ETHICAL ISSUES FACING HEALTHCARE PROFESSIONALS

by

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ETHICAL ISSUES FACING HEALTHCARE PROFESSIONALS

BEHAVIORAL OBJECTIVES

UPON COMPLETION OF THE READING MATERIAL, THE PRACTITIONER WILL BE ABLE TO:

1. Define ethics.
2. Identify the general principles in a healthcare provider’s “code of ethics”.
3. List the principles of ethics.
4. Describe the principle of autonomy.
5. Explain how “benevolent deception” relates to the principle of veracity.
6. Describe the obligations of healthcare providers under the non-maleficence principle.
8. State the purpose of advance directives.
9. Contrast the two types of advance directives.
10. Summarize the healthcare provider’s obligations under rules of confidentiality.
11. Identify three dominant theories underlying modern ethics.
12. Describe the theory of formalism.
13. Characterize “virtue ethics”.
15. Summarize the components of Francoeur’s Decision-Making Model.
16. Contrast civil and criminal litigation.
17. Cite an example of negligence.
18. Describe an example of malpractice.
19. Explain the “objective” component of SOAP charting.
20. List three essential elements of documentation in medical records.
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21. Explain the responsibility of health care providers to report illegal activities.

22. Summarize the obligations of healthcare providers relating to ethical principles.

23. Summarize the acts that can jeopardize licensure.

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INTRODUCTION

Ethics are social values, morals, and principles that guide people in behaviors that are good, proper, and decent. Ethical values direct us in our everyday lives as they are ingrained in our society. Health care professionals must frequently make decisions based on ethical and legal issues. It is important to learn the ethical principles, the professional code of ethics, and the legalistics, in order to be knowledgeable on ethical decision-making when dilemmas arise.

Ethical and legal decisions are made daily by healthcare providers in the performance of their regular duties. For example, the clinician receives a workload assignment that is above normal due to a staffing shortage on the shift. This is further compounded by several time-consuming emergencies that arise during the shift. This results in requesting help from co-workers and supervisors, and prioritizing the workload. While prioritizing, two patients scheduled for routine treatments are delayed for several hours. This is an ethical dilemma could become a legal matter if one of the patients whose treatment was delayed develops minor or major complications that can be attributed to the delay.

Ethics can also be a simple matter of refraining from discussing patients outside of necessary professional discussions, such as in elevators, at lunch, and as social gossip with friends. In our society, and especially in the healthcare profession, ethics and the professional code of ethics can give guidance in performing duties with professionalism, morality, decency, and legally correct conduct.

DEFINITION OF ETHICS

Ethics is defined as a system of moral principles and values which include good, proper, honest, and decent conduct. In our society, ethics are the social laws and values, the social code of right and wrong, and specific moral choices.

PROFESSIONAL CODE OF ETHICS

A professional code of ethics describe a body of rules, principles, and standards, which govern the conduct of its members. Each profession may adopt a code of ethics to self-regulate the conduct of its members. Furthermore, a code of ethics establishes the group as a profession, and promotes a certain image of that profession to the public. Physicians, Nurses, Respiratory Care Practitioners, and many other professional healthcare providers have adopted their own code of ethics.

For healthcare providers, the code of ethics generally includes the following:

- Assure the public that their healthcare needs are met.
- Healthcare is provided in a caring, safe, and effective manner.
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- Every patient will be treated with dignity and respect.
- Confidential patient information will be honored by members of the profession, except when required by principles of the practice, or by law.
- Members of the profession will actively contribute to the health and well-being of the patient, and are obligated to prevent and avoid harming patients.
- Members of the group will demonstrate behavior that reflects professionalism, compassion, integrity, honesty and trustworthiness.
- Members of the group are licensed, registered, and/or otherwise proven to be proficient in performing the duties assigned to them. Each individual will demonstrate competence, and perform only those duties within their scope of practice. Furthermore, the members will continue to improve their competence through mandatory continuing education.
- Members of the profession will not perform illegal or unethical acts, and will not conceal the illegal or unethical acts of others.

The American Association For Respiratory Care (AARC) has established a code of ethics for Respiratory Therapists.

AARC STATEMENT OF ETHICS AND PROFESSIONAL CONDUCT

In the conduct of professional activities, the Respiratory Therapist shall be bound by the following ethical and professional principles. Respiratory Therapists shall:

- Demonstrate behavior that reflects integrity, supports objectivity, and fosters trust in the profession and the professionals. Actively maintain and continually improve their professional competence, and represent it accurately.
- Perform only those procedures or functions in which they are individually competent and which are within the scope of accepted and responsible practice.
- Respect and protect the legal and personal rights of patients they care for, including the right to informed consent and refusal of treatment.
- Divulge no confidential information regarding any patient or family unless disclosure is required for responsible performance of duty, or required by law.
- Provide care without discrimination on any basis, with respect for the rights and dignity of all individuals.
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- Promote disease prevention and wellness.
- Refuse to participate in illegal or unethical acts, and refuse to conceal illegal, unethical or incompetent acts of others.
- Follow sound scientific procedures and ethical principles in research.
- Comply with state or federal laws which govern and relate to their practice.
- Avoid any form of conduct that creates a conflict of interest, and follow the principles of ethical business behavior.
- Promote health care delivery through improvement of the access, efficacy, and cost of patient care.
- Refrain from indiscriminate and unnecessary use of resources.

NURSING CODE OF ETHICS

The American Nurses Association (ANA) has established a code of ethics for nurses. The following is an overview of their ethical principles.

- The nurse will promote, advocate for, and strive to protect the health, safety, and rights of patients.
- The nurse is responsible and accountable for individual nursing practice and determines the appropriate delegation of tasks consistent with the nurse’s obligation to provide the best patient care possible.
- The nurse owes the same duties to self as to others. This includes the responsibility to preserve integrity and safety.
- The nurse shall maintain competence, and continue personal and professional growth.
- The nurse participates in establishing, maintaining, and improving the healthcare environments and conditions of employment.
- The nurse provides quality health care that is consistent with the values of the profession through individual and collective action.
- The nurse participates in the advancement of the profession through contributions to practice, education, administration, and knowledge development.
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- The nurse collaborates with other health professionals and the public in promoting community, national, and international efforts to meet health needs.

- The profession of nursing, as represented by associations and their members, is responsible for articulating nursing values, for maintaining the integrity of the profession and its practice, and for shaping social policy.

PHYSICIANS CODE OF ETHICS

The American Medical Association (AMA) has developed a code of ethics for physicians. The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. The following principles adopted by the American Medical Association are not laws, but standards of conduct that define the essentials of honorable behavior for the physician.

- As a member of this profession, physicians must recognize responsibility to patients first and foremost, as well as to society, to other health professionals, and to self.

- The physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights.

- The physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities.

- The physician shall respect the law and also recognize a responsibility to seek changes in those requirements that are contrary to the best interests of the patient.

- The physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law.

- The physician shall continue to study, apply, and advance scientific knowledge.

- The physician shall maintain a commitment to medical education, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated.

- The physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical care.

- The physician shall recognize a responsibility to participate in activities contributing to the improvement of the community and the betterment of public health.
• The physician shall, while caring for a patient, regard responsibility to the patient as paramount.

• The physician shall support access to medical care for all people.

ETHICAL ASPECTS COMMON TO ALL HEALTHCARE PROVIDERS

The following statements expand on the ethical aspects common to all healthcare providers. These statements show how one can apply ethics to direct patient care.

• Maintain confidentiality - The patient has the right to privacy, and the healthcare providers have the duty to maintain confidentiality of all patient information. The patient’s well-being could be jeopardized and the fundamental trust between patient and healthcare providers destroyed by unnecessary access to data, or by inappropriate disclosure of patient information. In order to provide quality healthcare, it is necessary to share relevant data with those members of the health care team who have a need to know. Only information pertinent to the patient’s treatment and welfare is disclosed, and only to those directly involved with the patient’s care. Duties of confidentiality, do have exceptions, and may need to be modified in order to protect the patient, other innocent parties, when required by law to provide information, and in cases of mandatory disclosure for public health reasons. Information can also be used for purposes such as quality improvement, peer review, or insurance payments, but only according to established policies.

