

CECA TELECON 020910
'Improving Competencies/Standards Sub-Group'
MINUTES

PRESENT:

Bob Baker
Ellen Fox
Jack Gallagher
Paula Goodman-Crews
Ken Kipnis
Tracey Koogler
Terry Rosell
Millie Solomon
Anita Tarzian (chair)
Lucia Wocial

The meeting of the CECA "Improving Competencies & Standards" sub-group was called to order at 4:05 PM Eastern.

We reviewed the purpose of the meeting – to get updated on the Code of Ethics Development and then discuss the priorities for this sub-group over the upcoming year. Bob Baker and Ken Kipnis joined the call to provide a summary of their activities to date on Code development.

Ken summarized his proposed inductive process of Code development that builds off of narratives of cases highlighting ethical issues arising within the practice of clinical ethics consultation (CEC). We discussed a document Ken circulated to the sub-group members before this telecon that presented fictionalized adaptations of three cases involving professional obligations to protect confidentiality and conditions of professional autonomy. Ken's process of Code development proposed 'responsible consensus' (or Dubler's 'principled resolution') as a core professional value that informs CEC. One CECA member challenged this assumption, but Ken pointed out that the process is iterative and based on negotiated consensus about CEC core values. Through case examples, CE consultants identify core values and how they are respected in various situations. Principles are then identified that are then generalized into an element of a professional code. (See Ken's summary paper for a more complete explanation of this process.)

Bob Baker has taken a different approach to Code development, in which all organizations' codes of ethics are reviewed and a provisional Code is developed based on historical precursors. This approach would take less time than Ken's approach, but may not achieve requisite buy-in from CE consultants. Bob's suggestion is to combine his approach (see Bob's summary document and Sample Code) with Ken's. Thus, the process moving forward would be an iterative, "organic" one in which the scope of a CE consultant's professional autonomy would be fleshed out by identifying and "testing" rules and principles through application to actual cases.

We clarified the scope of the Code as being targeted to individuals who engage in health care ethics consultation. While individuals acting as "clinical ethicists" may do a range of activities, the Code wouldn't address every possible professional activity they may engage in, but would focus primarily on the activity of health care ethics consultation.

We reviewed use of the terms “clinical ethics consultant” and “health care ethics consultant.” The “Core Competencies for Health Care Ethics Consultation” uses “health care ethics consultation” because there was more perceived variability in how “clinical ethics” is interpreted. Some think of *clinical* as providing patient care at the bedside, some think of it as addressing organizational ethics. *Health care* refers to a broad range of settings—hospitals, nursing homes, outpatient facilities, dialysis centers, hospices. We agreed that while the term “clinical ethics consultation” is more accepted colloquially, other committees can settle the issue of language and terminology. What’s important is that any Code document should be consistent with whatever terminology is accepted as the standard in the profession. (In these minutes, the terms “clinical ethics consultation,” CEC, and “health care ethics consultation” are interchanged.)

Some discussion ensued over whether this sub-group should merely discuss the *process* established by Ken and Bob for developing a Code, or whether we should spend time discussing the actual content of the Code developed to date. For example, one member did not agree that “reasoned consensus” was a core value or goal of CEC, and questioned the proposed Code provisions obligating an ethics consultant to maintain confidentiality even in situations where egregious violations are revealed. Another member took issue with a potential Code principle that would protect an ethics consultant’s perceived obligation *not* to follow federal or state laws in some situations. Bob explained that codes are somewhat “existential” and aspirational, and that they in themselves help hone core values and obligations. Ken felt that it was too early in the process to get this detailed, that defined standards might run up against laws and hospital policies, and that this will generate interesting debates within the organization, but should be taken up then. He envisions a kind of expert panel to provide advice to practitioners when a case comes up that involves a conflict between institutional policy and law. Ken had in mind to use the CECAG group to proceed in the process of getting detailed feedback on a first round of cases, in order to generate consensus on core values and principles or provisions surrounding how to support these values in the process of ethics consultation.

One member asked for clarification on the role of CECA and CECAG. CECAG (the ASBH Clinical Ethics Consultation Affinity Group) is open to anyone who is interested in joining. CECA is a group created by ASBH and endorsed by the Board as a way of ensuring that the field of CEC receives organizational attention in a systematic way by individuals with recognized expertise in CEC. Its members are appointed. Its two main foci are (1) to explore options for certification of individuals who perform CEC or accreditation of training programs or credentialing of consultants within an institution; and (2) to oversee the development of standards in the field, by way of promoting professional ethics and improving competency of CEC practitioners. CECA can delegate activities to others (as it is doing by having Ken and Bob proceed with Code development). CECA has a more formal structure than CECAG, and a formal relationship with the ASBH Board.

We discussed options for proceeding—whether by continuing Ken and Bob’s work through CECAG listserv feedback of circulated cases, or pursuing funding to support a smaller working group that could meet face-to-face to continue with the Code development process. Some felt that CECAG may not be the most efficient way to advance the conversation, because it is difficult to gauge whether everyone who should be involved is mindfully participating, partly due to lack of a process for moderating the discussions.

Ken shared his view that there needs to be a principled ownership of a Code not by counting noses but by looking carefully at the reasons people give and valid arguments for which code is most useful. As an example, Ken pointed to the AAUP Principles of Conduct for Professors being a poor code because it

lacks authoritative guidance. We agreed that buy-in is important. The question is how to proceed in the most efficient way. One member suggested that it would make more sense to have Bob and Ken come up with something very concrete for others to provide feedback on. We agreed that Bob and Ken should proceed with their plan to combine approaches and get feedback from CECAG members on core values of CEC and how these are respected by way of application to various cases. We agreed that eliciting *comments* from CECAG members rather than open-ended discussion (which may become unwieldy) may be more effective; otherwise, CECAG members may tune out and not participate as fully. We also agreed to pursue the possibility of convening an in-person Code working group the day before the October ASBH meeting in San Diego. Paula offered to locate a room at Kaiser for this meeting. Ideally, we should consider pursuing funding for Code development, to help buy out a portion of Ken and Bob's time to devote to the process, and to support in-person meetings. Unfortunately, Greenwall declined to fund a proposal submitted by Ken, Bob, and colleagues for this purpose.

Anita explained that the next priority for this sub-group is to review the revised Core Competencies document to determine if it can be recommended for approval by the Board. There were 60 individuals who completed an online evaluation of the revised document, with the majority rating its quality as good or excellent. The Core Competencies Update Task Force is currently reviewing feedback received to date and will incorporate this into final revisions before sending the final draft to CECA for review and (hopefully) a recommendation to the Board to approve.

We agreed to table the discussion of other projects for this sub-group and priorities for the upcoming year. Other ideas previously generated included: developing HCEC resources to post on the ASBH website (such as a problem-based interviewing guide; "Top 10 HCEC Quality Problem" list, and a model process for HCEC retrospective review), creating CITI-type modules for basic ethics literacy; and offering CPE courses in HCEC &/or train-the-trainer courses akin to EPEC/ELNEC.

The meeting was adjourned at 5:30 PM Eastern. Anita will schedule another sub-group meeting in March.