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## Volume 14, Issue 1/2012 - Cover Story

### Ethical Governance

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#### Definition

**Ethical Governance refers to values and ethical behaviours, processes, procedures, culture, ways of doing and being that ensure high standards of performance, economy, effectiveness, efficiency, quality, satisfaction.**

Governance is the set of processes and abilities needed to achieve the objectives and fulfil the responsibilities of whatever business or organisation, whether public, for profit or not for-profit, in the healthcare sector or in any other field of economic activity.

The primary responsibility of those who, either elected or delegated power, have the task of managing governance, is to make decisions that must always be in tune with the values, identity, vision and mission of the organisation they work for. These decisions have to be ethical ones.

Health organisations are faced with a continuously changing environment in which profit seems, unfortunately, to have become more important than patient recovery and health. How can we meet the evolving expectations of an expert and demanding "customer"? How should moral dilemmas be addressed and solved? The expectations put on those working in healthcare are so high as the moral compass is pointing in different and mostly new directions. We have to rethink medical ethics.

Patients who only yesterday were obvious candidates for surgery or chemotherapy, can now decide how to approach the end of their life differently. These are decisions that do have a profound and immediate impact on the medical care to be provided. Decisions which generate new challenges for the healthcare system. Decisions which impose innovative thinking and competencies on health managers. But who decides what? Too often we take the easy shortcut and throw the ball to the legal department. But does it make sense that a medical treatment should be decided by a lawyer? It does not matter how deeply expert, but can all the responsibility be on just one person? As good and knowledgeable he/she can be, is this the right thing to do?

These are questions that deserve careful consideration:

- What processes must be used?
- What is the role and importance of ethics and medical ethics in particular?
- In the healthcare world, what should be the optimal relationship between ethics and governance?

Let us try to find evidence that may help provide answers to these questions.

#### Ethics in Healthcare

Ethics is the branch of philosophy that deals with the moral aspects of human behaviour. Medical ethics, in the modern sense of the term, refers to the application of fundamental ethical principles to general situations of clinical practice, including medical research. Ethics has one basic question: "What must be done?" Ethics has no interest in common practices, in what is usually done, or in what could be done.

All ethical theories have two basic issues in common:

1. What good are we aiming at, and what is bad/negative that we should and must avoid?
2. What is the correct or desirable course of action and what is the inappropriate or prohibited one?

Ethics helps to decide between good and bad, between appropriate and inappropriate, between right and wrong. Ethics is different from science in a variety of ways. Ethical issues and ethical considerations cannot be studied through controlled experiments. Moreover, it is not possible to separate personal and subjective considerations, which are in turn strongly influenced by historical and cultural context. In physics, and in natural sciences, results are based essentially on objective observations and experiments. Science reaches conclusions. Ethics provides only recommendations.

The Declaration of Geneva of the World Health Organization in 1948 is –de facto- the first global code of ethics and was inspired by the Hippocratic oath. One of the greatest innovations in modern Western ethics has concerned the doctor-patient relationship, which has evolved from a paternalistic one to a relationship in which the patient has considerable autonomy. In recent years, different ethical principles have been formulated and adopted as a basis for discussion of ethics in healthcare. In particular, the principles of autonomy, do-no harm, beneficence and justice.

Ethical theories closely resemble our gut feeling decisions, they are instinctive. Every day we use ethics based analysis: When we decide to give way for someone, to stay longer at work, to help our children with their homework. The main ethical theories according to which we, citizens of a western industrialised country, base our instinctual decisions are:

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1. Consequential: Look at the results;
2. Deontological: Look at the liability;
3. Value based: Look at the reasons.

There are also two other contemporary ethical theories that are worth recalling because of their implications for analysing the ethical problems that may be solved by hospital executives. The first one is the ethics of community that shows how we must take account of community values in which one is active, and how to operate in tune with its scope. The second is feminist ethics, which teaches that the social world was constructed permeating our communities and institutions with strong gender based preconceptions. Any form of prejudice, be it race, age, ethnicity, disability, gender, must be eradicated if we want to preserve the basic ethical principle of justice. Traditional ethical theories suggest that ethical decisions should be free from emotions and context independent. Feminist ethics said, however, that emotions serve as guides to identify what is morally relevant in a given situation.

### **Ethical Governance**

That is why ethical governance is essential, and that is why the governance cannot and should not be limited to a single person or to a few with great powers. Open and democratic ethical discussion allows decision makers to manage a consensus generating process. This is the only process able to come up with creative solutions that the majority can accept and adopt. Decisions are no longer flat, conventional and taken behind closed doors by those who do not really know what they are talking about. Decisions are taken by a committee that listens to stake holders through an ethical process and analyses the substance and not the form of an issue. The members of a committee, however intelligent and involved, will not be always in full agreement. However, it is important that the members of the committee are able to recognise and accept their own filters and ethical values sets, to attach different weights to different perspectives and ethical principles to justify their decisions.

