

## **ii. A Framework for Ethical Decision-Making / Clinical Consultation**

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*The following model identifies the key elements of a discernment process for ethical decision making by groups such as ethics committees. It offers a framework for focussing attention on the questions that should be raised in addressing ethical decisions in health care. The framework has been adapted from work by Michael McDonald (of the W. Maurice Young Centre for Applied Ethics, University of British Columbia), with additions by Paddy Rodney and Rosalie Starzomski, from the Catholic Health Association of Canada Ethics Guide (2000), and from members of the GASHA Ethics Committee.*

*Note: This is not a formal procedure, with each step to be followed mechanically, but a series of questions and suggestions relevant to good decision making. Some questions or points may not be relevant in every situation.*

### **Begin with a moment of quiet reflection or prayer**

## **OBSERVE**

### **1. Collect information and identify the problem**

#### **Be alert; be sensitive to morally-charged situations**

- Look beyond one's professional expertise and the requirements of one's role(s) on the committee to see the moral dimensions.
- Be aware of your initial feelings and intuitions about the case, whether they may be helpful, and whether they may interfere in making an ethical decision.

#### **Identify the problem(s)**

- Name the problem(s) clearly. Where is the conflict? What seems to create difficulty? Is there a conflict between individuals?
- Identify what you know and don't know.
- While you gather information, be open to alternative interpretations of events. Within bounds of patient and institutional confidentiality, make sure that you have the perspectives of patients and families as well as of health care providers and administrators.

#### **State the case briefly with as many of the relevant facts and circumstances as you can gather within the decision time available**

- What decisions have to be made?
- Who will be affected by the decision and the course of action chosen? Remember that there may be more than one person involved and that the interactions among them can be relevant here.
- Take note of the social, religious, and ethical beliefs of those involved in and/or affected by the decision.
- Acknowledge your own values, feelings, and gut reactions. Are there biases? loyalties?

- Be alert to actual or potential conflict of interest situations. A conflict of interest is "a situation in which a person, such as a public official, an employee, or a professional, has a private or personal interest sufficient to appear to a reasonable person to influence the objective exercise of his or her official duties." These include financial and personal conflicts of interest (e.g., favoritism to a friend or relative). In some situations, it is sufficient to make known to all parties that you are in a (potential) conflict of interest situation. In other cases, it may be necessary to step out of a decision-making role.

#### **Consider the context of decision-making**

- Ask yourself why this decision is being made in this context at this time.
- Are there better contexts for making this decision?
- Are the right decision-makers included?

#### **Gather the ethically-relevant facts**

- Take note of, and distinguish the legal, social (e.g., custom), cultural, religious, and ethical issues
- Have all the relevant perspectives been considered?

#### **Consider the following issues and questions:**

- **Clinical Issues**
  - What are the patient's medical history/ diagnosis/ prognosis?
  - Is the problem acute? Chronic? Critical? Emergent? Reversible?
  - What are the goals of treatment?
  - What are the probabilities of success?
  - What are the plans in case of therapeutic failure?
  - In sum, how can the patient be benefited by medical, nursing, or other care, and harm avoided?
- **Preferences**
  - What has the patient expressed about preferences for treatment?
  - Has the patient been informed of benefits and risks?; has understood and has given consent?
  - Is the patient mentally capable and legally competent? (What is the evidence of incapacity?)
  - Has the patient expressed prior preferences (e.g., Advanced Directives)?
  - If incapacitated, who is the appropriate surrogate? Is the surrogate using appropriate standards?
  - Is the patient unwilling or unable to cooperate with treatment? If so, why?
  - Is the patient's autonomy being respected to the fullest extent required by morality and the law?
- **Quality of Life/Death**
  - What are the prospects, with or without treatment, for a return to the patient's normal life?
  - Are there biases or unfounded beliefs that might prejudice the provider's evaluation of the patient's quality of life?

- What physical, mental, and social deficits is the patient likely to experience if treatment succeeds?
- Is the patient's condition such that, if continued, he/she might judge life undesirable?
- Are there any plans to forego treatment?
- Are there plans for comfort and palliative care? What are they?
- **Contextual Features**
  - What is the patient's stage in life?
  - Are there family/cultural issues that might influence treatment decisions?
  - Are there provider (e.g., physicians and nurses) issues that might influence treatment decisions?
  - Are there religious and/or cultural factors that need to be considered?
  - Are there any grounds that might lead to a violation of confidentiality?
  - Are there problems of allocation of resources?
  - What are the legal implications of treatment decisions?
  - Is there an influence of clinical research or teaching involved?

## DELIBERATE

### 2. Specify feasible alternatives and consequences

**(What is the good we seek? What values are involved? Whose? Which are most important?)**

#### 2.1 Identify morally-significant factors in each alternative

- State the 'live' options.
- Ask what the likely consequences are of each of the various options. Remember to take into account risks and benefits, and good or bad consequences not just for yourself, your profession, organisation, or patients, but also for all affected persons. Consider consequences such as medical, quality of life, relationships, legal, moral/spiritual.
- Be honest about your own stake, if any, in particular outcomes, and encourage others to do the same.

#### ***Examples of issues to recall and consider:***

- a. Preferences of the person receiving care: - wishes, values, beliefs.
- b. Are others' beliefs/values (e.g., religious and cultural beliefs of the community) relevant?
- c. Are values in conflict? If so, whose?
- d. Are there economic issues involved?

