



14. Ethics Advisory Committees

Purpose of Ethics Advisory Committees (EAC)

The EAC provides a forum in which ethical issues can be discussed with professionals from a wide range of disciplines who possess knowledge in applied ethics. Specifically, the EAC can teach ethics, assist in clinical decision-making, shape health care policies, help to defuse conflicts, disagreements, or uncertainties, foster systematic moral reasoning, enhance communication, and promote the rights of both caregivers and patients.

Through its educational function, consultation service, and proactive influence on policy development, the EAC creates an environment in which both individual and institutional issues are considered in a broad ethical framework. The EAC also contributes to the institution by encouraging continuous self and system evaluation in areas of activity that have an ethical dimension.

In addition to the issues common to all medical care facilities, the EAC in a VHA facility deals with issues that arise from the special nature of the VHA system. The VHA serves a mostly male population. Many VHA patients are from minority groups. Many suffer from substance abuse, poverty, homelessness, and other social dislocations.¹ The limits and special features of care in a system based on entitlement and influenced by political considerations produce unique ethical issues.

VHA health care includes modalities such as spinal cord injury, long term care, and domiciliary facilities, and a very large population of seriously mentally ill patients. As VHA moves toward new coordinated mechanisms of patient care, new issues of distributive justice will arise.



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An effective EAC can increase patient, family, and provider satisfaction. By providing a mechanism to foster dispute resolution, the EAC may decrease institutional and individual liability.

Appointment, Composition, and Qualifications of EAC Members

The Medical Center Director should appoint members of the committee. These appointments should be made in consultation with the chair of the EAC and should be guided by the principles discussed below.

In general, qualifications for membership in an EAC reflect two types of expertise. First, there should be representation from the diverse disciplines at the health care facility. The EAC should reflect the professional composition of its institution, with representation from each discipline that plays a significant role in the care of its patient population. Each EAC should also include members who can be identified as patient or community representatives.

The EAC should set policy governing the duration of appointments and turnover of membership. In order to achieve a balance of new and more experienced members, the EAC may consider a structure of a core of experienced and educated members with appointments of long duration and another group with more rapid turnover. This structure permits the development of a large cohort of institutional personnel who have had experience participating in the EAC and provides for a well-functioning, stable committee.

While the EAC should be as broadly representative as is consistent with its effective functioning, appointment of ad hoc consultants to assist the committee in its deliberations concerning individual cases or policies can ensure necessary expertise without making the committee too large for effective functioning.



Members of the EAC should have the necessary background to consider problems in clinical ethics. This background includes a basic awareness of moral theory, key conceptual issues (e.g., consent, autonomy, etc.), common ethical dilemmas, methods of ethical analysis, and relevant health law and regulation. This can be achieved either by selecting persons with such experience and/or knowledge, or by the appointment of persons sufficiently interested and committed to ethics who will acquire such a background. While knowledge and experience with clinical issues is of great importance, commitment and motivation are key qualities for membership in a successful EAC.

Participation in an EAC's activities will enable those without experience and training in ethics to acquire this expertise. On the job training, however, is not sufficient. Each EAC should provide additional training opportunities. They can consist of educational programs, course work, a body of required reading with subsequent discussion, the use of curricula as established by the VHA's Ethics Center or by similar institutions, and, when possible, temporary assignment of individual members to established centers of bioethical teaching.

Functions of EAC

Setting Procedures for its own Operation

Taking into account the special issues and characteristics of its VHA facility, the EAC should set forth its purposes, membership, policies, and procedures in a Medical Center Policy Statement.

Each EAC must establish mechanisms to limit its deliberations to ethical issues and avoid entering into such areas as interpersonal conflicts or issues of employment. Activities of the EAC should not overlap with those of the Institutional Review Board (IRB).

There should be an affirmative procedure to promote patients' knowledge of the EAC.



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Educational Role

Education is an essential function of the EAC. It is through this function that a committee can have its strongest effect, creating an ethically aware and knowledgeable institution where people can think clearly, systematically, and constructively about ethical issues. For many committees, case consultation is a primary educational tool. Understanding of ethical issues is fostered through interactions between the EAC and those involved in the care of patients whose ethical problems are brought to the committee. In addition, these cases can provide a broader tool for education if they and the deliberations that they engender are made available throughout the institution.

Many EACs have developed educational programs concerning ethical issues for medical staff, allied health professionals, and other employees. Institutional events such as clinical grand rounds, morbidity and mortality conferences, staff development sessions, ethics rounds, and ethics lunch sessions offer opportunities to further ethics education. Committees may also sponsor conferences and workshops.

