

FROM THE FIELD...

Ethics Roundtable

Not long ago, the VA Stars & Stripes Healthcare Network (VISN 4) launched a VISN-wide Ethics Roundtable to discuss timely clinical, organizational, and research ethics topics. The Roundtable meets quarterly, and attendance is open to any interested participant from within the VISN. Recent topics have included end-of-life issues, and the National Ethics Committee report, *Ten Myths About Decision-Making Capacity*.

Find out more at: vawww.va.gov/vhaethics/field7.cfm



IN THE LITERATURE...

Miller FG. Ethical significance of ethics-related empirical research. *J Natl Cancer Inst.* 18 Dec 2002;94(24):1821-2.

Health Services Research and Development Service. Informed consent for human subjects research: a primer. *Department of Veterans Affairs, Washington, D.C.* (2002).

Petrila J. The emerging debate over the shape of informed consent: can the doctrine bear the weight? *Behav. Sci. Law* 2003;21:121-33.

To read abstracts and get links to full articles, visit: www.va.gov/vhaethics/literature7.cfm



ON OUR WEB SITE...

Sharing Our Wealth

To help conference and education planners tap the wealth of collective ethics knowledge and experience available within VHA, the National Center for Ethics in Health Care has compiled a system-wide *Guide to Health Care Ethics Educators in VHA*. Each entry provides contact information, a biographical sketch, and descriptions of preferred educational formats, presentation styles, as well as sample educational sessions. Available online at: vawww.va.gov/vhaethics/guide/guidemain.html



inthisissue

Best Practices: Click Here for Informed Consent?

Policy Perspectives: VHA Revises Policy on Informed Consent

Ethics Rounds: Substituted Judgment or Best Interests?

about the center

Founded in 1991, the National Center for Ethics in Health Care is VHA's primary office for addressing the complex ethical issues that arise in patient care, health care management, and research. The Ethics Center is headquartered in Washington, DC, and has satellite offices in New York and Seattle.

our mission

The mission of the National Center for Ethics in Health Care is to clarify and promote ethical health care practices within VHA and nationwide.



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Send us your

feedback

Please send any questions, comments, or address changes to the address above, or e-mail us at vhaethics@hq.med.va.gov.

spotlightevents

VHA Informed Consent Policy Revised

VHA national policy *Informed Consent for Clinical Treatments and Procedures* contained in VHA Handbook 1004.1 has been revised and updated effective January 29, 2003. The revised policy (available online at: www.va.gov/vhaethics/download/ICpolicy.doc) clarifies the informed consent process, and emphasizes specific issues in obtaining consent, such as decision-making capacity, voluntary decision making, and consent for telemedicine and telehealth.

To educate VHA practitioners about changes in the policy, the National Center for Ethics in Health Care offered two national programs. A **National Ethics Teleconference (NET)** on January 29 (repeated on February 10) highlighted the implications of policy revisions for the informed consent process. A **national satellite broadcast** on February 27 featured ethical, legal, and clinical perspectives on the revised policy. CME/CEU credits were available for both educational programs.

A transcript of the NET is available online at: www.va.gov/vhaethics/resources_8.cfm. Videocassettes of the program are available through VHA facility libraries.



bestpractices

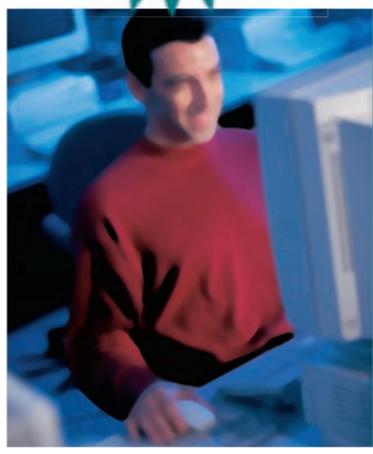
Click Here for Informed Consent?

by Raymond Frazier, MA and Gladys White, RN, PhD
National Center for Ethics in Health Care

VHA is committed to providing a health care environment that respects patients and protects their right to participate in health care decisions. The informed consent process is an essential feature of the delivery of health care and ensures that patients play a decisive role in determining their course of treatment. Meaningful consent requires that every patient be given the information he or she needs to understand the nature of his or her disorder, and the options for care, including risks and expected benefits.

