

RISK MANAGEMENT IN HEALTH CARE INSTITUTIONS

LIMITING LIABILITY AND ENHANCING CARE

THIRD EDITION

Florence Kavalier, MD, MPH, MS
Raymond S. Alexander, MBA, MS

Chapter 6: Ethical Issues for Risk Managers

Why is Ethics Important to Risk Management?

- For many issues, there are laws to guide how facilities need to deal with ethical situations
 - Abortion
 - HIPAA
 - EMTALA
 - Civil Rights Act
- For other issues, no legal guidelines are available.
 - The Risk Manager needs to assist the facility to develop appropriate procedures for dealing with ethical issues

Ethical Issues

- Ethical Issues have become increasingly important to risk management.
- Some issues are bound by law while others are not, leaving the risk manager to confront and solve them to the best of their ability.
- Many healthcare organizations establish ethics committees to assist with managing ethical situations

History of the Ethics Committee

- The forerunners of Ethics Committees:
 - Dialysis committees of the 1960s
 - Abortion and Sterilization committees
- Impetus for establishing today's Ethics Committees sprang from high profile cases
 - Karen Ann Quinlan
 - Baby Doe
- Growth in the field of Bioethics has also provided support for Ethics Committees

Growth of Ethics Committee

- The healthcare industry has witnessed a growth in use of ethics committees due, in part, to the focus of accrediting bodies on patients' rights and ethical issues during the survey process.
- Organizations with ethics processes and oversight in place may see better outcomes for patients

Role of the Ethics Committee

- Education
- Policy Development
- Consultation

Composition of the Ethics Committee

- Generally interdisciplinary (the committee's most important aspect)
- May also include a member of the clergy, the healthcare organization's attorney, a risk manager, and/or administrative personnel.

Ethical Guidelines for Risk Managers

- Autonomy (Self-determination)
 - Patients have the right to make their own healthcare decisions.
- Beneficence
 - Obligation to do good for the patients
- Justice
 - Obligation to treat all in an equitable fashion

Ethical Standards for Decision Making

- Decisional Capacity
 - An individual's ability to weight the relative benefits, risks or burdens of treatments plans and make an informed decision
- Substituted Judgment
 - Applies when an individual who previously had decisional capacity has either temporarily or permanently lost that capacity.
 - Seeks to find what that person would have decided in the circumstance

Ethical Standards for Decision Making

- Best Interest
 - Applies when an individual never had decisional capacity or when there is no way of knowing the individual's wishes
 - Makes use of the 'reasonable person' standard

Informed Consent

- In keeping with the concept of autonomy, clinicians are obligated to provide patients with information regarding their condition and possible treatments in order for them to make an informed decision as to their choice of healthcare services.

Code of Ethics

- Almost every profession of healthcare providers provides its members with a set of standards detailing the values, duties and ethical responsibilities of the profession.
- A practitioner's Code of Ethics is a set of guiding principles

Everyday Ethical Issues

- Many ethical dilemmas arise in providing healthcare services for the following vulnerable populations:
 - Perinatal
 - Pediatric
 - Geriatric
 - Terminal

Summary

- Risk managers work to protect their organization from litigation and should therefore participate in cases of ethical issues.
- Institutional ethics policies and consultation with an Ethics Committee can assist the organization through ethical situations and may reduce legal liability.