
PERSPECTIVES OF ETHICAL DECISION-MAKING

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Objectives

At the end of this conference, learners will be able to:

1. Identify ethical perspectives to guide effective decision-making in elder care.
2. Understand how personal and professional biases can impact complex situations.
3. Understand the value of inter-professional collaborations for effective ethical decision-making.
4. Understand how advance care planning can help avoid potential ethical conflicts.

Leah R. Gilbert, Esq. Background, Experience, Perspectives

- Practiced law since 2009
- Licensed in Minnesota
- Practice Focus: Medical Assistance and Estate Planning
- Undergraduate degrees in Financial Economics and Criminal Justice, Gustavus Adolphus College, St. Peter, Minnesota
- William Mitchell College of Law in St. Paul, Minnesota
- Provides presentations on Medical Assistance Planning; Estate Planning; Disability Planning; Farm/Business Succession Planning

Leah R. Gilbert

Memberships

- Wealth Counsel
- Hennepin County Medical Assistance Committee
- Elder Resource Association (ERA)
- Southern Minnesota Estate Planning Council, LLC (SMEC)
- Minnesota State Bar Association Probate and Trust Law sections and Real Property Law Sections

Anita Raymond, LISW, CMC

Background, Experience, Perspectives

- Bachelors SW (UW-Whitewater) and MSW (Augsburg)
- **VOA MN Protective Services**
Information, advice, consultation, assessments regarding individuals with questionable decision-making capacity & suspected need for guardianship/conservatorship; emphasis on less restrictive alternatives, balancing self-determination with protection
- **VOA MN Care Management & Consultation**
Working with clients and families impacted by dementia and other challenges. Assessments, recommendations, service coordination regarding: care and housing needs, family relationship issues, effective communication, balancing wishes of client with need for safety

Anita Raymond, LISW, CMC

Background, Experience, Perspectives

- Training for Prospective Guardians/Conservators
- Professional Education/Training:
*Guardianship, Conservatorship & Less Restrictive Alternatives * Surrogate Decision-makers: Who Has Authority to Do What? * Ethical Dilemmas: Right to Take Risks v. Right to be Safe * The Ethical Dilemma of Whether to Employ "Therapeutic Fibs" in Working with Clients With Dementia * Responding to Elder Abuse/Maltreatment of Vulnerable Adults * Maltreatment of a Vulnerable Adult: Warning Signs*
- Professional Community Involvement: MAGiC Executive Board, Standards of Practice Chair; MN Elder Justice Center Partner; Substitute Decision Making Network

Tricia Schilling, LICSW

Background, Experience, Perspectives

- Social Services Director in nursing home setting, 1995 – 2001
- Social Services Supervisor in health care organization, 2001 - present
- Adjunct social work instructor for BSW students, 2006 – 2012 (on hold)
- Undergraduate degree in social work, Winona State University
- Graduate degree in social work, University of Minnesota
- Doctorate of Education in Leadership candidate, Saint Mary's University of Minnesota

Tricia Schilling, LICSW

- **Memberships:** ASA, MGS, NASW, MNHSPA, MSSA, Elder Network Advisory Board, Community Health Needs Assessment Team, Olmsted County Long-term Care Consortium
- **Teaching/Curriculum Development:** Social Work in Healthcare Settings (undergrad elective); Policy, Politics and Older Adults (undergrad elective); Hidden: Domestic Violence and Chemical Dependency in Older Adults (community presentation); and Consider the Conversation: Advance Care Planning (community presentation)

Marjorie Schaffer

Background, Experience, Perspectives

Related Research

Ethical Problems in End-of-Life Decision-Making for Elderly Norwegians

- Interviews with health professionals, elders, family members
- For professionals, most frequent ethical problem was interacting with family members

End-of Life Discussion in Assisted Living Facilities

- Focus groups with residents, family members, and staff
- Residents and family members may be at different stages in accepting the dying process

Marjorie Schaffer

Continuing Education

- End of Life Nursing Education Consortium Curriculum (2003)
- Advance Care Planning Facilitator Certification (2011)
- First Steps Advance Care Planning Certified Instructor (2011)

Teaching/Curriculum Development

- *End-of-Life Nursing Care* elective courses for baccalaureate and RN completion programs
- *Conversations About the End of Life* for social work and nursing majors

Ethical Perspectives: Rule Ethics

- **Autonomy:** Be self-governing and allow other people to be self-governing
- **Non-maleficence:** Do not inflict evil or harm
- **Beneficence:** Prevent evil or harm, remove evil or harm, and do or promote good
- **Justice:** Give to people their right or due
- **Veracity:** Truth-telling or honesty

Sources:

Beauchamp, T., & Childress, J. (2012). *Principles of biomedical ethics*
New York: Oxford University Press.

Thiroux, J.P. (1986). *Ethics: Theory and practice* (3rd Ed.). New York:
Macmillan Publishing Company.