Implementing informed consent is a challenging process, however. Clinicians must often convey complex medical information in laymen's terms, in ways that take into account how illness can affect patients' ability to process information and are sensitive to patients' religious and cultural traditions. And the process must take place in an environment that encourages patients to voice their questions and concerns.

Quality communication is time consuming, and time constraints can threaten to undermine the consent process. Busy clinicians must balance devoting enough time to individual patients to assure that each patient can play an active, informed role in treatment decisions, on the one hand, and meeting the needs of all patients who seek care, on the other.



To improve the quality of their consent processes, some VAMCs are exploring computer-assisted methods. The National Center for Ethics in Health Care has been charged by VHA leadership to examine commercially available informed consent software, evaluate how facilities are using technology to assist in educating and obtaining informed consent from patients for clinical procedures, and offer recommendations to VHA's National Leadership Board about whether and how VHA should implement computer-assisted informed consent system wide.

This discussion is continued at: www.va.gov/vhaethics/best7.cfm



www.va.gov/vhaethics

Summer Seminar Offered in Health Care Ethics

The Department of Medical History and Ethics at the University of Washington School of Medicine is offering a one-week summer seminar in health care ethics from August 4-8. The seminar is designed to familiarize attendees with the concepts and principles of health care ethics. Registration is open only to practitioners directly involved in patient care, and enrollment is limited to 125 participants. CME credit is available. Contact Marilyn Barnard for more information at: mbarnard@u.washington.edu

Earn a Master's Degree in Bioethics Online

Albany Medical College in conjunction with Union College is offering a master's program in bioethics online. The program is based on the American Society for Bioethics and Humanities publication *Core Competencies for Clinical Consultants*. Information and registration are available online at: www.bioethics.union.edu

Ethics Fellowship Available at the National Cancer Institute

The National Cancer Institute (NCI) is accepting applications for 3-year fellowships in the ethics of prevention and public health. Fellows will obtain a Master's of Public Health degree, and participate in mentored research programs at NCI, NIH Department of Clinical Bioethics, and the Office of Research Integrity at the US Public Health Service. This program is available for ethicists, philosophers, physicians, and scientists. The application deadline is September 1. More information is available at: <http://cancer.gov/prevention/pob>



Ellen Fox, MD
Director
National Center for Ethics in Health Care

a word from:

Informed consent is a cornerstone of ethical health care practice, and ethical practice is an essential component of health care quality. Consider an example: A patient undergoes a surgical procedure; from a technical perspective, the operation was perfectly executed, and from a service quality perspective, the patient seemed perfectly satisfied with the care he received. So the care was of high quality, right? Not necessarily. Imagine that the patient was never really informed—or was even *misinformed*—about the procedure he received. Why would this be a problem? Because in our society, it is

a fundamental right of every patient to accept or refuse *any* recommended treatment. High quality, patient-centered care means care that recognizes that all patients should be treated in a way that respects their individual needs, *and* their individual values.

This essential element of quality health care is reflected in national VHA policy on informed consent, which aims to provide practical guidance to help make the ideal of patient-centered care a reality throughout the VHA system.



policy perspectives

VHA Revises Policy on Informed Consent

by Angela M. Prudhomme, JD
National Center for Ethics in Health Care

Most of us take the idea of informed consent for granted. When we go to the hospital or outpatient clinic, we expect that our doctor will explain her reasons for recommending a particular treatment or procedure, describe the benefits, risks and alternatives so that we (the patient) can make an informed choice. The doctrine of informed consent combines principles of law and ethics. It imposes a duty on the physician to provide information that will enable the patient to make a voluntary choice and acknowledges that the patient has the right to accept or refuse any recommended treatment or procedure, even when refusal of treatment could result in serious injury or death.

