

THE
TRACKS
WE LEAVE

ETHICS IN HEALTHCARE
MANAGEMENT

FRANKIE PERRY

Health Administration Press

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ETHICS IN HEALTHCARE
MANAGEMENT

We will be known forever by the tracks we leave.

Native American Proverb

FOREWORD

FRANKIE PERRY has succeeded in creating an ethics book that is practical, pragmatic, and thought provoking. The judicious use of actual cases, issue discussions, and thoughtful brief essays on related topics makes for interesting and meaningful reading. This book not only serves the individual reader, but also provides the basis for roundtable and classroom discussions. An epilogue, rare in books of this type, provides some closure on each of the cases. This is real life tied together with solid contributions to our literature to help all of us improve our perspective on ethical situations.

This book is quite timely. Complications in healthcare delivery, complex business transactions, conflicts of interest, and the vastly expanding list of issues relating to bias confound our daily life as healthcare executives. Every organization faces these and other ethical problems constantly. Understanding these problems and acting proactively to prevent them is a critical skill of any executive. The breadth of this book goes far beyond the cases and provides a foundation for enhancing existing ethics education programs or creating new ones. Once read, this book will be a very useful reference tool for any institution's effort to deal with and prevent ethical dilemmas. Furthermore, this book should find a home in many graduate and undergraduate classes as both a text and a foundation for case discussions.

Creating a book of this type requires a special person. Frankie Perry approached this effort with outstanding preparation. Ms. Perry has held hospital positions from staff nurse through nursing supervision to top

hospital management. From her hospital executive role, she joined the staff of the American College of Healthcare Executives (ACHE). Once again, she rose through the ranks to serve the professional society as executive vice president and as staff representative to the ACHE ethics committee. Implementing and preserving the ACHE *Code of Ethics* is the focus of the work of the ethics committee, which in turn becomes a major part of the role of the staff representative. This includes extensive analysis and action over violations of the *Code*. This is the exceptional perspective of Frankie Perry, which serves as a key to the value of this excellent book.

I have high hopes for this book and its effect on our profession, both in the practice and academic communities. I know it will assist all readers to more effectively fulfill their responsibilities as healthcare executives, as professionals in other healthcare roles, or as students aspiring to leadership and service roles in healthcare.

Stuart A. Wesbury, Jr., Ph.D., LFACHE
April 2001

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MUCH HAS been written in the past decade about ethics and how it applies to healthcare management and delivery, for which I am grateful.

My 28 years of hospital experience, first as a nurse and then as an administrator, and several years as staff to the American College of Healthcare Executives Ethics Committee made it clear to me that much *needed* to be written to help guide healthcare managers to successfully navigate the sometimes murky paths to ethical decisions.

Significant contributions to the literature have been made by John Griffith, Austin Ross, John Worthley, Laura Nash, and others whose valuable work has found its way into my efforts for this book. To them I owe a debt of gratitude.

I humbly submit this work to the collection of ethics literature in the field for healthcare managers, knowing that much has been written, but also knowing there can never be too much written on this important subject.

PREFACE

EVOLUTION IS a progression of interrelated phenomena. Society is continuously evolving and as an institution of society, healthcare is evolving as well. Thoughtful men and women have studied this evolution and helped to develop rules of conduct for each new paradigm. Our sense of morality changes as well, and the old rules of moral behavior do not always apply. On a fundamental level, people need and want guidance and standards to help them “do the right thing.”

Nowhere is this evolution more evident than in the complex field of healthcare management. Healthcare as a microcosm of society reacts and responds to societal events. Continual advances in technology, changes in healthcare financing, increasing consumer needs and expectations, the proliferation of socioeconomically induced health problems, the ever expanding public scrutiny and litigation all contribute to the significant complexity of healthcare. As such, the decision-making process in healthcare management has become more complicated and it is especially difficult for healthcare executives to feel confident that they are making ethically responsible decisions.

Amid this turmoil of constant change, healthcare executives frequently find themselves in uncharted waters where the ethical “rules” may be unclear. “Real-life” ethical dilemmas are complex. Rarely is there a single ethical issue to resolve. More often, numerous intertwined issues with many stakeholders with diverse values interested in the outcome clamor for attention. Ambiguities abound; resolutions to ethical dilemmas do not come easily.

The cases presented here reflect the realities of healthcare management, the diversity of special interests, and the competing values and the moral conflicts that challenge the healthcare executive. Each case is followed by a description of the ethics issues inherent in the case which is then followed by a discussion of these interrelated issues. In some cases, a relevant essay completes the chapter.

