

Code of Ethics and Professional Responsibilities for Healthcare Ethics Consultants

Preface

The statements in this code set out the core ethical responsibilities of individuals performing healthcare ethics consultation (HCEC). The content largely but not exclusively addresses *patient-focused* consultative activities, often referred to as clinical ethics consultation. The code does not focus explicitly on the ethical obligations entailed in the range of additional (nonconsultative) ethics services that healthcare ethics (HCE) consultants may provide for an organization.

HCEC is “a set of services provided by an individual or group in response to questions from patients, families, surrogates, healthcare professionals, or other involved parties who seek to resolve uncertainty or conflict regarding value-laden concerns that emerge in health care” (American Society for Bioethics and Humanities [ASBH], 2011, p. 2). HCE consultants seek to identify and support the appropriate decision maker(s) and to promote ethically sound decision making by facilitating communication among key stakeholders, fostering understanding, clarifying and analyzing ethical issues, and including justifications when recommendations are provided. They address the ethical concerns of persons involved in healthcare decision making and healthcare delivery, including patients, family members, healthcare providers, institutional leaders, and those who set guidelines and create policies.

1. **Be competent.** HCE consultants should practice in a manner consistent with professional HCEC standards.

In order to acquire the knowledge, skills, and attributes to be effective, the HCE consultant needs education and experiential training. Continuing education and training are essential to maintain these competencies and to foster professional development. Competence also requires a commitment to subject one’s work to peer review and scrutiny for quality improvement. The core competencies for performing ethics consultation are evolving. HCE consultants should meet standards that have achieved fieldwide acceptance, including those in ASBH’s *Core Competencies for Healthcare Ethics Consultation* (2011).

2. **Preserve integrity.** HCE consultants should consistently act with integrity in the performance of their HCEC role.

HCE consultants should strive to be worthy of the trust placed in them by patients, family members and caregivers, healthcare staff members, and the institutional leaders who seek their help in addressing ethical questions and problems. Personal integrity involves acting in a manner that is consistent with one’s core beliefs and values. Professional integrity involves commitment to the core values underlying the practice of HCEC and to the cultivation of attributes, attitudes, and behaviors that enable one to perform HCEC well, such as self-awareness, fair-mindedness, humility, and moral courage.

Consultants should strive to safeguard the process of moral deliberation in the institutions where they provide ethics consultation. They should foster learning and facilitate respectful interactions among involved parties in the ethically complex, emotionally fraught, high-stakes situations they often face. Consultants should preserve professional integrity by not engaging in activities that involve giving an ethical justification or stamp of approval to practices they believe are inconsistent with agreed-upon ethical standards. If a conflict involving the consultant's personal core beliefs or values arises in the course of performing HCEC, the consultant should recuse himself or herself from the case after securing the services of a replacement. For example, HCE consultants who have a strong moral objection to artificial reproductive technologies (ARTs) should recuse themselves in consultations involving ARTs and should not agree to provide HCEC in a setting where issues related to ARTs routinely arise. If no replacement is available, the primary obligation of the HCE consultant is to maintain professional integrity.

HCE consultants promote integrity when they are transparent about the conditions under which they perform HCEC, for example, whom they report to, who funds their HCEC work, and where the boundaries of their responsibilities lie. (See also the discussion of Responsibility #3: Manage conflicts of interest and obligation.)

- 3. Manage conflicts of interest and obligation.** HCE consultants should anticipate and identify conflicts of interest and obligation and manage them appropriately.

Conflicts of interest involve situations in which the professional judgment of an HCE consultant is, or may appear to be, affected or compromised by competing interests such as personal, professional, or financial interests. For example, consultants employed by an institution may be reluctant to disagree with someone of authority and influence within that institution; they must handle the competing interests of preserving their employment and competently performing consultation. Conflicts of obligation involve situations in which HCE consultants' work is or may appear to be affected or compromised by competing professional or personal responsibilities. For example, a consultant who is also a social worker or the director of an intensive care unit may experience pressure in that role to limit a patient's length of stay, which may not be in the patient's best interests. Personal and professional obligations may also be in conflict, when, for example, one has a duty to keep other work-related or personal commitments and a competing duty to complete an ethics consultation in a timely manner.

