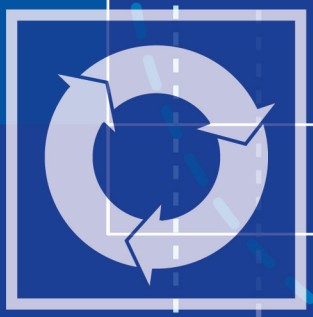
IntegratedEthics

Improving Ethics Quality in Health Care



# Ethics Consultation

## Responding to Ethics Questions in Health Care

IntegratedEthics

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## Responding to Ethics Questions in Health Care

National Center for ETHICS in Health Care

Veterans Health Administration

Employee Education System

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This document and other IntegratedEthics materials are available online through the website of the National Center for Ethics in Health Care.

***VA employees*** should access the site via intranet at vaww.ethics.va.gov/IntegratedEthics.
Others should access the site via the Internet at www.ethics.va.gov/IntegratedEthics.

Please note that the address given in the body of the document is for the VA intranet site only.

## Executive Summary

*Ethics Consultation: Responding to Ethics Questions in Health Care* establishes VA guidance for health care ethics consultation, one of the three core functions of IntegratedEthics. It was designed as a primer, to be read initially in its entirety by everyone who participates in ethics consultation, including leaders responsible for overseeing the ethics consultation function. Subsequently, it can serve as a useful reference document when consultants wish to refresh their memories or to answer specific questions.

### Part I: IntegratedEthics—Improving Ethics Quality in Health Care

Part I of the primer provides an overview of IntegratedEthics, describing the need for IntegratedEthics and how the IntegratedEthics model addresses that need. Readers who have not already read this overview are encouraged to do so to understand how ethics consultation fits within the broader IntegratedEthics program.

### Part II: Introduction to Ethics Consultation in Health Care

Part II provides an overview of health care ethics consultation, outlines the proficiencies required to perform ethics consultation, and reviews other factors necessary for success:

#### What is ethics consultation in health care?

For the purposes of this document, we define ethics consultation in health care as a *service provided by an individual ethics consultant, ethics consultation team, or ethics committee to help patients, providers, and other parties resolve ethical concerns in a health care setting.*

The overall goal of ethics consultation is to *improve health care quality by facilitating the resolution of ethical concerns*. By providing a forum for discussion and methods for careful analysis, effective ethics consultation:

- promotes practices consistent with high ethical standards
- helps foster consensus and resolve conflict in an atmosphere of respect
- honors participants' authority and values in the decision-making process
- educates participants to handle current and future ethical concerns

#### Models for performing ethics consultation

Ethics consultation may be performed by an individual ethics consultant, an ethics committee, or an ethics consultation team. A consultation service should use all three models, determining on a consultation-by-consultation basis which model is most suitable in the particular circumstances.

#### Proficiencies required for ethics consultation

Effective ethics consultation requires a range of skills and specific proficiencies. IntegratedEthics adapts the "core competencies" recommended by the American Society for Bioethics and Humanities (ASBH) to identify required proficiencies for ethics consultants:

- knowledge, including familiarity with moral theory and bioethics concepts, health care practices, and organizational mission and policy
- skills, including ability to carry out ethical analysis, communicate effectively, and build consensus
- character traits, including tolerance, honesty, prudence, integrity, and courage

### Critical success factors for ethics consultation

To provide an effective mechanism for addressing ethical concerns in health care, an ethics consultation service must have *integration, leadership support, expertise, staff time*, and *resources. Access, accountability, organizational learning*, and *evaluation* are additional factors that should be ensured. Because all these factors are critical for the success of ethics consultation services, each should be addressed in *policy*.

## *Part III: CASES—A Step-by-Step Approach to Ethics Consultation*

Finally, Part III describes in detail a practical, systematic process for performing ethics consultations pertaining to active clinical cases.

### CASES: A step-by-step approach to ethics consultation

The National Center for Ethics in Health Care designed the CASES approach to standardize the process of ethics consultation throughout the VA system. For consultations involving active clinical cases, consultants should follow all the steps in the CASES approach. For other types of consultations, such as general questions about ethics, policy interpretations, or requests for ethical analysis of organizational ethics topics, the CASES approach should be modified as needed.

The CASES steps were initially designed to guide ethics consultants through the complex process needed to effectively resolve ethical concerns in active clinical cases. We intend these steps to be used similarly to the way clinicians use a standard format for taking a patient's history, performing a physical exam, or writing up a clinical note. Even when some steps don't require specific, observable action, each step should be considered systematically as part of every ethics consultation.

**The CASES Approach**

- **C**larify the consultation request
  - Characterize the type of consultation request
  - Obtain preliminary information from the requester
  - Establish realistic expectations about the consultation process
  - Formulate the ethics question
- **A**ssemble the relevant information
  - Consider the types of information needed
  - Identify the appropriate sources of information
  - Gather information systematically from each source
  - Summarize the consultation and the ethics question
- **S**ynthesize the information
  - Determine whether a formal meeting is needed
  - Engage in ethical analysis
  - Identify the ethically appropriate decision maker
  - Facilitate moral deliberation among ethically justifiable options
- **E**xplain the synthesis
  - Communicate the synthesis to key participants
  - Provide additional resources
  - Document the consultation in the health record
  - Document the consultation in consultation service records
- **S**upport the consultation process
  - Follow up with participants
  - Evaluate the consultation
  - Adjust the consultation process
  - Identify underlying systems issues

### Tools for ethics consultation

The IntegratedEthics initiative emphasizes distance learning, providing print, video, and electronic media to help ethics consultation services succeed. Practical tools to assess consultants' proficiency for performing ethics consultation, obtain feedback from staff who participate in ethics consultation, remind consultants of the steps in the CASES approach, and appropriately document ethics consultation activities are available on the Center's website, vaww.ethics.va.gov/IntegratedEthics.

# Part I

# Introduction to IntegratedEthics

## IntegratedEthics: Improving Ethics Quality in Health Care

### VA: A Leader in Quality and Organizational Change

VA has become the standard-bearer for quality in American health care. VA consistently outperforms other health care organizations on a wide range of quality measures.[1,2] Publications from *The New York Times* and *The Washington Post* to *Business Week* and *Washington Monthly* laud VA for providing "the best care anywhere,"[3–6] and today's VA makes headlines for outranking private health care organizations in customer satisfaction.[4,5] The Agency has been equally lauded as a "bright star" in patient safety.[7] And VA's electronic health record system has earned it Harvard University's prestigious "Innovations in American Government" award.[8]

How did an enormous, public health care system with finite resources take the lead in quality? VA's impressive examples of excellence have resulted from the work of visionary leaders and dedicated staff deliberately creating organizational change. Each organizational change initiative was innovative and established a new national standard that was subsequently adopted by other organizations. Each was based on a recognized need and supported by top leadership. Each was carefully designed and field-tested before being implemented on a national scale. Each involved centrally standardized systems interventions that affected staff at all levels. Each was supported by practical tools and education for staff. And each required not only significant shifts in thinking on the part of individuals, but also significant changes in organizational culture.

As the largest integrated health care system in the United States and a recognized leader in quality and organizational change, VA is now poised to take on a new challenge: to disseminate a systems-focused model to promote and improve ethical practices in health care—and *a new way of thinking about ethics.*

### Why Ethics Matters

Throughout our health care system, VA patients and staff face difficult and potentially life-altering decisions every day—whether it be in clinics, in cubicles, or in council meetings. In the day-to-day business of health care, uncertainty or conflicts about values—that is, ethical concerns—inevitably arise.

Responding effectively to ethical concerns is essential for both individuals and organizations. When ethical concerns aren't resolved, the result can be errors or unnecessary and potentially costly decisions that can be bad for patients, staff, the organization, and society at large.[9–12] When employees perceive that they have no place to bring their ethical concerns, this can result in moral distress, a recognized factor in professional "burnout," which is a major cause of turnover, especially among nurses.[13]

A healthy ethical environment and culture doesn't just improve employee morale; it also helps to enhance productivity and improve efficiency.[14–16] Organizations that support doing the right thing, doing it well, and doing it for the right reasons tend to outperform other organizations in terms of such measures as customer satisfaction and employee retention.[17,18] Failure to maintain an effective ethics program can seriously jeopardize an organization's reputation, its bottom line, and even its survival.[19]

Ethics is also closely related to quality. A health care provider who fails to meet established ethical norms and standards is not delivering high-quality health care. By the same token, failure to meet minimum quality standards raises ethical concerns. Thus ethics and quality care can never truly be separated.

### *The Concept of Ethics Quality*

When most people think of quality in health care, they think of technical quality (e.g., clinical indicators) and service quality (e.g., patient satisfaction scores). But *ethics* quality is equally important.[20] Ethics quality means that practices throughout an organization are consistent with widely accepted ethical standards, norms, or expectations for a health care organization and its staff—set out in organizational mission and values statements, codes of ethics, professional guidelines, consensus statements and position papers, and public and institutional policies.

For example, let's say a patient undergoes a surgical procedure. From a technical quality perspective, the operation was perfectly executed, and from a service quality perspective, the patient was perfectly satisfied with the care he received. So the care was of high quality, right? Well, not necessarily. Imagine that the patient was never really informed—or was even misinformed—about the procedure he received. This would indicate a problem with ethics quality.

The idea of ethics quality as a component of health care quality isn't exactly new. Donabedian, who is widely regarded as the father of quality measurement in health care, defined quality to include both technical and interpersonal components, interpersonal quality being defined as "conformity to legitimate patient expectations and to social and professional norms."[21] Other experts have proposed "ethicality"—the degree to which clinical practices conform to established ethics standards—as an important element of health care quality.[22] And it's been argued that specific performance measures for ethics should be routinely included in health care quality assessments.[20]

### *Ethics Quality Gaps*

Health care organizations in this country have significant "opportunities for improvement" with respect to ethics quality,[23] and VA is no exception. Over the past several years, VA's National Center for Ethics in Health Care has been collecting data on the VA health care system—through formal and informal surveys, interviews, and focus groups—to understand where there are ethics quality gaps. What have we found?

VA employees:

- regularly experience ethical concerns
- want more tools and support to address their concerns
- perceive that the organization doesn't always treat ethics as a priority

Ethics committees or programs:

- are seldom described as influential or well respected
- tend to focus narrowly on clinical ethics and fail to address the full range of ethical concerns in the organization
- operate as silos in relative isolation from other programs that deal with ethical concerns
- tend to be reactive and case oriented, instead of proactive and systems oriented
- often lack resources, expertise, and leadership support
- do not consistently follow specific quality standards
- are rarely evaluated or held accountable for their performance

In addition, VA leaders recently got a wake-up call when an independent audit found material weaknesses in accounting practices and suggested problems with "ethics" and "culture" as a root cause.[18] The audit found evidence that at least in some instances, "making the numbers" seemed to be valued more than ethics. Ironically, the very things that have made VA a leader in quality may actually put the organization at risk from an ethics perspective. VA's keen focus on performance excellence in the clinical and financial arenas, through use of powerful performance measurement and rewards systems, may unintentionally have supported a culture in which "getting to green" is all that counts.

Findings from VA's all-employee survey reveal other opportunities for improvement in ethical environment and culture. High scores in the area of "bureaucratic" culture indicate that the organization emphasizes rules and enforcement.[24] Rules usually define prohibited behavior or minimal standards, instead of inspiring exemplary or even good practices. A rules-based culture tends to emphasize compliance with "the *letter* of the law" as opposed to fulfilling "the *spirit* of the law." From an ethics perspective, overemphasizing rules can lead to "moral mediocrity"[25]—or worse, unethical practices, if employees equate "no rule" with "no problem" or if they "game the rules" by developing ethically problematic workarounds.[26]

While employees in rules-driven organizations tend to concentrate on what they *must* do, those in organizations with a healthy ethical environment and culture tend to concentrate more on what they *should* do—finding ethically optimal ways to interpret and act on the rules in service of the organization's mission and values.

Thus while VA is a leader in quality, historically, the organization hasn't placed a great deal of emphasis on *ethics* quality. To achieve a truly "balanced scorecard," VA needs to systematically prioritize, promote, measure, and reward ethical aspects of performance. IntegratedEthics is the mechanism by which VA will achieve this goal—ensuring that ethics quality is valued every bit as much as other organizational imperatives, such as "making the numbers" and "following the rules."

### *IntegratedEthics*

VA has recognized the need to establish a national, standardized, comprehensive, systematic, integrated approach to ethics in health care—and IntegratedEthics was designed to meet that need. This innovative national education and organizational change initiative is based on established criteria for performance excellence in health care organizations,[27] methods of continuous quality improvement,[28] and proven strategies

for organizational change.[29] It was developed by VA's National Center for Ethics in Health Care with extensive input from leaders and staff in VA Central Office and the field, expert panels and advisory groups, and reviewers within and outside the organization. Materials developed for IntegratedEthics underwent validity testing, field testing, and a 12-month demonstration project in 25 facilities. Now, the expectation is that every VA health care facility will implement the IntegratedEthics model to ensure ethics quality in health care.

### Levels of Ethics Quality

Ethics quality is the product of the interplay of factors at three levels: decisions and actions, systems and processes, and environment and culture. The image of an iceberg helps to illustrate the concept of ethics quality in health care:

- At the surface of the "ethics iceberg" lie easily observable *decisions and actions,* and the events that follow from them, in the everyday practices of a health care organization and its staff.
- Beneath that, however, organizational *systems and processes* drive decision making. Not immediately visible in themselves, these organizational factors become apparent when we look for them—for example, when we examine patterns and trends in requests for ethics consultation.
- Deeper still lie the organization's ethical *environment and culture,* which powerfully, but nearly imperceptibly shape its ethical practices overall. This deepest level of organizational values, understandings, assumptions, habits, and unspoken messages—what people in the organization know but rarely make explicit—is critically important since it is the foundation for everything else. Yet because it's only revealed through deliberate and careful exploration, it is often overlooked.

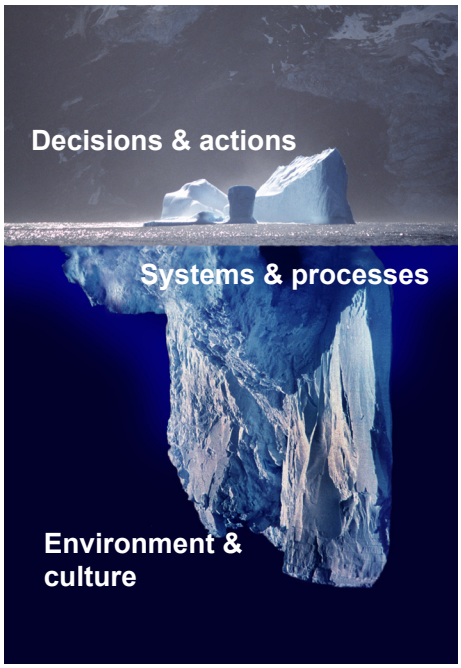



Image courtesy of Uwe Kills. Used with permission.

