct action to take.

See Table 1.1 for comparison of the strengths and weaknesses of the five ethical theories.

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<th>Theory</th>
<th>Strengths</th>
<th>Weaknesses</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Utilitarianism</strong></td>
<td>1. Encourages efficiency and productivity</td>
<td>1. Virtually impossible to quantify all variables</td>
</tr>
<tr>
<td></td>
<td>2. Consistent with profit maximization—getting the most value (benefit) for the least cost</td>
<td>2. Can result in biased allocations of resources, especially when some who are affected lack representation or voice</td>
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<td></td>
<td>3. Looks beyond the individual to assess impact of the decision on all who are affected</td>
<td>3. Can result in ignoring the rights of some people to achieve a utilitarian outcome</td>
</tr>
<tr>
<td><strong>Rights-Based Ethics</strong></td>
<td>1. Protects the individual from injury; consistent with rights to freedom and privacy</td>
<td>1. Can encourage individualist selfish behavior that, if misinterpreted, may result in anarchy</td>
</tr>
<tr>
<td><strong>Duty-Based Ethics</strong></td>
<td>1. Absolute rules or principles help us determine what is our duty toward others</td>
<td>1. Hard to identify who should determine the rules and principles of moral behavior</td>
</tr>
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<td></td>
<td>2. Who determines what our duty is to one another</td>
<td>2. People are not treated as a means to an end</td>
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<td></td>
<td>3. A mandate for respect and impartiality</td>
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<tr>
<td><strong>Justice-Based Ethics</strong></td>
<td>1. A democratic approach</td>
<td>1. Some believe it is unfair for the healthy to subsidize the unhealthy</td>
</tr>
<tr>
<td></td>
<td>2. Based on a “veil of ignorance”</td>
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<td></td>
<td>3. No one person is advantaged or disadvantaged</td>
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</tr>
<tr>
<td><strong>Virtue-Based Ethics</strong></td>
<td>1. Based on premise that our actions are universal</td>
<td>1. Concern that people can be taken advantage of if they are too complacent or trusting</td>
</tr>
<tr>
<td></td>
<td>2. Virtuous behavior includes perseverance, courage, integrity, compassion, humility, and justice</td>
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</table>
Principles or Values That Drive Ethical Behavior

Most people have established, throughout their lifetime, their own set of principles or values that drive their ethical behavior. Benjamin Franklin included in his list of virtues such things as cleanliness, silence, and industry. In today’s world, we don’t think of these things as virtues; they are assumed by many people to be a part of everyday life.

MED TIP
One should not perform an action which might threaten the dignity and welfare of another individual.

However, in today’s fast-paced healthcare environment, it is important to slow down enough to consider some of the most respected virtues. Some of these virtues include beneficence, empathy, fidelity, gentleness, holistic, humility, justice, perseverance, responsibility, sanctity of life, tolerance, and work.

- **Beneficence**—The action of helping others and performing actions that would result in benefit to another person. It cautions all those working in the healthcare field to do no harm to anyone. In fact, when we prevent harmful actions from happening to our patients, we are using this virtue to its fullest extent (Figure 1.1).

- **Empathy**—An objective awareness of the feelings, emotions, and behavior of another person. (Also called compassion.)

- **Fidelity**—Loyalty and faithfulness to others. Fidelity implies that we will perform our duty. We must use caution when practicing fidelity. A strict adherence to a sense of duty or loyalty to an employer does not mean that we must perform actions that are wrong or harmful to our patients.

- **Gentleness**—A mild, tenderhearted approach to other people. Gentleness goes beyond compassion since it can exist in the absence of a person’s pain and suffering. A gentle approach to patient care is considered by patients to be one of the most welcome virtues. Both men and women have the ability to demonstrate gentleness.

**Figure 1.1**
Beneficence: Helping Others
Holistic—A comprehensive total care approach to a patient including physical, emotional, and spiritual.

