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Ethical Times

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Two Books, Two Paths

by Thomasine Kushner, Ph.D.

Two books by bioethicists in our Program – one intended for physicians and the other for patients – both provide useful rather than theoretical approaches to the difficult task of making hard medical decisions.

The first book, *Clinical Ethics: A Practical Approach to Ethical Decisions in Clinical Medicine*, written by Drs. Albert R. Jonsen, Mark Siegler, and William Winslade, a lawyer and philosopher, has become a classic. It offers a way for physicians and other health professionals to identify, analyze, and resolve ethical issues in a clinical setting. Physicians find their systematic strategy a comfortable fit with the way they traditionally arrive at their medical decisions. *Clinical Ethics* teaches how to integrate ethical problems by using an “ethics workup” not unlike the way medical students learn to “workup” patients’ primary complaints. Their “4 boxes” decision-making tool organizes the facts of a particular ethical dilemma around four main topics: (1) Medical Indications, (2) Patient Preferences, (3) Quality of Life, and (4) Contextual Features. Once the details have been outlined, and each of the topics is evaluated, physicians are better able to clarify their thinking and decide the best course of action.

The physician’s recommendation then awaits the patient’s response. This introduces our second book, *Surviving Health Care: A Manual for Patients and Their Families*, edited by Dr. Thomasine Kushner. The book begins with a recognition that Alice’s lament after falling down the rabbit hole captures what most of

us feel when we are catapulted into the world of illness: “How queer everything is today! And yesterday things went on just as usual. Like Alice, it’s natural to think: “It would be so nice if something made sense for a change.”

The impetus for this book began when a CPMC patient described his own frightening heart attack experience. He felt

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Bioethics Beyond Borders

For over a decade, Bioethics Beyond Borders fellowships have made it possible for scholars from around the world, many from developing countries, to attend and present their research at the David C. Thomasma Memorial International Bioethics Retreat. This annual event co-sponsored by our Program is where invited bioethicists from around the world come and share their research in progress. BBB Fellows return to their home countries with both an established membership in the wider community of international bioethicists and an enriched appreciation of bioethics issues globally. Countries from which scholars have been awarded BBB Fellowships include: Serbia, Croatia, Poland, Bulgaria, South Africa, and Russia.

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The Ethicist Is In:

Today's Ethicist: Ruchika Mishra, Ph.D.

Late on a Friday evening, the ethicist receives a call from an attending physician. He wants advice regarding a patient. Mr. HP is a 60 year old man who has end stage liver disease. He is not a transplant candidate. He had been admitted to another hospital for worsening jaundice and then transferred to our hospital for higher level of care. In addition to his medical condition, Mr. HP has many of social and behavioral problems that make him very difficult to care for. Although directed not to eat before a procedure scheduled the next day, Mr. HP was found by a nurse to be indulging in a midnight snack. The next day he called the nurse "a liar" when she reported the incident to the attending. He was argumentative with the health care team to the point of rudeness and addressed them as "idiots," "fools," and "incompetents." The patient who shares his room was also subjected to on-going verbal abuse. Mr. HP's lack of consideration regarding the noise level was even disturbing to other patients in nearby rooms. The attending physician asks the ethicist: How should I proceed with this very challenging patient?

Ethicist:

Difficult patients like Mr. HP are uncommon.

Still physicians and health care professionals occasionally find themselves in similar situations as the attending who called the ethicist. Such patients may be angry, rude, hostile, abusive, non-compliant and/or disruptive. These patients, on account of their behavior, present us with an ethical dilemma for the following reasons: (i) They impede the physician's ability to establish a therapeutic relationship and provide the required care, (ii) They interfere with the physician's and the health care facility's ability to provide optimal care to other patients and, (iii) Such behaviors may affect the environment in which the staff are required to function effectively thus making the hospital atmosphere unsafe.