### **The Ethical Committee**

It must be clear to everyone that there can be no ethical governance without a board or committee in which the essential components of the organisation itself are represented. This entity should take into account the views expressed by the ethical committee. The governance ethical choice is the outcome of dialogues and discussions among its members. The effect of the ethical committee is the governance. It is therefore necessary to develop an ethical committee that serves as a reference system, to be used whenever an ethical problem has to be solved. This is an approach that anyone can use. How to implement it? Follow the instructions:

#### **Step One:**

Make sure that the committee or the council is duly informed of facts and situation. There must be understanding and sharing of relevant information about the patient (or employee) and his family, organisational aspects of medical care (including the facts on the diagnosis made, treatment administered, results) and other relevant circumstances.

#### **Step Two:**

Identify who is involved and what is at stake for each of them; address the demands and views of all the stakeholders; understand and respect the views and concerns of the patient, family members, health managers, of all those who have a legitimate interest in the case.

#### **Step Three:**

Define the relevant ethical issues. Has the respect for patient autonomy been taken into account? Which role is played by fairness, charity, justice and other ethical principles? Motivation, responsibility, consequences, power games, possible biases are relevant to the final decision? If so, what are they?

#### **Step Four:**

Identify the ethically relevant aspects of the possible solutions and give them a weight. To weigh the relative importance of different ethical dimensions of possible actions mutually exclusive is quite difficult and always time consuming. Differences of opinion emerge, each of which must be evaluated with due respect. Many ethical dilemmas are not perfect. You should always consider the human limitations in identifying the solution. The team must resist the temptation to jump to the conclusion. The risk of neglecting important aspects of the problem has to be accounted for, as the possibility of not looking for alternatives. Doing nothing is obviously a decision. Possible consequences must be analysed and evaluated. Intentionally delaying the decision to give the team time to find a solution is ethically acceptable and certainly preferable to a hasty choice. If you need to postpone, it is necessary to define the deadline for a decision. Postponing indefinitely is never a solution.

#### **Step Five:**

Monitor the results and then inform the committee or the council of the consequences of the decisions and relative choices. Solving a problem may leave unresolved issues or be a great relief, especially if the issue is highly visible and may have important consequences for the organisation.

One should adopt the good habit of taking time to reflect on the experience gained and to identify lessons learned. It is the only viable strategy to learn from experience. This learning and change allows, when a similar ethical issue appears in the future, to have a much faster and better solution. Ethics is closely linked to the conduct and behaviour. In order to be credible it must be consistent over time. Obviously change and evolution are always welcome, but always respecting the consistency with the basic values and attitudes.

Governance and ethics are not the Cahier de Charge of just one person. It is worth while to repeat and emphasise it: Quality, Governance and Ethics always affect the entire organisation. The complex, multidisciplinary and interdisciplinary nature of the matter is that it cannot be the responsibility of one person. It has to be delegated to a committee and the organisation's mission must be the first of the guiding principles of the ethics committee.

## How to Improve the Analytical Skills and Perspective of Your Committee

First of all, it has to be up and running. The ethics committee should not depend on anyone. It can be placed in staff at the Directorate-General level, but must have absolute autonomy. In the Committee three essential components of any governance in healthcare must be present:

1. He who makes the decisions in the name and on behalf of the company or organisation - the CEO or the Chairman of the Board of Directors.
2. He who is responsible for the production, i.e. the Medical Director.
3. He who represents the patient.

Nobody has to be hired. It is a responsibility assigned on a voluntary basis, or by selection, to someone within the organisation. People working in the medical care department, properly trained, are good candidates. The director of ethics must be part of the Board of Directors, which will report on the decisions taken by the ethical committee. His/her task is the implementation, monitoring, maintenance and continuous updating of the code of ethics and decisions taken, once they are approved by the board of directors. At each regular meeting of the ethical committee the agenda for discussion will list the current ethical problems under scrutiny, and/or those that have emerged to public attention in the time period between the previous and the actual meeting. The Director shall always convene the ethical committee in an emergency or crisis generated by an ethical dilemma.

Governance uses ethics to solve problems that an organisation needs to solve. Healthcare always has an ethical dimension. The Ethical Committee, "wise men committee", board of trustees or how you may name it, should have clear responsibilities in deciding how the organisation delivers its healthcare services, how to resolve conflicts of interest and which strategic objective should be selected. These decisions will then be brought to the attention of the Board of Directors and the final decision-makers. So, where health organisations are managed by a single judge, with a governing board that never meets or has no effective power, ethical governance does not exist and never will.

The health management authorities are able to act as catalysts for the different abilities servicing the ethical governance of healthcare organisations.

No health department jurisdiction? No Ethical Governance.

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