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How Can Clinical Ethics Committees Take on Organizational Ethics? Some Practical Suggestions

James E. Sabin

ABSTRACT

Although leaders in the field of ethics have for many years pointed to the crucial role that organizations play in shaping healthcare ethics, organizational ethics remains a relatively undeveloped area of ethics activity. Clinical ethics committees are an important source of potential expertise, but new skills will be required. Clinical ethics committees seeking to extend their purview to organizational issues will have to respond to three challenges—how to gain sanction and support for addressing controversial and sensitive issues, how to develop an acceptable process, and how to make a difference on the ground. The article presents practical suggestions for how clinical ethics committees meet these challenges.

INTRODUCTION

The ethical quality of medical care depends as much on the ethics of organizations as the ethics of individuals. For better and worse, the culture and policies of hospitals, group practices, insurers, and other health system organizations shape individual clinician-patient relationships. We can't have ethical healthcare without ethical organizations!

Calling for attention to organizational ethics isn't new. In a seminal 1982 article, Goodpaster and Matthews argued that corporations have moral as well as legal and financial responsibilities.[1] Closer to healthcare, in 1990, Cohen[2] and Boyle[3] asked clinical ethics committees to extend their purview to organizations and public policies. In a similar vein, Reiser challenged healthcare organizations to "look critically at how professed institutional values can best be realized in day-to-day interactions within the institution and with the wider community."[4] A study of clinical ethics consultation at Seattle Children's Hospital found that 96 percent of the consults included at least one organizational issue![5] And, many ethics consultants would agree with the Canadian ethicist who told an interviewer, "most clinical consults are actually organizational ethics issues or have an organizational ethics piece."[6] But despite 25 years of encouragement, healthcare organizational ethics continues to be an underdeveloped field.

Where will the expertise needed for addressing complex organizational issues come from? A key source for strengthening the ethics of health organizations will be the clinical ethics committees that have been so well developed at hospitals and other health facilities. But a survey of ethics committees found that organizational issues are the consultations the committees have the least success with.[7] To contribute more effectively to the ethical quality of organizations, clinical ethics committees must develop new skills.

My aim in this article is to offer practical guidance for how ethics committees and consultants can begin to put their toes into organizational waters.

James E. Sabin, MD, is Director of the Ethics Program at Harvard Pilgrim Health Care, and a Clinical Professor in the Departments of Psychiatry and Population Medicine at Harvard Medical School in Boston, Massachusetts. *Jim_Sabin@harvardpilgrim.org*

ENHANCING THE CLINICAL ETHICS COMMITTEE'S CAPACITY FOR ORGANIZATIONAL ETHICS

The suggestions that follow draw on reports from clinical ethics programs that have been active in organizational ethics, my own 16-year experience directing an organizational ethics program at a health plan, and opportunities to consult to clinical ethics programs about developing organizational ethics capacity. Although most of my comments are directed to ethics *committees* that are moving to include organizational ethics in their purview, the principles apply just as well to individual ethics *consultants.*

Leaders of hospitals, large group practices, accountable care organizations, and other health entities have not been clamoring for organizational ethics programs. Before an ethics committee takes on organizational ethics it should ask itself: Why haven't the leaders been asking us to do it? In my experience, three legitimate leadership concerns and a common misunderstanding of the word "ethics" must be addressed before trying to add organizational ethics to a clinical ethics committee.

First, leaders believe that top management and the board of directors have the ultimate responsibility to oversee how organizations deal with values and to promote ethical conduct. They're right. But in clinical ethics, the fact that the attending physician has ultimate responsibility for conducting care in an ethical manner doesn't mean that ethics consultation may not be useful in complex clinical situations. CEOs (chief executive officers) can generally understand that just as perspectives from finance, human resources, law, and other areas are vital for effective leadership, ethics can contribute in a similar manner. I've found it useful at Harvard Pilgrim Health Care to define the ethics program as providing "decision support"—a familiar managerial concept—to leadership and the board. Leaders will only back organizational ethics activities if they see the activities as supplementing and supporting—but not supplanting—their ultimate responsibility in relation to values.

Second, in some organizations, leaders fear that an organizational ethics program could become a bully pulpit for malcontents. This is a real danger. I've seen it happen. Ethics is a very emotional subject. Any of the major stakeholders in a health system can use the banner of "ethics" to label their perspective as the primary truth and to excoriate those who hold other views as "unethical." Administrators are often leery about being bashed by unhappy physicians. As with clinical ethics, organizational ethics requires a climate of respectful attention to competing perspectives and thoughtful deliberation about differences.

Third, leaders want their organizations to be "nimble" and "fast moving" in the volatile healthcare arena. If they see organizational ethics as a bureaucratic impediment—a "must approve" version of a papal seal of approval—they will not support developing a program.

