Sample Teaching Module

PROBLEM-SOLVING:

ANALYTICAL METHODOLOGY

IN

CLINICAL ETHICS

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Key Points:

- this module is premised on the belief or assumption that a problem solving approach (as characterized below) is more likely to achieve the desired result in an ethical calculus than a purely intuitive, reflexive response, if only because it reduces the likelihood of errors of omission.

- this is not to diminish the importance of intuitive moral instincts. More often than not, these may be based on appropriate values, principles and particularly relevant experience. In such cases, a comprehensive methodology may be useful to test, corroborate or confirm such initial moral responses.

- **advantages** of having a problem-solving approach:
  
  - provides a framework which helps one organize something complex into more manageable parts
  
  - the organizational framework should provide for an approach which:
    
    - is systematic
    - is sequentially logical
    - is comprehensive
    - is consistent
    - has potentially to be readily acquired and learned
    - has a potential to correlate and be integrated with conventional clinical problem-solving strategies (e.g. ID, CC, HPI, O/E, etc.) that are part of the medical ethos and culture, and thus something clinicians can readily relate to
    - has a potential to be readily communicated to others to provide for a common approach
    - has a potential to produce a desired result - i.e. solution to the problem

- **disadvantages to having a problem solving approach:**
  
  - any such approach is bound to be artificial (i.e. not congruent with natural cognitive functions related to judgment, which are likely to be more flexible and dynamic)
  
  - may be too limited to deal with complex ethical issues (e.g. may not do justice to appreciating the rich, complex nature of ethical problems)
  
  - may inadvertently become restrictive and inflexible (e.g. doing the exercise of problem solving according to a given methodology becomes the goal in and of itself)
Key Points:

- As a starting point, it is helpful to distinguish between the goals and perspectives of ethics in philosophy and the applied ethics of clinical practice.

- The orientation of this particular analytical methodology is that of the applied ethics of clinical practice; the goal is to arrive at a practical resolution to an ethical dilemma as it presents itself in clinical practice.

- The analytical methodology proposed is basically a generic problem solving approach, adapted to the context of clinical practice and integrating basic elements of applied ethics.
ETHICAL COMPONENT

of a

CLINICAL DILEMMA

PRACTICAL RESOLUTION
Key Points:

- there are many elements that pertain to the ethics of clinical practice. There is little doubt that many of the issues that arise on a daily basis and end up as “ethical conundrums” originate more in inter-personal communication problems and inappropriate attitudes than in purely philosophical or intellectual dilemmas.

- it is important to recognize that this teaching module focuses on one particular element, i.e. “reasoned argumentation in ethical analysis”. This skill is of little value in clinical practice if it is not integrated with all the other elements listed here. In fact, the practical value of an intrinsically ethical attitude and approach (e.g. as exemplified by caring, sensitivity, tolerance, etc.) and excellent inter-personal communication skills (acknowledgement of the validity of other views, respectful listening, reframing negative critiques into constructive criticism, consensus building, etc.) cannot be overstated in this context.

- this module presupposes that residents are concomitantly developing appropriate attitudes, communication skills, and a data base of philosophical arguments as they relate to particular topics.
ETHICS

1. Attitudes
   - character
   - virtue

2. Knowledge
   - philosophical arguments

3. Skills
   - communication
     - negotiation
     - consensus-building
     - arbitration
   - ethical analysis
     - intuitive moral reflex
     - reasoned analysis and argumentation
Key Points:

- clinicians, especially those with little formal, academic background in the humanities, often feel overwhelmed by the plethora of elements to be considered and appreciated in a practical “ethical calculus”.