Ethics education should be targeted to patients, their families, clinical and managerial professionals, and the community at large. This educational process promotes understanding of ethical problems and awareness of an institution's desire to respond in an ethical manner. For instance, medical centers have provided information to patients and families about advance directives. EAC's may also consider providing educational activities to the community beyond its own institution. Programs concerning issues in medical ethics can be aimed at patients, their families, and the community.

Case Consultation

The EAC serves as a consulting group to patients, families, and the health care team when problems based on issues of medical ethics or patients' rights arise. Any of the persons involved in the problem, including all members of the staff, patients, and/or those who wish to speak on patients' behalf should be able to initiate involvement of the EAC.



The EAC has the responsibility to facilitate discussion about the ethical issues raised by the patient, family, health care team, or other advocates. The EAC gathers and assesses data, clarifies and identifies the ethical challenges, applies principles of ethics to the ethical issues raised, clarifies the rights of the parties involved, and makes recommendations regarding steps that the parties can take to develop a solution. Frequently, resolution will emerge simply by providing a forum in which each party can state one's views to an impartial but sympathetic group.

Each EAC should provide and define a structure for its consultative function that is effective and appropriate for its institution. For instance, many committees designate a small subcommittee that responds promptly to requests for consultation. This subcommittee meets with the health care team (and the patient and/or family, as appropriate), reviews the clinical record, and offers its recommendations. All recommendations should be available for review by the full committee and noted in its minutes. The subcommittee may sometimes offer recommendations directly, when, for example, it addresses issues previously resolved by the full committee.

The EAC should note its findings and recommendations in the patient's chart. As is true for other consultative services, these recommendations are advisory, and responsibility for the ultimate decisions rests with the attending clinicians. There may be rare instances, however, when, after the consultative process, the EAC members think that important rights of one or more of the parties are being seriously compromised. In such instances, the EAC shall, after making an effort to resolve the issues directly, report its findings and concerns to the Chief of the involved services. The Chief of Staff may also need to be consulted when his or her authority is necessary to insure an equitable solution.

Policy Development and Review Role

Broad administrative and clinical decisions within a medical center frequently have important bioethical dimensions. The EAC should be involved in this decision-making. For example, an EAC can give an



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ethically informed analysis of what counts as equitable distribution of limited resources. The major institutional decision-making bodies, such as the Clinical Executive Board, should be prepared to turn to the EAC for consultation when they face issues with an important ethical component, such as those arising from managed health care.

The EAC should play a primary consultative role when the institution develops policies that focus on the rights of patients. These would include policies governing Do Not Resuscitate (DNR), advance directives, informed consent, palliative care, and other end-of-life planning.

The EAC's ability to provide ethical direction in institutional policy decision-making is potentially its most important role. For the EAC to fulfill this responsibility, it must restructure its own activities, and the institution must similarly reorganize its policy development and review process, to permit ongoing input concerning ethical aspects of the issues under consideration.

As is the case for clinical consultations by the EAC, the role of the committee in the development of institutional policies is advisory. At the institutional or national level, VHA may in the future develop policies that mandate the participation of EACs in special circumstances. While the advice and participation of the EAC can provide a crucial procedural safeguard, giving final authority or responsibility to an EAC should be avoided.

Role in Furthering Research and Evaluation

An EAC should play a role in fostering research in areas of ethics. This responsibility can be carried out by having the committee, a subcommittee, or individual members initiate research projects that arise from issues that the committee has faced.

Each local committee should consider regular evaluation of its activities. Evaluation can be a time consuming process, yet is a necessary step to improve the committee's understanding of its needs and impact. Methods can vary, from special meetings in which the committee's role, membership, and procedures are discussed, to the use



of a self-assessment survey. In addition to self-assessment by EAC members, the committee should consider performing occasional institution-wide surveys seeking information about effectiveness of the committee. The committee can use the information to see if there are previously unrealized needs, such as broader education programs or an improved consultation process.²

Record keeping by EACs should include essential data concerning consultations, such as persons in attendance, ethical issues discussed, and recommendations made. Committees can then retrospectively review their activities. EACs should regularly review their membership, including the degree of participation, to ascertain if they are sufficiently broadly based and representative.

Studies initiated or carried out by members of the EAC can have an important function. Quality assurance reviews of advance directive procedures, for instance, may focus on such questions as whether proxies are being asked for consent for DNR orders when the patient is not competent to make his or her own decisions, or whether such orders, rescinded for surgery, are being appropriately reinstated.