Humility—Acquiring an unpretentious and humble manner. Humility is considered to be the opposite of vanity. It has been said, “honesty and humility are sisters.” This means that to be truly humble, we must be entirely honest with ourselves. Humility requires that we recognize our own limits. Vanity and a sense of self-importance have no place in medicine. When mistakes are made, they must be reported so that corrections can take place. It takes a humble—and honest—person to admit mistakes.

Justice—Fairness in all our actions with other people. It means that we must carefully analyze how to balance our behavior and be fair to all. Justice implies that the same rules will apply to everyone. This means that as healthcare workers we cannot demonstrate favoritism with our patients or our coworkers. The four cardinal virtues are justice, temperance, prudence, and courage. Of these four, only justice is considered to be an absolute good. To emphasize this point, the philosopher Immanuel Kant said, “If legal justice perishes, then it is no longer worthwhile for men to remain alive on this earth.”

Perseverance—Persisting with a task or idea even against obstacles. This virtue implies a steady determination to get the job done. For example, it takes perseverance to complete one’s education. This is an outstanding virtue for a healthcare worker to have. It implies that one will finish the job even if it is difficult.

Responsibility—A sense of accountability for one’s actions. Responsibility implies dependability. A sense of responsibility can become weakened when one is faced with peer pressure. Medical professionals must be able to “answer” or be accountable for their actions. Taking responsibility is a sign of maturity.

Sanctity of life—The sacredness of human life. All human beings must be protected. This means that we may have to become an advocate for people who cannot speak out for themselves, such as children and many elderly.

Tolerance—A respect for those whose opinions, practices, race, religion, and nationality differ from our own. Tolerance requires a fair and objective attitude toward opinions and practices with which we may or may not agree.

Work—An effort applied toward some end goal. Work, if performed well, is clearly a virtue that almost everyone enters into at one time or another. In its broadest sense, work is part of our everyday existence that includes activities such as studying, child rearing, home maintenance, gardening, hobbies, and religious activities. The work we do to earn a living can be performed with pride or can be performed poorly and grudgingly. The most satisfying work involves achieving a goal that we believe is worthwhile and worthy of our talent.

MED TIP

Not all patients are easy to care for. Many patients do not feel well, or may be saddened by a diagnosis. All patients have a right to our respect and understanding.

Interpersonal Ethics

The expectation of employees in the workplace is that they will be treated ethically with respect, integrity, honesty, fairness, empathy, sympathy, compassion, and loyalty. Professional healthcare employees are no different in their expectation of receiving such treatment.
Respect implies the ability to consider and honor another person’s beliefs and opinions. This is a critical quality for a healthcare worker because patients come from a variety of racial, ethnic, and religious backgrounds. Coworkers’ opinions must also be respected, even if contrary to one’s own.

**Integrity** is the unwavering adherence to one’s principles. People with integrity are dedicated to maintaining high standards. For example, integrity means that healthcare professionals will wash their hands between each patient contact even when no one is looking. Dependability, such as being on time for work every day, is a key component of integrity. Integrity is so important that many professions include a statement regarding this quality in their code of ethics. For example, the Pharmacy Technician Code of Ethics states that this healthcare professional “supports and promotes honesty and integrity in the profession, which includes a duty to observe the law, maintain the highest moral and ethical conduct at all times, and uphold the ethical principles of the profession.”

**Honesty** is the quality of truthfulness, no matter what the situation. Healthcare professionals must have the ability to admit an error and then take corrective steps. Anyone who carries out orders for a physician has a duty to notify the physician of any error or discrepancy in those orders.

**Fairness** is treating everyone the same. It implies an unbiased impartiality and a sense of justice. This is a particularly important characteristic for supervisors.

**Empathy** is the ability to understand the feelings of others without actually experiencing their pain or distress. Acting in this caring way expresses sensitivity to patients’ or fellow employees’ feelings (Figure 1.2 ■).

**Sympathy**, on the other hand, is feeling sorry for or pitying someone else. Most people, including patients, react better to empathetic listeners than to sympathetic ones.