- these elements often are perceived to be overly non-specific, ambiguous, relative, undefinable, and generally not conducive to a “calculus” in the traditional scientific sense of the word

- often, this ethical calculus evokes a sense of frustration often associated with being asked to do something which apparently cannot be done

- one of the objectives of this module is to de-mystify the process of an ethical calculus in clinical practice by:

  - making explicit the fact that ethics is an inherent part of medicine; medicine is an art as well as a science

  - making explicit the fact that moral agency resides in each of us, particularly in our role as clinicians

  - providing a step-wise, clinically relevant problem solving approach that should be useful in providing guidance on how to navigate these murky waters of complexity and uncertainty
<table>
<thead>
<tr>
<th>Religion</th>
<th>Principles</th>
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<tbody>
<tr>
<td>Codes</td>
<td>Culture</td>
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<td>Consequences</td>
<td>Emotions</td>
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<td>Values</td>
<td>Information</td>
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<tr>
<td>Personal beliefs</td>
<td>Social &amp; Political Realities</td>
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<tr>
<td>Rational Arguments</td>
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Key Points:

- as stated earlier, intuitive moral reflexes and systematic methodologies of analysis are not mutually exclusive means of arriving at a moral consensus. they should be viewed as essentially complementary.

- the following are but three examples among many of suggested schemes for clinical ethics analysis. Each has certain advantages and disadvantages.

- the individual clinician should consider an eclectic, integrated approach that makes use of as many advantages as possible while minimizing the disadvantages inherent in any given schema

- ultimately, the advantages of mastering and applying a particular schema, regardless of which one, probably outweighs the disadvantages of having no systematic approach and relying on intuitive moral reflex alone
INTUITIVE REFLEX

VS.

SYSTEMATIC METHODOLOGY
- **Jonsen, Siegler, Winslade model:**

  - advantages:

    - simple
    - easy to understand
    - easy to learn and remember
    - easy to master and apply
    - easy to teach

  - disadvantages:

    - more a schema for data collection than a methodology of ethical analysis; teaches you what factors to gather and consider without teaching you how to actually do an ethical analysis

    - likely to provide a false sense of security by underestimating or not appreciating the complexity of the issues involved
An approach to decision-making in clinical ethics:

Jonsen A, Siegler M, Winslade W. *Clinical Ethics, 2\(^{nd}\) ed.*
Macmillan, New York 1986

<table>
<thead>
<tr>
<th>MEDICAL INDICATIONS</th>
<th>PATIENT PREFERENCES</th>
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<tr>
<td>diagnosis</td>
<td>advance directive</td>
</tr>
<tr>
<td>nature of disease</td>
<td>(LW, DPA/HC)</td>
</tr>
<tr>
<td>condition of patient</td>
<td>previous spoken</td>
</tr>
<tr>
<td>prognosis</td>
<td>previous choices</td>
</tr>
<tr>
<td>treatment options</td>
<td></td>
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<table>
<thead>
<tr>
<th>QUALITY OF LIFE</th>
<th>EXTERNAL FACTORS</th>
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<tr>
<td>who decides?</td>
<td>social</td>
</tr>
<tr>
<td>what standards?</td>
<td>cultural</td>
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<tr>
<td>suffering</td>
<td>legal</td>
</tr>
<tr>
<td>relationships</td>
<td>financial</td>
</tr>
<tr>
<td></td>
<td>institutional</td>
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- Hubert Marcoux, Department of Family Medicine, Laval University

model:

- advantages:
  - a fairly comprehensive listing of elements that go into an ethical calculus

- disadvantages:
  - complex at first glance with little indication of an actual approach
    - where do you start and where do you finish?
    - how do you get there?
from Howard Brody’s *Ethical Decisions in Medicine*

- advantages:
  - provides a step-wise sequence which actually speaks to the question of “how do you go about doing it?”
  - readily understandable
  - easy to learn, master, and teach

- disadvantages:
  - does not explicitly address many of the elements to be considered as in the previous two models
Figure 1. Method for ethical decision making.
Key Points:

- The model should be seen *in totality* as Figures 1 through 5

- Figure 1 depicts two key processes:

  1) a linear, sequential progression from identifying the ethical problem to articulating ethical justifications for the proposed solution(s)

  2) a complex series of feedback loops which emphasizes the dynamics of the clinical realities of problem solving - e.g. the initial ethical question may be difficult to pinpoint and articulate. An initial formulation of the question is offered. After Step 2 is undertaken, it may become self-evident that the question or dilemma articulated in Step 1 needs to be refined and re-articulated. This constant modulation applies to all the remaining steps in the process.