• Recognize specific patient rights including self-determination, (also known as autonomy). This is the basis for informed consent in health care. Patients have the ethical and legal right to determine what will be done for themselves. The patient further has the right to be given complete, accurate, and comprehensible information that facilitates an informed judgment. The patient needs all pertinent information in order for them to assess the pros and cons of any available options in their healthcare plan. This includes the right to choose no treatment at all. The patient has the right to accept, refuse, or terminate treatment without deceit, duress, coercion, or penalty. In situations where the patient is a minor, or otherwise lacks the capacity to make informed decisions, a designated surrogate decision-maker should be consulted. The surrogate’s role is to make decisions as the patient would, based upon the patient’s previously expressed wishes and known values (advance directives). In the absence of a designated surrogate decision-maker, decisions must be made in the best interest of the patient.

• Respect for human dignity - One must have respect for the dignity, and human rights of every patient. One must acknowledge that the need for health care is universal, regardless of any individual differences. One must establish relationships and deliver quality healthcare with respect for human needs and values, and without prejudice.

• Acknowledge that collaboration is essential. Collaboration in the sense of cooperation, and the joint effort of all involved to attain shared goals. In health care, that goal is to address the health needs of the patients under one’s care. The complexity of health care delivery systems
requires a multi-disciplinary approach with active involvement of many disciplines, and many health care professionals. The collaborative effort can include the physician, nurse, respiratory therapist, x-ray technician, laboratory technician, physical therapist, and nursing assistant to name a few.

- Scope of practice or professional boundaries must be respected. One must recognize and maintain the professional practice boundaries and protocols. The professional association and the employer establish the scope of practice guidelines for one’s profession. One must realize it is both unethical and possibly illegal to step outside the boundaries of what is standard practice. The standard practice includes well established boundaries and guidelines, with comprehensive training and competency evaluations.

- Acting on questionable practice - The health care provider’s primary commitment is to actively participate in improving the health, well-being, and safety of the patient. This requires one to be alert to, and take appropriate action regarding any instances of incompetent, unethical, illegal, or inappropriate practice by any member of the health care team. In order to meet this standard of practice, one must be knowledgeable about the code of ethics, standards of practice of the profession, relevant laws and regulations, and the employers’ policies and procedures. When one is aware of inappropriate or questionable practice in the provision or denial of health care, concern should be expressed to the person carrying out the questionable practice. Attention should be called to the possible detrimental affect upon the patient’s well-being. Also pertinent, is how the questionable practice relates to a breach in the standards of practice, and/or a breach in the code of ethics. If indicated, the problem should be reported to an appropriate higher authority within the institution, then if necessary, to an appropriate external authority. There must be established processes for reporting and handling incompetent, unethical, illegal, or impaired practice within the employment setting so that such reporting can go through official channels, thereby reducing the risk of reprisal against the reporting clinician.

ETHICAL PRINCIPLES

Ethical principles and theories provide the foundation for ethically correct behavior, and are the basis for ethical decision-making. Ethics evolved from many sources including Judeo-Christian morality, Aristotle’s and Aquinas’ natural laws, Kant’s universal duties, and the modern values of our society.

Ethical principles consist of professional duties and patient rights. The guiding principles of ethical decision-making include: autonomy, veracity, nonmaleficence, beneficence, confidentiality, justice, and role-fidelity. Each of these principles are described as it pertains to adult, alert, and oriented patients who are capable of making their own decisions, or the healthcare proxy (person with power of attorney) if the patient is incapable of decision-making, and the parents of pediatric patients. All of the following principles must be weighed and balanced with each other, and with the law, to achieve the best possible outcome for each situation.
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AUTONOMY

Autonomy obligates healthcare professionals to grant others the freedom of will, and the freedom of action. This principle allows patients the personal liberty to participate in their own course of treatment, and make choices regarding their treatment plans.

Informed consent is based on autonomous principles. This is a form the patient must sign prior to a procedure to acknowledge agreement and consent. The healthcare provider must grant patients the right to refuse medications, therapies, surgery, and any other procedures. It is both unethical and illegal to use coercion or deceit to prompt a reversal of decisions.

An informed consent includes the following general information:

Patient’s Name: ___________________________ Date: ____________

Patient’s statement:

I consent to the following procedure ____________________________ (type of procedure).
I understand the nature and purpose of this procedure as explained by my physician, ____________________________ (name of physician). I have been made aware of the substantial risks and hazards of this procedure. Medically acceptable alternatives have been explained to me. I have had the opportunity to ask questions, and have them answered to my satisfaction.

The form is then signed and dated by the physician, the patient or surrogate, and a witness. Many consent forms also add entries for patient acknowledgment about body tissue being disposed of according to hospital policy, consent for pictures or videos during the procedure (with identity hidden) for the advancement and dissemination of medical and scientific knowledge, and instruction regarding any removable prosthetic implants.

One example of a dilemma involving the principle of autonomy is: The Respiratory Care Practitioner is scheduled to give a bronchodilator treatment and CPT to an asthmatic patient with pneumonia. The patient is a 40-year-old male, and he is alert and oriented. He was admitted 2 days ago, and he is improving steadily since his therapy began. However, he is still noted to have inspiratory and expiratory wheezing between treatments. He is on room air with a saturation of 93%. The patient refuses his treatments due at 4:00 a.m., stating that he needs to sleep. The Respiratory Care Practitioner explains the importance of the therapy, and the consequences of missing the scheduled therapy. The RCP explains that the wheezing could become worse, and dyspnea can develop. The patient states he understands fully, but still refuses the therapy. At this point, it is ethically correct for the Respiratory Care Practitioner to document the refusal in the medical record, and not try to coerce the patient into taking the therapy. It is also proper for the clinician to explain the importance of the procedures the patient is refusing.
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VERACITY

Veracity is closely related to autonomy. This principle binds the healthcare provider and the patient to be truthful with each other and mutually share all pertinent information. Veracity also obligates the healthcare provider to perform complete and accurate charting in the medical records.

An example of veracity is: A Respiratory Care Practitioner just attended a meeting wherein the supervisor stated there would be a downsizing of the staff in the near future. The reason for lower staffing levels is that the Therapist Driven Protocol (TDP) program implemented at the hospital 2 years ago has been very successful, and has eliminated a large amount of unnecessary respiratory therapy. The TDP program has also been very successful at efficient and cost-effective re-alignment of respiratory resources toward the areas of care where help is needed most, like critical care, by freeing the therapists from performing unnecessary therapy. Judy, who is the TDP evaluator, begins to wonder if maybe she should help her fellow coworkers keep their jobs by not being quite so efficient; maybe she should keep patients on therapy a little longer, maybe she should not eliminate or decrease therapy so quickly? This is a difficult dilemma for Judy, but it is ethically and legally correct to continue the successful TDP program. She must document properly in the patient’s chart whenever there is a need to reduce or eliminate respiratory treatments according to the TDP protocols.

Benevolent deception dilemmas often arise from withholding information from a patient “for their own good”. The healthcare provider in this situation most often has good intentions of protecting the patient from emotional and mental stress. However, aside from pediatric patients, and suicide prevention, it is usually recommended to share ALL pertinent information with the patient.

One example of benevolent deception is: A male patient named Bob, who is 45 years old was diagnosed with kidney failure one year ago. Prior to the kidney failure, the patient had been in very good health. For the past year, Bob has been admitted to the hospital 8 times with multiple problems related to the kidneys including peritonitis. Bob also developed severe anemia requiring transfusions, and recurrent pneumonia.

Bob now performs at-home peritoneal dialysis each night, and has just returned to work after being on disability for the past year. He feels his life is now returning to some form of normalcy.

Bob’s doctor has just received lab test results showing a new infection. The doctor is aware the antibiotic can be added to the bags of fluid, which Bob uses for dialysis. The doctor does not want to upset Bob by telling him about a new complication, because Bob has been quite depressed for the past year, and is just starting to feel optimistic again. The doctor decides to just tell Bob that the medication added to the bags of dialysis fluid are just “standard procedure from time-to-time.” The doctor believes this is for Bob’s own good.
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NONMALEFICENCE

Nonmaleficence obligates the healthcare professional to prevent and avoid harming the patient. This principle is sometimes difficult to uphold due to inadvertent adverse reactions of some drugs and procedures that are also therapeutic to the patient. The pros and cons must be weighed and balanced to decide on the best course of care in each situation. Normally if the intent is good, and the best possible therapy for the patient is provided, the adverse side effects are viewed as involuntary and unintentional.