It is important to remember however, that illness by its very nature can make people vulnerable and influence their behavior. Being a patient can be challenging. A first step should be to determine if Mr. HP's medical condition and/or his medications might be contributing to some of his disruptive behavior. It is also advisable to consult Psychiatry to assess if the patient has the ability to make medical decisions and to rule out any psychiatric disorders. Liver disease is known to cause encephalopathy and this can compromise decision making capacity. If, upon evaluation, it is determined that Mr. HP has decision making capacity, then the challenge is much greater.



Patients like Mr. HP test the very foundation of medicine: the physician-patient relationship. The basis of the physician-patient relationship is a relationship of trust and mutual collaboration to promote health and well-being. For this relationship to be successful and hence, for the goals of medicine to be achieved, it is important that both parties are aware of the obligations that are inherent in their respective roles. It is not just doctors who have obligations toward patients but the role of the patient comes with its own set of rights and responsibilities. In the case of difficult patients, the duties of Respect for Autonomy, Beneficence, Non-maleficence and Justice should also apply to other patients and staff, not solely to the patient.

Mr. HP demonstrates the dilemma presented by the difficult patient: he is rude, abusive, non-compliant and disruptive. Not only is Mr. HP's behavior interfering with his own treatment, it is having an adverse effect on other patients as well. He is noisy and abusive not only toward the members of the health care team but also toward his roommate and other patients on the floor. Their distress must also be taken into account.

His unruly behavior needs to be openly and effectively addressed. A frank and open dialogue should be established, that includes a behavior plan. A friend or family member may also be involved. The physician should enquire from the patient if there is anything causing him particular difficulty and whether they agree on the goals of care. The physician should confront him with the fact that his non-compliance is interfering with his medical treatment, and that if it is not modified, he may need to be discharged. This information should

be conveyed in a matter-of-fact, non-authoritarian manner. If there is anyone on the health care team with whom he has a positive relationship, that person could be enlisted to help reward good behavior and shape better interactions. With the abusive patient, it is necessary to set firm limits.

It has been said that a good rule for health care professionals to follow is: "Act responsibly, not responsible for." Although it is incumbent on health care professionals to act "responsibly," and be respectful of all patients, they are not "responsible for" all of their patients' decisions and choices. A core value of professionalism is the obligation to place the interests of patients above those of the physician and other health care providers. This does not mean, however, that health care professionals are obligated to absorb abuse from patients, or treat them without their cooperation.

Bioethics Beyond Borders

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We are pleased that at our Retreat in 2011 at the University of Cambridge, we will be joined by BBB Fellows from Estonia and Australia. These fellowships are funded by private donations and if you wish to support this international effort, please first contact Antonio Kruger (415.600.1647). This contribution may then be mailed to our ethics office, with a note that the funds are for B.B.B.

Nursing Care and Bioethics Education

by Linda Joy Hummel, Ph.D.

A recent brochure advertising a National Nursing Ethics Conference prompted the question, "How can the Program in Medicine and Human Values (PMHV) support nurses with bioethics education opportunities?" Many nursing conferences and publications point to the importance and interest of nurses in learning more about bioethics.

As the Program in Medicine and Human Values expands to include the five Sutter Health, West Bay Region hospitals (California Pacific Medical Center, St. Luke's Campus of CPMC, Novato Community Hospital, Sutter Medical Center of Santa Rosa, and Sutter Lakeside Hospital), our program will explore avenues for collaborative education with nurses and other health professionals. This expansion will include nursing education classes and conferences on bioethics and ethical issues in nursing care. Nurses have expressed interest in education opportunities to learn and talk about bioethics and ethical conflicts with patients.

On numerous occasions nurses at the bedside encounter ethical challenges concerning their patients. As the role of today's nurse expands to encompass the care of more acutely ill patients there is less time, and more need, for ongoing discussions with patients and families around ethical decision making. There is little time in the day-to-day pressures of patient care to resolve or discuss conflicts that arise with patients and patient's families.



