Ethical Framework of Decision-making
"The Clinician's Ethics Workup"

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Objectives

- Define clinical ethics terms, precepts, concepts
- Discuss a method of ethical analysis
- Apply ethical analysis to a case
- Identify the need for moral accommodation

Resources

- Guide to Ethical Reasoning https://medicine.missouri.edu/sites/default/files/Ethical_Reasoning.do
- American College of Physicians Ethics Manual (7th ed.). *Ann Intern Med.* 2019;170(2) Supplement):S1-S32 https://www.acponline.org/acp-ethics-manual-seventh-edition
- American Medical Association Code of Ethics. 2017 www.ama-assn.org/go/code
- Burkhardt M and Nathaniel A (2008). "Glossary of Terms" In Ethics and Issues in Contemporary Nursing (3rd ed.). Clifton Park, New York: Thomson Delmar Learning (see the following slide)
- Jonsen A, Siegler M and Winslade W (2015). Clinical Ethics: A Practical Approach to Ethical Decisions in Clinical Medicine (8th ed.). New York: McGraw Hill
- Beauchamp T and Childress J (2019). Principles of Biomedical Ethics (8th ed.). New York: Oxford University Press

Definitions

- Morality: individual & social *beliefs* re right & wrong

Culture
Religion
Family
Personal
} Influencers
Context

- Ethics: critical, systematic *study* of moral belief

Arguments for universal understanding of what *ought* to be

Language of obligations, duties, rights, character, virtue, values

Ethics: defines how we *should* act in consideration of others, not how we feel or what we believe … "theory of action"

- Metaethics → seeks an ultimate source of moral belief based on theory, logic, meanings ("language games")—draws on reason, rationality, faith, self
- Normative Ethics → applies principles, rules and behavioral guides to morally justify certain actions —considers actions, intent, consequences, character, values

Ethics is the rigorous study of how to make hard choices in the face of conflicting values and beliefs.

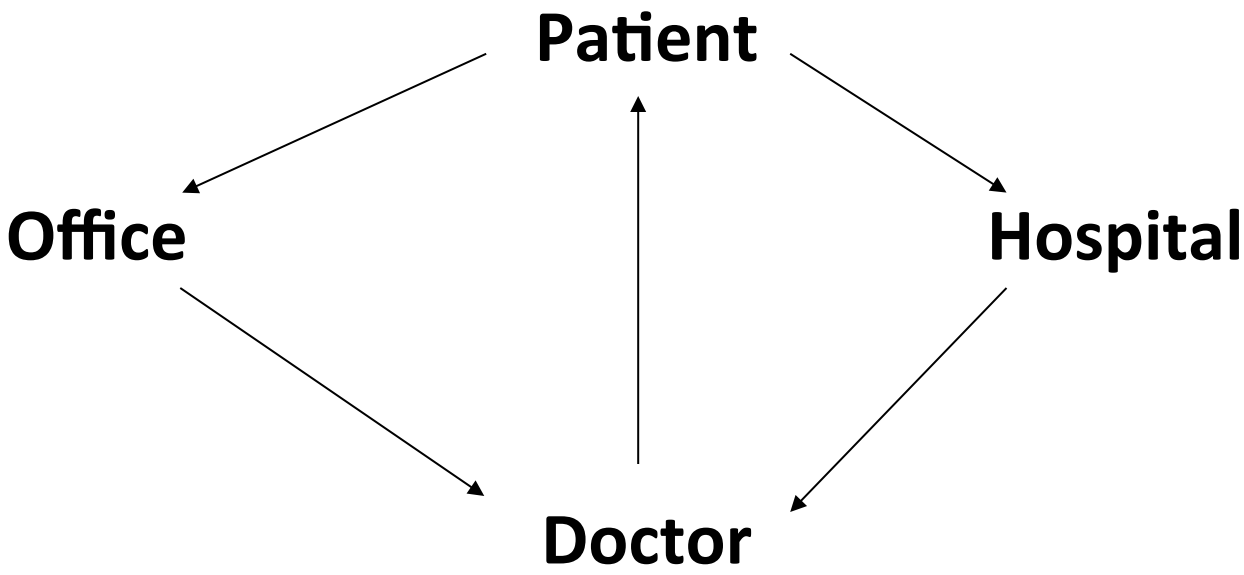
Importance

- Medical technological advancement
- Expectations (the rise of autonomy)
- Regulation and accountability
- Professional vs. business interests (market)
- Medical – legal issues
- Changing demographic (aging, cultural shifts)
- Organizations and systems
- Changing relationships (economic, etc.)
- Access
- Decentralization of the patient