BENEFICENCE

Quality of Life Issues

Beneficence obligates the healthcare provider to actively promote and contribute to the health and well being of the patient. Many quality of life issues arise while adhering to this principle. Modern medicine possesses the capability to prolong a person’s life beyond the likelihood of any meaningful recovery. The patient’s quality of life during and after an illness is an important consideration in these situations. This presents the dilemma of whether it is best to prolong life regardless of any other circumstances, or to provide comfort measures only, and not perform heroic measures to prevent or delay death.

Advance Directives

An advance directive is a document that allows a person to make decisions regarding their medical care, including the right to accept, or refuse medical or surgical treatment. This document allows a person to give instructions to the doctor and the hospital regarding their healthcare when they are no longer able to communicate their desires. The two types of advance directives include: a living will and a durable power of attorney. Both are legal avenues for people who wish to make decisions regarding the course of their own healthcare prior to a medically incapacitating event. The “Patient Self-Determination Act of 1990” requires that all healthcare agencies receiving Medicare or Medicaid reimbursement, provide adults with information on advance directives.

A Healthcare Power of Attorney (Durable Power of Attorney for Health Care) names a proxy to make all decisions regarding healthcare after an incapacitating event. This person may be a relative or friend who is trusted completely to make all decisions regarding healthcare. The proxy must be given instructions regarding the person’s wishes prior to any medically incapacitating event. The person assuming the durable power of attorney will bear the burden of answering for any event that may arise, including any event that is not specified in the living will.

The Living Will is an instrument that provides instructions that apply if the person is in a terminal condition or comatose, with no likelihood of regaining consciousness. The living will must be as specific and detailed as possible to assure the patient's wishes regarding future healthcare is granted. Problems with living wills arise due to the fact that it is impossible to
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predict every event or circumstance that may arise in healthcare. The living will may, or may not, provide instructions on numerous issues such as the daily care, exact therapeutic interventions to be performed, placement options for long-term care, and exactly when to discontinue life-support devices. The living will usually needs interpretation, even if it is quite detailed. Therefore, it is expedient to have both a living will and a power of attorney.

Sample Living Will

ADVANCE DIRECTIVE WISHES IN COMPLIANCE WITH THE LAWS OF THE STATE OF ________________

LIVING WILL

This declaration made this (day) of (month), (year).

I, Jane Doe, do willfully and voluntarily make my desires known regarding my future healthcare. I desire that my dying shall not be artificially prolonged under any of the circumstances set forth below:

If my physician and one other consulting physician agree there is no medical probability of recovery from a terminal condition. If I should have a terminal condition, or any condition where there is little probability of recovery, or any condition wherein I could never make a meaningful recovery with a return to a good quality of life. If I am completely paralyzed, or if I am weakened to a point of being unable to feed myself and take care of myself with independence in the activities of daily living.

If any of these circumstances occur, I do not wish to have my life artificially prolonged with life-sustaining procedures. I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally. I wish only for the administration of medications to alleviate pain, aid in sleep, and make me comfortable.

If I am incapable to give directions regarding the use of such life-prolonging procedures, I wish for this Living Will to be honored by members of my family, my physician, and all others who may be concerned, as the final expression of my legal right to refuse medical and surgical treatments, and I accept the consequences of my refusal.

DESIGNATION OF SURROGATE

If I am incapacitated, I hereby designate:

Name: __________________________
Address: _________________________
State: ____________________________
Telephone: ______________________
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To serve as my healthcare surrogate for the purpose of making medical treatment decisions for me. To answer for any questions concerning my healthcare that this Living Will does not answer. To provide, withhold, or withdraw consent on my behalf.

Signature ___________________________ Date ____________

Notary Public Seal & Signature & Date ________________________ _________

Written advance directives are legal in every state, although the laws of every state vary in the terminology, the scope of decision-making, and the restrictions. It is therefore prudent to consult a knowledgeable source, such as an attorney, regarding the particular laws of your state before executing an advance directive. A frequent question patients have is whether an advance directive written in one state will be valid in another state. This varies from state to state. Many states recognize out-of-state advance directives if they meet the legal requirements of the state where executed. Technicalities in state law and differing opinions on interpretations of a living will can occur. However, healthcare providers should value the patient’s wishes as expressed in advance directives, to the best of their ability, in compliance with state laws.

One common misconception is that oral advance directives are invalid. However, if a person is physically unable to execute an advance directive, they may give oral instructions to their physician. If these instructions are properly recorded in writing, and witnessed, many states accept this as a formal advance directive. General conversations with family will not have the same acceptable status.

If a person does not have an advance directive, several states designate default surrogates, normally family members in order of kinship to make some or all decisions. In states without such designations, the physicians and healthcare institutions still generally rely on immediate family members to make some or all decisions. Problems arise when family members are in disagreement about these decisions. In these cases, the patient is at risk for having decisions made that are contrary to their wishes. Without clear guidance in advance directives, the family members can be placed in the agonizing situation of having to make difficult life and death decisions.
CONFIDENTIALITY

The principle of confidentiality is founded in the Hippocratic Oath. Confidentiality obliges healthcare providers to respect and keep secret all information they have acquired about all patients, even after their death, EXCEPT for the following situations:

- When actively participating in, and contributing to the therapeutic plan of care for the patient.
- When medically necessary, or beneficial to the patient to discuss the matter with another person.
- When required by law to provide information.

One qualified exception to the confidentiality law states:

- When refraining from discussing the matter would likely result in harm.

Confidentiality dilemmas arise most often due to the “harm principle”. The harm principle obliges healthcare providers to refrain from acts or omissions that would result in harm.

One example is a patient with AIDS who has had a significant other in his life for almost one year. The significant other lives with the patient, and is visiting the patient every day. Is it justified, or not, to inform the significant other of the patient’s condition? Although rules of confidentiality must be broken, rules of harm require that information be shared with the significant other. The American Medical Association (AMA) has added the qualifier to their code of ethics for such circumstances. The code now states that a physician MAY reveal confidences and medical deficiencies if necessary to protect a vulnerable individual, or the community.

There are also public health, community welfare, and legal requirements which require the following cases be reported to the proper agencies and/or authorities:

- Narcotic use
- Injuries caused by guns or knives
- Poisonings
- Communicable diseases
- Industrial accidents
- Blood transfusion reactions
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- Child abuse - Suspected, admitted, or proven.

Many states have laws to protect healthcare providers from liability if a suspected case of child abuse proves false, as long as the accusation was made in good faith, and with the good intention of protecting the child. The failure to report child abuse is both illegal and unethical, and can lead to legal liability for further injuries the child sustains after returning to the hostile and unsafe environment.

Other problems with confidentiality arise from social trading of information, gossip concerning patients, and slip-of-the-tongue remarks overheard by a concerned party. Also, problems arise from accessing charts and medical records of persons when there is absolutely no medical reason to access such information. These breaches of confidentiality are unprofessional, unethical, and in many cases illegal.

Confidentiality of patient information is an integral part of the HIPAA regulations. One must assure HIPAA regulations are adhered to. Confidential patient information must only be shared with those members of the health care team who have a need to know. Furthermore, only the information pertinent to the patient's treatment and welfare can be disclosed, and only to those directly involved with the patient’s care.

JUSTICE

The principle of justice entails a fair and balanced distribution of healthcare services. The increasing elderly population, coupled with the financial shortfalls in healthcare programs such as Medicare and Medicaid make this a difficult balancing act causing many legal dilemmas. Achieving a balance between healthcare expenses and the funds to pay for them will eventually lead to some type of rationing of the healthcare services. This is called distributive justice.

Compensatory justice refers to recovery for damages that are incurred due to the action of others. This includes damage awards in civil cases of medical malpractice or negligence. Sadly, compensatory justice plays a major role in increasing the cost of healthcare via increased malpractice insurance, and the practice of defensive medicine, which adds significantly to the final cost of treating patients. Defensive medicine describes performing more tests and procedures than necessary, or administering more than what would otherwise be suggested, to cover all the bases and not miss any possible diagnosis.