Nurses have long been advocates for the interests of patients. They play a valuable role in linking medical staff with patients and families in times of difficult decisions. After many hours at the bedside, nurses understand the medical side of a patient's care as well as the personal side of a patient's interest. As the patient's advocate, nurses are key in the early identification of ethical issues. We encourage caregivers to start a dialogue when ethical issues come up, and to search for solutions and understanding.

Good communication and a problem solving approach with the medical team, patient and family will often resolve ethical dilemmas. However, an ethics consultation may be helpful when difficult conflicts are prolonged or situations become complex with no clear answers. At CPMC ethics consultations are requested by phoning the anonymous hotline (600-3991) and the PMHV ethicist will follow up. We encourage anyone who has an ethical concern to call the hot line. We can help!

If you are interested in participating in a continuing education class on bioethics or a medical ethics related issue please let us know. Contact: Hummell@sutterhealth.org

What's our EQ?

by J. Wes McGaughey

"It takes more than personal integrity to build a trusting, trustworthy organization. It takes skills, smart supporting processes, and unwavering attention on the part of top managers."

- R. Galford and A.S. Drapeau. *The Enemies of Trust. Harvard Business Review, Feb. 2003.*

Improving the quality of health care practices requires not only improving scientific, technical, and service quality, but also ethics quality (EQ). It requires assuring that clinical and management practices are consistent with widely accepted ethics standards, norms, and expectations. How does a hospital go about addressing ethics quality? California Pacific has a tool, the Staff Ethics Survey, to help us assess our current ethical health care practices as a baseline for setting goals and developing quality improvement plans. It is designed to capture staff perceptions about their own and others' routine practices, their knowledge of concepts in health care ethics and of California Pacific policies related to ethical health care practices, as well as their views about how well the hospital supports ethical health care practices.

PMHV developed the Staff Ethics Survey based on materials from the National Center for Ethics in Health Care, Veteran's Health Administration and the American Medical Association. We piloted the Staff Ethics Survey in 2005 and our first full-scale survey was conducted in January 2011. To encourage participation, we entered everyone who took the survey in a drawing for a new iPod Touch. The winner was Paki Tevaga, Security Officer, shown at left in the photo.

The Staff Ethics Survey measures ethical health care practices in each of seven core health care ethics areas:

overall health care ethics environment, communication, shared decision making, end-of-life care, privacy and confidentiality, professionalism, and resource allocation. These areas represent key areas in which hospitals encounter ethical problems unique to health care. Hence, using the survey results, our hospital can analyze the degree to which our practices are perceived as consistent with good quality ethical health care practices in each of the seven areas. We can identify areas that need improvement or areas where further investigation is needed. Not only is promoting ethical health care practices the "right thing to do;" it can have secondary benefits as well. One result is increased patient satisfaction. A 2001 report by the Picker Institute for the American Hospital association found that when organizations intervene to support ethical health care practices – e.g., by encouraging clinicians to actively involve patients in care decisions and to discuss advance directives—patients' health improves and they express increased satisfaction with their care.

Another benefit is a decrease in ethics violations. An effective health care ethics program is also helpful in preventing ethics violations that can lead to sanctions, fines, or damage to an organization's reputation. For example, the U.S. Office of the Inspector General has identified deficiencies relating to patient privacy and confidentiality, advance directives, withdrawal of life-sustaining treatment,

and informed consent. One 2003 Harvard Business Review article by S. Gellerman examines three health care scandals and attributes them to management's failure to integrate ethics into the corporate culture. A third consequence is better organizational efficiency and productivity. A strong corporate ethical culture contributes to good organizational citizenship behaviors, and can enhance employee performance. Empirical evidence in a report from the Berkeley Business Institute suggests that commitment to an effective ethics program helps to improve an organization's efficiency and productivity.



Paki Tevaga, CPMC Security Officer, receives his new iPod Touch from Wes McGaughey, the Program's Research Analyst.

A fourth consequence of an effective ethics program is reduction of an organization's utilization of wasteful or unwanted treatments. A 2003 multi-center study by PMHV visiting scholar Dr. Larry Schneiderman showed that ethics consultations can reduce hospital days and life-sustaining treatments in dying patients, and are viewed as helpful by the great majority of those who requested consults.