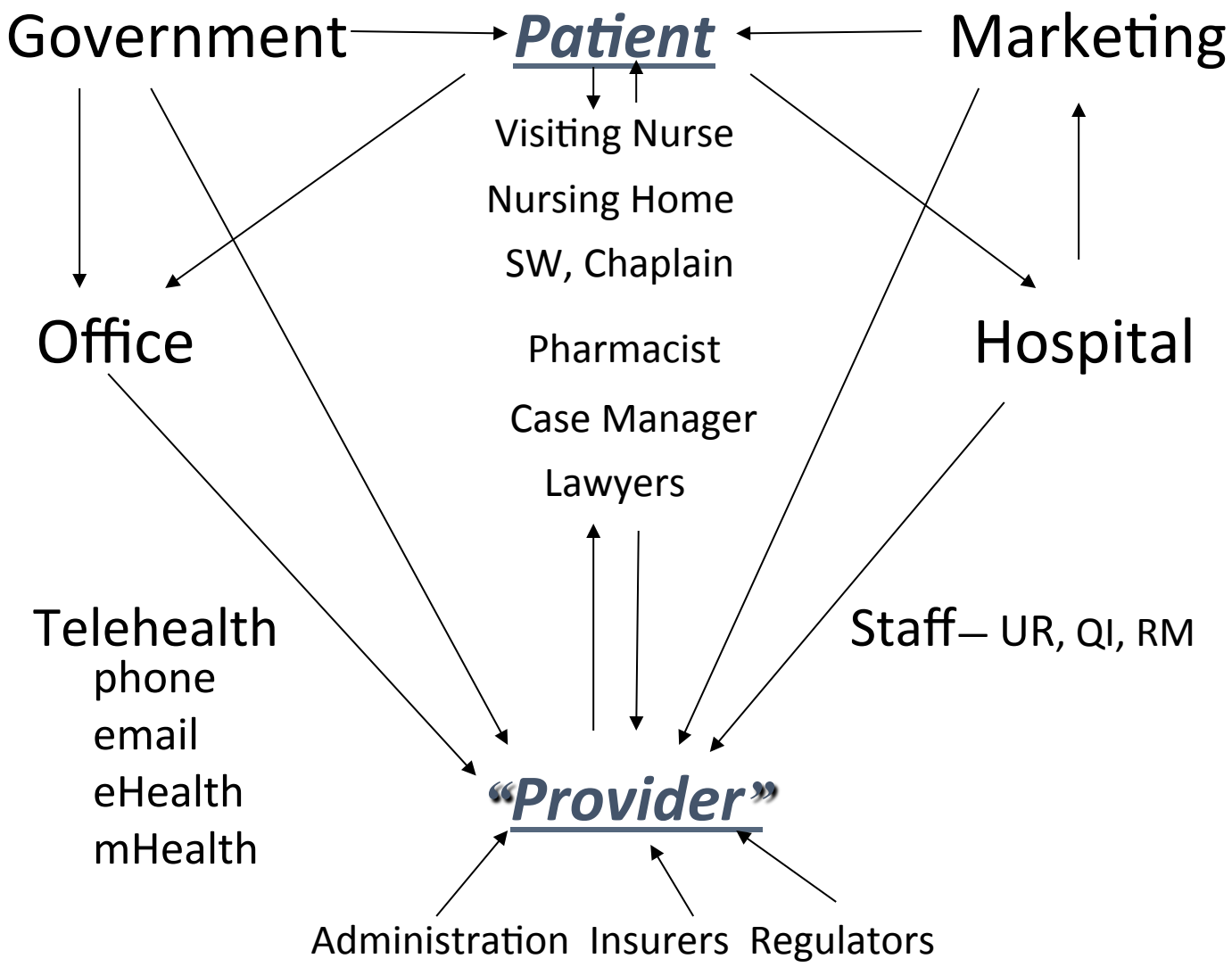
Barriers to Moral Agreement

- Differing beliefs (cultural, religious, personal moral)
- Lack of understanding (poor health literacy)
- Fluctuating roles of physicians
- Loss of the relationship
- Complexity of health care organizations
- Economic influences, underserved populations
- Bias (racial, gender)
- Defining futility
- Inflated expectations
- Fear and loss of trust

Then: “doctor-patient relationship”



Now: "complex matrix of accountability"



Today's healthcare environment not conducive to trust…

- Technologically/economically driven
- Decisions at EOL more complex
- Patients/families often demand "everything"
- Access to more/inaccurate/conflicting information
- Transparency and error reporting inconcistent
- Economic and time constraints
- Loss of relationships: "doc for a day"
- Expect restitution if things "go wrong"
- Pluralism of belief

Ethics Workup (core components)

What is the right & good for this patient?