**Compassion** is the ability to have a gentle, caring attitude toward patients and fellow employees. Any illness, and in particular a terminal illness, can cause fear and loneliness in many patients. A compassionate healthcare professional can help to ease this fear.
Loyalty is a sense of faithfulness or commitment to a person or persons. Employers expect loyalty from their employees. This loyalty should be granted unless the practice of one’s employer is unethical or illegal. For example, it is never appropriate to recommend that a patient seek the services of another physician unless instructed to do so by the employer. By the same token, employees expect loyalty, or fair treatment, from their employer.

MED TIP

Loyalty to one’s employer does not mean hiding an error that has been committed by that employer or by a physician.

Additionally, there are specific issues that affect the workplace, such as privacy, due process, sexual harassment, and comparable worth.

Privacy, or confidentiality, is the ability to safeguard another person’s confidences or information. Violating patient confidentiality is both a legal and ethical issue that carries penalties. Employees have a right to expect the contents of their personnel records to be held in confidence by their employer. By the same token, it is inappropriate for employees to discuss the personal life of their physician/employer.

Due process is the entitlement of employees of the government and public companies to have certain procedures followed when they believe their rights are in jeopardy. The Fourteenth Amendment acts to prevent the state’s deprivation or impairment of “any person’s life, liberty, or property without due process of the law.” The Fifth Amendment also restricts the federal government from depriving individuals of these rights without due process of the law. In a work environment, this means that employees of the government and public companies accused of an offense are entitled to a fair hearing in their defense. Due process is also a protection guaranteed to healthcare workers as it relates to their state certification, license, or registration to practice. To remove a person’s license to practice his or her profession is the same as removing a person’s livelihood. Thus, the removal of this documentation is not to be taken lightly. If there are allegations (accusations) made claiming that a healthcare worker, such as a medical technologist, nurse, or a physician, has committed malpractice, then their rights to defend themselves and due process must be protected. This means that they must receive a notice of the charges, an investigation of the allegations, and a hearing if enough evidence is found. If these allegations are proven to be false, then the individual must not be penalized.

Sexual harassment, or gender harassment, is defined in the Equal Employment Opportunity Commission guidelines, which are part of Title VII of the Amended Civil Rights Act of 1964:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.
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Chapter 1

Med Tip
Any type of gender harassment, whether male or female, is seen as one person exerting power over another.

Both males and females working in the healthcare field have reported sexual harassment.

- **Comparable worth**, also known as pay equity, is a theory that extends equal pay requirements to all persons who are doing equal work. The principle of fairness and justice dictates that work of equal value performed by men and women in the workplace should be rewarded with equal compensation. However, research demonstrates that there is a wage gap, with some estimates as high as 36 percent, due to the undervaluation of work performed by women. This results in injustice; equals are not treated equally. Because pay scales are the same for males and females in many of the healthcare professions, the situation is not as intense as it is in the business world. However, employers and supervisors who are involved in the hiring process must be committed to providing equal pay for equal work.

While it is important to reflect on the above concepts, many ethical topics relating to the medical field fall into categories of common sense. See Table 1.2 for examples that might fall into the category of a “common sense” approach to ethics.

### Models for Examining Ethical Dilemmas

The decision-maker must always be objective when making ethical decisions. It is critical to examine all the facts of a given situation by gathering as much information or data as possible. Alternative solutions to the problem must be assessed if they are available. All sides of every issue should be studied before ethical decisions are made. The following are three decision-making models that can be helpful when resolving ethical issues: the three-step (Blanchard-Peale) ethics model, the seven-step decision model, and Dr. Bernard Lo’s clinical model.

**Three-Step Ethics Model**

Kenneth Blanchard and Norman Vincent Peale advise the use of a three-step model when evaluating an ethical dilemma. The three steps are to ask yourself each of the following questions:

- Is it legal?
- Is it balanced?
- How does it make me feel?

1. **Is it legal?** When applying the three-step model, if the situation is clearly illegal, such as inflicting bodily harm on another, then the matter is also clearly unethical, and you do not even have to progress to the second question. However, if the action is not against the law, then you should ask yourself the second question.