The Staff Ethics Survey and resulting quality improvement efforts have the potential to refocus our hospital's approach to ethics in health care from a case-by-case operation in which various aspects of ethics are handled in a disjointed fashion, into a systems-oriented, comprehensive approach. It moves ethics out of ethics committees and into collaborative relationships that cut across the organization. Its comprehensive approach to ethics encompasses the full range of ethics content areas, and both rules- and values-based approaches to ethics. This practical, structured, systems-oriented, results-driven approach is designed to translate theory into practice and to make ethics an integral part of what goes on at California Pacific every day.

The Staff Ethics Survey represents a different way of thinking about ethics. By envisioning new ways of looking at ethical concerns in health care, new approaches for addressing them in all their complexity, and new channels for achieving integration across the system, the Staff Ethics Survey empowers our hospital and our employees to do the right thing because it is the right thing to do.

powerless, frightened, and totally at the mercy of a system he did not understand. Once past open-heart surgery, bouts in intensive care, and rehabilitation, he urged the writing of a guide for patients to help them navigate the unfamiliar world of health care and survive on their own terms and with their dignity intact. *Surviving Health Care* is a survival manual written to help patients regain control in a seemingly uncontrollable situation at a time when patients and families are feeling most vulnerable

Because of the wide range of issues that need coverage, and the breadth of information required to address them, *Surviving Health Care* assembles experts in a variety of health care fields: medicine, bioethics, public policy, psychology, and the law, to engage the reader directly and informally, as they might a friend or family member in a personal conversation. They discuss aspects of health care planning and managing both in and out of institutional settings. Their goal is to provide the resources and fill in the gaps. By knowing what to expect, how to access the environment, and what options are available, patients will be better able to combat the fears and feelings of impotence and inadequacy that threaten clear decision-making at the very time when they need to be most effective.

Just as medicine is said to be an art, there is also an art to being a patient. That means there is a time for patients to push forward to ensure that they get the answers and information they need; but there is also

a time for them to put themselves in the hands of others. The art of being a patient consists in knowing when the moment is right for each. *Surviving Health Care* serves as a compass to guide patients in determining that right balance for themselves and their families.

These two books, although addressing different audiences, serve as companion guides to all the stakeholders: health professionals on one side and patients and families on the other. Both books echo the aim of our Program in Medicine & Human Values, to respond in a useful, practical way by showing how to push through the thicket of conflicting concerns in any health care dilemma and to find the right path, as well as the right outcome for those who are most important – the patients.



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Happenings:

Awards:

On January 27, Dr. Albert Jonsen was honored at the San Francisco Medical Society's (SFMS) Annual Dinner to receive the Perlman Award for Medical Journalism Excellence, the first annual award for excellence in medical journalism. This award is named for David Perlman, the science editor for the San Francisco Chronicle. The award recognizes individuals who, through their understanding of medicine, exemplify quality reporting while making an impact on the community. Dr. Jonsen was recognized not only for his original contributions to the San Francisco Medical Society Journal but for his frequent guest editing.

Program Lectures:

The expanded collaboration for PMHV with other Sutter Health West Bay region hospitals generated an invitation for Dr. Andereck to speak at grand rounds at Novato Community Hospital. He led a lively discussion on the topic of *Supporting an Ethics Program in a Community Hospital*.



Mark Siegler, M.D., and Albert R. Jonsen, Ph.D.

Additionally, Dr. Andereck was requested to lead a collaborative ethics lecture with Dr. Barry Mann at Eden Medical Center. Their discussion topic was *The Practical Application of bioethics Principles in Ethics consultation*.

Dr. Jonsen's recent bioethics teaching includes case discussion with the CPMC Neonatology clinicians, Grand Rounds for CPMC's Department of Pediatrics, and a keynote lecture entitled: "Through The Bioethical Retrospectroscope" at Kaiser's 20th Annual Ethics Symposium.