Finally, the word "ethics" can itself be an impediment. When colleagues and I were doing field work on organizational ethics,[8] we were startled by how commonly organizational leaders took "ethics" to mean finger-pointing and scolding. When seen in that light, organizational ethics was regarded as a threat, not a resource. When we asked leaders about "ethical issues" in their organizations, we often drew a blank. But when we asked questions like, "What keeps you awake at night?" "What are the toughest questions you have to deal with?" and "What groups inside and outside of your organization hold different values about what you should do?" we got into deep and probing conversations about issues like how to deal with expensive medications and whether it was acceptable not to offer low-value treatments. If leaders understand that "organizational ethics" means deliberations of this kind, not haranguing, they will be more likely to support the development of a program.

There is a saying in the organizational ethics world: "If the CEO is not also 'Chief Ethics Officer,' don't waste your time trying to do organizational ethics." The CEO doesn't have to be an active participant in the program (although it helps if she or he is), but moral and material support from the top is an absolute precondition for success.

Once the CEO gives the go-ahead for the clinical ethics committee to add an organizational focus, there are four key developmental steps for the committee to follow.

1. Educate the committee about the organization's administrative functions. The starting point for clinical ethics consultation is understanding the facts of the situations that are being addressed. Likewise with organizational ethics. To work with organizational issues, the committee must be able to consider a wide range of facts in the spheres of finance, law, human resources, marketing, the political environment, and more. For most committees this will require new learning.[9]

2. Cultivate links to administrative leadership. Contributing to the ethics of an organization is only partly an intellectual task. To be effective, ethics

committees require relationships. A good way to start is to ask administrative leaders how an organizational ethics process could contribute to the organization and what they see as potential risks. To be seen as having a legitimate role in relation to administrative functions, an ethics committee needs supporters who can open doors for it and vouch for its value. Developing the requisite relationships isn't a "once for always" process—relationships must be nurtured over time. I meet one-to-one with C-suite leaders at least annually and depend on informal "face time" encounters as well.

3. Broaden membership in accord with the expanded purview. Even if a clinical ethics committee has had membership from the administration, working with organizational issues will require a wider range of participants. The guiding principles for establishing membership are to ensure that perspectives from all of the key stakeholders are represented and to include participants whose presence enhances trust in the process.[10] As an example, the health plan committee that I chair includes employers who provide insurance through the health plan, clinicians who practice in the health plan network, consumers who are insured through the health plan, and public policy leaders. The fact that the CEO and senior leaders have brought issues to the committee builds trust in the ethics process.

4. Start slowly and apply a try-it-fix-it approach. "Hit the ground walking" is a good maxim for starting a new ethics function. Those who have participated on a new clinical ethics committee have observed how much start up effort is required, even for an ethics activity that is understood and generally well accepted in the hospital world. For organizational ethics, which is much less understood and established than clinical ethics, having the committee spend time educating itself, developing relationships, and piloting the consultation process before it launches "for real" will be time well spent.

A skeptic could plausibly claim that if a clinical ethics committee follows my recommendations to "cultivate links to administrative leadership" and "broaden membership," it will turn itself into a fig leaf that would allow administrative wolves to pose as benevolent sheep by cloaking their actions with a patina of ethics. This is a real risk. In response to this concern, Spencer and colleagues recommend, "the organizational ethics program should be administratively located as an advisor to (and possibly an occasional decision maker for) the governing board," to assure that there will "be no undue influence by any particular department of the organization."[11] This is a viable proposal, but, in my experience, boards have preferred to make the CEO responsible for the ethical conduct and culture of the organization. If an ethics committee chair told me she/he feared administration would use the committee as a "cover," I would advise the committee to not to take on an organizational ethics role until the climate was more propitious. Ethics committees do not have superhuman power. An organizational ethics committee would not have prevented the Enron fiasco!

No matter where organizational ethics is administratively located, the relationship between ethics and compliance is a crucial question to address. Ideally, leaders will see ethics and compliance as a two-pronged approach to promoting the integrity of the organization,[12] with the *ethics* component emphasizing ideals and principles, and the *compliance* component emphasizing meeting legal and regulatory expectations.[13] Concerns around risk management assure that leaders will give compliance strong organizational support. Allying ethics with compliance under the banner of integrity can be a prudent tactical step for an ethics committee to take.

DEVELOPING A METHODOLOGY FOR DOING ORGANIZATIONAL ETHICS

Although there is no single methodology for doing organizational ethics, three approaches offer practical guidance. To highlight their distinctive strengths, I describe the approaches in an oversimplified manner (Weberian "ideal types"). The actual programs draw on all of the elements that I use these individual programs to exemplify (see table 1).