- One objective of the methodology is to enable clinicians to reason their way to a previously uncertain conclusion, not to rationalize away criticisms of their foregone conclusion. An underlying presumption of this approach is that the clinician starts out with an attitude of tolerance and questioning.
Figure 1

PROBLEM-SOLVING:
ANALYTICAL METHODOLOGY*
IN
CLINICAL ETHICS

1. Identify and articulate the ethical question(s) or dilemma(s) to be addressed (see Fig. 2)

2. Gather all necessary and relevant information as per grid (see Fig. 3)

3. Analyze the information in context of the question(s) (see Fig. 4)

4. Prioritize recommendations and articulate supporting argumentation (see Fig. 5)

5. Implement recommendations

6. Evaluate application of recommendations and provide follow-up

* “methodology” implies a strong linear, sequential progression. While such a progression is necessary in terms of arriving at a practical clinical resolution, the model is more appropriately understood in terms of a dynamic series of feedback loops.
Key Points:

- while not all ethical problems are dilemmas, many are

- as a practical strategy, try to articulate the perceived ethical problem as an dilemma; in lay terms, one perceives a dilemma as being stuck between the proverbial “rock” and “hard place”

- an ethical dilemma is not likely to be a choice between good and a bad values; rather, it is more likely to be a choice between competing goods. The choice is typically not between “90% good values” and “10% bad values” - those are relatively easy choices that do not normally pose a problem. The actual choices are more likely to present as “52% Good #1” vs. “48% Good #2”. These judgment calls are often found in the moral grey zones of clinical practice)

- the resolution of clinical dilemmas requires a careful balancing of competing values

- this process will help one appreciate that there are likely to be valid arguments on different sides of the ethical fulcrum; this in turn may help one depolarize an existing polarization of positions

- in keeping with this approach, the challenge is not one of judging one side as being right and the other wrong, but rather of recognizing which clinical options fall into the range of the “ethically acceptable” options and then rank ordering them
1. Identify and articulate ethical question(s) or dilemma(s) to be addressed

Figure 2

BAD
WRONG

GOOD
RIGHT

VS.

GOOD #1

GOOD #2
Key Points:

- this process may also help one appreciate the reality that in complex clinical situations, one is rarely faced with choices that are clear and distinct moral entities. More often than not, these choices represent shades of grey on a continuum of moral preferences.
DISCRETE MORAL ENTITIES

VS.

SHADES OF GREY
ON A CONTINUUM
Key Points:

- avoid falling into the trap of describing an ethical dilemma in terms of actions. Instead, try to articulate the dilemma in terms of competing ethical values or principles (i.e. name the ethical “rock” and the ethical “hard place” in terms of values or principles)

- many clinicians find it challenging to translate a perceived ethical problem from a choice of actions (e.g. intubate vs. not intubate; tell vs. not tell) into a choice of competing values (e.g. respect for autonomy vs. beneficent paternalism)

- one way to help bridge this gap is to try trace the source of the action back to the fundamental value from which it originated
Figure 9. Deductive model of ethical justification.

- Dr. Howard Brody
  *Ethical Decisions in Medicine*, 1981
Key Points:

- another way to help bridge this gap is to consider these four elements when contemplating the action in question
ETHICAL ELEMENTS

1. MOTIVATIONS FOR THE ACT

2. ESSENTIAL NATURE OF THE ACT

3. NATURE OF THE DECISION-MAKING PROCESS

4. CONSEQUENCES OF THE ACT
Key Points:

- clinicians may find it helpful to consider the following traditionally accepted principles of medical ethics (Beauchamps & Childress) when trying to identify what the competing values or principles may be in any particular case.