<table>
<thead>
<tr>
<th>Common Sense Approach to Ethics</th>
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<tbody>
<tr>
<td>Avoid harming others</td>
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<td>Keep promises and contracts</td>
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<tr>
<td>Be fair</td>
</tr>
<tr>
<td>Respect the rights of others</td>
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<tr>
<td>Obey the law</td>
</tr>
<tr>
<td>Reinforce these imperatives in others</td>
</tr>
<tr>
<td>Do not lie or cheat</td>
</tr>
<tr>
<td>Help those in need</td>
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2. Is it balanced? This question helps to determine if another person or group of people is negatively affected by the action. In other words, is there now an imbalance so that one person or group suffers or benefits more than another as a result of your action? For example, in the case of a scarce resource such as donor organs, does one group of people have greater access?

3. How does it make me feel? This final question refers to how the action will affect you emotionally. Would you be hesitant to explain your actions to a loved one? How would you feel if you saw your name in the paper associated with the action? Can you face yourself in the mirror?

If you can answer the first two questions with a strong “Yes” and the final question with a strong “Good,” then the action is likely to be ethical.

For example, student cheating is clearly unethical. By using the three-step ethics model, we have an even clearer idea of why it is unethical to look at even one answer on another student’s test. We ask the three questions:

1. Is it legal? Yes, as far as we know there is no law against cheating.
2. Is it balanced? No, it is not. This question is where the model really helps us. One group or person (in this case the cheater) does have an advantage over another group or person. In addition, the grades will be skewed for the entire class, because the person who cheated will receive a higher grade than what he or she earned.
3. How does it make me feel? Remember that we have to live with ourselves. The philosopher Thomas Aquinas said, “We become what we do,” meaning that if we lie, we become a liar. Or in this case, if we cheat, we become a cheater.

Analysis is the ability to carefully take apart issues, restate them in your own words, and offer an interpretation, and even criticism, of them. The following two models require careful analysis of the problem.

The Seven-Step Decision Model

I. Determine the facts by asking the following questions:
   - What do we need to know?
   - Who is involved in the situation?
   - Where does the ethical situation take place?
   - When does it occur?

II. Define the precise ethical issue.
   - For example, is it a matter of fairness, justice, morality, or individual rights?

III. Identify the major principles, rules, and values.
   - For example, is this a matter of integrity, quality, respect for others, or profit?
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IV. Specify the alternatives.
   List the major alternative courses of action, including those that represent some form of compromise. This may be a choice between simply doing or not doing something.

V. Compare values and alternatives.
   Determine if there is one principle or value, or a combination of principles and values, that is so compelling that the proper alternative is clear.

VI. Assess the consequences.
   Identify short-term, long-term, positive, and negative consequences for the major alternatives. The short-term gain or loss is often overridden when long-term consequences are considered. This step often reveals an unanticipated result of major importance.

VII. Make a decision.
   The consequences are balanced against one’s primary principles or values. Always double-check your decision.

The seven-step decision model forces us to closely examine the facts before we make an ethical decision. This model is helpful when making a decision that has many subdecision questions to examine; for example, “Who should the physician treat first?” “Should I look at the exam paper of the person sitting next to me?” or even “What career choice should I make?” Obviously, some of these decisions require a quick response, while others, such as selection of a career choice, require more time and research. This model can be used to examine all of the end-of-chapter cases in this textbook.

Dr. Bernard Lo’s Clinical Model

Dr. Lo has developed a clinical model for decision-making to ensure that no important considerations relating to patient care are overlooked. He believes this approach can be used to help resolve important patient-care issues, such as when to proceed with life-sustaining interventions (e.g., cardiopulmonary resuscitation [CPR] or kidney dialysis). His model also includes the patient’s preferences and viewpoints.

I. Gather information.
   a. If the patient is competent, what are his or her preferences for care?
   b. If the patient lacks decision-making capacity, has he or she provided advance directives for care?
   c. If the patient lacks decision-making capacity, who should act as surrogate?
   d. What are the views of the healthcare team?
   e. What other issues complicate the case?