Together, these three levels—decisions and actions, systems and processes, and environment and culture—define the ethics quality of a health care organization.

Many ethics programs make the mistake of spending too much time in a reactive mode, focusing only on the most visible of ethical concerns (i.e., the "tip of the iceberg"). But to have a lasting impact on ethics quality, ethics programs must do more: They must continually probe beneath the surface to identify and address the deeper organizational factors that influence observable practices. Only then will ethics programs be successful in improving ethics quality organization-wide.

IntegratedEthics targets all three levels of ethics quality through its three core functions, discussed in detail below: ethics consultation, which targets ethics quality at the level of decisions and actions; preventive ethics, which targets the level of systems and processes; and ethical leadership, which targets the level of environment and culture.

### Domains of Ethics in Health Care

Just as IntegratedEthics addresses all three levels of ethics quality, it also deals with the full

range of ethical concerns that commonly arise in VA, as captured in the following content domains:

- Shared decision making with patients (how well the facility promotes collaborative decision making between clinicians and patients)
- Ethical practices in end-of-life care (how well the facility addresses ethical aspects of caring for patients near the end of life)
- Patient privacy and confidentiality (how well the facility protects patient privacy and confidentiality)
- Professionalism in patient care (how well the facility fosters behavior appropriate for health care professionals)
- Ethical practices in resource allocation (how well the facility demonstrates fairness in allocating resources across programs, services, and patients)
- Ethical practices in business and management (how well the facility promotes high ethical standards in its business and management practices)
- Ethical practices in government service (how well the facility fosters behavior appropriate for government employees)
- Ethical practices in research (how well the facility ensures that its employees follow ethical standards that apply to research practices)
- Ethical practices in the everyday workplace (how well the facility supports ethical behavior in everyday interactions in the workplace)

In many health care organizations, ethics programs focus primarily (or even exclusively) on the clinical ethics domains, leaving nonclinical concerns largely unaddressed. Another common model is that ethical concerns are handled through a patchwork of discrete programs. In VA facilities, clinical ethics concerns typically fall within the purview of ethics committees, while concerns about research ethics typically go to the attention of the institutional review board, and business ethics and management ethics concerns usually go to compliance officers and human resources staff. These individuals and groups tend to operate in relative isolation from one another and don't always communicate across programs to identify and address crosscutting concerns or recurring problems. Moreover, staff in these programs may not be well equipped to bring an *ethics* perspective to their areas of expertise. For example, when employees experience problems relating to their interactions with persons of a different ethnicity or cultural background, this is often treated as an EEO issue. But resolving the situation might require not just a limited EEO intervention but a more systematic effort to understand the values conflicts that underlie employee behaviors and how the organization's ethical environment and culture can be improved. IntegratedEthics provides structures and processes to develop practical solutions for improving ethics quality across all these content domains.

### Rules-Based and Values-Based Approaches to Ethics

In addition to addressing ethics quality at all levels and across the full range of domains in which ethical concerns arise, the IntegratedEthics model takes into account both rules- and values-based approaches to ethics.

Rules-based ethics programs are designed to prevent, detect, and punish violations of law.[25,26,30] Such programs tend to emphasize legal compliance by:[31]

- communicating minimal legal standards that employees must comply with
- monitoring employee behavior to assess compliance with these standards

- instituting procedures to report employees who fail to comply
- disciplining offending employees

In contrast, values-based approaches recognize that ethics means much more than mere compliance with the law. As one commentator put it:

> You can't write enough laws to tell us what to do at all times every day of the week . . . We've got to develop the critical thinking and critical reasoning skills of our people because most of the ethical issues that we deal with are in the ethical gray areas.[32]

For values-based ethics programs, it is not enough for employees to meet minimal legal standards; instead, they are expected to make well-considered judgments that translate organizational values into action—especially in the "ethical gray areas."[25,26] To achieve this, values-based approaches to ethics seek to create an ethical environment and culture. They work to ensure that key values permeate all levels of an organization, are discussed openly and often, and become a part of everyday decision making.

IntegratedEthics recognizes the importance of compliance with laws, regulations, and institutional policies, while promoting a values-oriented approach to ethics that looks beyond rules to inspire excellence.

## *The IntegratedEthics Model*

An IntegratedEthics program improves ethics quality by targeting the three levels of quality—decisions and actions, systems and processes, and environment and culture—through three core functions: ethics consultation, preventive ethics, and ethical leadership.

### Ethics Consultation

When people make a decision or take an action, ethical concerns often arise. An ethics program must have an effective mechanism for responding to these concerns to help specific staff members, patients, and families. An *ethics consultation service* is one such mechanism. Today, every VA medical center has an ethics consultation service, but there's great variability across the VA health care system in terms of the knowledge, skills, and processes brought to bear in performing ethics consultation. Ethics consultation may be the only area in health care in which we allow staff who aren't required to meet clear professional standards, and whose qualifications and expertise can vary greatly, to be so deeply involved in critical, often life-and-death decisions.

IntegratedEthics is designed to address that problem through CASES, a step-by-step approach to ensuring that ethics consultation is of high quality. The CASES approach was developed by the National Center for Ethics in Health Care to establish standards and systematize ethics consultation. ECWeb, a secure, web-based database tool, reinforces the CASES approach, helps ethics consultants manage consultation records, and supports quality improvement efforts. IntegratedEthics also provides assessment tools and educational materials to help ethics consultants enhance their proficiency.

**The CASES Approach**

**C**larify the consultation request
**A**ssemble the relevant information
**S**ynthesize the information
**E**xplain the synthesis
**S**upport the consultation process

Ethics consultation services handle both requests for consultation about specific ethical

concerns and requests for general information, policy clarification, document review, discussion of hypothetical or historical cases, and ethical analysis of an organizational ethics question. By providing a forum for discussion and methods for careful analysis, effective ethics consultation:

- promotes health care practices consistent with high ethical standards
- helps to foster consensus and resolve conflicts in an atmosphere of respect
- honors participants' authority and values in the decision-making process
- educates participants to handle current and future ethical concerns

### Preventive Ethics

Simply responding to individual ethics questions as they arise isn't enough. It's also essential to address the underlying systems and processes that influence behavior. Every ethics program needs a systematic approach for proactively identifying, prioritizing, and addressing concerns about ethics quality at the organizational level. That's the role of the IntegratedEthics preventive ethics function.

To support preventive ethics, the National Center for Ethics in Health Care adapted proven quality improvement methodologies to create ISSUES—a step-by-step method for addressing ethics quality gaps in health care. The IntegratedEthics Toolkit provides practical tools and educational materials to support facilities as they apply the ISSUES approach to improve ethics quality at a systems level.

**The ISSUES Approach**

**I**dentify an issue
**S**tudy the issue
**S**elect a strategy
**U**ndertake a plan
**E**valuate and adjust
**S**ustain and spread

Preventive ethics aims to produce measurable improvements in an organization's ethics practices by implementing systems-level changes that reduce disparities between current practices and ideal practices. Specific quality improvement interventions in preventive ethics activities may include:

- redesigning work processes
- implementing checklists, reminders, and decision support
- evaluating organizational performance with respect to ethics practices
- developing policies and protocols that promote ethical practices
- designing education for patients and/or staff to address specific knowledge deficits
- offering incentives and rewards to motivate and reinforce ethical practices among staff

### Ethical Leadership

Finally, it's important to deal directly with ethics quality at the level of an organization's environment and culture. Leaders play a critical role in creating, sustaining, and changing their organization's culture, through their own behavior and through the programs and activities they support and praise, as well as those they neglect and criticize. All leaders must undertake behaviors that foster an ethical environment—one that's conducive to ethical practice and that effectively integrates ethics into the overall organizational culture.

Leaders in the VA health care system have unique obligations that flow from their

overlapping roles as public servants, providers of health care, and managers of both health care professionals and other staff. These obligations are sharpened by VA's commitment to providing health care to veterans as a public good, a mission born of the nation's gratitude to those who have served in its armed forces.

- As public servants, VA leaders are specifically responsible for maintaining public trust, placing duty above self-interest, and managing resources responsibly.
- As health care providers, VA leaders have a fiduciary obligation to meet the health care needs of individual patients in the context of an equitable, safe, effective, accessible, and compassionate health care delivery system.[33]
- As managers, VA leaders are responsible for creating a workplace culture based on integrity, accountability, fairness, and respect.[33]

To fulfill these roles, VA leaders not only have an obligation to meet *their f*undamental ethical obligations, they also must ensure that employees throughout the organization are supported in adhering to high ethical standards. Because the behavior of individual employees is profoundly influenced by the culture in which those individuals work, the goal of ethical leadership—and indeed, the responsibility of all leaders—is to foster an ethical environment and culture.

The ethical leadership function of IntegratedEthics calls on leaders to make clear through their words and actions that ethics is a priority, to communicate clear expectations for ethical practice, to practice ethical decision making, and to support their facility's ethics program. These four "compass points" of ethical leadership are supported by tools and educational materials developed for IntegratedEthics.

### *IntegratedEthics Program Management*

Two essential tasks for an IntegratedEthics program are to move ethics into the organizational mainstream and to coordinate ethics-related activities throughout the facility. This requires more than simply implementing the three core functions of IntegratedEthics; it also requires strong leadership support, involvement of multiple programs, and clear lines of accountability. These requirements are reflected in the structure recommended for IntegratedEthics programs within VA facilities.

The **IntegratedEthics Council** provides the formal structure for the IntegratedEthics program at the facility level. The council:

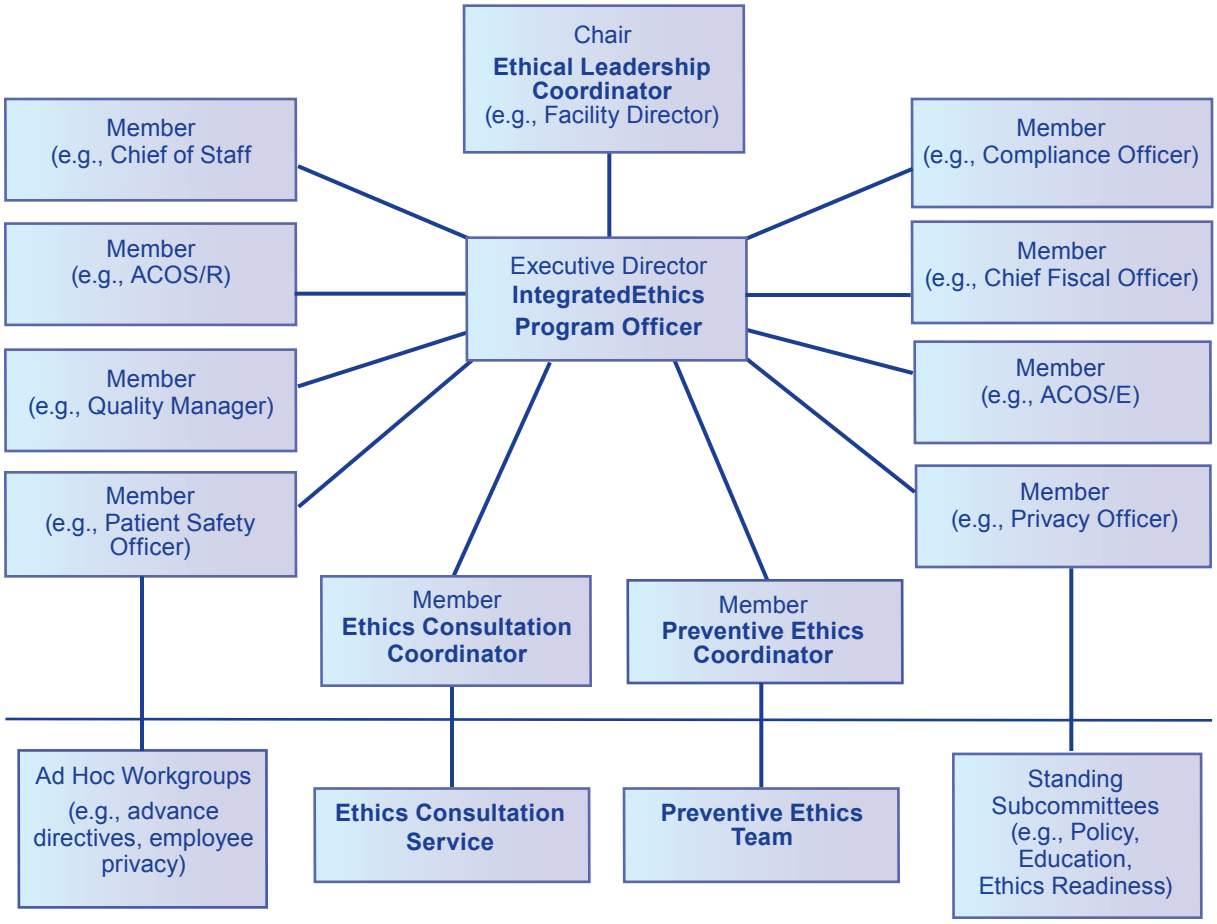
- oversees the implementation of IntegratedEthics
- oversees the development of policy and education relating to IntegratedEthics
- oversees operation of IntegratedEthics functions
- ensures the coordination of ethics-related activities across the facility

The **Ethical Leadership Coordinator** is a member of the facility's top leadership—e.g., the director. The Ethical Leadership Coordinator ensures the overall success of the IntegratedEthics program by chairing the IntegratedEthics Council, championing the program, and directing the ethical leadership function.

The **IntegratedEthics Program Officer** is responsible for the day-to-day management of the IntegratedEthics program, reporting directly to the Ethical Leadership Coordinator. The program officer works closely with the chair of the IntegratedEthics Council, functioning in the role of an executive director, administrative officer, or co-chair. The program officer should be a skilled manager and a well-respected member of the staff.

## IntegratedEthics Program Structure

### *IntegratedEthics Council*




The membership of the council also includes the **Ethics Consultation Coordinator** and the **Preventive Ethics Coordinator,** who lead the ethics consultation service and preventive ethics teams, respectively. Each role requires specific knowledge and skills.

Finally, the council includes **leaders and senior staff** from programs and offices that encounter ethical concerns, for example:

- Chief of Staff
- Chief Fiscal Officer
- Associate Chief of Staff for Research
- Associate Chief of Staff for Education
- Patient Safety Officer
- Director, Quality Management
- Director, Human Resources
- Compliance & Business Integrity Officer
- Research Compliance Officer
- Information Security Officer
- Privacy Officer
- Nurse Manager

In addition to overseeing the **ethics consultation service** and the **preventive ethics team,** the IntegratedEthics Council may also oversee standing subcommittees (e.g., policy, education, and JCAHO ethics readiness), as well as one or more **ad hoc workgroups** convened to address specific topics identified by the council.

