



It's Time to Establish (or Re-Constitute) an Ethics Committee

With the potential of scarce resources resulting from the COVID-19 virus, rural hospitals should consider taking immediate action to establish or reconstitute a hospital ethics committee. Although relatively common in large urban hospitals, in our experience ethics committees are relatively rare in rural hospitals. In rural settings, “typical” ethics issues such as end-of-life decisions are often resolved through informal interactions among patients, families, physicians, and administration. However, the COVID-19 pandemic is likely to (if it has not already) raise not-so-typical issues for hospitals that will require a more structured approach. It is likely that hospitals will face issues never before considered about how to ethically apportion scarce resources such as masks, gowns, respirators, ICU beds, and ventilators.

Step 1: Establish a Committee

The first step is to check the hospital's corporate or Board bylaws to determine who can establish a committee and appoint its members. The bylaws may also specify certain membership or representation on committees. For example, it is typical for hospital corporate or Board bylaws to provide that special committees be approved by a majority vote of the Board and have at least one Director or Trustee as a member. Governmental hospitals should be mindful of open meetings laws. Given the potential sensitive nature of ethics committee deliberations, a governmental hospital will likely want to limit the number of Board members on the ethics committee so as not to trigger open meetings requirements. Finally, if it is not advisable or feasible to establish a new committee, the hospital should consider whether ethics committee responsibilities could be assigned to an existing committee – either directly to such existing committee or as a subcommittee.

Step 2: Staff the Committee

Optimal staffing of the ethics committee will be unique to each hospital, with the focus being on knowledgeable, respected individuals that represent the hospital, local providers, and the community. Accordingly, the hospital Board should consider appointing representatives from the following constituencies: hospital Board, hospital administration, medical staff, and clergy. Additional consideration might be given to representation from a wider community perspective such as post-acute providers, health department representatives, other public officials, EMS, and behavioral health providers.

Step 3: Convene the Committee

Once the appropriate individuals have been identified and have agreed to participate, the ethics committee should convene and complete the organizational work necessary to provide appropriate direction and structure for its work. The committee will need a clear mission statement and charter to define its purposes and limits as well as policies and procedures to assure that its decision-making process is consistent and robust.

Step 4: Establish a Committee Mission Statement and Charter

The mission statement should identify the committee's broad, over-arching goal – to provide ethical policies, guidelines, and recommendations for providers, clinical staff, administration, patients, and families regarding health care decisions and resources. The committee charter should go into more detail, describing the (1) specific functions of the committee (e.g., policy formation, education, case consultation, and retrospective case review); (2) organization of the committee (e.g., membership, term of service, leadership); (3) meetings of the committee (e.g., schedule for regular meetings, special meetings for consults, how special meetings are called, quorum, etc.); (4) reporting and consultation requirements of the committee (e.g., to whom does the committee report in the hospital organizational structure and what individuals or committees are required to consult with the ethics committee and in what situations); and (5) impact of a decision of the committee in different situations (e.g., binding or merely advisory).

Step 5: Establish Policies and Procedures

Optimally, the ethics committee would have policies and procedures for evaluating and responding to a number of key issues that arise in the hospital setting. In the short term, in response to the COVID-19 crisis, the policies and procedures should address the structure, process, and criteria for evaluating and making recommendations regarding scarce resources. This may include: (1) lack of supplies (e.g., personal protective equipment), (2) lack of patient care resources (e.g., testing supplies, beds, ventilators), and (3) lack of personnel (e.g., nursing staff, primary care physicians, specialists).

The policies and procedures should include criteria and/or resources for criteria that will be used to evaluate each situation. This is the real, hard work of the committee and the results should reflect the organizational and community values specific to the hospital and its service area. The committee should identify and document the resources it relies upon to determine the criteria and the weight and application of the criteria. Such resources might include medical journals,^[1] associations,^[2] bioethics experts,^[3] and religious resources.^[4] The committee would also be tasked with staying abreast of changing clinical guidance and updating the criteria accordingly.

The policies and procedures should not be limited to merely establishing a process for making decisions in the future. Instead, the policies and procedures should *begin* that process now by clearly and accurately articulating the beliefs, values, and priorities of the hospital, the local providers, and the community about how scarce resources will be allocated. These decisions are difficult in the best of circumstances, but generally easier to make, more fully considered, and better able to reflect the views of the hospital, the local providers, and the community when made outside the emotion of a specific situation involving a specific patient and his or her family. This is especially important in rural communities where there is a high likelihood that the hospital and local providers have pre-existing relationships with the patient and his or her family outside the provision of care.

Step 6: Follow and Implement the Policies and Procedures

Most important, of course, is the implementation of the policies and procedures. This will require informing and training clinical staff to recognize when the committee should become involved. Training and education of the clinical staff is also

important to assure that the staff understands and trusts the process, so they are willing to engage it and rely on it in difficult situations.

Another key aspect of implementation is the committee's documentation of deliberations, resources relied upon, criteria applied, and recommendations made. The more the committee can show that it has relied on and applied objective, fact-based criteria and considered and incorporated input from diverse perspectives, the more defensible its recommendations will be.

Conclusion

Establishing in advance a structure, criteria, and process for ethics decisions will benefit the hospital and its staff and patients in a number of ways. A well-structured, functioning ethics committee will:

- Help to avoid hurried, crisis-driven health care decisions;
- Relieve some of the burden on individual health care providers and allow them to be advocates for their patients;
- Help reduce risk to the hospital with well-supported, objective clinical decisions and a well-documented process for reaching those decisions; and
- Provide for better patient care and family support during difficult times.

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[1] For example, see Ezekiel J. Emanuel et al., *Fair Allocation of Scarce Medical Resources in the Time of Covid-19*, NEJM.org (March 23, 2020).

[2] For example, the Society of Critical Care Medicine, https://sccm.org/Blog/March-2020/United-States-Resource-Availability-for-COVID-19?_zs=jxpjd1&_zl=w9pb6

[3] For example, the Center for Practical Bioethics, <https://www.practicalbioethics.org/>

[4] For example, the Association for Professional Chaplains, <https://www.professionalchaplains.org/content.asp?contentid=204>