II. Clarify the ethical issues.
   a. What are the pertinent ethical issues?
   b. Determine the ethical guidelines that people are using.
   c. What are the reasons for and against the alternative plans of care?

III. Resolve the dilemma.
   a. Meet with the healthcare team and with the patient or surrogate.
   b. List the alternatives of care.
   c. Negotiate a mutually acceptable decision.
Dr. Lo emphasizes that patients should play an active role in decisions. Everything should be done to ensure that the patient has been well informed by providing information in an easy-to-understand way. This model cautions the healthcare team to seek the patient’s decision on advance directives. He requires that the entire healthcare team—including medical students, nurses, social workers, and all others who provide direct care for the patient—be involved in the decisions. These caregivers should voice any moral objections they have to the proposed care. Finally, the patient’s best interests must always be protected. This model is more commonly used in a hospital or clinic setting.

**MED TIP**

When following a moral line of reasoning, it is always advisable to examine all of the facts rather than to predetermine what should be done.

**WHAT ETHICS IS NOT**

Ethics is not just about how you feel, the sincerity of your beliefs, or your emotions; nor is it only about religious viewpoints. Feelings such as in the statement “I feel that capital punishment is wrong” are not sufficient when making an ethical decision. Others may feel that capital punishment is right in that it helps to deter crime. All people have feelings and beliefs. However, ethics must be grounded in reason and fact. In this respect law and ethics are similar. For example, a statement such as “I feel that cheating is wrong” doesn’t tell us why you believe it is wrong to cheat. A better statement reflecting ethics would be, “I think cheating is wrong because it gives one student an unfair advantage over another student.” That “advantage” may mean that one person may be hired rather than another simply because the grades were the deciding factor.

The sincerity with which people hold their beliefs is also not an adequate reason when making an ethical decision. For example, Hitler sincerely believed that he was right in exterminating more than 6 million Jews. His sincerity did not make him right.

Emotional responses to ethical dilemmas are not sufficient either. Emotions may affect why people do certain things, such as the woman who kills her husband in a rage after discovering he had an affair. However, we should not let our emotions dictate how we make ethical decisions. We may have helplessly watched a loved one die a slow death from cancer, but our emotions should not cloud the issue of euthanasia and cause us to kill our ill patients.

Ethics is not just about religious beliefs. Many people associate ideas of right and wrong with their religious beliefs. While there is often an overlap between ethics and what a religion teaches as right and wrong, people can hold very strong ethical and moral beliefs without following any formal religion.

**MED TIP**

Our determination of what is ethical or moral can have serious consequences in human action.
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BIOETHICS

Bioethics, also known as biomedical ethics, is one branch of applied, or practical, ethics. It refers to moral dilemmas and issues prevalent in today’s society as a result of advances in medicine and medical research. The term bio, meaning life, combined with ethics relates to the moral conduct of right and wrong in life and death issues. Ethical problems of the biological sciences, including research on animals, beginning-of-life issues, cloning, harvesting embryos, concerns surrounding death and dying, experimentation and the use of human subjects, who owns the right to body cells, and dilemmas in the treatment of catastrophic disease.

Bioethics uses a form of moral analysis to assist in determining the obligations and responsibilities of unique issues relating to modern healthcare. Today’s modern medical care requires that decision-makers carefully examine facts, identify the moral challenges, and then look carefully at all alternatives. There are basically four principles that can serve as guidelines when confronting bioethical dilemmas. These include the principles of autonomy, beneficence, nonmalfeasance, and justice.

The principle of autonomy means that people have the right to make decisions about their own life. The concept of “informed consent” is included in this principle. It means that patients must be informed and understand what they are told before they can provide consent for the treatment. They must be told what the treatment involves, the risks involved, the chance for success, and the alternatives.

The principle of beneficence, or the principle of doing good, means that we must not harm patients while we are trying to help them. This principle recognizes that medical science must do what is best for each individual patient. If there are risks involved, then the principle of autonomy must be invoked so that decisions are made in conjunction with patient’s wishes.