Paternalism

- “The interference of a state or an individual with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm.”
- “Justified Paternalism”
- “Soft Paternalism”

Source: Stanford Encyclopedia of Philosophy, 2002
<http://plato.stanford.edu/entries/paternalism/>

Ethical Perspectives: Virtue Ethics

- Aristotle
- Arises from good character (compassion, honesty, integrity, resilience)
- Involves professional ethics and values
- Considers community



Ethical Perspectives: Feminist Ethics

- Core ideal is achieving social justice
- Eliminates oppression and realigns power
- Committed to restructuring relationships, social practices, and institutions with goal of fuller and more free lives



Professional Code of Ethics

Why have a Code of Ethics?

- to define accepted/acceptable behaviors;
- to promote high standards of practice;
- to provide a benchmark for members to use for self evaluation;
- to establish a framework for professional behavior and responsibilities;
- as a vehicle for occupational identity;
- as a mark of occupational maturity;

(http://www.calsca.com/ethics_lscabc.htm)

National Association of Social Work

The Code offers a set of values, principles, and standards to guide decision making and conduct when ethical issues arise.

Ethical Application: Value, Be, Do Model

Ethical Problem: What should I do when advance directives are in the health care record but are not being followed?

What should I value?	<ul style="list-style-type: none"> • Avoiding suffering • Patient and family choice • Quality care
Who should I be?	<ul style="list-style-type: none"> • A proactive advocate • Someone who uses evidence • Effective collaborator
What should I do?	<ul style="list-style-type: none"> • Discuss ADs with family • Engage care team in discussion • Honor ADs

References

- Cameron, M. E. (2000). Value, be, do: Guidelines for resolving ethical conflict. *Journal of Nursing Law*, 6(4), 15-24.
- Schaffer, M. A. (2007). Ethical problems in end-of-life decisions for elderly Norwegians. *Nursing Ethics*, 14(2), 242-257.
- Schaffer, M. A., Keenan, K., Zwirchitz, F., & Tierschel, L. (2012). End-of-life discussion in assisted living facilities. *Journal of Hospice and Palliative Nursing*, 14(1), 13-24.
- Schaffer, M. A. & Norlander, N. (2009). *Being present: A nurse's resource for end-of-life communication*. Indiana, IN: Sigma Theta Tau International.
- Volbrecht, R. M. (2002). *Nursing ethics: Communities in dialogue*. Upper Saddle River, NJ: Prentice Hall.

Case Study: Scenario #1

Lester (81) and June (68) are an unmarried couple. They have been together 19 years since their prior spouses passed. Lester has three children. One lives in California with the other two living close by. June has no children. Lester still owns a family farm, and added June's name to the title 15 years ago when she moved in with him. June, a retired social worker, does not have significant assets.

Lester has been diagnosed with Parkinson's and vascular dementia. He was hospitalized for a failure to thrive and discharged to skilled care (nursing home).

June comes to the nursing home and visits Lester frequently; she is often there during mealtimes, and eats off Lester's plate in the dining room. Lester is often agitated after she leaves; staff suggest that Lester's children should restrict her visits.

Case Study: Scenario #2

- Lester's ability to communicate is deteriorating along with his physical condition; his MD team wants to discuss a feeding tube. June is complaining that Lester is not receiving good care, and that she and Lester can't understand the staff, many of whom are ESL.
- Lester does not have estate plan, health care directive, power of attorney, will, or trust. June reports that he does not want to ever be "hooked up to machines and tubes", but his daughter says they've talked a lot about his religious beliefs, which conflict with withholding or withdrawing medical care.
- June comments that she does not know what she will do without Lester.
- Lester's children (including the son from California) arrive to discuss Lester's care and do not agree about plans for DNR/DNI. They are ignoring June's input about Lester's wishes. One daughter wants to bring him home to the farm to care for him, the others want to sell it to enable him to move to a nicer nursing home.

Questions

- What ethical principals are in conflict?
- Which should carry more weight?
- How should professionals respond?
 - Legal perspective
 - Medical perspective
 - Social work perspective

Helpful Resources

Books/Pamphlets

- Brody, J. E. (2009). *Jane Brody's guide to the great beyond: A practical primer to help you and your loved ones prepare medically, legally, and emotionally for the end of life.* New York: Random House.
- Dunn, J. *Hard choices for loving people.* A & A Publishers. Can be ordered at <http://www.hardchoices.com/>
- Hammes, B. J. (2012). *Having your own say: Getting the right care when it matters most.* Washington, DC: Center for Health Transformations.

Helpful Resources: Websites

- Coda Alliance. Go Wish Cards.
<http://www.codaalliance.org/gowishcards.html>
- End-of-Life Modules for Faith Communities (Bethel University Nursing Department web site)
<http://cas.bethel.edu/dept/nursing/End-of-Life>
- Honoring Choices Health Care Directive
<http://www.metrodoctors.com/dev/index.php/healthcare-directives>
- Honoring Choices Minnesota web site
<http://www.honoringchoices.org/>