At the network level, IntegratedEthics is coordinated by the **IntegratedEthics Point of Contact,** who reports directly to the network director or the VISN Executive Leadership Council. In addition to serving as the primary point of contact with the National Center for Ethics in Health Care, this individual facilitates communication across facility IntegratedEthics programs and monitors their progress in implementing IntegratedEthics.

Finally, a VISN-level **IntegratedEthics Board** helps to address ethical issues on a network level, especially those that cut across facility boundaries.

### IntegratedEthics Program Tools

IntegratedEthics emphasizes distance learning and combines the use of print, video, and electronic media to provide a wide array of resources. These include reference materials and video courses relating to each of the three functions; operational manuals (toolkits) and administrative tools to help program staff organize and document their activities; assessment tools for evaluating program quality and effectiveness; communications materials about IntegratedEthics; and online learning modules to build staff knowledge of ethics topics.

## *A New Paradigm for Ethics in Health Care*

IntegratedEthics builds on VA's reputation for quality and innovation in health care. Like VA's seminal work in performance management, its groundbreaking program in patient safety, and its highly acclaimed electronic medical record system, IntegratedEthics represents a paradigm shift. By defining ethics quality to encompass all three levels of the "iceberg," the full range of ethics content domains, and both rules- and values-based approaches to ethics, IntegratedEthics provides a new way of thinking about ethics in health care. And its practical, user-friendly tools are designed to translate theory into practice—to make ethics an integral part of what everyone does every day.

IntegratedEthics refocuses an organization's approach to ethics in health care from a reactive, case-based endeavor in which various aspects of ethics (e.g., clinical, organizational, professional, research, business, government) are handled in a disjointed fashion, into a proactive, systems-oriented, comprehensive approach. It moves ethics out of institutional silos into collaborative relationships that cut across the organization. And it emphasizes that rules-oriented, compliance approaches and values-oriented, integrity approaches *both* play vital roles in the ethical life of organizations.

| *From . . .* | *To . . .* |
|---|---|
| Reactive | Proactive |
| Case based | Systems oriented |
| Narrow | Comprehensive |
| Silos | Collaboration |
| Punishment | Motivation |
| Rules | Rules + Values |

By envisioning new ways of looking at ethical concerns in health care, new approaches for addressing them in all their complexity, and new channels for achieving integration across the system, IntegratedEthics empowers VA facilities and staff to "do the right thing" *because* it's the right thing to do.

| Tool | Function | | |
|---|---|---|---|
| | **Ethics Consultation** | **Preventive Ethics** | **Ethical Leadership** |
| ***Reference Tools Primers*** | *Ethics Consultation: Responding to Ethics Questions in Health Care* | *Preventive Ethics: Addressing Ethics Quality Gaps on a Systems Level* | *Ethical Leadership: Fostering an Ethical Environment & Culture* |
| ***Easy Reference Tools*** | CASES pocket card | ISSUES pocket card | Leadership bookmark |
| ***Administrative Tools*** | Ethics Case Consultation Summary & Template<br>ECWeb | Preventive Ethics ISSUES Log & Summary<br>Preventive Ethics Meeting Minutes<br>Preventive Ethics ISSUES Storyboards<br>Preventive Ethics Summary of ISSUES Cycles | |
| | IE master timeline<br>Timelines for function coordinators | | |
| ***Assessment Tools*** | Ethics Consultant Proficiency Assessment Tool<br>Ethics Consultation Feedback Tool | | Ethical Leadership Self-Assessment Tool |
| | IntegratedEthics Facility Workbook<br>(instrument, guide to understanding results)<br>IntegratedEthics Staff Survey<br>(introduction, survey instrument, FAQs) | | |
| ***Education Tools*** | Ethics consultation video course<br>Training checklist & video exercises (1–4) | Preventive ethics video course<br>Training checklist & video exercise | Ethical leadership video course<br>Training checklist |
| | IntegratedEthics online learning modules: Ethics in Health Care, Shared Decision Making with Patients, Ethical Practices in End-of-Life Care, etc. | | |
| ***Communications Materials*** | Improving Ethics Quality: Looking Beneath the Surface<br>IntegratedEthics: Closing the Ethics Quality Gap<br>Business Case for Ethics<br>IntegratedEthics poster<br>IntegratedEthics brochure<br>IntegratedEthics slides | | |

# Part II

# Introduction to Ethics Consultation in Health Care

## What Is Ethics Consultation in Health Care?

For the purposes of this document, we define ***ethics consultation in health care*** as *a service provided by an individual ethics consultant, ethics consultation team, or ethics committee to help patients, staff, and others resolve ethical concerns in a health care setting.*

### The goals of ethics consultation

The overall goal of ethics consultation is to *improve health care quality by facilitating the resolution of ethical concerns*. By providing a forum for discussion and methods for careful analysis, effective ethics consultation:

- promotes practices consistent with high ethical standards
- helps to foster consensus and resolve conflict in an atmosphere of respect
- honors participants' authority and values in the decision-making process
- educates participants to handle current and future ethical concerns

### A brief history of ethics consultation

Ethics consultation in health care settings dates back nearly 35 years. In the 1970s the first consultation services were established. In the 1980s a professional society devoted to ethics consultation was formed, and the first books on ethics consultation were published.[34,35] In the mid-1990s a national consensus conference described goals of ethics consultation and methods for evaluating its quality and effectiveness.[36] In 1998 the ASBH published *Core Competencies for Health Care Ethics Consultation*, a report that describes the proficiencies required for health care ethics consultation.[37]

### Health care ethics consultation today

Ethics consultation is now widely recognized as an essential part of health care delivery. The vast majority of U.S. hospitals have active ethics consultation services.[23] The Joint Commission for Accreditation of Healthcare Organizations requires that hospitals develop and implement a process to handle ethical concerns when they arise.[33] The Malcolm Baldrige National Quality Award Program recognizes "ethical practices in all stakeholder transactions and interactions" as a key criterion for performance excellence.[27] Moreover, ethics consultation has been endorsed by numerous governmental and professional bodies and is legally mandated under specific circumstances in several states.[38]

Effective ethics consultation has been shown to improve ethical decision making and practice, enhance patient and provider satisfaction, facilitate the resolution of disputes, and increase knowledge of health care ethics.[39] Moreover, ethics consultation has been shown to save health care institutions money by reducing the provision of nonbeneficial treatments, as well as lengths of stay.[9–12]

### *The ethics consultation service*

It is therefore essential for every health care facility to have an effective local mechanism for responding to ethical concerns—that is, an ***ethics consultation service***. Ethics consultation services handle ***ethics case consultations*** as well as other types of consultations, including requests for general information, policy clarification, document review, discussion of hypothetical or historical cases, or ethical analysis of an organizational ethics question.

## *What Models May Be Used to Perform Ethics Consultation?*

Health care ethics consultation may be performed by an individual ethics consultant, an ethics committee, or an ethics consultation team.

As discussed below, each model has advantages and disadvantages. Although some ethics consultation services might rely exclusively on one of these three models, we generally recommend against this, since all three models have their place. Instead, *for **each** consultation, the ethics consultation service should determine which model is most appropriate given the particular request*. For example, some consultations can be best addressed by an individual consultant and some by the ethics committee or ethics consultation team model. Ethics consultation services should have consistent processes for determining how different types of consultations will be handled.

### *Individual ethics consultant model*

In this model, one person—either an independent "solo" consultant or a member of an ethics consultation team or committee—is assigned to perform a given consultation individually.

*Advantages:*

- most efficient model[23]
- fewer logistical hurdles (e.g., scheduling meetings)
- quicker response to urgent consultation requests

*Disadvantages:*

- consultant must possess all required knowledge and skills
- fewer checks and balances to protect against consultants' personal biases

It's incumbent on the individual ethics consultant to recognize his or her limitations and get help when needed. The successful ethics consultant will build a web of strong, collegial relationships in his or her facility and network and will call on others for assistance with

particular ethical, legal, cultural, or religious concerns. Even the most highly trained and experienced ethics consultant benefits from discussing complex cases with outside experts. In addition, individual consultants should systematically seek feedback—e.g., by reviewing completed consultations with colleagues.

*The individual ethics consultant model is generally appropriate only for the most straightforward consultations and for the most proficient ethics consultants.*

### Ethics committee model

In this model, a standing interdisciplinary committee—that is, a relatively stable group of people (typically between 6 and 20)—jointly performs a given consultation.

*Advantages:*

- facilitates collective proficiency
- includes ready access to diverse perspectives and multidisciplinary expertise

*Disadvantages:*

- requires a great deal of staff time
- not well suited to situations that require a rapid response
- diffusion of responsibility across committee members can contribute to complacency and "groupthink"
- patients and family members may feel intimidated by a large group of professionals

*The committee model may be especially useful for ensuring broad organizational input into difficult consultations, including those that might establish precedent or end up in the media or the courts.* This model may also be useful to facilities that are relatively new to ethics consultation, handle a low volume of consultations, and/or lack specialized ethics expertise.

### Ethics consultation team model

In this model, responsibility for a given ethics consultation is shared by a small group of qualified consultants chosen on the basis of their complementary perspectives and expertise relevant to the circumstances.

*Advantages:*

- several perspectives and diverse expertise
- flexibility for a rapid response
- composition of team can vary to meet the situation
- less intimidating than the committee model for patients and families
- a natural forum for support and reflection

*Disadvantages:*

- less efficient than the individual consultant model
- fewer checks and balances than the committee model

This model allows for tasks to be divided among members of the team. For example, it is not necessary for every team member to go to the patient's bedside or attend a family meeting. A single member may perform both roles and then report back to the others on

the team. Deciding which member of the team has the best skills and knowledge to take the lead for a particular consultation calls for insight and good judgment.

*The team model accommodates a wide range of situations and levels of consultant expertise and is in some ways a compromise between the individual and committee models*. It's used more commonly than other models—two-thirds of hospitals in the United States, both within and outside VA, indicate that they use the team model more commonly than they do either the individual or the committee model.[23]

## What Proficiencies Are Required to Perform Ethics Consultation?

The 1998 ASBH report *Core Competencies for Health Care Ethics Consultation*[37] discusses the knowledge, skills, and character traits required for ethics consultation and notes that when an individual consultant performs ethics consultation, the consultant must have advanced knowledge and skills across multiple areas. In contrast, when the team or committee model is used, requisite knowledge and skills can be distributed across the various members of the group.

Of course, the greater the collective expertise in an ethics consultation service, the more useful and effective that service will be. Although basic knowledge and skills may be developed through practical experience, development of advanced knowledge and skills generally requires a more rigorous and systematic approach to learning (e.g., formal coursework, in-depth reading and discussion, supervised practice with feedback).

The knowledge, skills, and character traits described below are adapted from the ASBH report.

### Knowledge

Successful ethics consultation requires knowledge of:

- moral reasoning and ethics theory, including familiarity with a variety of approaches to ethical analysis, such as principle-based and casuist
- ethical issues and concepts in the areas of shared decision making, end-of-life care, privacy and confidentiality, professionalism, resource allocation, research, business and management ethics, ethics of government service, and ethics of the everyday workplace
- health care practices, especially clinical literacy—i.e., the ability to understand medical terms, and descriptions of disease processes, treatments, and prognoses; familiarity with medical decision making, current or emerging technologies, and the different roles, relationships, and expertise of health care providers
- cultural and religious issues, including how culture, religious tradition, ethnicity, beliefs, and perspectives shape both providers' and patients' responses to illness death, and medical treatment

- health care environment, including VHA and local facility mission statements, organizational structures, range of service and points of care, and policies (e.g., informed consent, advance directives, privacy and confidentiality, organ and tissue donation, medical records)
- health law, significant legal cases and concepts, and relevant codes of ethics and professional conduct

### *Skills*

Ethics consultation also requires specific skills. Those who perform ethics consultation must be able to:

- identify the nature of the uncertainty at the heart of the case
- analyze the ethical concerns
- identify and evaluate the ethically justifiable options
- facilitate formal and informal meetings, including those involving highly charged issues or participants who may be emotionally distressed
- build consensus when there are competing moral views and/or multiple ethically justifiable options
- collect and verify clinical and other relevant information
- demonstrate critical thinking
- listen well
- communicate effectively and respectfully
- recognize and address barriers to communication
- foster a respectful, supportive environment for expression of moral views
- educate participants about ethical issues
- document consultations in the health and consultation service records
- use institutional resources effectively
- evaluate consultations

### *Character traits*

Ethics consultants should also display certain character traits. For example, when appropriate, consultants should exhibit:

- humility
- tolerance
- patience
- compassion
- honesty
- forthrightness
- self-knowledge
- prudence
- integrity
- courage

Individuals who are unable to demonstrate these traits when the situation demands it are generally not well suited to perform ethics consultation.

A tool for evaluating the proficiency of ethics consultants is available on the Center's website, vaww.ethics.va.gov/IntegratedEthics.

## What Are the Critical Success Factors for Ethics Consultation?

In complex organizations certain factors are generally predictive of the likelihood that a specialized service will achieve its goals. To provide an effective mechanism for addressing ethical concerns in health care, a consultation service must have *integration, leadership support, expertise, staff time,* and *resources. Access, accountability, organizational learning,* and *evaluation* are additional factors that should be ensured. Because all these factors are critical for the success of ethics consultation services, each should be addressed in *policy.*

### Integration

The successful ethics consultation service doesn't function as a silo; it develops and maintains positive relationships with the various individuals and programs that shape the organization's ethical environment and practices. In this way, it serves the entire institution, not just a particular category of staff (such as physicians), a particular setting (such as intensive care), or a particular clinical service (such as surgery). A fully integrated ethics consultation service responds directly to a wide range of ethical concerns faced by the organization, including concerns involving shared decision making with patients, ethical practices in end-of-life care, patient privacy and confidentiality, professionalism in patient care, and ethical practices in resource allocation. And by establishing effective working relationships across the organization, a fully integrated ethics consultation service carries out its activities in coordination with other offices and programs that address ethical concerns in other domains, such as business and management, government service, research, or workplace interactions, and is available as an ethics resource for the organization as a whole, not just for clinical services.

The ethics consultation service should look for opportunities to share activities and skills, or to identify and work to achieve mutual goals. For example, the ethics consultation service might enlist the facility's quality management program to help evaluate the service's performance. In addition, the ethics consultation service should develop ongoing working relationships with other facility programs and departments that commonly encounter ethics-related issues (e.g., chaplain service, patient advocate program, legal counsel, research, compliance and business integrity, human resources). The establishment of these relationships will help promote collaboration and ensure that staff members across different services and programs understand one another's skills and roles, thereby contributing to the overall efficiency of the organization.