JCAHO Standards and VHA Ethics Advisory Committees

The Joint Commission on Accreditation of Health Organizations (JCAHO) has established standards entitled “Patient Rights and Organizational Ethics” that place many responsibilities on EACs. While the standards do not require medical centers to have an EAC, a mechanism to ensure that there is “a functioning process to address ethical issues” is required. In VHA, EACs are expected to satisfy the requirement.

JCAHO standards focus on issues such as consent of patients and surrogates, advance directives, withholding resuscitation, and forgoing or withdrawing life-sustaining treatment. The standards define a need for medical center policy and involvement of patients or surrogates in decision-making. The JCAHO standards move the EAC beyond policy



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and consultative activities to the need of every medical center to “establish and implement a code of ethical behavior.” This JCAHO requirement enlarges the traditional role of an EAC to foster “an environment of ethical practice.” The EAC is expected to provide to the JCAHO examiners evidence that the facility has achieved this goal. This process can also serve as a useful method for fostering a general review of the EAC program.³

Role in Ensuring That Institutions Maintain a Process for Monitoring the Application of Ethical Principles

The EAC should serve as a resource to the quality management structure within the VHA facility to ensure that the JCAHO’s patient rights and organizational ethics standards are maintained. These include but are not limited to:

- description of the process utilized to address ethical issues that arise in patient care,
- procedures for obtaining informed consent,
- procedures addressing the role of surrogate decision-makers,
- the formulation of advance directives,
- decisions to withhold resuscitation,
- decisions to withhold or withdraw life-sustaining treatment,
- guidelines for organ procurement, and
- use of patient restraints.

The various standards provide a means of evaluating that the institution has developed a functioning process to address ethical issues. At most VHA healthcare facilities, the EAC will play a key role in verifying the ethical care of patients.



References

- ¹ Nelson WA, Law DH. Clinical Ethics Education in the Department of Veterans Affairs. *Cambridge Q of Healthcare Ethics* 1994;3:143-148.
- ² Ross JW, Glaser JW, Rasinski-Gregory D, eds. *Health Care Ethics Committees: The Next Generation*. Chicago: American Hospitals Publishing Corp., 1993:113-132.
- ³ Joint Commission on Accreditation of Health Organizations. *Accreditation Manual for Hospitals Standards: Patients Right and Organizational Ethics*. Oakbrook Terrace, IL: Joint Commission on Accreditation of Health Organizations, 1994.

Selected Bibliography

Cohen M, Schwartz R, Hartz J, et al. "Everything You Always Wanted to Ask a Lawyer About Ethics Committees." *Cambridge Q of Healthcare Ethics* 1992;1:33-39.

Fleetwood JE, Arnold RM, Baron RJ. "Giving Answers or Raising Questions? The Problematic Role of Institutional Ethics Committees." *J Med Ethics* 1989;15:137-142.

Fletcher JC, Hoffman DE. "Ethics Committees: Time to Experiment With Standards." *Ann Intern Med* 1994;120:385-388.

Forrow L, Arnold RM, Parker LS. "Preventative Ethics: Expanding the Horizons of Clinical Ethics." *J Clin Ethics* 1993;4:287-294.

Griener GG, Storch JL. "The Educational Needs of the Ethics Committee." *Cambridge Q of Healthcare Ethics* 1994;3:467-477.

LaPuma J, Scheidermayer D. *Ethics Consultation: A Practical Guide*. Boston: Jones & Bartlett, 1994.

LaPuma J, Scheidermayer D. "Ethics Consultation: Skills, Roles and Training." *Ann Intern Med* 1989;114:155-160.



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Lo B. "Behind Closed Doors: Promises and Pitfalls of Ethics Advisory Committees." *N Engl J Med* 1987;317:46-50.

Nelson WA. "Using Ethics Advisory Committees to Cope with Ethical Issues." *Missouri Medicine* 1992;89(12):827-830.

Smith ML. "The Future of Healthcare Ethics Committees." *Trends in Health Care, Law & Ethics* 1994;9(2):7-10.

Sugarman J. "Should Hospital Ethics Committees Do Research?" *J Clin Ethics* 1994;5(2):121-125.

Ross JW, Glaser JW, Rasinski-Gregory D, eds. *Health Care Ethics Committees: The Next Generation*. Chicago: American Hospitals Publishing Corp., 1993.

Wilson RF, Neff-Smith M, Phillips D, et al. "Hospital Ethics Committees: Are They Evaluating Their Performance?" *HEC Forum* 1993;5(1):1-34.

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