ROLE FIDELITY

Role fidelity is a principle wherein the Healthcare Professional understands the limits of their professional responsibilities, and acts only within their scope of practice. The licensure board and the healthcare institution set forth the scope of practice. The clinician must have competence in performing all duties assigned to them, and not perform duties outside their scope of practice. This principle also describes understanding your part within the team of healthcare providers. With more than 100 specialties, each healthcare
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professional has a unique role in contributing to the health and well being of the patient. These healthcare professionals must all work together, and respect the unique role each provider contributes.

One example of role fidelity is: A Physical Therapist on the first round of the day, reads a patient’s chart and notes that this patient has just been diagnosed with metastatic cancer. When the Physical Therapist enters the patient’s room, a family member, (who is the healthcare proxy), asks if there is any new information about the patient’s condition. It is ethically correct for the Physical Therapist to acknowledge that it is the physician’s duty to inform the family. The therapist then gently informs the family that the physician will be contacted to discuss any new matters with them as soon as possible. The Physical Therapist can then notify the nurse, who can place a call to the physician and inform him/her of the situation, and the family’s request to be contacted with an update on the patient’s condition.

ETHICAL THEORIES

There are three dominant theories considered to be the underlying thought process of modern ethics. These theories represent differing viewpoints utilized by healthcare providers when making ethical decisions. The terms place a name on the thought process for these ethical theories. The terms are: formalism, consequentialism, and virtue ethics. Sometimes a mixed approach combining two or three viewpoints is utilized.

FORMALISM

Formalism is an ethical decision-making approach based on strict adherence to ethical principles and rules. This is also called the duty-oriented approach. The formalism thought process asserts that any action taken is morally justified, and correct, if the rules and principles of ethics are followed.

Critics of this approach claim that the rules cannot always be upheld without applying the thought process of possible resulting consequences. Critics also state that every rule and principle has exceptions, and sometimes they conflict with other principles.

CONSEQUENTIALISM

The consequentialism thought process of ethical decision-making asserts that an action is correct and morally justified, if it is based on the possible and/or probable consequences of the action. Each action is assessed on a case-by-case basis for the amount of good it will bring, versus the possible adverse effects of this action. The balance of good and harm is then weighed and balanced to come up with the best possible course to follow. This is also called the principle of utility, which describes the intent to provide the greatest amount of good for people.

Critics argue that not all decisions can be based on good versus evil. They state that this balancing act is not possible in some situations, and reliance on this principle to the exclusion of
all else can result in the wrong action. Also, in weighing actions based only on good versus evil, the normal judgments of what is right and wrong are sometimes disregarded.

One variation of consequentialism is rule utilitarianism. This is basically a combination of formalism and consequentialism. The thought process here is to choose the rules and principles, which promote the most good for the person based on the consequences of the actions. Many healthcare providers find rule utilitarianism to be a very good approach since it combines professional obligations, rules, human rights, and the consequences of our actions. This combination is then weighted with normal judgments based on the human reality of each situation.

VIRTUE ETHICS

The virtue ethics thought process evolves around the question of “what would a virtuous practitioner do in this situation”? This thought process is founded in personal attributes of character and virtue. Decisions are based mainly on the actions of previous practitioners who have distinguished themselves as being virtuous. The established practices of the profession also provide guidance in decision-making, and the virtue ethics thinker upholds the traditions set forth. Each question is answered by envisioning what a morally good and virtuous practitioner did, or would do, in a similar situation.

Critics argue that morally correct and good actions taken at one time, may be inappropriate in the next situation. The ever-changing healthcare field along with advances in healthcare, and changing moral values, sometimes make previous decisions incorrect, and leave little room for creative decision-making. (Also, if there is not a virtuous example to compare, that leaves the problem of not having good answers to difficult situations). The clinician may be unable to envision the proper course of action without a virtuous example to follow.

Rule utilitarianism is a variation of consequentialism. The thought process is based on choosing the rules and principles that will produce the most good; while also considering human rights and consequences of the action in the final decision. Combining virtue ethics with rule utilitarianism is a method of utilizing all three of the modern theories of ethical decision-making. Examples of combining these theories are detailed in the following section.

ETHICAL DECISION-MAKING

Several comprehensive decision-making models have been developed to aid in the process of making ethically correct decisions. The following two models are excellent decision-making tools. The models seek to combine the best elements of formalism, consequentialism, and virtue ethics. The steps can be performed individually in private, and/or, as a group discussion with all of the professionals involved in the case.
FRANCOEUR’S ETHICAL DECISION-MAKING MODEL

Step 1. Identify the ethical dilemma.

Step 2. List all persons involved.

Step 3. Identify all applicable ethical principles.

Step 4. Name the person responsible for making the final decision.

Step 5. Summarize the role of the Respiratory Care Practitioner, Nurse, and other Healthcare Professionals involved in the case.

Step 6. Consider the alternatives along with the short-term and long-term consequences of each.

Step 7. Make a decision for the best possible outcome.

Step 8. Follow the case to observe the consequences.

COMPREHENSIVE DECISION-MAKING MODEL

Step 1. Identify the ethical dilemma.

Step 2. Consider the alternatives.

Step 3. Formulate an ethical statement including who is involved, what is involved, and the condition of the person involved.

Step 4. Select a viable option, and evaluate this choice as follows:

Step 5. List the consequences including immediate, short-term, and long-term.

Step 6. For each consequence, compare a list of personal values.

Step 7. If the values are consistent, and the consequences are generally good, the ethical statement is considered valid. If the personal values are inconsistent with the consequences, reconsider the ethical statement, make a new choice, and proceed with step 5.
ETHICAL ISSUES FACING HEALTHCARE PROFESSIONALS

ETHICAL DECISIONS DURING CARDIOPULMONARY ARREST (CODE BLUE) SITUATIONS

Ethical dilemmas sometimes arise during cardiopulmonary arrest “code blue” situations. This can be a cardiac arrest, respiratory arrest, or an accident requiring immediate resuscitation. Many times the Respiratory Care Practitioner (RCP) or Nurse is the first to be called, and the first to arrive. The Respiratory Care Practitioner or Nurse then immediately initiates or assists in the resuscitation process. Without firsthand and immediate knowledge of the patient’s advance directive wishes, the resuscitation proceeds diligently until a physician is available to advise otherwise.

The patient’s Nurse and physician as well as the Respiratory Care Practitioner must have immediate access to the advance directives, including the “code status” of the patient to assure ethically correct procedure is followed. The “code status” of the patient is often at the front of the patient’s chart for quick access. The layout of the form varies according to the policies of the healthcare institution. This form will state the wishes of the patient, or the healthcare proxy’s directions for a cardiopulmonary arrest situation. The physician must sign this form. Some examples of entries on the form are:

- **Full code**
  In the event of cardiopulmonary arrest, do everything possible to resuscitate the patient.

- **Do not resuscitate**
  In the event of cardiopulmonary arrest, no resuscitative efforts will be initiated.

- **Limited code or Limitation to treatment**
  - Do not intubate
  - Do not mechanically ventilate
  - Do not perform chest compressions
  - Chemical code only (medications only)
  - No intravenous vasoactive drugs
  - No rapid fluid infusions
  - No cardioversion and/or defibrillation
  - No blood or blood products
  - No nutrition.

The code status must be documented and placed in the medical record as soon as possible. However, there are times when the code status is unknown, such as when a patient is newly admitted, incapacitated, or other delays in placing the advance directives on the chart. Without immediate access to the code status, the professionals in the resuscitation must make ethical decisions quickly, which can result in ethical dilemmas and incorrect actions. If the code status of the patient is known, there is usually not a problem with ethical issues. It is legally and ethically correct to abide by the advance directives, including the durable power of attorney and the living will.
ETHICAL ISSUES FACING HEALTHCARE PROFESSIONALS

ISSUES OF INADEQUATE STAFFING

The growth of the elderly population equates with an ever-increasing patient census. The shortage of Nurses, Respiratory Care Practitioners, and other healthcare professionals, continues to escalate, resulting in an ever-increasing workload at many healthcare institutions. Respiratory Care Practitioners, Nurses, and other healthcare professionals find themselves with more tasks to perform, and less time to perform them, resulting in prioritizing the workload. We make ethical decisions continually during a busy day with a workload that outweighs the constraints of time.