The structure of an IntegratedEthics program is designed to promote and support such relationships through a local IntegratedEthics Council responsible for bringing together leaders from key offices and programs, including coordinators of the three core IntegratedEthics functions (ethics consultation, preventive ethics, and ethical leadership), and coordinating ethics-related activities across the organization.

### Leadership support

Explicit leadership support is essential if the goals of ethics consultation are to be realized. Ultimately, leaders are responsible for the success of all programs, and health care ethics consultation is no exception. It's leaders who establish organizational priorities and allocate resources to support those priorities. *Unless leaders support—and are perceived to support—the ethics consultation function in a facility, the consultation function cannot succeed.*

Leaders at all levels and throughout the organization can and should support an ethics consultation service in several ways:

- understand the scope and role of the ethics consultation service
- seek advice from the ethics consultation service when appropriate
- encourage others to utilize the ethics consultation service

Leaders who supervise employees who are members of the ethics consultation service should also:

- include responsibilities of ethics consultation in staff performance plans
- recognize staff for their ethics consultation activities

Finally, top organization leadership—i.e., leaders at the executive leadership and mid-manager level—should:

- keep up to date on the activities of the ethics consultation service
- regularly update staff on those activities
- ensure that other critical success factors are in place, as described below

### *Expertise*

Leaders of health care facilities as well as those who are responsible for ethics consultation should ensure that consultation services have the requisite expertise. Regardless of the consultation model used, all the proficiencies outlined in the previous section of this document must be represented in the ethics consultation service. Individual members of the service may have different proficiencies, and some proficiencies may be represented by only one person. Collectively, however, the full set of core competencies noted above must be represented on the service and available when needed for a particular consultation.

Most facilities should recruit or train their own in-house ethics consultants. When in-house expertise is not sufficient, facilities need to arrange access to outside experts. For example, some VA facilities engage the services of an outside ethics consultant on a contractual or fee basis—this may be most appropriate for small facilities that handle only a few consultations a year. Other facilities may choose to establish agreements with a university affiliate's health care ethics program.

A tool for evaluating the proficiency of ethics consultants is available on the Center's website, vaww.ethics.va.gov/IntegratedEthics.

### *Staff time*

Facility leaders should also ensure that adequate staff time is available for ethics consultation activities. Ethics consultation can be time consuming and individuals responsible for this service need dedicated time to do their work. In a given facility, the time required for ethics consultation will vary depending on the types of consultations handled.[23] For example, even a straightforward ethics consultation will typically take several person-hours, while complex cases—especially those that are novel or precedent setting—may require many hours from multiple individuals over an extended period. Depending on the circumstances, a consultation may take a week or more and add up to 20 person-hours or more of effort.

Ethics consultation services handle a variety of requests. Although the major part of consultants' time is likely to be devoted to helping address ethical concerns as they arise in the care of individual patients, consultants are also asked for assistance with many other matters. For example, the service may receive requests for general information or education, clarification of policy, review of documents, ethical analysis of hypothetical or historical cases, or organizational ethics questions. When all the person-hours devoted to ethics consultation are taken into account, the most active of ethics consultation services may require a time commitment equivalent to a dedicated full-time staff member (FTE). And this doesn't take into account other ethics-related responsibilities individual consultants may have, such as helping to develop policy or educating staff about ethics.

*Consultation should not be viewed as an optional or voluntary activity, but as an assigned part of employees' jobs that requires dedicated time.* Individuals who participate in ethics consultation should have a clear understanding with their supervisors about how much time this activity involves.

### Resources

Leaders of health care facilities should also ensure that individuals who perform ethics consultation have ready access to needed resources, such as workspace, clerical or data entry support, library materials, and ongoing training, to name a few. Many useful ethics resources are available online, so access to the Internet is essential as well. The National Center for Ethics in Health Care has developed a variety of materials to help support ethics consultation. These and other ethics resources are available on the Center's website, vaww.ethics.va.gov/IntegratedEthics.

### Access

To be effective, an ethics consultation service must be accessible to the patients, families, and staff it serves. The service should be available not only in acute care hospitals but across all parts of the organization. Typically, ethics consultation services are most active in inpatient clinical settings. Yet ethical concerns are also common in outpatient clinics, long-term care facilities, home care, and other settings, including nonclinical settings. *Ethics consultation services should take steps to ensure that patients and staff are aware of the ethics consultation service, what it does, and how to access it*. The service should be publicized through brochures, posters, newsletters, and other media through which patients and staff regularly receive information about the facility.

Like most other health care services, the ethics consultation service should be available throughout normal work hours. This means that whenever someone attempts to contact the service, a consultant will get back in touch with that person in a timely fashion (e.g., within one business day for routine requests, and as soon as possible on the same day for urgent requests). After-hours coverage arrangements may vary. In facilities where the volume of consultation requests is high, ethics consultants should be available by beeper over weekends, nights, and holidays. In other facilities where there are fewer ethics consultations, requests may be triaged by an administrator who has access to an ethics consultant as needed.

It's most desirable for ethics consultants to work on site, but in some facilities this may not be possible. In such circumstances, consultants must rely on videoconferencing, teleconferencing, and to a lesser extent, encrypted e-mail or secure online messaging.

Such methods may be unavoidable for geographically remote facilities but must be used cautiously. Rigorous attention is required to ensure that evolving expectations and standards for the security of sensitive electronic information are met. Consultants who work off site must make special effort to overcome the variety of obstacles they face. For example, the consultant may have difficulty gaining access to the patient's health record. Similarly, it may be logistically impossible to interview a patient on a ventilator in the ICU because he cannot talk on the telephone. And it can be challenging to establish trusting relationships without face-to-face meetings.

Requests for ethics consultations that involve ongoing patient care should only be accepted from someone who has "standing" in the case—that is, a person who is rightfully involved. For example, the patient and his or her close family members would have standing in a case, as would those clinical staff, medical students, and administrators who are directly responsible for the patient's care. Individuals who would not have standing might include a member of the media or someone who heard about the case secondhand.

While requests for ethics consultation involving an active clinical case should only be accepted from someone who has standing in the case, requests involving other matters should be accepted from a broad range of individuals connected to the facility. Such consultations might include, for example, requests for policy clarification or document review.

Anonymous requests for ethics consultation are problematic for a variety of reasons and, as a rule, should not be accepted. The concept of service is central to ethics consultation. When no one is identified as the requester, it is unclear whom the consultation serves, and it may be perceived as more meddlesome than helpful. Moreover, if the requester remains anonymous, the consultant cannot clarify the nature of his or her concern(s) or determine whether the requester has standing in the case. In addition, anonymous requests typically amount to allegations of unethical conduct, which must be addressed through other means. An ethics consultation service cannot be effective if it earns the label of "ethics police." If an anonymous request suggests a serious breach of compliance with facility policy or the law, it should not be accepted as a consultation; the consultant should refer the request to the appropriate institutional office or service. In this respect, the ethics consultation service is somewhat analogous to a patient safety program, in that adverse events that involve an "intentionally unsafe act" similarly should not be accepted for root cause analysis but referred elsewhere.

Occasionally, an individual requests an ethics consultation in a nonanonymous fashion but asks to have his or her identity protected. Most commonly, trainees, nurses, or others who feel vulnerable in the organization make such requests. The consultant should privately explore why the requester doesn't wish to be identified. If the request doesn't involve an active clinical case, a limited, confidential consultation can usually be performed. But case consultations are different, since individuals other than the requester need to be involved. For case consultations, the consultant should warn the requester that although the ethics consultation team will not intentionally reveal his or her identity, others might infer it. Alternatively, the consultant can encourage the requester to consider other ways to address his or her concern.

### Accountability

Like any other important health care function, ethics consultation must have a clear system of accountability. *Day-to-day responsibility for the activities of the ethics consultation service should rest with a designated individual, the Ethics Consultation Coordinator*. In the IntegratedEthics model (see Part I), this individual is accountable to the IntegratedEthics Program Officer, who is in turn accountable to a member of the facility's top leadership (e.g., the facility director) who chairs the IntegratedEthics Council.

The IntegratedEthics Council provides a mechanism for oversight of the ethics consultation service and is responsible for establishing specific goals, structures, processes, and performance expectations for the service. The council also enables organizational leaders to monitor the service, its successes and failures, and whether it is accomplishing its goals. For example, the council might ask the ethics consultation coordinator to use the IntegratedEthics evaluation tools to present regular updates to the council, or to write quarterly or annual reports. Similar reports, when distributed more broadly to facility staff, serve as a useful reminder of the existence, availability, and value of the ethics consultation service.

### Organizational learning

It's important for ethics consultants to contribute to organizational learning by sharing their knowledge and experience with others in the organization. Group discussion of actual cases (appropriately modified to protect the identities of participants) is an excellent way to educate clinical staff. With relatively little effort, a consultation service note can be reworked into a newsletter article that summarizes an important ethics topic. Policy questions handled by the service can be turned into Frequently Asked Questions and posted on a website. Efforts such as these not only enhance staff knowledge, they also enhance the credibility and visibility of the ethics consultation service.

### Evaluation

Ensuring the success of the ethics consultation service also requires ongoing evaluation, by which we mean systematic assessment of the operation and/or outcomes of a program compared to a set of explicit or implicit standards, as a means of contributing to the continuous improvement of the program.[42] *This document establishes explicit standards for ethics consultation against which actual practices may be compared*.

For example, the critical success factors identified in this section should be systematically assessed:

- *Integration*—Is the consultation service well integrated with other components of the organization?
- *Leadership support*—Is the ethics consultation service sufficiently supported by leadership?
- *Expertise*—Do ethics consultants have the knowledge and skills required?
- *Staff time*—Do ethics consultants have adequate time to perform effectively?
- *Resources*—Do ethics consultants have ready access to the resources they need?
- *Access*—Is the ethics consultation service accessible to those it serves?
- *Accountability*—Is there clear accountability for ethics consultation within the facility's reporting hierarchy? Does the consultation service keep leadership apprised of its activities?

- *Organizational learning*—Is the ethics consultation service effectively disseminating its experience and findings?
- *Evaluation*—Does the ethics consultation service continuously improve its quality through systematic assessment?
- *Policy*—Are the structure, function, and processes of ethics consultation formalized in institutional policy?

Additionally, assessments should be made to determine whether ethics consultations are performed in accordance with the approach outlined in Part III, "CASES—A Step-by-Step Approach to Ethics Consultation."

Finally, efforts should be made to determine whether the ethics consultation service is meeting its professed goals. For example, does the service promote practices consistent with high ethical standards? Does it help to resolve conflicts in a respectful manner? Does it honor participants' authority and values in decision making? Does it effectively educate participants to handle current and future ethical concerns?

Evaluation is an important strategy to improve the process of ethics consultation (i.e., how ethics consultation is being performed) as well as its outcomes (i.e., how ethics consultation affects participants and the facility). Evaluation efforts need not be burdensome or costly. Experts in the facility, such as quality managers, can assist with developing appropriate ways to assess these factors to ensure that the measures used are valid and that data are collected and analyzed in a minimally burdensome fashion.

Assessment tools for evaluating the ethics consultation service are available on the Center's website, vaww.ethics.va.gov/IntegratedEthics.

### *Policy*

The structure, function, and processes of ethics consultation should be formalized in institutional policy. At a minimum, this policy should address the following topics:

- the goals of ethics consultation
- who may perform ethics consultations
- who may request ethics consultations
- what requests are appropriate for the ethics consultation service
- what requests are appropriate for ethics case consultation
- which consultation model(s) may be used and when
- who must be notified when an ethics consultation has been requested
- how participants' confidentiality will be protected
- how ethics consultations will be performed
- how ethics consultations will be documented
- who is accountable for the ethics consultation service
- how the quality of ethics consultation will be assessed and ensured

The Ethics Consultation Coordinator will work with the IntegratedEthics Council to develop policy for the consultation service as part of overall policy for the facility's IntegratedEthics program.

## Ethics Consultation Tools

The IntegratedEthics initiative emphasizes distance learning and the National Center for Ethics in Health Care has used print, video, and electronic media in designing tools to help ethics consultation services succeed, all of which are available on the Center's website, vaww.ethics.va.gov/IntegratedEthics.

| Category | Tool | Purpose |
|---|---|---|
| **Reference** | primer - *Ethics Consultation: Responding to Ethics Questions in Health Care* | To provide detailed guidance for the ethics consultation service |
| | CASES pocket card | To provide easy reference to the five-step CASES approach to ethics consultation |
| **Education** | Ethics consultation video course | To develop staff knowledge and skills in ethics consultation |
| | IntegratedEthics online learning modules | To develop staff knowledge of ethics in health care |
| **Administration** | *Ethics Consultation Toolkit: A Manual for the Ethics Consultation Coordinator* | To provide guidance and administrative tools for the function coordinator |
| | IntegratedEthics master timeline | To organize tasks and timelines |
| | Ethics Case Consultation Summary Template | To document the CASES approach in ethics consultations |
| | ECWeb | To manage consultation records and support quality improvement |
| **Evaluation** | Ethics Consultant Proficiency Assessment Tool | To assess consultants' knowledge and skills in ethics consultation to support service quality and professional development |
| | Ethics Consultation Feedback Tool | To inform improvements in service quality of ethics consultation |

The Center has also developed global assessment tools to help the IntegratedEthics Council identify gaps in the facility's ethics program and activities and set goals for improvement. In addition, a variety of general communications materials about the IntegratedEthics initiative—including an informational video, brochures, and handouts—is available on the Center's website, vaww.ethics.va.gov/IntegratedEthics.

# Part III

# CASES—A Step-by-Step Approach to Ethics Consultation

This section describes the CASES approach, a practical, systematic approach to ethics consultation. This approach involves five steps:

C

**CLARIFY** the Consultation Request

*Characterize the type of consultation request*
*Obtain preliminary information from the requester*
*Establish realistic expectations about the consultation process*
*Formulate the ethics question*

A

**ASSEMBLE** the Relevant Information

*Consider the types of information needed*
*Identify the appropriate sources of information*
*Gather information systematically from each source*
*Summarize the case and the ethics question*

S

**SYNTHESIZE** the Information

*Determine whether a formal meeting is needed*
*Engage in ethical analysis*
*Identify the ethically appropriate decision maker*
*Facilitate moral deliberation about ethically justifiable options*

E

**EXPLAIN** the Synthesis

*Communicate the synthesis to key participants*
*Provide additional resources*
*Document the consultation in the health record*
*Document the consultation in consultation service records*

S

**SUPPORT** the Consultation Process

*Follow up with participants*
*Evaluate the consultation*
*Adjust the consultation process*
*Identify underlying systems issues*

## Using the CASES Approach

The steps in the CASES approach were designed to guide ethics consultants through the complex process needed to respond effectively to requests for ethics consultation, especially those pertaining to active clinical cases. We intend this set of steps to be used in much the same way that clinicians use a standard format for taking a patient's history, performing a physical exam, or writing up a clinical case.

