



# UPDATE

from the National Center for Ethics in Health Care

Spring 2005

## FEATURED — VHA's National Ethics Committee

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The National Center for Ethics in Health Care is VHA's primary office for addressing the complex ethical issues that arise in patient care, health care management, and research.

Our mission is to clarify and promote ethical health care practices throughout VHA and nationwide. The Center supports clinical, organizational, and research ethics by:

- providing ethics consultation to VHA leaders and field-based ethics programs on request
- developing and interpreting VHA national policies concerning health care ethics
- developing and delivering educational programs
- creating and administering tools to evaluate the quality of ethics programs and practices across VHA
- publishing ethics-related news, events, best practices, cases, and feature articles

Under one name or another, the National Ethics Committee (NEC) has addressed controversial ethical issues affecting VHA patients, providers, and health care policymakers for nearly 20 years. The committee is charged with improving the quality of health care practices by heightening awareness of ethical issues, analyzing pressing ethical concerns, and clarifying ethical standards, as well as providing practical recommendations for clinical and managerial practices in health care ethics.

NEC reports have offered guidance on topics ranging from [physician-assisted suicide](#), to the [allocation of expensive medications](#), to the [ethical conduct of quality improvement](#), to [gifts from the pharmaceutical industry](#). NEC members and consultants have included scholars and practitioners whose names are familiar to anyone in health care ethics, within and outside VA—Edmund Pellegrino, Joanne Lynn, James Tulsky, Arthur Derse . . .

### Then—VACO Bioethics Committee

Created in 1986, the “VACO Bioethics Committee” as it was first known began as a relatively informal body devoted to exploring issues, providing information and education on health care ethics for VA clinicians and managers, and, especially, developing and supporting facility ethics committees nationwide. By 1989, the VACO Bioethics Committee recognized that it could not meet the growing demand for support from the field. Ultimately, it identified the need for a national center to support the committee, assist in developing policy on issues in health care ethics with national impact, provide education throughout the system, and coordinate consultation to the field.

The rest, as they say, is history. The National Center for Clinical Ethics, established as a field-based program office in 1991 in White River Junction, Vermont, grew to become the National Center for Ethics in Health Care housed within VACO, with offices in New York and Seattle.

### And Now—The National Ethics Committee

Today's NEC carries its predecessor's mission forward under a new mandate. In 2002 the NEC became a standing subcommittee under the Executive Committee of VHA's National Leadership Board. Ethics Center staff continue to provide administrative support, and have taken over responsibility to carry out background research and prepare draft reports for committee review, discussion, and revision.

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National Center for  
**ETHICS**  
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## STAFF NEWS

Ethics Center staff regularly participate in conferences and programs within VHA and with outside audiences. Below are highlights of recent activities.

Ethics Center Director Ellen Fox, MD, is VA's representative to the Department of Health and Human Services Secretary's Advisory Committee on Genetics, Health and Society (SACGHS). SACGHS provides a forum for expert analysis of the medical, ethical, legal, and social issues raised by new genetic technologies, and makes recommendations to the Secretary, HHS for addressing these issues. Topics to date have included genetic discrimination and genetics education for health care professionals. A new [draft report](#) on reimbursement for genetic testing and services was recently posted for public comment.



In March, Director Ellen Fox, MD, and Ken Berkowitz, MD, Chief of the Ethics Consultation Service, traveled to Basel Switzerland at the invitation of the 2<sup>nd</sup> International Conference on Clinical Ethics Consultation to share the Ethics



Center's experiences, lessons, and innovations in providing ethics consultations to the nation's largest integrated health care system. Dr. Fox led a session entitled "Developments in North America: ETC, An innovative Database Software Tool for Ethics Consultation." Dr. Berkowitz discussed "The CASES Approach to Ethics Consultation: A Practical Systematic Approach for Performing Ethics Consultation. Reactions from European Perspectives."

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## FROM THE DIRECTOR

Because they have similar names, people often confuse VHA's National Center for Ethics in Health Care and National Ethics Committee (NEC). In fact, they are two separate but complementary entities.