1. Organizational ethics via quality improvement. In the past decade the Veterans Health Administration (VHA), which provides healthcare to

TABLE 1. Three approaches to organizational ethics

Approach to organizational ethics	Example	Distinctive strength
Organizational ethics via quality improvement	VA IntegratedEthics	Strong connection between ethics, QI, practical action
Organizational ethics via support of misson	Multiple faith-based systems	Strongly motivating for staff and constituents
Organizational ethics via stakeholder analysis	Harvard Pilgrim Health Care	Cultivates a wider moral community

nearly six million patients, has implemented "preventive ethics" as part of a managerially sophisticated approach to organizational ethics (Integrated Ethics), at all of the VHA's 153 medical centers and 21 regional networks.[14] Preventive ethics committees aim to improve ethics quality in a measurable manner by identifying, prioritizing, and addressing gaps in the quality of ethics quality on a systems level.[15] The distinctive strength of the Integrated Ethics program lies in using well-honed quality improvement tools to move from individual case analysis to systemic changes.[16]

2. Organizational ethics via support for mission. One in six patients in the U.S. is cared for in a Roman Catholic hospital, and Catholic ethicists have developed an especially clear approach to organizational ethics that treats the organization as a "moral actor" that should be guided by its mission.[17] Typically, a "mission committee" or "mission officer" is charged with ensuring that the organization "walks the talk" with regard to its mission. The distinctive strength of the mission-centered approach developed by faith-based systems is its capacity to strengthen staff motivation and morale and to elicit trust among constituents.[18]

3. Organizational ethics via stakeholder analysis. The Harvard Pilgrim Health Care Ethics Advisory Group applies a stakeholder-based approach[19] to ethics by creating an ethics process with vigorous voices from consumers, careproviders, employers, staff, and leaders from the policy community.[20] The group enters into dialogue with health plan leaders who seek consultation. The distinctive strength of the stakeholder-based approach derives from using deliberative dialogue about real-time controversial issues to cultivate a wider moral community.

HOW CAN ORGANIZATIONAL ETHICS MAKE A DIFFERENCE?

The most useful question when considering a new activity is often two words—"So what?" What value can be hoped for from a clinical ethics committee adding an organizational focus? In business terms, what is the potential ROI (return on investment)?

The business literature emphasizes the importance of "brand." If an enterprise is seen as honest, reliable, and caring, it's likelier to succeed. An ethics committee that strengthens the degree to which the organization truly manifests these values—and is recognized for doing this—will be creating a meaningful ROI and is likely to receive support from organizational leaders.[21]

As an example of making a difference that is valued by the organization, in 2012 Harvard Pilgrim Health Care, the not-for-profit regional health plan for which I chair the Ethics Advisory Group, received complaints about excluding coverage for gender affirmation services like surgery and hormones for transgender persons. (At the time, it was common for health insurers to exclude these services.) The CEO asked the corporate medical director to bring the question of coverage to the Ethics Advisory Group. Several transgender advocates participated in the meeting. The group concluded that although public and private insurance cannot cover every potentially valuable health service, there was no ethical rationale for excluding gender affirmation services from consideration. It recommended that these services be allowed to compete for coverage on equal footing with other medical and surgical interventions. Leaders accepted the recommendation, and in subsequent years the organization initiated coverage for gender affirmation services.[22] The decision was welcomed by employees, members, and the wider community. The Human Rights Campaign, the largest LGBT civil rights advocacy group in the U.S., included Harvard Pilgrim on its list of employers that meet 100 percent of its advocacy standards.[23] The CEO has said that the ethics program "is part of who we are."

CONCLUSIONS

Clinical ethics committees that seek to extend their purview to organizational issues must address three challenges: how to gain sanction and support for addressing controversial and sensitive issues, how to develop an acceptable process, and how to make a difference on the ground.

Organizations are likeliest to welcome committees that recognize and support the role of the CEO and other leaders in setting the moral direction for the organization. Taking this stance is consistent with the role that clinical ethics committees take as consultative bodies to the responsible clinicians (in managerial terms, providing "decision support"). Whatever the clinical ethics committee recommends, ultimate decision-making authority rests with the attending physician and the patient/family. Clinical ethics committees should approach organizational issues in the same way. Defining their organizational ethics role as providing decision support to leaders by examining issues "through the lens of ethics" is likely to help.

With regard to process, there is no one-size-fits-all model that can be taken off the shelf. Organiza-

tional ethics activities must fit the organization's structure and culture. In Catholic healthcare, the mission committee can draw on official guidance—ultimately seen as emanating from God—such as the *Educational and Religious Directives for Catholic Health Care Services*.[24] In the VHA system, the IntegratedEthics® program draws on the strong military tradition of establishing standardized procedures, planning carefully for logistical support, and evincing loyalty to comrades and colleagues. And at Harvard Pilgrim Health Care, the Ethics Advisory Group brings together the health plan's multiple constituents, consistent with the way U.S. health plans work at the interface of patients, careproviders, commercial and public purchasers of insurance, regulators, and others.

The ultimate aim and justification for organizational ethics activities is to make an ethically meaningful difference in how an organization functions. Unless that happens, the activity will be merely academic, and likely to lead to frustration. The effort to make a difference requires managerial skill on the part of the clinical ethics committee, strong relationships with organizational leaders, and practical understanding of what kinds of outputs will be valued and used by the organization.

As clinical ethics committees venture into dealing with organizational issues, it will be important to collect, share, and learn from their experience. Doing that was crucial for the development of clinical ethics. In the next decade we can hope for something similar for organizational ethics.

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