Healthcare providers must become educated on ethical decision-making to aid in times like these. Ethical and legal implications must be considered when prioritizing the workload. Some of the problems that can arise when prioritizing the workload include: delaying medication or therapy, omitting medication or therapy, and performing treatments on several patients concurrently. Proper charting is necessary, including documentation of omitted therapies or any patient complications. Professional liability must also be considered.

The supervisor must be made aware of any omitted therapy. The supervisor can give guidance on the best method of prioritizing the workload, and there are normally guidelines to follow at the employing institution. The supervisor may also be able to locate back-up support to assist in completing tasks.

As healthcare providers are forced to squeeze more productivity out of fewer people due to budget shortfalls, legal and ethical problems can arise. We can help ourselves, and our fellow workers, by supporting our profession. Professional associations at the state and national level work diligently on behalf of their members. They make legislators aware of the importance of our profession at the state and federal level, thereby playing a role, either directly or indirectly, in improving the work environment, staffing levels, workload, and rate of pay.

LEGAL ISSUES FACING HEALTHCARE PROVIDERS

Legal intervention in healthcare has reached the level of a national crisis, and the professional liability cases play a major role in the rapidly accelerating healthcare costs. Respiratory Care Practitioners and Nurses are required by their scope of practice to perform their duties under competent medical supervision, thus creating a professional and a legal relationship. The legal relationship principle is called “respondent superior”, meaning, “let the master answer”. Under this principle, the physician assumes responsibility for the wrongful actions of the clinician if two conditions are met:

1. The act was within the scope of practice.
2. The injury was not a result of negligence.

If the clinician acted outside their scope of practice, or performed an act of negligence, the court decides if the physician is still liable, or only the clinician is liable, on a case-by-case basis. The
ETHICAL ISSUES FACING HEALTHCARE PROFESSIONALS

professional association, the licensure board, and the employing healthcare institution outline the scope of practice.

In certain circumstances, if a physician is not immediately available, people are protected under “Good Samaritan” laws. In general, the Good Samaritan laws apply outside of the hospital setting, such as in roadside accidents.

Most states have enacted these laws to protect citizens from civil or criminal liability for any errors made while attempting to give emergency medical assistance. Protection under these laws apply if the emergency aid is given with good intent, in good faith, and free of willful misconduct or gross negligence.

CIVIL AND CRIMINAL LAW DIFFERENCES

Our legal system divides laws between two broad categories which are civil law and public law. Civil law deals with the recognition and enforcement of rights and duties of private individuals and organizations. Public law deals with the relationships of the government and private parties. Civil law, also called private law, protects individuals and organizations from others who seek to take unfair and illegal advantage of them. Individuals and organizations that feel their rights have been compromised, can seek amends in civil court. In these cases the plaintiff is the person bringing the complaint, and the defendant is the individual accused of wrongdoing.

Tort laws are a part of civil laws. A tort is a civil wrong committed against an individual or a property, other than a breach of contract. In tort law cases the court may provide a remedy in the form of an action for damages. The tort may be negligent or intentional. Tort laws are designed to attempt to “keep the peace” amongst individuals, and avoid further harm such as vengeance or personal injury, by intervening with a fair solution. Some examples of tort complaints are: complaints against a manufacturer of a defective product, damage to personal property, invasion of privacy, and assault and battery.

Public law is further divided into criminal law and administrative law. Criminal law is concerned with acts or offenses against the safety or welfare of the public. The accuser is the state, and the individual being prosecuted is the defendant. Criminal law offenses are punishable by fines, imprisonment, or both. Administrative law is comprised of the numerous regulations set forth by governmental agencies. Healthcare facilities are especially inundated by these rules and regulations, and they must abide by them.

ISSUES OF PROFESSIONAL MALPRACTICE AND NEGLIGENCE

Negligence is the failure to perform one’s duties completely; through committing or omitting an act. The Respiratory Care Practitioner and Nurse are obligated to perform certain duties, and to avoid situations which may cause harm or increase risk of harm. The standard is that which a reasonable and prudent person could foresee and avoid. For a claim of negligence to be valid, these three conditions must occur:
ETHICAL ISSUES FACING HEALTHCARE PROFESSIONALS

1. The Respiratory Care Practitioner or Nurse owes a duty to the patient, and was derelict in performing the duty.

2. The breach of duty was the direct cause of damage or harm.

3. Harm or damage was inflicted on the patient.

Two examples of negligence are: 1) Failure to recognize and correct a situation where someone has erroneously changed the ventilator settings on your patient from SIMV with a rate of 12, to Pressure support +5 only. This patient has no spontaneous breathing. 2) Giving the wrong medication to a patient, who then has a severe allergic reaction.

Negligent torts involve compensation to an individual for loss or damages resulting from the unreasonable behavior of another. Examples of these cases are: giving the wrong medication, the incorrect dosage, or harm occurring from a defective piece of equipment. Another example is: the failure to realize that a patient’s right mainstem bronchus was intubated, thereby resulting in harm and injury to the patient. The clinician is obliged to use skilled care, and anticipate and avoid this type of harm.

In the court of law assessing what is reasonable and prudent is determined by any or all of the following: Guidelines established by professional groups such as the AARC, AMA, ANA, by expert testimony, or circumstantial evidence.

Malpractice is a form of negligence. Malpractice issues include professional misconduct, unethical conduct, unreasonable lack of skill or fidelity in professional duties, or evil practice. The four classifications of malpractice include:

- Criminal malpractice - includes assault and battery or euthanasia
- Civil malpractice - includes negligence, or practice below a reasonable standard
- Ethical malpractice - includes violation of professional ethics. This may also result in censure or disciplinary action by the licensure board.
- Breach of contract - The healthcare practitioner is obligated to act only in the patient’s welfare, promote their health, protect their life, relieve suffering, and protect privacy. This is an implied “contract” which must be upheld by the practitioner. If the patient is harmed as a result of services rendered, or the omission of necessary services, the patient or their family can sue the practitioner and/or the physician.

PROFESSIONAL LIABILITY LAWS

Licensure laws and regulations revolve around the scope of practice issues. The state board of health issues guidelines and parameters defining the scope of practice. Performing outside the scope of practice can be a source of legal and licensure problems. The state
Ethical Issues Facing Healthcare Professionals

Board of health enacts laws and rules for licensure. The board can impose fines, suspend, or revoke a license for violations including: professional malpractice, negligence, and non-compliance with completing required continuing education courses.

The state board of health for respiratory therapists details the powers of the board, eligibility for licensure, approval of educational programs, assumption of use of title (credentials), renewal of licensure, continuing education requirements, disciplinary grounds and actions, penalties for violations, exemptions, and blood gas laboratory requirements.

Laws and Rules Regarding Medical Records

Adequate documentation of care given is essential. Legally, if it is documented, the care was given; if it is not documented, the care was not given. Every healthcare institution has policies on proper documentation, and requires use of forms approved by their legal department. General documentation guidelines are outlined in this section.

Information to Include in All Patient Progress Notes

Three essential elements of documentation are: patient assessment, intervention rendered, and evaluation of care given. Legally, the Respiratory Care Practitioner or Nurse must document these three elements, or the clinician and the hospital can be accused of patient neglect. Every entry in the patient’s chart must be written legibly and signed legibly by the clinician, along with their credentials (or entered into the computer system if computerized charting is used). Computerized charting is now used at many institutions, and aids in performing comprehensive charting. One should follow the guidelines of the institution for making changes or modifying data in the computer system.

As for written data: erasure is not allowed, nor is white out, as these provide reasons for questions in a court of law. If an error is made, a single line is drawn through it, and optionally, the word error written next to it. Do not leave blank lines, instead draw a line through the center of an empty line or part of a line to prevent another person from documenting in one’s signed entry.

Use standard abbreviations only, use the present tense (not the future tense), and be sure to spell correctly. Be exact in noting the date, time, assessment, procedure performed, and results of the procedure. Describe clearly, concisely, and completely all actions and reactions during time spent with the patient. Any patient complaints must also be noted, along with the appropriate intervention.