But not all requests for ethics consultation pertain to active clinical cases. For example, the request might involve retrospective review of a prior clinical case. Or requests might involve ethical concerns not immediately related to patient care, such as questions about conflict of interest or financial management. Thus a chief of staff might seek consultation about how to respond to a physician who is employed by a pharmaceutical company and wants to volunteer in a VA clinic seeing patients and training residents and fellows. Or a supervisor might ask for assistance in addressing concerns about fairness and consistency in practices for billing patients who are and those who are not employees.

We encourage consultants to use the CASES approach even when consultation requests don't involve active clinical cases. Not all the steps will be applicable in all situations, but working systematically through the steps that are relevant will help the consultant to respond effectively. In the examples above, for instance, many of the CASES steps (such as clarifying the ethics question, collecting relevant information, and completing and communicating an ethical analysis) do apply, while others (such as documenting the consultation in the patient's health record) do not.

A pocket card summarizing the CASES approach is available on the Center's website, vaww.ethics.va.gov/IntegratedEthics.

## Step 1: Clarify the Consultation Request

The first step in the CASES approach is to clarify the request. The consultant should gather information from the requester to form a preliminary understanding of the situation, why an ethics consultation is being sought, and how to proceed.

**CLARIFY** the Consultation Request

*Characterize the type of consultation request*
*Obtain preliminary information from the requester*
*Establish realistic expectations about the consultation process*
*Formulate the ethics question*

### *Characterize the type of consultation request*

Before doing anything else, the consultant should characterize the consultation request by determining: (1) whether the requester wants help resolving an ethical concern (in which case the request is appropriate for ethics consultation), and (2) whether the request pertains to an active clinical case (in which case the consultant should use the CASES approach).

**Question 1: Does the requester want help resolving an ethical concern?** The role of the ethics consultation service is to help patients, providers, and other parties in a health care setting resolve *ethical concerns*, i.e., uncertainties or conflicts about values. In this context, values are strongly held beliefs, ideals, principles, or standards that inform decisions or actions. These might include a belief that people should never be allowed to suffer; the ideal that health care workers should always be truthful with patients; the principle that no one should be discriminated against on the basis of his or her religion, ethnicity, or cultural background; or the standard of voluntary consent for research. Individuals who have ethical concerns may seek values clarification and/or resolution of values conflicts.

As a general principle, if the requester thinks that a circumstance raises an ethical concern, the assumption should be that it does. However, requesters may sometimes contact the ethics consultation service to seek assistance with concerns that are better handled by other offices or programs, such as legal questions, medical questions, requests for psychological or spiritual support, general patient care complaints, or allegations of misconduct.

*If the answer to Question 1 is no—that is, the requester doesn't want help resolving an ethical concern but is seeking assistance with another matter—the request isn't appropriate for ethics consultation.* Requests that don't pertain to ethical concerns should be referred to other offices in the organization. For example:

- *Legal* questions (e.g., "Will the facility get in trouble if we accept a commemorative plaque from a pharmaceutical company?" or "If we refuse to do the MRI, can the patient sue us?") should be referred to regional counsel or the VA Office of General Counsel. *Often requesters who are seeking legal advice want assistance resolving an ethical concern (uncertainty or conflict about values) as well. When a question*

*involves both legal and ethical concerns, the legal aspect should be referred to legal counsel and the ethical concerns addressed by the ethics consultation service.* (Note that questions specifically concerning standards of conduct for employees of the Executive Branch—i.e., "government ethics" standards—should always be referred to regional counsel or the Office of General Counsel.)

- *Medical* questions (e.g., "Will this patient regain decision-making capacity?" or "Does this Jehovah's Witness patient really need a blood transfusion?") should be referred to an appropriate clinical resource, service chief, or the chief of staff.
- *Requests for psychological* or *spiritual support* (e.g., "As a doctor, I'm having trouble coming to terms with my mistake" or "Someone needs to talk to the wife about her husband's impending death") should be referred to the local employee assistance program, chaplain service, social work program, or other mental health professional, as appropriate.
- *General patient care complaints* (e.g., "The doctor is insensitive and doesn't listen to me" or "I'm concerned that this nurse dresses inappropriately") should be referred to medical center administration, the local patient advocate program, the Office of the Medical Inspector, or other appropriate office or program.
- *Allegations of misconduct* (e.g., "An employee is backdating entries in the health record" or "That doctor is diverting VA patients to his university clinic practice") should be referred to the local compliance officer, medical center administration, the Compliance and Business Integrity Helpline, the VA Office of the Inspector General Hotline, or other appropriate office or program.

*If the answer to Question 1 is yes, consider Question 2.*

**Question 2: Does the request pertain to an active clinical case?** *If the answer to Question 2 is yes, the request pertains to an active clinical case, then the request is considered a "case" consultation and use of the CASES approach is required*. Working systematically through all the steps of the CASES process is essential to ensure the quality of ethics consultation on active clinical cases, even when members of an ethics consultation service are pressed for time.

Some ethics questions relating to an active clinical case may seem straightforward and too simple to warrant use of the CASES approach. However, even these questions should be addressed systematically and comprehensively because ethics consultations are often more complex than they are initially presented or perceived to be. For example, the information presented by the requester may not be complete or accurate and may change once additional information is collected. Or other parties involved may have morally relevant perspectives that aren't communicated by the requester but ought to be considered. For reasons like these, ethics consultations shouldn't be handled through an "informal" or "curbside" approach. (*Note: When ethics consultants are asked to comment informally on a clinical ethics question pertaining to an active clinical case, they should make it clear that they can only respond in general terms and absolutely cannot give recommendations about a specific patient's circumstances without completing a formal consultation process*.)

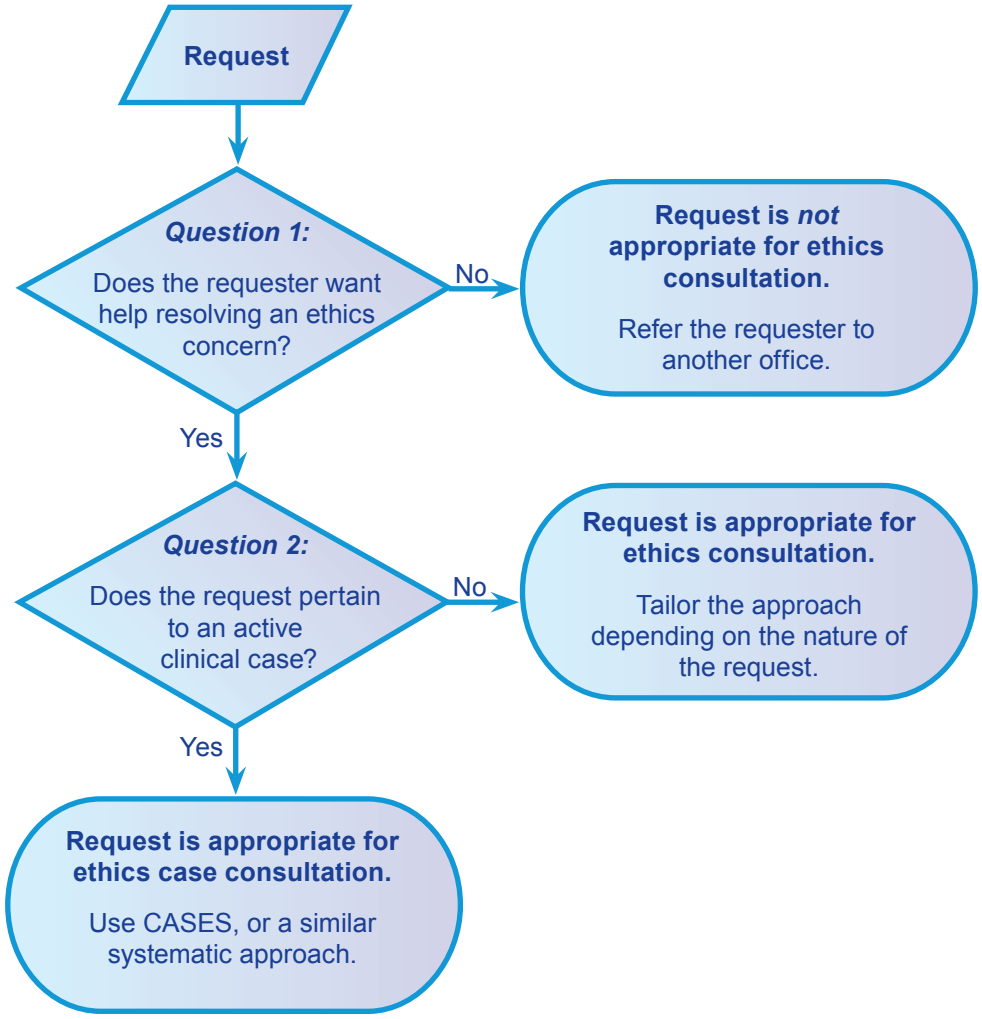
*If the answer to Question 2 is no—i.e., the request doesn't pertain to an active clinical case—then the request is considered a "noncase" consultation, and it may not be necessary or appropriate to use the CASES approach in its entirety*. Typically, noncase consultations include requests to:

- answer questions about ethics topics in health care
- interpret policy relating to ethics in health care
- review documents from a health care ethics perspective
- provide ethical analysis on organizational ethics questions
- provide ethical analysis on questions that are hypothetical or historical

Although the CASES approach was designed especially for case consultations, the steps in the CASES approach are relevant to noncase consultations as well and should be used whenever they are appropriate. For example, it's always important to clarify the question and do a thorough job of collecting information. But for a request involving a hypothetical or historical scenario, the consultant wouldn't be able to interview participants. Similarly, when a request for consultation doesn't involve patient care, the consultant wouldn't review the health record.

This decision rule is depicted schematically in **Figure 1**.

***Figure 1. Is the request appropriate for ethics case consultation?***



### *Obtain preliminary information from the requester*

Having characterized the type of consultation request, it's important to obtain information that will facilitate planning the next steps of the consultation process.

Consultants should obtain the following basic information:

- requester's contact information and title
- urgency of request
- brief description of the case and the ethical concern as the requester understands them
- requester's role vis-à-vis the case (e.g., attending physician, family member, administrator)
- steps already taken to resolve the ethical concern
- type of assistance desired (e.g., forum for discussion, conflict resolution, policy interpretation)

Once this information is obtained, the consultant should determine, in a preliminary way, which of the consultation models described above (Part II, "What Models May Be Used to Perform Ethics Consultation?") best suits the request, which consultant can best address the concerns it raises, and what steps should be taken next.

### *Establish realistic expectations about the consultation process*

The consultant should always provide a concise, clear description of the ethics consultation process and how it helps resolve ethical concerns. This is particularly important for requesters who are seeking ethics consultation for the first time as it can help correct misconceptions, for instance about the time frame or nature of the response that will be provided. The information can be communicated orally, electronically, or in print form. The information should include a clear statement of the goals of the ethics consultation process. Consultants should also attempt to identify and correct any misconceptions the requester may have about the ethics consultant's role. For instance, ethics consultants don't take over decision making in the case, nor do consultants automatically "rubber-stamp" the position of requester or the health care team. Finally, consultants should take time to explain how their role as an ethics consultant differs from other roles they play in the organization. For example, an ethics consultant who's also a medical specialist may be qualified to offer technical advice about medical treatments, but such advice would generally not be considered part of the ethics consultation process.

### *Formulate the ethics question*

Formulating the ethics question can be the single most difficult, yet most important, part of ethics consultation. Formulating the ethics question in a clear way allows all participants to focus on the central ethical concern and to work efficiently toward a solution. Formulating the ethics question poorly or imprecisely can sidetrack or derail the consultation process. In addition, in some instances, the process of clarifying the ethics question may lead to the realization that the situation is not appropriate for ethics consultation after all. For these reasons, ethics consultants should formulate the ethics question early in the process and examine this formulation again at a later stage, once all the relevant information has been assembled.

In an ethics consultation, an ***ethics question*** *asks which decisions or actions are ethically justifiable given an ethical concern*. The initial formulation of the question should state the question in a way that is helpful to those who will be involved in the consultation; it shouldn't emphasize abstract concepts or attempt to display the consultant's erudition. At the risk of reducing important issues in ethics to a formula, we suggest that an ethics question be constructed as shown in **Figure 2**.

***Figure 2. Formulating the ethics question***

**Use either of the following structures to formulate an ethics question:**

Given _____, what decisions or actions are ethically justifiable?
uncertainty or conflict about values

Given _____, is it ethically justifiable to _____?
uncertainty or conflict about values decision or action

In some ethics consultations there may be more than one ethical concern. When this occurs, it may be necessary to formulate more than one ethics question. At each step in the consultation process, all relevant ethics questions should be considered. Sometimes, as a consultation unfolds, the ethics question may change or additional questions may emerge. Nonetheless, formulating the central ethics question at the outset is essential, as it helps to focus subsequent steps.

**EXAMPLE**

Consider a case in which the surrogate for a patient who lacks decision-making capacity asks that mechanical ventilation be stopped. The health care team wishes to continue providing this treatment because they believe the patient might recover the ability to breathe on his own. They ask the ethics consultation service whether they should discontinue mechanical ventilation.

The ethics question in this case can be stated as:

Given ***the conflict between the surrogate's right to make health care decisions on behalf of the patient and the health care providers' obligation to act in the best interests of the patient,*** what decisions or actions are ethically justifiable?

or

Given ***the conflict between the surrogate's right to make health care decisions on behalf of the patient and the health care providers' obligation to act in the best interests of the patient,*** is it ethically justifiable to ***withdraw mechanical ventilation?***

Although the concern could be stated as a tension between the ethical principles of autonomy and beneficence, that formulation may be too general and abstract to be helpful to the participants at this stage.

## Step 2: Assemble the Relevant Information

The second step of the CASES approach is to assemble information relevant to the consultation request. In this step, consultants solicit data from multiple sources to build a more comprehensive picture of the circumstances surrounding the consultation request.