The National Center for Ethics in Health Care is VHA's primary office for addressing the complex ethical concerns that arise in clinical care, health care management, and research. Its functions include advising the Under Secretary for Health on matters of health care ethics, providing consultation to VHA leaders and field-based ethics programs, developing and interpreting ethics-related policy, educating VHA staff about health care ethics, evaluating and improving the quality of ethics programs and practices across the system, and overseeing the National Ethics Committee.

Thus the NEC is a function of the Ethics Center, with a very specific charge: to develop written reports analyzing ethical issues that affect the health and care of veterans. The NEC is made up of volunteer members representing many offices and facilities across VHA, and its work is supported by the Ethics Center's full-time staff. Unlike facility ethics committees, the National Ethics Committee does not carry out ethics consultation, develop policy, or provide ethics education. Requests for ethics consultation or other services should be directed to the Ethics Center.

## CONSULTATION NOTES

The Ethics Consultation Service of the National Center for Ethics in Health Care responds to inquiries from VHA staff. To request a consultation send an email to [vaethics@va.gov](mailto:vaethics@va.gov).

More often than not, the concerns that prompt requests for assistance from the Ethics Consultation Service relate to situations involving patient care. Some consultation requests involve other kinds of questions, however, for example, about relationships among health care professionals.

Consider a case in which several staff are involved in caring for a very "interesting" patient—the resident and attending physician want to write the case up for publication, but so does the pathologist who prepared the patient's biopsy report. Who "owns" the case? Does anyone have a "right" to publish it? More important, what would be the ethical concerns at stake in asking those questions?

Cases like this cross several domains. The duty to protect confidentiality argues that the patient should have a say in how his or her information is used. The [International Committee of Medical Journal Editors](#) in fact has recommended that authors obtain patients' consent when potentially identifying information will be included in any

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## STAFF NEWS – cont'd

As a result of her work for the NEC on its report [Online Patient-Clinician Messaging](#), Bette Crigger, PhD, Chief of the Ethics Communication Service, was invited to participate in the University of Pittsburgh's 14<sup>th</sup> Annual



LHAS Conference, *Current Controversies in Medical Ethics*. In her presentation, "e-Medicine in the Real World," Dr. Crigger drew on VA's success incorporating technology into patient care and emerging IT initiatives, such as iMedConsent, to explore the ethical values any organization must follow to ensure that technology is adopted in a manner that respects both patients and providers: trust, dignity, stewardship, and justice.

In April, at the invitation of the Catholic Health Association, Bob Pearlman, MD, Chief of the Ethics Evaluation Service and Marybeth Foglia, RN, MN, MA, a member of the evaluation staff,



spoke to the 19<sup>th</sup> Annual Theology and Ethics Colloquium, *Health Care Ethics and Quality Improvement: Exploring the Connections*, in San Antonio, Texas. Dr. Pearlman and Ms. Foglia shared their thoughts on the need for a more integrated view of clinical and organizational ethics, and addressed the limitations of traditional ethics committees. In their talk, "Moving Beyond Ethics Committees: Integrating Clinical and Organizational Ethics," they stressed the importance of systems thinking, and of applying principles of quality improvement in health care ethics.



## CONSULTATION NOTES – cont'd

published case report. At the same time, professional advancement and satisfaction are important values for practicing clinicians, of which publishing can be part.

Professionalism, particularly collegiality, is also important in health care ethics, however, and "competing" to write up a case isn't likely to foster collaborative professional relationships—or model appropriate behavior for trainees. The [American Board of Internal Medicine](#) has stressed teaching institutions' obligations to support a resident culture that demonstrates the values of putting patients' interests first, as well as model professionalism, and provide opportunities for scholarship and continued professional growth.

Cases like this also have an organizational ethics component. They suggest that facilities have a responsibility to respond to these issues in ways that promote fairness and integrity. They might develop policies about authorship, for example, as well as processes to resolve disputes, and design education or mentoring programs to assure that staff and trainees understand ethical standards for publishing.

## "VHA's National Ethics Committee"— cont'd

### Developing an NEC Report

Each NEC report analyzes a narrow, well-focused topic in health care ethics, describes its history, and explains its relevance to VHA. Under the NEC's [charter](#), topics for reports are identified by the committee chair in collaboration with the Ethics Center director from among those proposed by Chief Officers, VISN Directors, and ethics committee chairs in the field, as well as members of the NEC. Once a topic has been defined, Ethics Center staff develop a bibliography (drawing on the literature of health care ethics, along with relevant health law and VA policy) and a set of talking points or key questions for the committee's preliminary discussion.