Soap Charting (Subjective, Objective, Assessment, Plan)

Some healthcare institutions have adopted the method of SOAP charting as an effective means of ensuring complete and adequate charting. SOAP charting is also called the problem oriented medical record (POMR). The four parts of POMR include: database, problem list, plan, and progress notes. The database contains routine information about the
patient such as the history and physical. The problem list is the subjective and objective problems the patient is experiencing, followed by the plan of treatment and the progress noted during treatment.

Respiratory Care Practitioners in healthcare facilities with active Therapist Driven Protocols (TDP’s) or Patient Driven Protocols (PDP’s) frequently use SOAP charting for their patient evaluation process. The components of SOAP charting are described below:

S) **Subjective** - Subjective assessment is described as: What the patient feels. Of ones feelings, rather than facts, that which takes place within an individual’s mind and unaffected by the outside world. Basically the patient gives their opinion on what he or she feels. The patient’s relatives, or significant other can also give subjective data if the patient is unable to communicate, based on what the patient previously told them.

O) **Objective** - Objective data is described as: Real or actual, not subjective, without bias, have, or having to do with a material object as distinguished from a mental concept, idea, or belief. Objective data is observable and/or measurable, such as vital signs, spirometry data, arterial blood gases, pulse oximetry SpO₂, laboratory values, breath sounds, strength of cough, sputum characteristics, and other test results.

A) **Assessment** – An assessment is a thorough evaluation of the patient’s condition. The healthcare professional evaluates all of the pertinent subjective and objective data and writes an assessment. Examples are: Bronchospasms, excessive secretions, infiltrates, atelectasis, consolidation, pneumothorax, pneumonia, hypoxemia, metabolic acidosis, ventilatory failure. At times, the assessment may be a continuation, improvement, or worsening of a current condition.

P) **Plan** - The plan of care is a detailed schematic outline for the accomplishment of a goal. The respiratory care plan may include: oxygen therapy, bronchodilator therapy, bronchial hygiene, hyperinflation therapy, or mechanical ventilation. The plan can also entail a change in the current therapy, addition of a therapy, or discontinuance of a therapy.

Some samples of respiratory SOAP charting follow:

**Case #1:**

S) Patient states “I feel tightness in my chest and I can’t catch my breath. I used my albuterol MDI 3 times today and it didn’t help.”

O) Patient is a 30 year old asthmatic presenting to the ER. Patient is on corticosteroid inhalers daily at home, and has an albuterol MDI for PRN use. Patient is awake, alert and oriented. Auscultation reveals tight inspiratory and expiratory wheezing. Moderate use of accessory muscles of respiration noted. Heart rate 98. Respiratory rate 26/minute. Blood Pressure 140/84. Pulse oximetry on room air is 91%. No other laboratory reports are available.

A) Bronchospasms/asthmatic exacerbation.
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P) Bronchodilator therapy with 1.25 mg Xopenex/0.5 mg Atrovent/NS. Measure peak flows pre and post bronchodilator therapy. IV aminophylline (per nursing). Oxygen therapy at 2 lpm. Monitor oxygenation saturation via pulse oximetry and titrate to maintain SpO₂ greater than 92%. Monitor progress closely and re-evaluate for additional bronchodilator therapy.

Case #2:

S) Patient is a 60 year old male with no previous pulmonary history, currently 3 days post-op knee surgery. Patient states “I feel so congested in my chest but I can’t cough it up.”


A) Secretions in large airways.

P) Bronchial hygiene therapy to assist in mobilizing and clearing secretions. Vibratory PEP therapy QID. Instruct patient in effective deep breathing and cough techniques.

Case #3:

S) A 40 year old male patient admitted to the ER states, “I feel short of breath since yesterday.”

O) Bilateral breath sounds are clear. Chest x-ray done today is clear. Pulse oximetry on room air is 87%. Heart rate 115.

A) Hypoxemia.

P) Oxygen therapy via nasal cannula and titrate to maintain saturation greater than 92%. Monitor oxygen saturation via pulse oximetry. Arterial blood gases to better assess oxygenation, ventilation, and acid-base balance. Obtain a complete history and physical to assess the source of the problem, and treat as indicated.

SAMPLE ETHICAL DILEMMAS

Sample 1

A Nurse working at a small community hospital in the emergency room has just seen a famous celebrity admitted due to a fall while riding a horse. The injury does not appear serious, as the celebrity is walking with only a slight limp. The Nurse is not called to assist in the case, but she looks through the chart anyway. During lunch break, the Nurse cannot resist telling several of her co-workers all about the celebrity. Has the Nurse done anything wrong?

Yes, the rules of confidentiality obligate healthcare providers to keep secret all patient information, except when medically necessary, or when required by law. Also, if one accesses the medical records of a patient that is not on one’s assigned workload, it is a breach.
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of the confidentiality principle. This is also grounds for termination of employment at some facilities.

Sample 2

A clinician working at a large hospital has arrived at work to find out that his workload is heavy due to two fellow clinicians calling in sick. The clinician is a recent graduate with only four months experience in this profession. He does the very best he can, and skips his lunch break in an attempt to complete all of the tasks assigned to him. At the end of the shift, there remains four treatments that have not been completed. He is worried that his job may be in jeopardy for being unable to complete his tasks. The clinician considers charting in the four medical records that the treatments have been done, with the hope that nobody finds out. Which ethical principles and/or laws would be broken if he charts false entries?

The principle of role fidelity obligates one to perform their duties with loyalty, faithfulness, truth, and accuracy. The principle of veracity obligates one to perform complete and accurate charting. The code of ethics requires truthfulness, and forbids unethical conduct. Furthermore, the act of negligence is against the law. After thinking through this dilemma, the clinician decides on the correct course of action, which is to go and notify his supervisor of his unfinished tasks.

Sample 3

A nurse named Sally sometimes becomes emotional during cardiopulmonary resuscitation. Sally is working in the pediatric ICU when one of her patients develops cardiac difficulties. The patient has suffered multiple injuries in a motor vehicle accident. An EEG has been performed which indicates no brainwave activity. The patient’s parents have made the code status “Do Not Resuscitate” after lengthy and difficult consideration. The patient is now in ventricular tachycardia. Sally feels attempts should be made to resuscitated this patient no matter what the consequences.

One difficulty to overcome is striking a balance between our emotions, professionalism, doctor’s orders, and the wishes of the patient, or healthcare proxy. The clinicians involved in the code blue sometimes find themselves at a disagreement with what is happening and/or disagree with the physician’s instructions. They may feel the decisions are unethical, or not the best possible action for the best possible outcome for the patient. Healthcare professionals must sometimes put aside their personal feelings in order to abide by the advance directives of a healthcare proxy or the instructions of a physician. It is legally correct to abide by the advance directives, including the living will, durable power of attorney, or legally documented instructions of the healthcare proxy.

The next few sample ethical dilemmas are thought-provoking and emotionally difficult ethics questions that occur in present-day society.
Sample 4

A 16 year old girl has a baby, and gives the child up for adoption at birth. The father of the child is a 17 year old boy who leaves home when he finds out his girlfriend is pregnant. Throughout the pregnancy the father of the child does not return home, and his parents state they have no information on his whereabouts. The baby is given up for adoption to a loving couple who have been trying to have a baby for over 5 years. The adoption process is lengthy, and is almost complete after the adoptive couple have the child in their custody for 1 ½ years. At the end of that time period, the biological father of the child returns, and demands he be given custody of “his” child since he never signed any legal documents allowing the child to be given up for adoption. DNA testing confirms he is the biological father of the child.

Who should be given custody of this child? Should the child remain with the only family he has known since birth, or should he be given to his biological father (who is a complete stranger to the child at this point)? What is in the best interest of the child? While many think the child should stay with his current parents who adopted him, and give his biological father some form of visitation rights; a court battle similar to this case was won by the biological father. The adoptive parents are appealing the decision.

A law in Florida requires women of all ages, even rape victims, to disclose the name and address of the father of a baby offered for adoption. If the woman refuses to do so, she must buy an advertisement in Florida newspapers that gives her full name and physical description as well as the names and descriptions of any men she cannot locate, who may possibly be the father. The law aims to reduce the risk of absent fathers showing up and demanding custody years after the adoption, but some women say the law is “extremely humiliating.”