**ASSEMBLE** the Relevant Information

*Consider the types of information needed*
*Identify the appropriate sources of information*
*Gather information systematically from each source*
*Summarize the case and the ethics question*

### *Consider the types of information needed*

The CASES approach builds on the work of Jonsen, Siegler, and Winslade in defining topics that should be reviewed in every clinical ethics consultation.[43] Our experience with ethics consultation suggests a somewhat different formulation of information and we reframe Jonsen and colleagues' "medical indications," "patient preferences," "quality of life," and "contextual features" into three slightly different categories ("medical facts," "patient's preferences and interests," and "other parties' preferences and interests") and add "ethics knowledge" as a fourth category of information that needs to be reviewed for each ethics consultation.

**Medical facts.** When dealing with clinical ethics case consultations, ethics consultants must be well informed about the medical facts of the patient case. Indeed, some cases can be resolved merely by clearing up factual misunderstandings among patients, families, and members of the health care team. When gathering medical facts, consultants who have clinical training may be at an advantage relative to their nonclinical colleagues, since they can apply their medical knowledge to critically assess the accuracy and adequacy of the information. In general, the more limited the consultant's medical knowledge relevant to the case, the more effort is needed to collect, understand, and confirm the medical facts.

**Patient's preferences and interests**. Ethics consultants also need information about the patient's preferences, values, and perceived needs and interests as they pertain to the individual's clinical circumstances. To the extent possible, this information should be obtained directly from the patient, although other parties can add important insights to help put the patient's perspective into context. For patients who lack decision-making capacity, information about the patient's values and preferences should be obtained by examining advance directive documents and notes in the health record, speaking to the patient's surrogate decision maker, and interviewing other people, such as relatives, friends, and health care providers, who might have relevant information to share (for example, about the patient's cultural values and religious beliefs). This information from and about the patient should be used to frame conversations about the appropriate goals of care.

**Other parties' preferences and interests**. Next, ethics consultants need to collect information about other interests surrounding the case. Family, friends, and other

stakeholders who may be affected by the outcome of the case deserve to have their views and preferences considered. For example, the family may have concerns about financial matters or caregiver burdens; health care professionals may have issues related to professional integrity; the health care organization may have interests in protecting its reputation and pleasing outside stakeholders, such as Congress, unions, and veterans service organizations; and there may be public health concerns or other matters that affect the broader community. Also, appreciating the diverse and potentially competing perspectives surrounding a case enriches the consultant's grasp of the complexities involved and often leads to new insights and ideas.

**Ethics knowledge.** Finally, in response to a consultation request, it's important for the ethics consultant or team to draw on ethics knowledge relevant to the case, also known as "best thinking."[44] Ethics knowledge can be gleaned, for example, from codes of ethics, ethics standards and guidelines, consensus statements, scholarly publications, precedent cases, and applicable institutional policy and law. *For novice consultants, the "Assemble" step should always involve at least some reading about the topic and often should include a literature review.* For experienced consultants, the effort they need to devote to gathering ethics knowledge will vary; for example, if the consultant has in-depth training and previous experience directly relevant to the case at hand, he or she may not need to conduct a new literature review but simply reflect on what ethics knowledge is relevant to the case.

Ethics consultants should be familiar with a range of ethics-related journals and texts, know how to perform computer searches, and make good use of these skills to research a case when needed. Although reviewing the literature may seem daunting at first, as consultants gain experience they become more familiar with the topics and how to access information efficiently. For less experienced consultants, discussion with a more experienced consultant at this stage is another important resource.

Each ethics consultation service needs to have basic legal knowledge and ready access to legal expertise. Although the ethics consultation service shouldn't attempt to provide legal advice, consultants must appreciate the legal implications of cases and have a sense for when it is appropriate to seek advice from legal counsel. VA consultants should thoroughly understand a wide range of VA policies, including, for example, those relating to informed consent, advance care planning, privacy and confidentiality, patient safety, organ and tissue donation, and medical records. VA ethics consultants should also be familiar with regulations governing the conduct of employees of the Executive Branch and should refer questions involving these "government ethics" standards to regional counsel or the Office of General Counsel.

Finally, ethics consultants should build and sustain a network of outside contacts who can provide specialized ethics expertise as needed. Ethics experts can be found at other VA facilities, and in universities or ethics centers. In addition to the knowledge resources identified below ("Resources"), ethics materials are available on the website of the National Center for Ethics in Health Care, vaww.ethics.va.gov. For especially difficult or challenging cases in VA, support is available from the Center's consultation service.*

*VA employees may request consultation support from the National Center for Ethics in Health Care by email at vhaethics@va.gov. (Please remember that e-mail is not secure; requests for consultation support should not include personally identifiable information about patients or staff.)

### *Identify the appropriate sources of information*

**Patient.** In clinical ethics case consultations, failure to meet the patient can lead to serious quality problems. *A face-to-face visit with the patient is desirable in all ethics case consultations, except those in which that individual patient's perspective is not ethically relevant to resolving the concern*. For example, if a consultation is focused on whether to inform a patient about an adverse event that did not cause any apparent harm, the consultation may proceed without the patient's involvement.

Reports that the patient is not interactive or responsive shouldn't dissuade consultants from visiting the patient. Direct observation by itself can enrich the consultant's understanding of the patient's situation and reveal new information that wasn't readily available from other sources (e.g., the patient appears to enjoy television, or appears in distress). In addition, patients who lack decision-making capacity may still be able to communicate in ways that help to inform decisions others must make for them. For example, even patients who are quite cognitively impaired may be able to indicate their current experience of pain or their aversion to a feeding tube.

Unfortunately, face-to-face contact with the patient isn't always a realistic option, as when the consultant and the patient are separated geographically (e.g., the patient is receiving home care). Whenever interviewing the patient isn't a realistic option, the consultant must still ensure that the patient's status, preferences, values, and needs are accurately understood.

**Health record.** A careful review of the patient's health record is a necessary step in all ethics case consultations. Consultants shouldn't rely on the requester's brief summary of the patient's case but should *look to the health record to develop a detailed understanding of the clinical situation*. In addition to medical facts, the patient's record can reveal emotional reactions, judgments, and attitudes that may prove helpful in understanding and resolving conflicts. For instance, the health record may indicate that staff members harbor sad feelings about a patient's impending death from cancer. These powerful feelings may help explain a reluctance to limit life-sustaining treatment.

In addition to examining the patient's health record, ethics consultants should seek out other relevant documents that may not yet be in the record, such as advance directives, court papers establishing guardianship, or health records from other providers.

*Ethics consultants who have access to health records don't need specific authorization to access a particular patient's health record in response to a consultation request.* Under the Health Insurance Portability and Accountability Act (HIPAA), health care providers may access patients' records for the purpose of treatment, defined as "the provision, coordination, or management of health care and related services for an individual by one or more health care providers, including consultation between providers regarding a patient and a referral of a patient by one provider to another," or for the purpose of health care operations.[45,46] Thus under HIPAA ethics consultation on an active clinical case is considered part of the treatment process.

Although ethics consultants are authorized to view health records, when accessing patients' medical information they must comply with all relevant privacy policies and regulations.[47,48] For example, ethics consultants must access only the information they need to perform their function. Consultants should receive appropriate privacy training and be granted access to health records in accordance with local policy. If individuals

who are not VA employees participate in any aspect of clinical ethics consultation, the consultation service should seek guidance from the local privacy officer and/or regional counsel to ensure that these individuals meet all applicable legal requirements. In most circumstances this will involve requiring specific authorization granting these individuals access to identifiable patient information or appointing them to the staff per local policy (e.g., in volunteer or without compensation status).[49] Non-VA consultants should also be required to complete privacy training and to comply fully with all relevant privacy policies and regulations.[47]

**Staff**. The ethics consultant should interview key staff members who may have important information or views to share. This often includes the responsible attending physician, house staff, the primary nurse, and the patient's primary care provider (if different from the attending physician), as well as specialists or allied health providers critical to the case. Interviews with staff can be especially helpful in clarifying medical facts, treatment alternatives, and prognosis. For example, a dietitian may be the best person to speak to about options for patients who can't take food by mouth. A social worker may have invaluable information about placement and discharge planning. In addition, health care workers' personal interests and perspectives are often central to the consultation, especially when the circumstances involve a conflict between the patient or surrogate and the health care team.

**Family members and friends.** In many cases it's also important to interview other people familiar with the patient, such as close relatives and friends. Even with patients who retain decision-making capacity, family and friends may supply helpful contextual information, such as insights into patients' motivations or explanations about their religious beliefs. When contacting family members or friends, consultants must be careful to respect patients' privacy in accordance with VA policy and the law.

When a patient lacks decision-making capacity, responsibility for health care decisions falls to another person authorized to make decisions on the patient's behalf—the surrogate decision maker. The ethics consultant will need to interview the authorized surrogate to obtain information and to clarify for the surrogate his or her responsibilities as they apply to the case. It's often useful to supplement the information provided by the surrogate with information from other family members or friends—this is especially important when the surrogate does not seem to be adequately representing the patient's preferences or values or when there is conflict in the family.

### *Gather information systematically from each source*

**Collect sufficient information.** Ethics consultants should gather data from these sources in a thorough and systematic manner. The content and depth of information required will vary depending on the case at hand. For example, if the consultation is about a spouse who allegedly refuses to honor a patient's advance directive, information gathering should focus on confirming that the patient lacks decision-making capacity, establishing that the spouse is the authorized surrogate, ascertaining the patient's preferences and values, and interpreting how those preferences apply to the current situation, as well as clarifying the spouse's position and understanding his or her rationale.

**Verify the accuracy of information.** The quality of an ethics consultation depends on the accuracy of the information collected; thus consultants should ensure that the information they rely on is accurate. Whenever possible, information should be collected directly from the source rather than relying on secondhand reports. For example, if an advance directive is ethically relevant to the case, the document itself should be examined directly. It wouldn't be appropriate to rely on a description of the document's content. Similarly, if a family member's perspective is important, that person should be interviewed personally.

Consultants must also be alert to the possibility of bias, not only on the part of those who provide information but in how consultants themselves think about the information they collect. Even with the best of intentions it's difficult for individuals to be truly objective in gathering and processing information.[40] Whenever possible, consultants should verify information independently—that is, gather information from more than one source. For instance, in the case of a patient who lacks decision-making capacity, if two different people were to describe the patient's preferences in similar terms, this would lend credence and weight to that information. Consultants should also recognize that we often tend to give greatest weight to the first information we receive, whatever the source, and actively counteract this "primacy bias"—for example, by deliberately considering the opposite of their initial impression.[40]

**Distinguish facts from value judgments.** *Consultants should also be careful to distinguish facts from value judgments*, since case descriptions often reflect a combination of objective knowledge and opinions.

**EXAMPLE**

Suppose a nephrologist states that dialysis is futile for a particular patient.

She might mean by this that:

- *She believes that it isn't medically possible to dialyze the patient safely and effectively.*

  or

- *She believes that while it would be medically possible to dialyze the patient safety and effectively, it isn't "appropriate" to do so because in her opinion, the potential benefits of dialysis are minimal given the patient's cognitive impairments.*

On hearing the word "futile," ethics consultants should ask questions to determine exactly what the speaker means, such as:

- *Is the patient expected to die?*
- *If so, what are the chances the patient will survive a week? a month? a year?*
- *Are those estimates based on specific data or on general clinical judgment?*
- *Is there any possibility that the patient will improve enough to leave the ICU? to be discharged? to live independently?*

It may also be necessary to ask similar questions to clarify the recommended treatment plan and the possible alternatives.

Other potentially value-laden terms that need to be critically assessed include "terminally ill," "noncompliant," "quality of life," and "poor prognosis."

**Handle interactions professionally.** When approaching patients, families, and staff members for interviews, consultants should offer not only a personal introduction, but also a succinct description of the goals of ethics consultation and the CASES approach. For example, when the consultant first meets a patient who isn't familiar with ethics consultation, the consultant might explain that her job is to use her ethics knowledge and experience to help patients, families, and staff work through difficult decisions by listening to what everyone thinks and helping people decide the best thing to do. The consultant should also explain the ethics question in the case, as well as the interviewee's role in the consultation process. Consultants should make it clear that they will attempt to protect the rights and interests of all involved in the case.

Participation in ethics consultation is always voluntary, and anyone, including the patient or surrogate, may choose not to participate. Thus it's important to advise the patient that a consultation has been requested, but that doesn't mean that formal procedures for explicit "informed consent"—such as thoroughly explaining risks, benefits, and alternatives, or locating a surrogate if the patient lacks decision-making capacity—are required. Ethics consultation isn't a clinical treatment or procedure. Nonetheless, if a patient or surrogate objects to the ethics consultation, consultants should seriously consider whether it is in the best interests of the patient or the organization to proceed with the consultation despite the patient's objection.

Prior to visiting the patient, the consultant should notify the patient's attending physician. Notification is important for two reasons: first, as a courtesy, and second, to determine whether there are medical considerations that should influence the consultant's plans. For example, if the patient suffers from extreme paranoia, the patient's physician may advise the consultant to postpone interviewing him or her or may make suggestions about how to avoid aggravating the patient's condition. However, the attending physician may not use his or her authority to block a consultation that's initiated by another person with standing in the case, since this would effectively deny requesters access to the institutional resource designed to help them with their ethical concerns.

In their interactions with participants, ethics consultants should encourage all parties to participate. Consultants should also strive to remain empathically neutral; even in the most highly charged situations they should serve as models of respectful, professional behavior.

### *Summarize the information and the ethics question*

Once information has been assembled and verified, it should be summarized for the benefit of everyone involved in the consultation. The consultant may communicate the information in one-on-one conversations, in meetings, and/or in writing. The summary must include all the important information yet be clear and succinct. Consultants should be careful to report information from various sources respectfully and should attempt to reconcile contradictory information—the summary should describe the uncertainty or conflict, not contribute to it. Sometimes a clear and thorough summary is all that's needed to resolve the ethics question and the underlying ethical concern.

After summarizing the relevant case information, the consultant should reexamine and clarify the central ethics question. Often this requires reformulating the question as described under Step 1, "Clarify the Consultation Request."

## Step 3: Synthesize the Information

The third step in the CASES approach requires the consultant to synthesize the information about the case in an effort to address the ethical concern.

S

**SYNTHESIZE** the Information

*Determine whether a formal meeting is needed*
*Engage in ethical analysis*
*Identify the ethically appropriate decision maker*
*Facilitate moral deliberation about ethically justifiable options*

### *Determine whether a formal meeting is needed*

After assembling relevant information about the case, it's important for the ethics consultant to help others process the information for themselves to resolve any remaining uncertainty or conflict about values. Sometimes the best way to accomplish the synthesis step is to gather the key parties for a formal meeting facilitated by the ethics consultant. Formal meetings are especially useful when the patient, surrogate, or other parties aren't confident that their interests or views have been accurately represented or fully taken into account, when the parties are having trouble understanding one another's point of view, or when there are many different parties involved.

