

CECA MEETING MINUTES

September 19, 2013

Members present: Felicia Cohn (Board liaison), Joe Carrese, Brian Childs, Art Derse, Ann Heesters, Martha Jurchak, Nneka Mokwunye, Terry Rosell, Wayne Shelton, Anita Tarzian (chair), Lucia Wocial, Bob Baker (Code of Ethics liaison).

Members absent: Armand Antommaria, Jeffrey Berger, Ken Berkowitz, Jack Gallagher, Paula Goodman-Crews, Christine Mitchell, Kayhan Parsi, Kathy Powderly, Tia Powell, Marty Smith, Jeffrey Spike,

The meeting was called to order at 11:00 AM Eastern. Minutes from the June meeting were accepted (via email).

CODE OF ETHICS REVISIONS

We discussed revisions to the Code of Ethics and interpretive statements based on qualitative feedback to the second Code of Ethics survey, agreeing not to change the language too much given the 90%-and-above survey endorsement ratings obtained. Felicia clarified the next step will be to present this Code to the Board for approval. This will be presented at the Business Meeting in Atlanta. We will also submit a list of general issues/concerns related to the Code of Ethics that were identified in the qualitative Code feedback received. CECA and the Board will discuss how to address these issues/concerns.

The following is the agreed-upon finalized language for the Code.

CODE OF ETHICS AND PROFESSIONAL RESPONSIBILITIES FOR HEALTH CARE ETHICS CONSULTANT

PREFACE

This statement sets out the core ethical responsibilities of individuals performing health care ethics (HCE) consultation. It does not explicitly address the ethical obligations for the range of additional ethics services that HCE consultants may provide for an organization.

HCE consultation is “a set of services provided by an individual or group in response to questions from patients, families, surrogates, health care professionals, or other involved parties who seek to resolve uncertainty or conflict regarding value-laden concerns that emerge in health care” (ASBH, 2011). Ethics consultation seeks to identify and support the appropriate decision-maker(s) and ethically sound decision-making by facilitating communication among key stakeholders, fostering understanding, clarifying and analyzing ethical issues, and including justifications when recommendations are provided. It addresses the ethical concerns of persons involved in health care decision-making and health care delivery including patients, families, health care 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.

Competency requires education and experiential training to acquire the knowledge, skills, and attributes needed to do HCEC effectively. Continuing education and training is essential to maintain these competencies and to foster professional development. Competency also requires a commitment to subject one's work to peer review and quality improvement. The core competencies for performing ethics consultations are evolving. HCE consultants should meet competency standards that have achieved field-wide acceptance, including the American Society for Bioethics and Humanities' "Core Competencies for Health Care 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/ caregivers, health care staff, 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. This requires an ongoing commitment to cultivating attributes, attitudes, and behaviors that enable one to perform HCEC, 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 him/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 (ART) should recuse themselves in consultations involving ART, and should not agree to provide HCEC in a setting where this routinely arises. If no replacement is available, the primary obligation of the HCE consultant is to maintain professional integrity.

One of the ways HCE consultants promote integrity is when they are transparent about the conditions under which they perform HCEC, such as who they report to, who funds their HCEC work, and the boundaries of their responsibilities. (See also Code 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 a 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 the institution. This demonstrates competing interests in preserving one's 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 and/or personal responsibilities. For example, a consultant who is also a social worker or director of an intensive care unit may experience pressure as part of 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 negatively 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 disclose the conflict. Disclosure may also be accomplished through other mechanisms that promote transparency. 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 also 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 for HCE consultants.

5. 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 HIPAA, and institutional policies regarding the handling of private information.

There are, however, times when HCE consultants should divulge confidential information. When it is necessary to provide significant benefit, e.g., protect life or prevent serious harms, HCE consultants may be obliged to share relevant private information with others, including health care leaders and staff, agents appointed in an advance directive, child/adult protective services agencies and/or law enforcement personnel. The information should be communicated discreetly, only to those who need to know and sharing only the minimum amount of information necessary. 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 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, and/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 competency as described in Code Responsibility #1, HCE consultants should advance the quality and effectiveness of HCEC by -supporting activities that contribute to the field. This involves activities such as conducting and participating in research, publishing in the field, mentoring other ethics consultants or 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 an understanding of facts and scholarship relating to the topic. If HCE consultants do not have sufficient knowledge in a particular area, they should decline to comment and consider referring to others. Public comments should acknowledge uncertainty about norms or lack of consensus where it exists. 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 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 health care professionals to reduce disparities, discrimination and inequities when providing consultations.

When doing ethics consultation, consultants need to be attentive to the role that health care 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, majority, and organizational culture may make the process of ethics consultation more challenging, which may in turn 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.

NEW BUSINESS

No new business was discussed.

ADJOURNMENT

The meeting adjourned at 12:07 PM.

The next CECA meeting is scheduled for Sunday, September 27, 2013 from 12N-3PM in Atlanta, GA.