Why?

Who (or what) decides?

How to resolve conflict?

Ethics Workup (key steps)

- Clinically relevant facts
- Reasonable (evidence based) Tx options
- Ethical concern(s)
- Stakeholders - conflict
- Strategies to resolve conflict
- Who ultimately decides … why
- Ultimate decision best for *this* patient … why
- Can it be implemented…if not, why

Clinical facts?

- DX: treatable, preventable, chronic, acute
- Treatment (evidence based) options
- Prognosis
  - Short/long term for each condition
  - Short/long term for each proposed intervention
- Risk/benefit – perceived by patient
- Patient preference
- Age – relevant to prognosis
- Financial concern – relevant to patient
- Psychosocial components – relevant to patient

Care and treatment options

- WH/WD vs. aggressive treatment (?DNAR/DNI)
- Treatment short of CPR or other interventions
- Palliative care and hospice
- Limiting freedom and privileges
- Risky or minimally beneficial Tx
- Treating without expressed permission
- Changing providers or institutions

Ethical concerns

- Futility
  - DNR/DNI, WH/WD
- Decision-making
  - Capacity
  - Valid Surrogate or HCD
- Undue risk of suffering (burden > benefit)
  - By whose definition is the “quality of life”
  - Palliative care and “double effect”
- Fair and dignified treatment and care

Conflict?

Nature and source of the conflict
Stakeholders – who and how impacted
Explore objections to options considered
Seek accommodation to resolve conflict

Who decides?

- Patient
- *Valid* Surrogate (family)
- *Valid* HCD (written or verbal)
- Providers (team)
- Hospital policies or mission
- Courts
- Other

Option(s) - best interest of *this* patient?

- Medical indications for and against
- Ethical justifications for and against
- Is compromise possible without loss of personal or professional integrity?
- If not…
  - Patient can transfer, if safely
  - Physician can withdraw if safely

Can the decision be implemented?

If not, why?

- Logistically impossible
- Not standard of care
- Irresolvable conflict
- Moral boundaries

Ultimately…

- The physician (provider) *is not* ethically obligated to compromise professional or moral integrity.
- The physician (provider) *is not* obligated to help the patient or family find another physician or facility to do what he/she feels is immoral (moral complicity).
- These are tricky claims - be cautious…

Case

37 yo with metastatic breast cancer (CNS, liver) preparing to undergo repeat chemotherapy after second recurrence. On evening rounds she informs you and nursing that she does not want further aggressive Tx, intubation, or CPR should she deteriorate. You feel she has full decision making capacity and concur based on prognosis – you & nursing record conversation in MR and consult palliative care. Several hours later she becomes unresponsive but to deep tactile stimuli.

Next day, patient shows signs of impending respiratory failure. Husband arrives, notices declining condition, asks what you plan to do. To your surprise, after relating your conversation with his wife he claims she is too ill and disabled to be capable of deciding about treatment and would “not want to leave two daughters without a fight”. He demands aggressive treatment, including CPR and intubation if needed, and that she be sent to the ICU.

The appropriate course of action would be to…

Clinical Facts

- Prognosis:
  - end stage chronic disease
  - ? reversibility of acute process
- Patient expressed preferences
  - Verbal HCD
  - Clear and convincing?
- Decision-making capacity
- Degree of suffering now and future
- She has a family…previous comments?

Options

- Treat and resuscitate
  - "LIVE TO FIGHT ANOTHER DAY"
- Palliative care and comfort pathway
- Limitation of treatment
  - treat sepsis but DNR/DNI
- Transfer?

What is the ethical dilemma?

- Respecting patient autonomy vs. the surrogate's right to decide
  - ? Impaired surrogate decision-making
- Obligations to patient vs. family
- Obligations to treat treatable conditions? (benefit > burden)
- Obligations to "make sure" patient would want not to be treated?
- Legal concerns and the system's integrity

Stakeholders

- Patient
- Husband, family, friends
- Providers
  - Professional integrity
- System
  - Integrity of its mission
  - Future treatment of other patients
  - Justice/Access concerns

Who decides?

- Patient (?capacity)
- Husband (?valid surrogate)
- You…and the team
- (courts)

What should be done?

Ethical arguments

Can it be implemented?

If not…why?

Summary

- Conflict - often unavoidable
- Seek compromise but within moral boundaries
- It's a process, not an event
- Effective communication – most important!
- If compromise not possible transfer may be necessary…but only if not harmful to patient
- Risk management?