The Paradise Hills Medical Center case in Chapter 1 focuses on medical errors, truth telling, and autonomy. It is followed by "Deciding Values," an essay by Joan McIver Gibson, Ph.D.

The Qual Plus HMO case (Chapter 2) appears to focus on conflict of interest issues but in reality is exploring the issue of conflicting moral demands when an individual is asked to do something the person believes to be unethical or observes one in authority behaving in unethical ways. Essays on "Ethical Issues in Managed Care" by Richard H. Rubin, M.D., and on "Evaluating Healthcare Ethics Committees" by Rebecca A. Dobbs, Ph.D., complete the chapter.

The Rolling Meadows Community Hospital case (Chapter 3) explores the issues surrounding mentorship, sexual harassment, and gender discrimination and offers a discussion that highlights some of the ambiguities of "wrong doing."

Chapter 4's University Hospital case highlights some of the pitfalls of impairment and how it can compromise patient safety and graduate medical education. An essay on other ethical issues in graduate medical education by Clinton H. Dowd, M.D. completes this chapter.

The Hillside County Medical Center case by Glenn A. Fosdick, FACHE in Chapter 5 focuses on the ethical implications of workforce reductions. Hospitals in financial stress sometimes use the euphemism, "right sizing," but to the employee being laid off and the ones left behind to pick up the slack, it can be a disaster. This case looks at the issues involved and the leadership required to make ethically sound decisions when a hospital is in financial crisis.

Chapter 6 provides legal perspectives on each of the preceding cases by attorney Walter P. Griffin, Esq. He also discusses the differences between "illegal and unethical" and "legal but unethical" behaviors. Chapter 7 discusses the ethics of managing people and the interpersonal conflicts that exist and the ethical dilemmas that may ensue within the healthcare delivery system.

The epilogue provides follow-up on each of these cases for those who wish to know if and how the ethical issues were resolved and what happened then.

These cases and the discussions emanating from them are intended to stimulate thoughtful analysis and reflection on the part of the reader to successfully navigate the quagmire of ambiguity that ethical dilemmas can present.

INTRODUCTION

A HEALTHCARE manager will be confronted with ethical dilemmas on a daily basis. Most of the time, unconsciously, the manager will make the right decisions and will “do the right thing.” For the most part, those involved in healthcare are decent, moral individuals who are attracted to the healthcare field because they wish to contribute something of value to society. In spite of this, errors in judgment, detrimental decisions, and unintentional mistakes are made. More often than not, mistakes are the result of the barrage of decisions that must be made by managers who are pressed for time and strained by the demands of the job. Decisions are frequently made without the benefit of the thoughtful reflection and the consultation of others that may be required.

Theoretical constructs and ethical decision-making frameworks abound, but as the busy practitioner knows only too well, the realities of time and place sometimes supercede their proper usage. The healthcare manager is expected to know the answers, to make decisions quickly and authoritatively, and to lead the staff down a path of moral integrity.

This book is intended to provide some practical guidance for healthcare managers who are confronted with these challenges. What is a useful thought process that healthcare managers can employ to make this task easier? What steps can be taken to move staff in the direction of ethically sound decisions?

The process suggested here to arrive at such decisions is a relatively simple one—a series of questions that the healthcare manager can ask to

Figure 1: Issues Wheel

determine if additional time or resources need to be brought to bear on the decision-making process and the question at hand. These questions focus on identifying the issues, the stakeholders, the organizational impact, and the colleagues and resources available in any situation in question (see Figure 1).

- **Issues**
What are the ethical issues in this situation? Relatively few single-issue situations exist. More often, a number of interrelated issues comprise the ethical dilemma. These must be isolated and *each* thoughtfully explored.
- **Stakeholders**
What persons or groups will be affected by this situation and the actions taken? What will each feel is in his or her best interest?
- **Organization**
What will be the effect on the organization that pays the executive's salary and has expectations that the executive will act in its best interests?
- **Colleagues**
Which trusted colleagues can be consulted about this matter who may have insights, experiences, and knowledge to offer?—In confidence?

- **Resources**

What resources are available? Does the organization have a mission statement? Values statement? Ethics committee? Ethics officer? Code of conduct? Compliance officer? Guiding principles? Policies? Laws? Regulations? Decision-making models? Legal counsel?