The principle of nonmalfeasance is taken from the Latin maxim Primum non nocere, which means “First, do no harm.” This is a warning to all members of the healthcare profession. Nonmalfeasance completes the principle of beneficence because we are now asking the medical profession to not only do good for the patient, but also to do no harm in the process. In some cases the risks of a treatment may outweigh the benefits. For example, when a surgeon removes a pregnant woman’s cancerous uterus to save her life, her unborn child will not live. The principle of nonmalfeasance causes the medical profession to stop and think before acting.

Finally, the principle of justice warns us that equals must be treated equally. The same treatments must be given to all patients whether they are rich, poor, educated, uneducated, able-bodied, or disabled.

These four bioethical principles are guidelines for physicians and healthcare professionals to use when patients are unable to provide their personal wishes. For example, there have been cases of “wrongful life” in which a fetus is delivered too soon before development is complete. These infants, if they survive, may have severe disabilities. Physicians may be requested by parents to “do nothing” to resuscitate or save their undeveloped child. Issues such as these weigh heavily upon the shoulders of all medical professionals. Having a set of guidelines, such as the above four principles, to follow has helped in some of the decision-making.

Bioethicists, specialists in the field of bioethics, give thought to ethical concerns that often examine the more abstract dimensions of ethical issues and dilemmas. For example, they might ask, “What are the social implications of surrogate motherhood?” Bioethicists are often authors, teachers, and researchers. This branch of ethics poses
difficult, if not impossible, questions for the medical practitioner. Examples of some of the difficult ethical and bioethical situations that face the healthcare professional are listed under “Points to Ponder” at the end of this chapter.

THE ROLE OF ETHICS COMMITTEES

Hospitals, as well as other healthcare organizations and agencies, have active ethics committees that examine ethical issues relating to patient care. This type of oversight committee consists of a variety of members from many healthcare fields as well as other disciplines, including physicians, nurses, clergy, psychologists, ethicists, lawyers, healthcare administrators, and family and community members. The ethics committee can serve in an advisory capacity to patients, families, and staff for case review of difficult ethical issues, especially when there is a lack of agreement as to what is in the patient’s best interests. They also develop and review health policies and guidelines regarding ethical issues such as organ transplantation. After examining the facts surrounding the ethical issue, the committee often determines a recommendation based on predetermined criteria. These criteria might include the severity of the patient’s medical condition, the age of the patient, and the chance for ultimate recovery.

The ethics committee may examine issues such as when hospitalization or treatment needs to be discontinued for a patient. For example, a hospital ethics committee will assist in determining the best action to take for a terminally ill patient who is on a respirator. In some cases, the committee may be asked to examine if a patient received the appropriate care.

Ethics committees have tremendous power in today’s healthcare environment. Patients are holding their doctors and hospitals to a high standard of care. While it is necessary for the committee meetings to be confidential in order to protect the patient’s privacy, nevertheless, there should be a strong set of policies that govern how the meetings are conducted.

Unfortunately in some cases, members of an ethics committee will never see or talk to the patient whose life and care they are discussing. Mistakes can be made when a group of people makes a judgment without reviewing all the facts.

MED TIP

It has been suggested that ethics committees make an effort to have disabled people represented on their committee either as a member or as a resource person to represent the viewpoint of the handicapped patient. In some cases decisions are made based on committee members’ own prejudice against living with a disability.

QUALITY ASSURANCE PROGRAMS

In addition to ethics committees, most hospitals and healthcare agencies have a quality assurance (QA) program. These programs were established in the early 1960s as a response to the increasing demand from the public for accountability in quality medical care. Quality assurance (QA) is gathering and evaluating information about the services provided, as well as the results achieved, and comparing this information with an accepted standard.

Quality assessment measures consist of formal, systematic evaluations of overall patient care. After the results of the evaluations are compared to standard results, any deficiencies
are noted and recommendations for improvements are made (Figure 1.3). The types of issues that are reviewed by a QA committee are:

- Patient complaints relating to confidentiality.
- Errors in dispensing medications.
- Errors in labeling of laboratory specimens.
- Adverse reactions to treatments and/or medications.
- Inability to obtain venous blood on the first attempt.
- Safety and monitoring practices for radiology and laboratory areas.
- Infection control.