Sample 5

Should human cloning be banned entirely on moral grounds or should it be permitted to a limited degree in the interests of science to benefit humanity? The United Nations is considering two opposing resolutions that call for a ban on human cloning while establishing international legal boundaries for its restricted use in medical experiments that may benefit humanity. The United States is the chief proponent of a coalition proposing a total ban. The group of European nations is seeking to establish guidelines for restricted use of human cloning in medical experiments.

Sample 6

Should genetic testing be allowed? Genetic testing has the potential to become an extraordinary weapon in the fight against disease. One exciting area of scientific research today is the identification of the genetic markers of disease through the collection and analysis of a person’s DNA. This helps identify which diseases an individual is predisposed to. Then by certain lifestyle changes, or repairing or replacing the genes responsible, that person avoids potential illness.
ETHICAL ISSUES FACING HEALTHCARE PROFESSIONALS

However, there is also great potential for misuse. It is estimated that up to 10% of employers are currently making use of genetic test results. Why would employers find such testing useful? One way would be to identify those workers who, because of their genetic makeup, are the most susceptible to health risks posed by certain chemicals or radiation in the workplace environment. Once identified, they could be placed in work areas that have the least exposure to these elements. Other employers may decide to use this information in a very different way. An employer might decide not to hire those individuals in the first place. Genetic testing in the workplace can be used to screen out many different kinds of people for any number of reasons. It can be key in supporting a bias that has nothing to do with the requirements of the job.

For example: Two women are being considered for the same job. The first candidate has qualities that make her a better candidate for the job, but when the results from their genetic testing is factored into the equation, the second candidate is hired. The first woman, carries a genetic marker that shows her to have a much greater risk of contracting breast cancer in the future. The potential for higher insurance premiums and more sick days make the other woman a more cost-effective choice for the company.

Sickle cell anemia is a disease most commonly found among African-Americans in the U.S. For the past 25 years, in an effort to combat this disease, the focus has been on screening people for it. This is a very worthy effort. However, it provides employers and insurance carriers with information that can be utilized to discriminate against an entire group of people. Many of those who were found to have the sickle cell trait (a gene from only one parent), and not even the actual disease (where both parents pass along a gene), have experienced discrimination from employers and insurance carriers.

Millions of children who have survived inherited conditions, such as asthma and leukemia, may have genetic markers of past disease. Although they may be in excellent health for the indefinite future, they too, may be subject to adverse employment decisions based on genetic markers. It has long been true that insurance companies use past medical history or current medical conditions as a reason to raise an individual’s premiums and, at times, withhold coverage entirely.

As a result, those who have the greatest need for obtaining affordable health insurance often suffer, not just for their past and present medical history, but also because of the potential of possible future medical conditions that they may or may not contract. Currently, employers and health insurance companies can gain access to genetic test results of individuals as easily as any other medical information.

Therein lies the dilemma. Genetic tests just predict the probability that an individual will contract a disease in the future. The test results show a person’s predisposition toward that disease. What is more, genetic tests that purport to predict someone’s medical future can often be inconclusive. Genetic testing is relatively new, and the tests are technically more difficult to perform and often harder to interpret than the more common medical tests that have been used and trusted for decades. This is even more disconcerting if one considers that scientists are describing this new technology as still being essentially in the research stage, and genetic testing
ETHICAL ISSUES FACING HEALTHCARE PROFESSIONALS

is not yet regulated by the Food and Drug Administration (FDA). The FDA is the agency that oversees the effectiveness and safety of more conventional medical tests, but due in part to a lack of resources, genetic testing is not regulated.

At this point in time, commercial biotechnology companies are relatively free to decide for themselves how accurate a test needs to be before it can be marketed to the public. The problem goes even deeper. Some companies are providing test results that later may turn out to be completely inaccurate. The far-reaching consequences of such inaccuracies present scientific, legal, and ethical issues that need to be addressed. Especially since genetic test results can have such a profound impact on a person’s life.

An example case follows: A couple’s first child was born with cystic fibrosis. Since both partners were found to carry mutations in the gene responsible for this disease, a decision was made to have a fertility clinic provide in-vitro fertilization that would allow for multiple test-tube embryos to be tested for the genetic defect. The embryos that tested negative for the disease would be placed in the wife’s womb. The woman gave birth to a second child with the same dreaded disease. An erroneous test result in one of the embryos was thought to be at fault.

On the brighter side, genetic testing is proving to be a useful tool for preventing and fighting disease, and the tests will likely become more accurate and widely used over time. The research continues, and the goals are to improve accuracy, and to protect genetic test results so they can be used to help fight disease, not to breed discrimination.

POTENTIAL LEGAL DILEMMAS

It is the responsibility of the professional clinician to perform their duties completely and thoroughly, demonstrating skill and competence, while promoting the good health and well-being of the patient. Failure to fulfill these obligations by commission or omission of an act can result in legal dilemmas including professional liability, malpractice, and negligence.

Legal problems can arise, for example, due to the failure to educate a patient with a pulmonary disorder on an individualized management plan for preventing and treating the disorder, along with an emergency plan for exacerbations. The patient and family members/caregivers must be able to recognize and act when an exacerbation occurs. The patient and family must be given complete and thorough instructions on the proper use of medications and equipment.

Example: A patient presents to the ER in respiratory distress and is newly diagnosed with asthma. The patient previously had no pulmonary problems, and knows nothing about pulmonary medications or equipment. The patient is given several different inhalers and a spacer. The patient is told a home care company will contact him regarding a home nebulizer to be delivered along with medication for nebulization.

The patient returns home and is fine for 2 days. Suddenly, the patient experiences severe respiratory distress and doesn’t know which medications relieve an attack quickly. The patient repeatedly blows into the spacer containing a corticosteroid, instead of inhaling a bronchodilator.
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The patient is taken back to the hospital by ambulance and experiences a 4 day stay at the hospital before being well enough to return home. The family brings a lawsuit against the hospital stating they were never instructed on how to take the medications, in what order, or how often, which resulted in severe harm to the patient. It is found there is no documentation on the patient’s chart of any instructions given, nor is there documentation of anyone contacting a home care company.

Who is legally liable? Is it the ER physician, Nurse, Respiratory Therapist, or Case Manager? One or all could be liable, which would be decided in court.

SUMMARY OF THE RESPONSIBILITY OF HEALTHCARE PROVIDERS TO REPORT ILLEGAL ACTIVITIES

Healthcare providers, including Respiratory Care Practitioners and Nurses, must report illegal activities that occur in the workplace. Healthcare providers are obligated not to perform illegal or unethical acts, and not to conceal the illegal, unethical, or incompetent acts of others. Samples of illegal, unethical, and incompetent acts are discussed throughout this course as related to the primary topic.

One should refer to the policies set forth by the employer in reporting illegal, unethical, or incompetent acts. This may involve reporting to one’s immediate supervisor, or to a higher authority.

SUMMARY OF THE OBLIGATIONS OF HEALTHCARE PROVIDERS RELATING TO ETHICAL PRINCIPALS

The obligations of healthcare providers are multifaceted, with many obligations directly related to ethical principles. The following summarizes the most important obligations of healthcare providers, including Respiratory Care Practitioners and Nurses:

- Actively contribute to the health and well-being of the patient
- Treat the patient with dignity and respect
- Grant patients the right to participate in their own course of treatment, and make choices regarding their treatment plans
- Demonstrate behavior that reflects professionalism, compassion, integrity, and honesty
- Provide safe and effective care within the scope of practice
- Perform all care competently, and continue to improve competency with continuing education as required by licensure statutes
- Keep patient information confidential, except when required by law or principles of practice
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- Prevent and avoid harm to the patient
- Do not perform or conceal illegal or unethical acts
- Adhere to the code of ethics of one’s profession.