Caution must be exercised, however, to avoid the assumption that if no law or rule or regulation or policy addresses an action, then the action must be ethical. This is not true. Moral men and women do not need situations to “come with written instructions” to do the responsible thing.

Laura Nash in her article, “Ethics Without the Sermon” that appeared in *Harvard Business Review*, offers the following twelve questions for examining the ethics of a business decision:

1. Have you defined the problem accurately?
2. How would you define the problem if you stood on the other side of the fence?
3. How did the situation occur in the first place?
4. To whom and to what do you give your loyalty as a person and as a member of the corporation?
5. What is your intention in making this decision?
6. How does your intention compare with the probable results?
7. Whom could your decision or action injure?
8. Can you discuss the problem with affected parties before you make your decision?
9. Are you confident that your position will be as valid over a long period of time as it seems now?
10. Could you disclose without qualm your decision or action to your boss, your CEO, the board of directors, your family, society as a whole?
11. What is the symbolic potential of your action if understood? If misunderstood?
12. Under what conditions would you allow exceptions to your stand?¹

John Worthley, citing L. T. Hosmer, discusses ten ethical principles that can be used to help healthcare executives determine an ethical course of action:

1. Self-interests: Never take any action that is not in the long-term self-interests of yourself and the healthcare organization to which you belong.

2. Personal virtues: Never take any action that is not honest, open, and truthful, and which you would not be proud to see reported widely in national newspapers and on television.'
3. Religious injunctions: Never take any action that is not kind, and that does not build a sense of community.
4. Government requirements: Never take any action that violates the law.
5. Utilitarian benefits: Never take any action that does not result in greater good than harm in your healthcare facility.
6. Universal rules: Never take any action that you would be unwilling to see another healthcare professional take in similar situations.
7. Individual rights: Never take any action that abridges the agreed upon rights of others.
8. Economic efficiency: Always act to maximize profits subject to legal and market constraints and with full recognition of external costs.
9. Distributive justice: Never take any action in which the least among us are harmed in any way.
10. Contributing liberty: Never take any action that will interfere with the rights of others for self-fulfillment.²

Before codes of conduct and ethical frameworks for decision making were available, the young hospital administrators who reported to me looked for sage advice on how to do the right thing when they were on call. They knew if they really got into trouble, they could call me but that I expected them to have a plan of action when they did. To help them formulate this plan, I had given them four simple questions to apply to any situation:

1. What action is in the best interests of the patient(s) involved?
2. What action is in the best interests of the organization?
3. If this action is taken, what is the worst possible thing that can happen?
4. What is my contingency plan to deal with all possible ramifications of the action?

While every problem was not easily solved by using this thought process, my objective was to focus the administrator's thinking on what was best for the patient and the organization instead of subjective concerns like personal power, authority, or control in solving the problem at hand. For the most part, it worked, and the process did lend itself to the quick resolution of the kinds of problems that an administrator tends to see at three o'clock in the morning.

At the conclusion of Chapter 1, Joan McIver Gibson provides guidance in deciding values and applying values-based decision making to the analysis of ethics situations.

Regardless of which strategy the healthcare manager uses to arrive at a sound ethical decision, the manager must examine all of the consequences of each action considered.

The key to ethical decisions is an awareness on the part of the healthcare manager of the necessity of asking thoughtful questions and taking the time to formulate ethically sound answers. To do so will help healthcare managers to avoid hasty decisions that are not always attentive to the ethical implications of actions taken. Laura Nash reminds us that Aristotle said it well: "Contemplation is the best activity. It is also the most continuous since we can contemplate truth more continuously than we can perform any action."³

To further assist healthcare managers in future decision making, the Appendixes include:

American College of Healthcare Executives, *Code of Ethics*

American Hospital Association, Ethical Conduct for Healthcare Institutions

American College of Healthcare Executives Ethical Policy Statements for:

Impaired Healthcare Executives

Ethical Issues Related to Reduction in Force

Ethical Decision Making for Healthcare Executives

Creating an Ethical Environment for Employees

American College of Healthcare Executives Public Policy Statement for:

Preventing and Addressing Harassment in the Workplace

Notes

1. Nash, L. 1981. "Ethics Without the Sermon." *Harvard Business Review* (November/December) 79-90.
2. Worthley, J. A. 1997. *The Ethics of the Ordinary in Healthcare*. Chicago: Health Administration Press. 234.
3. Nash, L. 1981. "Ethics Without the Sermon." *Harvard Business Review* (November/December) 83.

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