**MEDICAL ETIQUETTE**

There are certain rules of medical etiquette, or standards of professional behavior, that physicians practice in their relationship and conduct with patients and other physicians. These are general points of behavior and are not generally considered to be medical ethics issues. For instance, physicians expect that their telephone calls to fellow physicians will be taken promptly and that they will be seen immediately when visiting a physician’s office. This courtesy is extended to physicians because they are often consulting about patients with other physicians. However, ethical issues are present when one physician overlooks or “covers up” the medical deficiencies of another physician.

In addition, physicians should be referred to as “Doctor” unless they request to be called by their first name. The same courtesy is required for the patient. Many patients, especially the elderly, prefer to be addressed by their surname (with Ms., Miss, Mrs., or Mr.). Many nurses and other allied health professionals prefer to be addressed in this manner also. There are allied healthcare professionals who have decades of experience and do not wish to be addressed by either the patient or physician by their first name.

**MED TIP**

The outdated medical courtesy of physicians providing free medical care to their colleagues is not advisable. If their colleagues were to need further treatment, their insurance coverage may be in jeopardy because of the initial “free” care.
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POINTS TO PONDER

1. Should an alcoholic patient, who may die of liver disease, be eligible for an organ transplant?
2. Should a suicidal patient be allowed to refuse a feeding tube?
3. Should prisoners be eligible to receive expensive medical therapies for illnesses?
4. Is assisting with suicide ever ethically justified?
5. Should medical personnel suggest other treatment modes or suggest the patient request a consultation with another physician?
6. Under what circumstances should you report a colleague or physician who is physically, psychologically, or pharmacologically impaired?
7. Is experimentation on human subjects ever justified?
8. When, if ever, should you disclose a patient’s medical condition to the family?
9. Should parents be allowed to refuse medical treatment, such as chemotherapy, for their child?
10. If you are an employee in a medical office with access to medical records, should you protect your friend by telling him that you know that his partner has tested positive for AIDS? These questions, and others like them, are addressed throughout this book.

DISCUSSION QUESTIONS

1. In the case of Jeanette M. at the beginning of the chapter, what additional training for taking telephone messages should the receptionist have had?
2. Discuss the difference between the terms legal and moral.
3. Give an example for each of the following: a medical ethics dilemma, a bioethics situation, and a medical–legal problem.
4. Determine if the ten questions under “Points to Ponder” are ethical or legal issues or both.
5. Describe five ethical situations that you may face in the profession you intend to follow.

REVIEW CHALLENGE

Short Answer Questions

1. Why do we study law, ethics, and bioethics?

2. What is the purpose of the Medical Practice Acts?

3. What are five theories of ethics?

4. What are ten virtues that drive ethical behavior?

5. What are the three steps of the Blanchard-Peale Model?
   a. 
   b. 
   c. 

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6. What is bioethics?

7. What is the role of an ethics committee?

Matching

Match the responses in column B with the correct term in column A.

<table>
<thead>
<tr>
<th>Column A</th>
<th>Column B</th>
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<tbody>
<tr>
<td>1. medical etiquette</td>
<td>a. justice-based</td>
</tr>
<tr>
<td>2. ethics</td>
<td>b. decision based on emotion</td>
</tr>
<tr>
<td>3. applied ethics</td>
<td>c. binding rules determined by an authority</td>
</tr>
<tr>
<td>4. laws</td>
<td>d. principle of doing good</td>
</tr>
<tr>
<td>5. medical ethics</td>
<td>e. standards of professional behavior</td>
</tr>
<tr>
<td>6. beneficence</td>
<td>f. practical application of moral standards</td>
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<tr>
<td>7. veil of ignorance</td>
<td>g. rule out a diagnosis</td>
</tr>
<tr>
<td>8. three-step ethics model</td>
<td>h. moral conduct to regulate behavior of medical professionals</td>
</tr>
<tr>
<td>9. R/O</td>
<td>i. branch of philosophy</td>
</tr>
<tr>
<td>10. gut feeling</td>
<td>j. Kenneth Blanchard and Norman Vincent Peale’s approach to ethics</td>
</tr>
</tbody>
</table>

Multiple Choice

Select the one best answer to the following statements:

1. A problem that occurs when using a duty-based approach to ethics is
   a. the primary emphasis on a person’s individual rights.
   b. determining the greatest good for the greatest number of people.
   c. the conflicting opinions regarding what our responsibility is.
   d. remembering the three-step model approach to solving ethical dilemmas.
   e. understanding the difference between what is fair and unfair.