SUMMARY OF THE ACTS THAT CAN JEOPARDIZE LICENSURE

The following is a summary of the acts that can jeopardize licensure:

- Perform or conceal an illegal or unethical act
- Failure to properly report cases of suspected domestic violence, child abuse, or injuries caused by guns or knives
- Use of coercion or deceit in the workplace
- Performance of an act that causes harm to the patient
- Perform a breach of confidentiality
- Perform an act outside the scope of practice
- Incompetence
- Negligence
- Violation of professional ethics
- Breach of contract
- Knowingly charting inaccurate data in the patient’s medical records
- Failure to complete required continuing education courses

CONCLUSION

Ethical considerations are significant in the determination of how healthcare services are delivered. Advances in medical care, and new and improved therapeutics, promote the health and welfare of the population. However, the rapidly changing healthcare industry, with new medications, treatments, and responsibilities, along with shortages of personnel and healthcare funds, results in new ethical issues for healthcare professionals to face. For ethical reasoning to be of value, it must continue to consider the true reality of human experience. Promoting the health and welfare of the public are the utmost priority while considering the legal
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issues, plus weighing and balancing ethical principles in making decisions.
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**SUGGESTED READING AND REFERENCES**


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POST TEST

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1. Which of the following are ethical principles?
   a. Autonomy, veracity, nonmaleficence, beneficence, confidentiality, justice, and role fidelity
   b. Formalism and consequentialism only
   c. Advance directives, and the durable power of attorney
   d. Rule utilitarianism and Francoeur’s model only

2. The healthcare provider’s code of ethics includes:
   a. The healthcare provider will treat each patient with dignity and respect
   b. The healthcare provider will be competent, and perform only those duties in their scope of practice
   c. Healthcare will be provided in a caring, safe, effective manner
   d. All of the above

3. Which of the following best describes ethics?
   a. Governmental rules and regulations related to morality
   b. A system of state-specific regulations requiring good conduct
   c. A system of moral principles and values including good and decent conduct
   d. A system for regulating the healthcare profession

4. What is autonomy?
   a. An ethical principle obligates Respiratory Care Practitioners and Nurses to avoid discussing confidential patient information
   b. An ethical principle which obligates healthcare providers to grant patient’s the freedom of will, and the freedom of action
   c. An obligation to promote the health of the patient
   d. An obligation to perform only within your scope of practice
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5. How does benevolent deception relate to veracity?

a. Benevolent deception describes withholding disturbing medical information with the good intent of protecting the patient from emotional upset “for the patient’s own good”. The principle of veracity obligates the healthcare professional and the patient to mutually share pertinent information
b. Benevolent deception is not related to veracity
c. Benevolent deception describes withholding disturbing medical information from a spouse from due to the personal request of the patient to the physician. The principle of veracity obligates the physician to share all information with all interested parties
d. Benevolent deception describes a patient who provides the healthcare professional with incorrect information. The principle of veracity obligates the healthcare professional and the patient to mutually share pertinent information

6. The principle of nonmaleficence obligates healthcare providers to:

a. Ensure a fair and balanced distribution of services
b. Perform only within their scope of practice
c. Grant others the freedom of will and action
d. Prevent and avoid harming the patient

7. What is the primary purpose of advance directives?

a. To provide a patient’s “Bill of Rights” that allows legal avenues for lawsuits when healthcare is not provided effectively
b. To allow hospitals the right to refuse treatment for uninsured people
c. To allow a person to make decisions regarding their medical care prior to an incapacitating event
d. All of the above

8. What are the two types of advance directives?

a. A living will, and a durable power of attorney
b. A living will and a certified consent form
c. The last will and testament, and a health insurance card
d. None of the above

9. The ethical principle most closely related to “quality of life” issues is:

a. Autonomy
b. Beneficence
c. Justice
d. Role fidelity
10. Under rules of confidentiality, the healthcare provider is obligated to:
   a. Keep a suspected child abuse case secret from the authorities
   b. Not report communicable disease cases to the public health department
   c. Keep secret confidential patient information, with no exceptions
   d. Keep secret and respect confidential patient information, except for medical
      necessities and when required by law

11. What are the three dominate theories underlying modern ethics?
   a. Formalism, consequentialism, and role fidelity
   b. Consequentialism, autonomy, and justice
   c. Virtue ethics, consequentialism, and formalism
   d. Veracity, nonmaleficence, and beneficence

12. Which of the following best describes the ethical decision-making approach of formalism?
   a. Strict adherence to ethical rules and principles
   b. Assertion that an action is correct if based on the consequences
   c. Decisions are based on the amount of good it will bring versus the possible adverse
      effects
   d. The thought process is founded in personal attributes of character

13. Which of the following best describes virtue ethics?
   a. Making decisions based on strict adherence to ethical principles
   b. Making decisions based on previous examples of virtuous practitioners, or envisioning
      what a morally good practitioner would do in the same situation
   c. Making decisions based on the consequences of the action
   d. Decisions are made based on the amount of good versus harm

14. Combining virtue ethics with __________ is a method of utilizing all three modern theories
    of ethical decision-making.
   a. Role fidelity
   b. Rule utilitarianism
   c. Beneficence
   d. Nonmaleficence

15. Which of the following are components of Francoeur’s Ethical Decision-Making Model?
   a. Identify all applicable ethical principles
   b. Summarize the role of the Respiratory Care Practitioner and Nurse
   c. Consider alternatives based on the consequences of each
   d. All of the above
16. When charting in the medical record, there are **three essential elements** to document for **every** procedure performed. These three essential elements must be documented by all healthcare professionals including: nurses, respiratory therapy, physical therapy, and occupational therapy. What are the three essential elements:

a. Subjective data, heart rate, and saturation  
b. Heart rate, chest x-ray data, and spirometry results  
c. Patient assessment, heart rate, and laboratory results  
d. Patient assessment, intervention, and evaluation of care given

17. Which of the following are examples of negligence?

a. Failure to notice that someone has erroneously changed the ventilator settings from SIMV with a rate of 12, to Pressure support +5 only. This patient has no spontaneous breathing.  
b. Giving the wrong medication to a patient, who then has a severe allergic reaction  
c. Both A and B are examples of negligence  
d. Taking home hospital equipment, supplies, or medications

18. Which of the following **does not** describe a malpractice issue?

a. Unethical conduct  
b. Unreasonable lack of skill (incompetence)  
c. Making an error while charting, then drawing a line through it, and charting the correction  
d. Evil practice including euthanasia

19. The “objective” component of SOAP charting describes factual and observable data such as laboratory reports, spirometry results, and vital signs.

a. True  
b. False

20. Civil law involves the enforcement of rights and duties of private individuals and organizations. **Criminal law**

a. also called tort law, is not applicable to healthcare providers  
b. also called private law, deals with cases involving the government and private parties  
c. is concerned with acts or offenses against the safety or welfare of the public  
d. None of the above
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21. Which of the following are illegal or unethical activities?

   a. A patient, who is a local television reporter is admitted to the hospital. The nurse who is taking care of the patient calls her husband on her lunch break and tells him all about the patient’s medical problems.
   b. A Respiratory Care Practitioner has an alert and oriented patient who is refusing their nebulizer treatment at night because they request to sleep. The Respiratory Care Practitioner explains the importance of the treatments, but the patient still refuses. The Respiratory Care Practitioner uses coercion, demanding the patient take the treatment.
   c. Both a and b.
   d. A Nurse taking care of a patient in the ER has good reason to suspect domestic violence and reports the case to her supervisor.

22. Which of the following are obligations of healthcare providers?

   a. Perform therapies with skill and competence
   b. Perform within the scope of practice
   c. Adhere to the code of ethics of one’s profession
   d. All of the above.

23. Which of the following acts can jeopardize licensure?

   I. Incompetence or negligence.
   II. Performing CPR on a patient in cardio-respiratory arrest, when it is unknown if the patient has advance directives.
   III. Knowingly charting inaccurate data in the patient’s medical records.
   IV. Performing procedures outside one’s scope of practice
   V. Failure to complete required continuing education courses.

   a. I, III, IV, V only
   b. I, II, III only
   c. I, II, III, IV only
   d. None of the above.

24. Each profession can adopt a code of ethics to self-regulate the conduct of its members.

   a. True
   b. False
25. The State Board of Health (or Licensing Board) enacts laws and rules for licensure, but cannot impose penalties for violations.

   a. True
   b. False
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ANSWER SHEET

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