Some ethics consultants convene a formal meeting in every consultation and in fact use the meeting format to gather basic information. We find several problems with this approach. In our experience, a formal meeting isn't always necessary. Further, formal meetings can be logistically difficult and time consuming to arrange, which can delay the consultation process. In addition, such meetings consume a large number of person-hours, making them inefficient compared to other alternatives. Some people are uncomfortable speaking in front of a group; this is especially a problem for patients and family members, who may be intimidated by the presence of multiple representatives from the facility. If consultants rely on formal meetings as their primary means of gathering information, key pieces of information may not be available during the meeting, and there's little opportunity to verify that the information presented is accurate. In addition, consultants who enter a formal meeting "cold" or who fail to gather sufficient information in advance may find they're poorly prepared to discuss the relevant ethics knowledge in depth. For these reasons, we recommend that the consultant assemble most if not all of the relevant information before determining whether to convene a formal meeting.

If a formal meeting is needed, it may be arranged by the consultant or by a member of the treatment team. If possible, the consultant should communicate with each key participant before the meeting. A prior interview can help the patient or the surrogate feel safer and more comfortable talking openly during the meeting. The consultant should also make sure to review the relevant ethics knowledge in advance.

Once the group is assembled, the consultant should begin with introductions, explain the goals of ethics consultation and the role of the ethics consultant, and establish clear expectations and ground rules for the meeting. Ground rules might include asking parties

to treat one another with respect despite whatever strong feelings they may have, for example, by allowing one another to talk without interruption. When an ethics consultation is rife with conflict, formal meetings can be especially challenging. In such circumstances the success of the consultation may hinge on expert facilitation or mediation skills.[39]

Dubler and Liebman [39] suggest that mediation training offers a sound framework to attain the process and interpersonal skills needed for effective bioethics consultation. They propose a specific method called "bioethics mediation," which combines the perspective of ethics consultation with the tools and techniques of mediation and dispute resolution in order to facilitate a "principled resolution" to complex conflicts in the health care setting.

Being able to recognize power imbalances and address them effectively so that everyone has a chance to be heard is an important skill. In any formal meeting, the ethics consultant should take steps to "level the playing field"—that is, to help ensure that all parties involved, especially those who hold less power in the system, have an equal opportunity to express their views. Following a standard meeting protocol can help ensure that all positions are voiced. Failing to recognize the power dynamics in a consultation can even make the situation worse, not least by undermining the consultation process and eroding trust.

The consultant should also help parties to communicate effectively—for example, by helping to ensure that medical information is communicated clearly so that everyone involved has a good understanding of what's at stake. Making decisions under conditions of uncertainty is difficult and it's important that probabilities be expressed as clearly as possible to avoid bias and misinterpretation.[40] Thus the consultant might ask clinicians to reframe information about a likely outcome in the form of a percentage (1%), or better still, a natural number (1 in 100), instead of using terms like "rare" or "common" or "likely," which different individuals may interpret surprisingly differently.[40;41] The consultant should also help the parties clarify and express their values as they apply to the question at hand.

### *Engage in ethical analysis*

Whether or not a formal meeting is held, the ethics consultant needs to engage in ethical analysis by applying the relevant ethics knowledge to the consultation-specific information and the ethics question. This process involves rigorous, critical thinking to develop arguments and counterarguments based on consideration of principles, values, rights, obligations, analogous cases, and expected consequences. Ethical analysis is almost always enriched by discussion with and critique by other experienced ethics consultants. Another important part of ethical analysis is clarifying the relevant ethics concepts for the parties involved.

The ability to perform ethical analysis is one of the most difficult yet most important proficiencies an ethics consultant must master. Proficiency in ethical analysis requires a foundation of strong analytic skills, augmented by reading, study, and supervised practical experience over time. Ethics consultants should not rely exclusively on a single approach to ethical analysis; rather, they should draw on a broad repertoire of approaches and incorporate elements of multiple approaches as appropriate when analyzing a single case. Familiarity with a range of theoretical perspectives provides the consultant with a variety of different lenses to "combine and shift" in order to unpack tough ethics questions.[50]

Common approaches to ethical analysis that may be employed in ethics consultation are summarized in **Figure 3**.

***Figure 3. Approaches to ethical analysis***

***Principlism***

In their widely cited *Principles of Biomedical Ethics,*[51] Beauchamp and Childress lay out what is known as the "principlist" approach to ethical analysis. They describe four principles—autonomy, beneficence, non-maleficence, and justice—that many clinical ethics consultants explicitly draw on when they analyze a case. Ethics consultants should be familiar with these principles but must be cautious not to use them inappropriately. In particular, inexperienced consultants who don't have specific training in philosophy or humanities may be prone to overuse and/or apply the principles in an overly simplistic manner. Labeling the problem in terms of the principles and relying on this approach exclusively to reach a conclusion is not advisable. As Beauchamp and Childress themselves point out, the principles are not sufficiently detailed to provide practical guidance for ethics consultation, and relying on them as the primary method of ethical analysis should be avoided. For example, knowing that autonomy is in conflict with beneficence does not lead directly to practical recommendations in a particular case.

***Casuistry***

Other ethics consultants emphasize a "casuist" approach. Casuistry is a practical, as opposed to theoretical, approach to ethical decision making that attempts to determine the best response to a moral problem by drawing conclusions based on parallels with accepted responses to similar, "paradigmatic" cases. Jonsen, Siegler, and Winslade employ a casuist approach in their system of clinical ethics case consultation. Their widely read book *Clinical Ethics*[43] proposes a four-part system in which the central ethics question is analyzed in reference to medical indications, patient preferences, quality of life, and the distinctive contextual features of the case. These authors prompt consultants to include a range of factors in their ethical analysis, such as treatment goals and patient decision-making capacity. Caution should be employed when using casuistry as the sole method of ethical analysis because at times "paradigmatic" cases can conflict or be applied in a general way to circumstances that differ in subtle but ethically salient ways from the paradigm case.[39]

***Other Approaches***

Other important approaches to ethical analysis exist, including feminist ethics,[52,53] the deductivist "moral rules" approach,[54] and narrative ethics.[55,56] Like the approaches detailed above, all have specific advantages and disadvantages that might make them more or less applicable to a particular case.

### *Identify the ethically appropriate decision maker*

A surprising number of ethics consultations can be resolved simply by clarifying who the rightful decision maker is in the particular circumstances. A number of subtle issues may make it difficult to identify who is the ethically appropriate decision maker (or, at times, who are the appropriate decision makers), so the ethics consultant should approach this matter carefully.

Except under rare circumstances, such as a public health emergency, a patient who has decision-making capacity has the right to accept or reject any treatment or procedure that is offered, and this decision may not be overruled. When a patient lacks decision-making capacity, a search should be made for an authorized surrogate. Consultants may need to help staff determine who is authorized to serve as surrogate under VA policy, and to explain the obligations and limits of surrogacy. VA policy not only establishes a priority hierarchy of authorized surrogates but also mandates that such surrogates base their decisions on the patient's preferences and values if they are known, and if not, on the patient's best interests.[57] Thus the consultant should *work closely with the surrogate to determine the patient's relevant preferences and how they apply to the current situation*. For example, the consultant might ask the surrogate, "If your husband were able to talk to us, what would he say?"

*The decisions of a willing and able surrogate who is authorized to serve should generally be honored.* Consultants should try to support surrogates in the decision-making process. They should resist the temptation to second-guess an authorized surrogate's decision, for example, by speculating on a potential conflict of interest, because most patients want their surrogate to make decisions for them. In fact, patients often would want this even if the surrogate were to make a decision that is different from one they would have made themselves.[58,59] Only in rare cases when a surrogate insists on a decision that's clearly contrary to the patient's previously expressed wishes, values, or best interests should it be necessary to challenge a surrogate's decision. When the incapacitated patient has *no authorized surrogate*, the ethics consultant should facilitate the process described in VA policy.[57]

Since identification of the ethically appropriate decision maker often hinges on the question of the patient's capacity to make health care decisions, *ethics consultants need to thoroughly understand the concept of decision-making capacity and how it is determined*.[60] Although ethics consultants don't need to be able to assess decision-making capacity themselves, they should be able to determine whether capacity has been appropriately assessed. If a patient's observed capacity seems to be at odds with what's described in the patient's health record, the consultant should address the discrepancy with the responsible health care provider(s).

It should be noted that *the patient's (or surrogate's) primacy as the ethically appropriate decision maker is not absolute*. Society does not recognize a right for patients to receive any treatment they (or their surrogates) demand. Rather, responsibility for determining which treatment options are medically acceptable and will be offered—and therefore what options a patient may accept or refuse—rests with ***health care professionals.*** That is, a patient's right to accept or refuse a treatment or procedure rests on the clinician's professional judgment about what particular treatments or procedures are consistent with sound medical practice given the patient's specific clinical circumstances.

For example, in an ethics case consultation that revolves around a patient's request for an unconventional treatment, the critical decision in the case is whether the treatment should or should not be provided. That decision rests on the exercise of professional judgment, and thus the ethically appropriate decision maker is the treating clinician. His or her decision will involve several considerations, including the probable risks and benefits of the specific treatment given the patient's clinical situation. If, in the judgment of the treating clinician, the requested treatment is unlikely to cause harm, he or she may decide to honor the patient's request even though the intervention falls outside the standard of care in the professional community. Or, the treating clinician might decide not to honor the patient's request but instead to refer the patient to another clinician who is willing to provide the treatment. Either option could be ethically justifiable. Of course, clinicians must be careful not to abuse their authority by usurping decisions that rightfully should be made by the patient. For example, a physician may not decline to offer life-sustaining treatment based on his or her personal view that a patient's quality of life is very poor.

For some types of decisions, a health care administrator may be the ethically appropriate decision maker. For example, administrators may legitimately place limits on patient or provider freedoms to protect the health and safety of patients, employees, or the general public. Health care administrators may also need to make tough decisions about how to distribute limited health care resources among programs, services, and patients.

Thus identifying the ethically appropriate decision maker(s) requires careful consideration of the nature of the decisions that need to be made. Consultants should be prepared to sort through and clarify the different judgments that play into a particular situation to identify the critical decision at stake, then identify who should make that decision.

### *Facilitate moral deliberation about ethically justifiable options*

In the course of assembling and synthesizing information, the ethics consultant learns about different options from participants and other sources. The consultant should also engage in creative problem solving to develop additional options that have not previously been considered. This is particularly important when participants have become polarized around positions that one party or another prefers. A new option that has not previously been explored may offer a neutral and therefore acceptable solution. Helping parties to focus on interests or values instead of specific positions, for example, by using some of the techniques of mediation, can enable those involved to identify options they hadn't seen before and so move forward.[39,61]

Once the options have been offered, the ethics consultant should reiterate who should make the critical decision(s) in the case, then facilitate moral deliberation to help the decision maker(s) determine which option is best. This is known as "ethics facilitation." In contrast to an approach in which the ethics consultant usurps decision-making authority and imposes the course of action he or she regards as ethically preferable, in ethics facilitation the consultant strives to create what Walker calls "space for moral reflection,"[61] thereby helping to build shared understandings. This process respects the rights of decision makers to decide, within ethically justifiable limits, in accordance with their individual values and is the approach recommended in the ASBH *Core Competencies* report.[37]

Not all options are ethically justifiable, however. For example, a proposed option might violate an important tenet of ethics in health care, such as a patient's right to refuse treatment. In such instances, the consultant should help the decision maker(s) understand how societal values, institutional policies, and/or legal standards relate to the proposed option, citing specific sources to support the claim that a particular option should be rejected. To avoid usurping the authority of the ethically appropriate decision maker, ethics consultants must be careful to clearly differentiate between claims about what is ethically justifiable and judgments that reflect the consultant's personal values. If, at the end of this discussion, the decision maker continues to insist on an option that the ethics consultant deems ethically unjustifiable, the consultant should bring this to the attention of a higher institutional authority in a position to affect the outcome. For example, if the attending physician insists on providing blood products to a Jehovah's Witness patient despite the patient's or surrogate's refusal of treatment, the consultant should bring this to the attention of the service chief.

The process of deliberation should yield one or more specific recommendations and a concrete plan of action. If all parties concur about how to proceed, the recommendation(s) and plan will focus on implementing the agreed-on decision. If, however, no consensus is reached, the consultant should make recommendations on how to alleviate any residual ethical concerns and articulate a specific plan for next steps.

## Step 4: Explain the Synthesis

The next step in the CASES approach requires the ethics consultant to explain the synthesis to others involved in the consultation. This step helps to ensure that ethical concerns are resolved and often serves an educational purpose as well. The synthesis should be communicated to key participants directly and documented in both the health record (if applicable) and in consultation service records.

**EXPLAIN** the Synthesis

*Communicate the synthesis to key participants*
*Provide additional resources*
*Document the consultation in the health record*
*Document the consultation in consultation service records*

### Communicate the synthesis to key participants

Communicating the synthesis and reaching closure with participants is crucial to success. The ethics consultant should contact the requester and, if appropriate, the patient or surrogate and other key participants in the consultation process.

Ethics consultants should describe what transpired, as well as the resolution and any further recommendations or plans. This gives participants an opportunity to discuss aspects of the case privately with the consultant, which can help resolve any remaining concerns. The ethics consultant should indicate his or her willingness to continue working with participants, including those who disagree with the plan. In some cases, the consultant may discover that significant factors were overlooked in the proposed plan and that it must be revisited. In any event, the consultant should continue to provide information and support. In addition, the consultant should consider whether anyone not involved in the consultation should be notified of the case (e.g., the service chief).

### Provide additional resources

Educating staff, patients, and families is an important part of the ethics consultation process. For this reason, ethics consultants should reinforce and supplement their explanation of the synthesis by providing resources that participants can use to find more information. This could include providing copies of articles, book chapters, or other publications that might help participants understand the ethical analysis, or web links to additional information about the topic. Over time, ethics consultants should compile a collection of user-friendly resources to provide to participants, including materials that are specifically targeted to patients and families.

### Document the consultation in the health record

Documenting the consultation is another important aspect of communicating the synthesis. All ethics case consultations should be documented in the patient's health record except when the patient's involvement was not ethically relevant. For example, if a nurse wishes to be reassigned for reasons of conscience, it might not be necessary to document this

in the health record. (See also "Identify the appropriate sources of information" in Step 2, "Assemble the Relevant Information.") Noncase consultations should not be documented in health records.

Good documentation in the health record not only communicates information to involved staff, it also promotes accountability and transparency for legal purposes. Because this documentation may be read by many staff members, as well as by the patient or the patient's representative, it should be professional in tone. Consultants should avoid generalizations and jargon, and all information included should be accurate and relevant to the specific patient case.