The doctrine of informed consent evolved in the courts. It began with civil prosecutions for battery or unlawful touching and culminated with cases, such as *Cruzan*, that gave legal precedence to the concepts of patient autonomy and self-determination. For patients receiving care in VHA facilities, the requirement for informed consent is prescribed by federal statute, 38 U.S.C. § 7331. This law requires the Secretary, with the advice of the Under Secretary for Health, to establish procedures to ensure that to the maximum extent practicable, all patient care furnished by VA shall be carried out only with the full and informed consent of the patient or, in appropriate cases, a representative. VA policy and procedures on informed consent are found in 38 C.F.R. §17.32 and the corresponding VHA Handbook, 1004.1, *Informed Consent for Clinical Treatments and Procedures*.

Learn more at: www.va.gov/vhaethics/briefs7.cfm



looking forward

National Ethics Committee

At its meeting in May 2003, the VHA National Ethics Committee (NEC) identified two topics for reports to be developed over the coming months:

Ethical Issues in Communicating with Patients by Electronic Mail

There is growing interest in the use of email between patients and health care professionals. At the same time, however, questions arise about privacy and security when clinical information is transmitted, about when email is/is not an appropriate way for clinicians to communicate with patients, and about how email affects the patient-clinician relationship. In

developing its report and recommendations, the NEC will explore such questions and examine guidelines that have been proposed for the use of electronic mail in clinical settings.

Disclosing Sensitive Information to Surrogates: Ethical Issues for VHA

To make informed decisions for patients who lack capacity, surrogates need access to the same information the patient him or herself would have—which could include information that the patient, while competent, may have chosen not to share, such as HIV status. The NEC will address how should health care professionals balance their multiple obligations to respect the patient's privacy, protect the confidentiality of personal health information, *and* support surrogates

in making decisions in the patient's best interest, against the backdrop of regulations which prohibit certain disclosures without the patient's consent (38 CFR 7332) that may pose special challenges for practitioners in VHA.

The National Ethics Committee is a standing committee of the Executive Committee of the National Leadership Board. The NEC is charged to examine timely ethical issues in clinical care, health care management, and research, and to provide guidance for leadership and staff throughout VHA.

ethics rounds

Substituted Judgment or Best Interests?

Standards for Surrogate Decision Making
When a surrogate takes on the role of decision maker for an incapacitated patient, he or she accepts a great deal of responsibility. What should a physician do when he or she believes that a surrogate is not taking that responsibility seriously? What if the surrogate is not acting in the patient's best interests? Consider the following scenario:

Mrs. M, a 70-year-old woman, is being treated in the ICU for advanced pulmonary TB. She's on a ventilator, is being tube fed, has a right chest tube, and is no longer able to participate in decisions about her care. Before her current illness, she appointed her son Andrew as her durable power of attorney for health care and he is now making treatment decisions on her behalf.

After doing some research on the Internet, Andrew wants his mother to receive alterna-

tive therapies. Specifically, he requests that she be given doses of castor oil through her NG tube. He also wants to be able to rub her back with a homemade ointment. Andrew and his mother never explicitly discussed her preferences about treatment should she become incapacitated, and Mrs. M seems not to have executed an advance directive or living will. It isn't clear how she would feel about the kind of alternative therapy her son proposes.

Mrs. M's physician objects to the treatment Andrew proposes. Administering castor oil through the NG tube could cause the patient gastrointestinal discomfort. In addition, it might degrade the tubing, necessitating its replacement. The physician does not believe that the intervention Andrew is requesting is in Mrs. M's best interest and believes that Andrew is not living up to his responsibilities as her surrogate.

How should decisions about Mrs. M's care be made?

For more visit: www.va.gov/vhaethics/ethicsrounds7.cfm