2. Moral issues that occur as a result of modern medical technology are covered under what specific discipline?
   a. law
   b. medicine
   c. philosophy
   d. bioethics
   e. none of the above

3. When trying to solve an ethical dilemma, it is necessary to
   a. do what everyone else is doing.
   b. use logic to determine the solution.
   c. do what we are told to do by others.

4. The three-step approach to solving ethical dilemmas is based on
   a. asking ourselves how our decision would make us feel if we had to explain our actions to a loved one.
   b. asking ourselves if the intended action is legal.
   c. asking ourselves if the intended action results in a balanced decision.
   d. a, b, and c.
   e. none of the above.

5. A utilitarian approach to solving ethical dilemmas might be used when
   a. allocating a limited supply of donor organs.
   b. trying to find a just decision in which everyone will benefit.
   c. finding a decision based on a sense of duty toward another person.
   d. making sure that no one will “fall through the cracks” and not receive access to care.
   e. none of the above.
6. An illegal act is almost always
   a. hidden.
   b. unethical.
   c. performed with the full knowledge of the healthcare
      worker.
   d. obvious.
   e. all of the above.

7. A practical application of ethics is
   a. philosophy.
   b. the law.
   c. illegal.
   d. applied ethics.
   e. b and d.

8. An employee who is entitled to a fair hearing in the case
   of a dismissal from a job is an example of
   a. duty-based ethics.
   b. utilitarianism.

9. Laws that affect the medical profession
   a. often overlap with ethics.
   b. have a binding force.
   c. are always fair to all persons.
   d. are determined by a governmental authority.
   e. a, b, and d.

10. Modern laws
    a. may allow some unethical acts such as lying on job
        applications.
    b. are interpreted by some people to require no ethical
        responsibility beyond what the law requires.
    c. are not used as a type of yardstick for group behavior.
    d. a and b only.
    e. a, b, and c.

DISCUSSION CASES

1. Analyze the following case using the five theories discussed in this chapter.
   *It has become necessary to ration a vaccine for a contagious disease. There is only enough vaccine
   available to cover 75 percent of the U.S. population. It is necessary to determine an appropriate
   method for doing this.*
   
   a. Utilitarianism:
      
   b. Rights-based ethics:
      
   c. Duty-based ethics:
      
   d. Justice-based ethics
      
   e. Virtue-based ethics:

2. Using the Three-Step Ethics Model (Blanchard-Peale) analyze the following case:
   *A student knows that two other students who sit next to each other in class are cheating on
   exams because they talk about it after class. Is this an ethical dilemma? What, if anything, should
   the student do?*
   
   a.
   
   b.
   
   c.
Chapter 1  Introduction to Medical Law, Ethics, and Bioethics

PUT IT INTO PRACTICE

Talk to someone who is currently working in the medical field that you are working in or plan to enter. Ask him or her for a definition of medical ethics. Then compare it with the textbook definition. Does it match? Discuss with that person an ethical dilemma that he or she has faced and handled.

WEB HUNT

Search the website of the American Society of Law, Medicine, and Ethics (www.aslme.org). Check on Instant Ethicist. Read and summarize the entry for today.

CRITICAL THINKING EXERCISE

What would you do if, when you leave work at the end of the day, you notice an elderly woman in a wheelchair sitting in the reception area and you recall that you saw her sitting in that same spot when you came in to work in the morning?

BIBLIOGRAPHY

Jervis, R. 2010. “Katrina Case Alleges Negligence.” USA Today (January 11), 1A.