The ethics case consultation note in the health record should normally contain the following elements:

- information about the person requesting the consult, including:
  - name and role in the case
  - date and time of the request
  - requester's description of the circumstances, including his or her ethical concern(s), and steps they have already taken to resolve them
- information about the patient, including:
  - patient's name
  - location and clinical service caring for the patient
  - patient's attending physician
- name(s) of consultant(s) working on the case
- clear statement of the ethics question
- sources and summary of the relevant information, including:
  - medical facts
  - patient's preferences and interests
  - other parties' preferences and interests
  - information about patient's decision-making capacity
  - information about patient's advance directive, if applicable
  - information about authorized surrogate, if applicable
  - ethics knowledge including relevant VA policy, professional codes and guidelines, published literature, precedent cases, etc.
- description of any formal meetings held
- ummary of ethical analysis
- identification of the ethically appropriate decision maker(s)
- options considered, and whether they were deemed ethically justifiable
- explanation of whether consensus was reached
- recommendations and action plan(s)

A sample consultation summary and template are available on the Center's website, vaww.ethics.va.gov/IntegratedEthics.

### *Document the consultation in consultation service records*

Regardless of whether the ethics consultation was documented in the health record it should always be documented in the consultation service's internal records using the ECWeb database. These records are useful for performance improvement, informing future consultations, legal documentation, and workload tracking.

The consultation service records should include all health record notes, as well as additional information that does not necessarily belong in the health record, such as:

- communications among consultants
- consultants' observations about the consultation process, such as comments on the power dynamics during meetings or discussions
- logistical details, such as scheduled appointments
- notes and references relating to the sources of ethics knowledge
- documentation of actions taken to support the consultation process overall (See Step 5, "Support the Consultation Process.")

## Step 5: Support the Consultation Process

After the synthesis has been explained and documented, the final step in the CASES approach is to support the overall process of ethics consultation.

**SUPPORT** the Consultation Process

S

*Follow up with participants*
*Evaluate the consultation*
*Adjust the consultation process*
*Identify underlying systems issues*

### Follow up with participants

At some interval after the completion of the ethics consultation, consultants should follow up with the requester and/or other key participants. Contact with these individuals enables the consultant to determine if any new ethical concerns have emerged that need to be addressed and to learn the outcome of the consultation, including whether the recommendations (if any) were followed.

By following up in this fashion, the ethics consultant can see whether the recommended plan actually helped resolve the ethical concern. If the participants followed the plan but the ethical concern was never resolved, the consultant may need to reactivate the CASES process and offer further support. Even if action is no longer possible (e.g., the patient died), the consultant may still wish to review the consultation for educational purposes.

If recommendations were not followed, it is important to understand why. For instance, the recommendations may have been impractical, requiring time and resources that weren't readily available. A participant who disagreed with the plan might have undermined it, or the patient's circumstances might have changed so that the recommended plan was no longer applicable. *Consultants can learn a great deal from reviewing consultations in which participants did not follow recommendations.* Indeed, the service cannot improve without understanding why the plans it proposes sometimes fail.

### Evaluate the consultation

Ethics consultation services should also evaluate their consultations more formally with the aim of continuously improving their practices. This evaluation can take several forms. At a minimum, *ethics consultants should always complete a critical self-review* by retrospectively reviewing each consultation, reflecting on it in conversation with other members of the consultation team, and systematically comparing the actual processes followed to the standards established in this guidance and by the consultation service. Discussion should address opportunities for improvement as well as lessons learned.

It's also important to assess how the ethics consultation service is perceived by systematically surveying the participants in the case. Ideally, someone who was not involved in the consultation process should perform such evaluations in a confidential fashion.

An assessment tool to gather feedback about the consultation is available on the Center's website, vaww.ethics.va.gov/IntegratedEthics. (*Note: VA employees should follow policy requirements and procedural standards when seeking feedback—see the IntegratedEthics website for updates.*)

Feedback from peers and supervisors can also be invaluable and should be sought. For example, presenting de-identified cases to an ethics committee or executive leadership board can be a learning experience for consultants and committee members alike.

Finally, to further challenge the ethics consultation service to improve, ethics consultants should explore opportunities for external peer review. For example, a consultation service might arrange periodic discussions of de-identified cases with ethics colleagues at another facility or a university affiliate.

### *Adjust the consultation process*

Depending on the results of the follow-up and evaluation steps described above, the ethics consultation service may need to make systematic changes in its policies and procedures. For example, if follow-up discussions reveal that a participant had a misconception about the consultation process, the team should take steps to ensure that its methods for establishing realistic expectations are adequate and consistently deployed. (See "Establish realistic expectations about the consultation process" in Step 1, "Clarify the Consultation Request.")

### *Identify underlying systems issues*

Ethics consultation as described in this document is designed to be responsive to individual ethics questions. At times, however, ethics consultations reveal underlying ethical issues that need to be addressed proactively, at a systems level—for example, persistent misperceptions among providers about withdrawing feeding tubes that are caused by lack of a clear policy on artificially administered nutrition and hydration.

Thus in addition to an ethics consultation service, facilities need a mechanism for addressing systemic ethical issues. Each consultation should be actively reviewed to determine whether it suggests any underlying systems issues that need to be addressed. In addition, consultation records should be reviewed periodically to look for patterns of recurring concerns. Significant systems issues should be brought to the attention of the individual or body responsible for handling such concerns on behalf of the institution, such as a preventive ethics team. (For a discussion of preventive ethics, see the companion IntegratedEthics primer *Preventive Ethics: Addressing Ethics Quality Gaps on a Systems Level*.)

## Conclusion

Ethics consultation is an important service that helps to ensure the quality of ethics practices and patient care. By providing a means through which patients, families, health care professionals, and other staff can address ethical concerns, effective ethics consultation promotes understanding of and respect for patients' preferences, clarification of professional ethical obligations, and adherence to recognized ethical standards. By providing a forum in which staff can grapple with their ethical concerns, effective ethics consultation can also address the problem of professional "burn out" and sustain morale. And by visibly engaging in and supporting moral deliberation, the ethics consultation service helps to support an environment in which the link between ethical practice and quality of care is understood and appreciated.

To serve the needs of patients and families, staff, and the institution, ethics consultation must be recognized as an essential activity and appropriately supported. The success of an ethics consultation service depends on several factors: It must be well integrated with other offices and programs in the institution, be visibly supported by leadership, and be assured the resources (both human and material) that it needs to function effectively. Staff members who participate in ethics consultations must have appropriate expertise and training. Patients, families, and staff must be aware of the consultation service and what it does and know how to contact it. The service must be clearly situated in the institution's reporting hierarchy; accountable to a designated senior official; and its structure, function, and processes should be formalized in institutional policy. The ethics consultation service must contribute to organizational learning—consultants should regularly share their knowledge and experience with others in the institution. Finally, a successful ethics consultation service must be committed to ongoing evaluation and systematic assessment of its own operations.

Effective ethics consultation also rests on good consultation practice. The CASES approach described in this primer is intended to help facilities respond appropriately to ethical concerns. By working systematically through the activities of clarifying requests for consultation, assembling relevant information, synthesizing that information to identify morally acceptable solutions, explaining the synthesis to the parties involved in a given ethics case, and supporting the overall consultation process through follow-up and evaluation to refine its practices, the ethics consultation service helps to ensure that ethical concerns are addressed consistently throughout the facility. And by identifying underlying systems issues that emerge in individual consultations or ethical concerns that recur across consultations, the ethics consultation service can help to support a preventive approach to improving ethics quality.

Together with ethical leadership and preventive ethics, the other core functions of an IntegratedEthics program, ethics consultation will help promote ethical practices throughout VA's health care system.

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## IntegratedEthics Glossary

**Best practice:** A technique or methodology shown by experience and/or research to lead reliably to a desired result. In ethics, best practice refers to the ideal established by ethical and professional norms and standards, such as communicating information to patients in language they can understand.

**Case consultation:** An *ethics consultation* that pertains to an active clinical case. (See also, *noncase consultation.*)

**CASES:** A systematic, step-by-step process for performing *ethics consultations* developed by VA's National Center for Ethics in Health Care.

**Casuistry:** An approach to ethical analysis that attempts to resolve uncertainty or conflict by drawing parallels between the current situation and accepted responses to similar, "paradigmatic" cases. See Jonsen, Siegler, and Winslade, Clinical Ethics (2002).

**Cause-and-effect diagram:** A tool for systematically analyzing a process and the factors that contribute to it; one example is a "fishbone" diagram.

**Decision-making capacity:** A patient's ability to make a given decision about his or her own health care. Clinical determination of decision-making capacity should be made by an appropriately trained health care practitioner.

**Ethical leadership:** Activities on the part of leaders to foster an environment and culture that support ethical practices throughout the organization. These include demonstrating that ethics is a priority, communicating clear expectations for ethical practice, practicing ethical decision making, and supporting a facility's local ethics program.

**Ethical practices in business and management:** The domain of ethics concerned with how well a facility promotes high ethical standards in its business and management practices. It includes ensuring that decisions are consistent with the organization's mission and values, data and records management, how the organization uses performance incentives, etc.

**Ethical practices in end-of-life care:** The domain of health care ethics concerned with how well a facility addresses ethical aspects of caring for patients near the end of life. It includes decisions about life-sustaining treatments (such as cardiopulmonary resuscitation or artificially administered nutrition and hydration), futility, treatments that hasten death, etc.

**Ethical practices in the everyday workplace:** The domain of ethics concerned with how well the facility supports ethical behavior in everyday interactions in the workplace. It includes treating others with respect and dignity, adhering to appropriate boundaries in workplace relationships, and the organization's ethical climate.

**Ethical practices in government service:** The domain of ethics concerned with how well a facility fosters behavior appropriate for government employees. This includes integrity, fidelity in interactions with appointed or elected officials, etc. *Note that questions concerning standards of conduct for federal employees should be referred to regional counsel or the VA Office of General Counsel.*

**Ethical practices in health care:** Decisions or actions that are consistent with widely accepted ethics standards, norms, or expectations for a health care organization and its staff. *Note that in this context "ethical" conveys a value judgment—i.e., that a practice*

*is good or desirable; often, however, "ethical" is used simply to mean "of or relating to ethics," as in the phrase "ethical analysis" referring to analysis that uses ethical principles or theories.*

**Ethical practices in research:** The domain of ethics concerned with how well a facility ensures that its employees follow ethical standards that apply to research practices. It includes voluntary consent for research participation, human subjects protections, etc.

**Ethical practices in resource allocation:** The domain of ethics concerned with how well a facility demonstrates fairness in allocating resources across programs, services, and patients, including financial resources, materials, and personnel.

**Ethics:** The discipline that considers what is right or what should be done in the face of uncertainty or conflict about values. Ethics involves making reflective judgments about the optimal decision or action among ethically justifiable options.

**Ethics case:** An isolated situation involving specific decisions and actions, that gives rise to an *ethical concern,* i.e., that gives rise to uncertainty or conflict about values. (See also, *ethics issue.*)

**Ethical concern:** Uncertainty or conflict about values.

**Ethics consultation in health care:** The activities performed by an individual or group on behalf of a health care organization to help patients, providers, and/or other parties resolve *ethical concerns* in a health care setting. These activities typically involve consulting about active clinical cases (ethics case consultation), but also include analyzing prior clinical case or hypothetical scenarios, reviewing documents from an ethics perspective, clarifying ethics-related policy, and/or responding to ethical concerns in other contexts not immediately related to patient care. Ethics consultation may be performed by an individual ethics consultant, a team of ethics consultants, or an ethics committee.

**Ethics consultation service:** A mechanism in a health care organization that performs *ethics consultation.*

**Ethics issue:** An ongoing situation involving organizational systems and processes that gives rise to *ethical concerns*, i.e., that gives rise to uncertainty or conflicts about values. Ethics issues differ from ethics cases in that issues describe ongoing situations, while cases describe events that occur at a particular time, and issues involve organizational systems and processes, while cases involve specific decisions and actions.

**Ethics quality:** Practices throughout the organization are consistent with widely accepted ethics standards, norms, or expectations for a health care organization and its staff. Ethics quality encompasses individual and organizational practices at the level of decisions and actions, systems and processes, and environment and culture.

**Ethics quality gap:** With respect to an ethics issues, the disparity between current practices and *best practices***.**

**Ethics question:** A question about which decisions are right or which actions should be taken when there is uncertainty or conflict about values.

**Focus group:** A research methodology that employs facilitator-led discussions to elicit opinions and responses about a defined subject or issue from a small group of participants representative of a broader population.

**IntegratedEthics program:** A local mechanism in a health care organization that improves ethics quality at the levels of decisions and actions, systems and processes, and environment and culture through three core functions: *ethics consultation, preventive ethics,* and *ethical leadership.*

**ISSUES:** A systematic, step-by-step process developed by VHA's National Center for Ethics in Health Care for reducing *ethics quality gaps.*

**Key informants:** Representatives of groups affected by a particular issue, or individuals who have specialized knowledge of the issue or are likely to be involved in implementing improvement strategies for that issue.

**Noncase consultation:** An ethics consultation that does not pertain to an active clinical case. Noncase consultations include answering questions about ethics topics in health care, interpreting policy relating to ethics in health care, reviewing documents from a health care ethics perspective, and providing ethical analysis of organizational ethics questions or hypothetical or historical questions.

**Preventive ethics:** Activities performed by an individual or group on behalf of a health care organization to identify, prioritize, and address systemic ethics quality gaps.

**Principlism:** A theory-based approach to ethical analysis that emphasizes the four principles of autonomy, beneficence, non-maleficence, and justice. See Beauchamp and Childress, Principles of Biomedical Ethics (2001).

**Patient privacy and confidentiality:** The domain of health care ethics concerned with how well a facility protects patient privacy and confidentiality. It includes patients' control of personal health information, respect for patients' physical privacy, conditions under which information may/must be shared with third parties, etc.

**Process flow diagram:** A visual representation of procedures followed in a given practice.

**Professionalism in patient care:** The domain of health care ethics concerned with how well a facility fosters behavior appropriate for health care professionals. It includes matters of conflict of interest, truth telling, working with difficult patients, etc.

**Shared decision making with patients:** The domain of health care ethics concerned with how well a facility promotes collaborative decision making between clinicians and patients. It includes matters of decision-making capacity, informed consent, surrogate decision makers, advance directives, etc.

**Surrogate:** The individual authorized under VA policy to make health care decisions on behalf of a patient who lacks *decision-making capacity.*

**Values:** In the health care setting, strongly held beliefs, ideals, principles, or standards that inform ethical decisions or actions, such as beliefs that people shouldn't be allowed to suffer, or principles and standards of respect for persons, nondiscrimination, truth telling, informed consent, etc.

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