

Ethics and Boundary Issues

Matthew Lahaie, MD, JD

Director, Law & Psychiatry Service

Co-Director, Harvard Mass General Brigham Forensic
Psychiatry Fellowship

Massachusetts General Hospital

Instructor, Part-Time, Department of Psychiatry

Harvard Medical School

Disclosures

Neither I nor my spouse/partner has a relevant financial relationship with a commercial interest to disclose.

Ethics Outline

- Ethics as Moral Philosophy: Three Schools
- Biomedical Ethics: Four Principles
- Boundary Crossings & Boundary Violations
- An Infamous Case

Ethics: Moral Philosophy

- Branch of philosophy that examines the concepts of right and wrong.
- “Ethics is the study of how to make hard choices in the face of conflicting values.”
 - *Elliott Crigger, Director of Ethics Policy, American Medical Association*

Three Schools of Ethics

Deontology: Duty Focused

- “Fulfill your obligations”

Consequentialism: Outcome Focused

- “Maximize positive impact” / “Minimize harm”

Virtue Ethics: Character Focused

- “What would a virtuous person do?”
- Cultivation of wisdom, temperance, justice, courage

Biomedical Ethics: Principlism

A framework of four basic ethical principles:

- Autonomy
- Beneficence
- Nonmaleficence
- Justice

Autonomy

- An individual's rational capacity for self-determination
- Each individual may express their preferences about treatments and their reasoning in accepting or refusing them
- To uphold this principle, the health care provider needs to respect the wishes of patient regarding medical interventions

Beneficence

- Obligation of the health care provider to contribute to the patient's welfare - with any interventions conferring benefit directly to the patient.
- Benefit for the patient may reach beyond medical outcomes, and the patient's values, beliefs and culture may modify how benefit is perceived.
 - The patient with capacity can express how these values influence their preferences about medical treatments.

Nonmaleficence

- The obligation to refrain from harming others.
- May require risk-benefit analysis.

Justice

- Considers the obligation to fairly and equitably distribute health care resources
- This requires prioritization and rationing of competing claims.
- Health care providers are challenged to use resources wisely and to grant equality and equity to all sick people.

Making Choices

- How do we choose between competing or conflicting values?
 - Balancing
 - Resources
 - Institutional Resources
 - American Psychiatric Association
 - American Academy of Psychiatry and the Law
 - American Medical Association

Boundaries

- Expected and accepted social, physical, and psychological boundaries that separate physicians from patients.
- The therapeutic relationship between a doctor and the patient is established solely with the purpose of therapy. Whenever this relationship deviates from its basic goal of treatment, it is called a boundary violation

Boundary Issues

- Boundary Crossings
- Boundary Violations

Boundary Crossing

- A deviation from classical therapeutic activity that is harmless, non-exploitative, and possibly supportive of the therapy itself.

Boundary Violation

- A deviation from classical therapeutic activity that is harmful or potentially harmful, to the patient and the therapy.
- Constitutes exploitation of the patient.

Case: *Roy v. Hartogs*

- Julie Roy was referred to Dr. Renatus Hartogs for treatment of depression (1969-70)
- Prescription: “It was important to have a sexual relationship with a man in the treatment of homosexuality.”
- Fee vs. Free
- Question: Is this malpractice?

Summary

- Clinical and forensic practice can lead to ethical challenges
 - Identify the values at stake
 - Make considered choices
 - Also an opportunity to identify and advance opportunities for advancing ethical interests
- Boundaries
 - The responsibility of the psychiatrist
 - Challenges nonetheless arise
 - Resources and Strategies

Thank You!