HCE consultants should minimize the likelihood that conflicts will interfere with their duties toward those who seek their advice and support through HCEC. Principal strategies include avoidance, recusal, and disclosure. An ethics consultation service with multiple consultants can, for example, assign cases with attention to avoiding conflicts. Consultants may recuse themselves from the consultation when another qualified consultant is available, or they may simply disclose the conflict. For example, some HCE consultants who are employed or paid by the facility where the ethics consultation request occurs disclose this potential conflict of interest to patients or family members at the onset of a case consultation. Consultants should make efforts to negotiate terms of service that minimize the occurrence of conflicts of interest and obligation and allow them to be managed appropriately.

In addition to their role as HCE consultants, some individuals are members of other professions and may be accountable to different codes of ethics. While engaging in ethics consultation, individuals should adhere to the "Code of Ethics and Professional Responsibilities for Healthcare Ethics Consultants."

- 4. Respect privacy and maintain confidentiality.** HCE consultants should protect private information obtained during HCEC, handling such information in accordance with standards of ethics, law, and organizational policy.

Confidentiality is the duty to respect others' right to control access to their private information. In the consultation process, HCE consultants are entrusted with private information about patients, families, providers, and institutions. Respecting privacy and maintaining confidentiality is a high priority. HCE consultants are subject to laws, such as the Health Insurance Portability and Accountability Act in the United States, and institutional policies regarding the handling of private information.

At certain times, however, HCE consultants *should* divulge confidential information. When it is necessary to provide significant benefit (e.g., to protect life or prevent serious harms), HCE consultants may be obliged to share relevant private information with others, including healthcare leaders and staff members, agents appointed in an advance directive, child or adult protective services agencies, and law enforcement personnel. Only the minimum amount of information necessary should be shared, and the information should be communicated discreetly, only to those who need to know. When appropriate, HCE consultants should prospectively communicate the limits of confidentiality protection.

Information obtained during HCEC may legitimately be used for a variety of other purposes, including those related to peer review, quality improvement, education, and scholarship. Management strategies for maintaining confidentiality vary among these purposes. For example, one may seek to maintain confidentiality by removing identifiers, using pseudonyms, or altering inconsequential information. In some situations, consent should be obtained from those whose identity may be revealed to others not involved in the consultation.

5. Contribute to the field. HCE consultants should participate in the advancement of HCEC.

To be a member of a profession means, in part, to foster the collective good of that profession and the constituencies it serves. Toward that end, in addition to maintaining their competence as described in Responsibility #1, HCE consultants should advance the quality and effectiveness of HCEC by supporting activities that contribute to the field: conducting and participating in research, publishing in the field, mentoring other ethics consultants, teaching others about HCEC, conducting community outreach related to HCEC, and participating in professional organizations. These contributions may be institutional, regional, national, or international in scope.

6. Communicate responsibly. When communicating in the public arena (including social media), HCE consultants should clarify whether they are acting in their HCEC role and should communicate in a manner consistent with the norms and obligations of the profession.

Communicating responsibly obliges HCE consultants to be sufficiently informed about issues on which they communicate publicly, including facts and scholarship relating to the specific topic. If HCE consultants do not have sufficient knowledge in a particular area, they should decline to comment and consider referring the task of communication to others. Public comments should acknowledge uncertainty about norms and lack of consensus where they exist. Consultants should recognize that the topics upon which they are asked to comment can generate strong reactions. Communicating responsibly should promote reflection in others and offer an opportunity to consider different points of view. HCE consultants should demonstrate cultural humility and sensitivity to differing values when communicating about HCEC-related issues in the public arena.

7. **Promote just health care within HCEC.** HCE consultants should work with other healthcare professionals to reduce disparities, discrimination, and inequities when providing consultations.

When engaged in ethics consultation, consultants need to be attentive to the role that healthcare disparities, discrimination, and inequities play. Consultants should ensure that all stakeholders have access to the HCEC process and that the process is fair. Issues of power, privilege, and organizational culture may make the process of ethics consultation more challenging and may complicate efforts to promote just and equitable recommendations and outcomes. Consultants have a responsibility to identify and include relevant voices in the discourse, particularly marginalized voices. Recommendations of the consultation should not reinforce injustice. When possible, consultants should identify systemic issues constraining fair outcomes in HCEC and bring these issues to the attention of individuals or groups in a position to address them.

Reference

American Society for Bioethics and Humanities. (2011). *Core Competencies for Healthcare Ethics Consultation* (2nd ed.). Glenview, IL: Author.