#### **Recall core values**

The following are values or principles that are widely accepted in one form or another in the moralities of many communities and organisations.

- **Dignity:** Healthcare professionals have a duty to respect the personal dignity and worth of persons. Dignity is inherent and unconditional, and not dependent on anyone's opinion about the physical, mental, or emotional characteristics of a person. The refusal to respect people's dignity and treating them as 'things' undermines their autonomy and is inconsistent with our duty to treat them justly.
- **Non-maleficence (or non-maleficence)** or "do no harm": Healthcare professionals have a duty to refrain from injuring or inflicting harm; this includes minimizing the pain and suffering caused by disease and medical treatment. We must ask, will this action harm patients, caregivers, or members of the general public?
- **Beneficence:** Healthcare professionals have a duty to promote the health and well-being of the patient. While professionals have a duty to further the important and legitimate interests of others, patients may not be treated in ways that bring benefit only to others. We must ask, Is this an occasion to do good to others? (Remember that we can do good by preventing or removing harms.) Which option will produce the most good and do the least harm? Which option would promote the common good and help all participate more fully in the goods we share as a community?
- **Autonomy:** Healthcare professionals have a duty to respect the right of competent persons to make their own decisions and to act freely without external restraints or manipulation. The exercise of autonomy requires a sufficient knowledge of the benefits, burdens, and risks involved. We ought not use or exploit others, or treat them paternalistically, or otherwise affect them without regard to their free and informed consent.
- **Justice:** Healthcare professionals have a duty to ensure fair treatment of patients. We must ask: Do we have fair procedures? Are outcomes just? Are we respecting rights and entitlements? Healthcare resources should be distributed in a fair manner. Persons should not experience unfair discrimination or bias. This means respecting the rights and dignity of all stakeholders. Even if not everyone gets all they want, will everyone still be treated fairly?
- **Fidelity or Accountability:** Healthcare professionals have a duty to be faithful to institutional and professional roles. They must ask: Are we living up to these duties as well as to the trust relationships that we have with others (co-workers, patients, etc.)? Which option would enable the deepening or development of those virtues or character traits that we value as individuals? As a profession? As an organisation? As a society?
- There may be other fundamental or core values relevant here as well (e.g., fundamental respect for life, the common good, GASHA and St Martha's Regional Hospital values)

#### **Use resources and information relevant to ethics**

- As appropriate, consult policies and other source materials, professional norms, codes of ethics, institutional policies, legal precedents, but also wisdom from your religious or cultural traditions.
- Associate Consultation: The views of your associates, experienced co-workers, trusted friends or advisors can be invaluable. In talking over a difficult decision with others remember that you must respect client and employer confidentiality. Discussion with others is particularly valuable when other decision-makers are involved, such as, your employer, co-workers, clients, or partners. Your professional or health care association may provide confidential advice.

## **2.2 Evaluate Alternatives**

### ***Issues to consider:***

- a. Identify who speaks for the person receiving care.
- b. Consider and, as appropriate, balance or rank values (in addition to those listed above, e.g.,
  - respect for life and Stewardship
  - interconnectedness of every human being / solidarity
  - common good
  - truthfulness and confidentiality
- c. Justify your ranking. What principles are being appealed to? Are other ethical 'principles' or considerations relevant here? (e.g.,
  - integrity and totality
  - double effect
  - distribution of benefits and burdens
  - legitimate cooperation
  - subsidiarity
  - informed choice
- d. Evaluate the consequences of alternatives in terms of core values and principles
- e. What alternatives are excluded?

## **2.3. Propose and test possible resolutions / select the best alternative(s)**

This builds on what has been done already; a proposed resolution from a decision maker might have the form:

"Of the three options, I propose Option A, because,

- given the facts in this situation,
  - given the values it promotes and protects,
  - given that these values are more germane to the situation than the values of other options (because.....),
  - and given the assumptions it makes and the consequences it has,
- it is, on balance, preferable to Options B and C."

**Or**

"Given the facts, and the fundamental importance of values x and y, Option A seems best."

### **Perform a sensitivity analysis**

Consider the proposed resolutions or choices critically: which factors would have to change to get you to alter your decision?

### **Does it still seem right?**

Are you and the other decision-makers still comfortable with your choice(s)? If you do not have

consensus, revisit the process and seek further information if necessary. Remember that you are not aiming at “the” perfect choice, but a reasonable, good choice under the circumstances.

## **ACT**

### **3.1 Make a Recommendation/Decision**

- The objective is to make the best choice given the time and the information available; it is not to make the perfect choice.
  - Which alternative best reflects the ranking of values?
  - Which alternative best balances most of the values?
- Accept responsibility for your choice.
- Accept the possibility that you might be wrong or that you could make a less than optimal decision.
- Explain why you think that this is the best course of action

### **3.2 Implement the Decision**

#### **How should the decision be carried out?**

*Issues to consider:*

- Who needs to know it?
- How best to communicate the decision?
- How best to document the process?
- Who needs to act?

### **3.3 Concluding Review:**

What are the judgements and/ or feelings of those involved?

- In the process, have any new or distinctive alternatives come to light?
- What organisational policies, procedures, or structures contributed to the ethical dilemma or distress? Do alternatives exist? If so, who should be made aware of the recommendation(s)?
- Be prepared to learn from your failures and successes.

#### **Conclude with a moment of reflection**