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EXPLAINER

Hospital Ethics Committees

By Cassandra Rivais DiNova *

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Introduction

This explainer provides historical background on the creation of hospital ethics committees and explains their role in hospitals today.

RESOURCES

For general information on hospital ethics committees, see Fatemeh Hajibabae, et al., *Hospital/clinical ethics committees' notion: an overview.* 9 J. Med. Ethics Hist. Med. 17 (2016).

Background

A hospital ethics committee (also called an ethics review committee) is a body composed of individual members who offer support and guidance “in addressing ethical issues that arise in patient care.”¹ Hospital ethics committees became common in the mid- to late-1980s, formed in response to advances in life-sustaining medical technology and legal cases concerning the

use of life-sustaining technology.² The opinion of the New Jersey Supreme Court in the case of Karen Ann Quinlan was the first to mention the use of ethics committees.³ In *Quinlan*, the patient’s father asked for authority to terminate life support after she had been in a permanent coma for several years.⁴ The court’s decision recommended that each hospital in New Jersey establish an ethics committee composed of physicians, social workers, attorneys, and who would be responsible for reviewing individual circumstances of ethical dilemmas and who would provide assistance and safeguards for patients and their medical caretakers.⁵

In 1983, the President’s Commission for the Study of Ethical Problems in Medicine wrote a report on withholding and withdrawing life-sustaining treatment, and encouraged hospitals to use ethics committees to review and consult on these cases.⁶ An accreditation requirement was established in 1992 by the Joint Commission on the Accreditation of Health Care Organizations, mandating hospitals to have a mechanism in place to resolve ethical dilemmas in patient care and is still required for hospitals.⁷ Under the New York Family Health Care Decisions Act (“FHCDA”), every hospital is required to have an ethics review committee.⁸

What is the function of the ethics committee?

Most hospital ethics committees have three basic functions: (1) to educate, (2) to develop policies, and (3) to provide case consultations.⁹ In their role as educators, ethics committees provide information and resources to hospital staff about issues in ethical decision making, through conferences, seminars, educational materials, resource centers, and “grand rounds”—educational presentations that hospital departments will provide their staff that are typically open to the public.¹⁰ As policy advisors, ethics committees create policies about Do Not Resuscitate Orders, artificial hydration and nutrition, informed consent, surrogate decision-making, guardianship, determination of competency, medically ineffective treatment, and advance directives.¹¹

During case consultations, ethics committees are involved in actual discussions of a case in response to a request from a staff member, patient, or patient’s agent, guardian, or surrogate.¹² These consultations can take place either retrospectively, with feedback being sought for a decision already made, or concurrent/prospectively, with the committee being involved in the case as a decision is being made.¹³ Examples of such concerns include: conflict between religious beliefs and a recommended course of treatment; uncertainty as to who should make healthcare decisions or how to make those decisions for patients too sick to speak for themselves; moral distress about a healthcare decision; and disagreements over whether starting, continuing, or ending treatment, such as breathing tubes or feeding tubes, is the right thing to do.¹⁴ Legally, an ethics-committee recommendation is not binding on a court but act as persuasive evidence.¹⁵ Specifically

in New York, an ethics committee will become involved when someone objects to the person acting as the patient’s surrogate or when there is a dispute over decisions involving withholding or withdrawing life-sustaining care.¹⁶

RESOURCES

For a description of how an ethics committee should conduct its work, see American Medical Association Code of Medical Ethics Opinion on Ethics Committee: <https://www.ama-assn.org/delivering-care/ethics/ethics-committees-health-care-institutions>

Who participates in the ethics committee?

Hospital ethics committees vary in size, often proportionally to the size of the hospital they serve.¹⁷ Committees typically range from three to thirty members, with the average size being between twelve and sixteen members.¹⁸ Most committees represent a diverse range of viewpoints, and generally include physicians, nurses, and social workers.¹⁹ Many also include hospital administrators, hospital board members, and clergy.²⁰

In New York, the ethics review committee is made up of at least five members. Within this group, at least three members must be health or social-services practitioners, at least one must be a registered nurse, at least one must be either a physician or a nurse practitioner, and at least one member must be an outside community member. If the decision involves hospice care for a patient, then the committee must invite a representative from the hospice-care provider to participate.

RESOURCES

For background on ethics and standards for health care ethics consultants, see American Society for Bioethics and Humanities, [https://asbh.org/uploads/ASBH Code of Ethics.pdf](https://asbh.org/uploads/ASBH_Code_of_Ethics.pdf)

Conclusion

Hospital ethics committees are a valuable resource for patients and their families, as well as healthcare providers and other professionals, to resolve difficult ethical dilemmas that may arise through the course of treatment. With continued advances in healthcare technology and advanced life-

sustaining treatments, ethics committees will likely continue to play an integral and necessary role in debating and resolving ethical clinical challenges in the hospital environment.

RESOURCES

Information about New York's law governing health care decisions is available at the New York State Bar Association Family Health Care Decisions Act Resource Center, <http://www.nysba.org/FHCDA/>

Endnotes

* Cassandra Rivais DiNova '16 is an Associate Attorney at Rivkin Radler, LLP in the Health Services Practice Group. She provides transactional healthcare services to a wide range of institutional clients. She also advises institutional clients regarding Article 81 guardianship proceedings and compliance with the Part 2 federal confidentiality regulations governing substance abuse records. Prior to joining Rivkin Radler, she completed a two-year clinical ethics fellowship at Albany Medical Center, focusing on the practice of clinical ethics consultation. Paige Jones, Albany Law School, Class of 2021, assisted with the drafting of this explainer during her 2019 Summer Internship at Rivkin Radler LLP. Editorial assistance by Michele Monforte.

¹ Diane E. Hoffman & Anita J. Tarzian, *The Role and Legal Status of Health Care Ethics Committees in the United States*, 40 (2008).

² Hoffman & Tarzian, *supra* note 1, at 46.

³ *Id* at 47; *In re Quinlan*, 70 N.J. 10 (N.J. 1976).

⁴ Hoffman & Tarzian, *supra* note 1, at 47.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ N.Y. PUB. HEALTH LAW § 2994-m (1).

⁹ Hoffman & Tarzian, *supra* note 1, at 50.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ N.Y. PUB. HEALTH LAW § 2994-m(2)(c).

¹⁶ N.Y. PUB. HEALTH LAW § 2994-m(4)(a)(i); N.Y. Pub. Health L. § 2994-d (5).

¹⁷ Hoffman & Tarzian, *supra* note 1, at 48.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*