Under the direction of the Ethics Center director, staff incorporate those deliberations into a draft report for the NEC's review, revising further as appropriate to reflect the committee's analysis and recommendations. Reports approved by the NEC are presented to the NLB Executive Committee for review and comment before being distributed to the field, usually with an Information Letter from the Under Secretary for Health.

Because of the cross-cutting nature of the issues it addresses, in each of its reports the NEC strives to be sensitive to the perspectives of stakeholders to whom the topic under analysis is particularly relevant. The committee seeks input from VHA program offices and field staff that have special interest in an issue.

## LOOKING AHEAD

### Upcoming National Ethics Teleconferences:

Wed, May 25, 1:00 pm ET  
Tue, June 28, 12:00 pm ET  
Wed, July 27, 1:00 pm ET

### IntegratedEthics Demonstration Group

Twenty-nine VA facilities (from 15 VISNs, including all of VISN 11) have been chosen to participate in the demonstration phase of IntegratedEthics, the Ethics Center's new national education and organizational change initiative.

Leadership teams chosen by each participating facility will attend one of 4 regional one-day kickoff workshops:

- Aug. 9 Salt Lake City
- Aug. 11 VISN 11 - TBD
- Aug. 23 Washington, DC
- Aug. 24 Washington, DC

Each 4-person team (one representative each from senior management, clinical care, ethics, and quality management) will return home to set up their facility's own IntegratedEthics program.

The Ethics Center will provide ongoing support over the year-long demonstration, in the form of written materials, video and online courses, teleconferences, and a virtual community on a dedicated IntegratedEthics Web site.

The National Center for Ethics in Health Care welcomes your feedback on **UPDATE**. Let us hear from you—  
[send your comments](mailto:vhaethics@va.gov) to [vhaethics@va.gov](mailto:vhaethics@va.gov).

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## NEWS FROM ... THE ETHICS POLICY SERVICE

The Ethics Policy Service develops, analyzes, interprets, and applies VHA national policy relating to health care ethics. For more information, visit the policy page on our website at <http://www.va.gov/vhaethics>, (Internet) or at <http://vawww.va.gov/vhaethics> (VA intranet).

A key task of the Ethics Policy Service is to assure that the national policies for which the Ethics Center is responsible are updated regularly. To do that, we research what is happening in the broader health care community and incorporate input from subject matter experts within the Ethics Center and across VHA, as well as from clinicians and administrators at the facility, network, and headquarters level.

One example of how suggestions from the field prompt policy change resulted from feedback we received in connection with the roll out of *iMed Consent*. On conference calls and via email, facility personnel described how workflow was impeded by certain requirements for documentation set out in [VHA Handbook 1004.1](#). We re-examined the rationale for these provisions (regarding witness for consent and how long signature consent is valid). Our ethical analysis led us to conclude that these requirements could be modified without jeopardizing the quality of the informed consent. However, these particular provisions are set out in federal regulations; to change them in policy requires that we first seek a change in the regulations.

Thus we have proposed amendments to the VA informed consent regulation (38 C.F.R. § 17.32). We have also proposed informed consent to be obtained by certain practitioners other than those privileged to perform a procedure—advanced practice nurses and physician assistants. That process is now well underway. Once the revised regulation goes into effect, as anticipated, we will make corresponding changes to VHA Handbook 1004.1 and to *iMed Consent*.

### “VHA’s National Ethics Committee”— cont’d

#### NEC Reports and VHA Policy

NEC reports themselves are not formal policy documents. However, they are intended to stimulate changes in policy that the committee has identified as needed. With respect to institutional policy, the goal of an NEC report is to clarify the ethical concerns at issue, examine the ethical justifications for different courses of action and/or specific policy provisions, and offer practical guidance for revising existing policy or developing new policy.

To learn more, visit the NEC page at <http://www.va.gov/vhaethics> (Internet) or <http://vawww.va.gov/vhaethics> (VA intranet).