- the advantages of this list are:
  - it encompasses many of the ethical conundrums faces in daily clinical practice
  - it is easy to remember
  - it is relatively easy to apply

- the disadvantages of this list are:
  - it is not exhaustive
  - it may be reductionist in nature (i.e. all problems end up being reduced, rather simplistically, to a conflict of some, or all of these principles)
PRINCIPLES OF BIOMEDICAL ETHICS (Beauchamp & Childress)

1. AUTONOMY

2. NON-MALEFICENCE

3. BENEFICENCE

4. JUSTICE
Key Points:

- the following is another partial list of the kinds of ethical dilemmas one might encounter in clinical practice

- it is important to note that in any given case, there may be more than one dilemma that needs to be addressed

- in some scenarios, the conflict is not between two competing values, but between three or more simultaneously competing values
### Examples of Conflicting Values, Principles, Goals

<table>
<thead>
<tr>
<th>Patient Autonomy</th>
<th>vs.</th>
<th>Professional Beneficence</th>
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</thead>
<tbody>
<tr>
<td>Beneficence</td>
<td>vs.</td>
<td>Non-maleficence</td>
</tr>
<tr>
<td>Best interests of the patient</td>
<td>vs.</td>
<td>Social Justice</td>
</tr>
<tr>
<td>Respect for confidentiality</td>
<td>vs.</td>
<td>Duties to third parties</td>
</tr>
<tr>
<td>Preservation of life</td>
<td>vs.</td>
<td>Alleviation of suffering</td>
</tr>
<tr>
<td>Respect for dignity</td>
<td>vs.</td>
<td>Respect for expressed wishes</td>
</tr>
<tr>
<td>Self-protection</td>
<td>vs.</td>
<td>Working in patient’s best interests</td>
</tr>
<tr>
<td>Obtaining informed consent</td>
<td>vs.</td>
<td>Respecting wishes for non-disclosure</td>
</tr>
<tr>
<td>Respect for patient’s wishes</td>
<td>vs.</td>
<td>Respecting professional integrity</td>
</tr>
<tr>
<td>Promoting research for incompetent</td>
<td>vs.</td>
<td>Minimizing risk of abuse of incompetent</td>
</tr>
<tr>
<td>patients</td>
<td></td>
<td>patients</td>
</tr>
<tr>
<td>Respecting wishes of mother</td>
<td>vs.</td>
<td>Working in best interests of fetus</td>
</tr>
</tbody>
</table>
Key Points:

- One of the frequent imbalances between physician and patient is in the realm of clinical experience. Figure 8 from Howard Brody’s book *Ethical Decisions in Medicine* illustrates some of the dynamic behind this imbalance. As pointed out earlier, our preferred actions stem from fundamental values. In turn, however, one must appreciate that there are consequences to our choice of actions. In the realm of clinical medicine, physicians are usually in a situation of having a wealth of clinical experience that most patients do not. In some situations, living through and experiencing the consequences of our actions actually contributes to reevaluating and occasionally modifying our interpretation or prioritization of values as we apply them to clinical decisions. Many patients do not have the benefit of this evolutionary loop of learning. In the counseling process, physicians should try to impart the benefit of their clinical experience to the patient.

- A corollary of this dynamic is that the role of a physician is not merely to inform the patient of possible clinical management choices and the relative risks and benefits of each. The physician should provide recommendations, advice, and counseling on the preferred choice based on medical knowledge and personal clinical experience.
Figure 8. Common-sense model of ethical justification

- Dr. Howard Brody
  
  *Ethical Decisions in Medicine*, 1981
Key Points:

- advantages of using the Biopsychosocial framework for data collection:
  - allows for a fairly comprehensive collection and categorization of data
  - is a framework that is already well established and familiar to many clinicians
- personal psychology of involved parties:
  - includes influences of culture, religion, upbringing, emotional stress, etc.
- social - ethical considerations include:
  - basic concepts in philosophy
  - logic
  - classical and current arguments from the applied ethics literature relevant to the case
2. Gather all necessary and relevant information *

i) BIO-

- physiological indications:
  - diagnosis
  - nature of disease
  - condition of patient
  - prognosis
  - treatment options

- clinical judgment
  - based on physiologic indications
  - based on clinical experience

ii) PSYCHO-

- preferences:
  a) patient’s
    - competent?
    - informed?
    - implied/direct?
    - current/previous?
    - advance directive
      - proxy
        - wishes
    - wishes
  b) health care team
  c) family, friends

3. SOCIAL

- ethical
- professional
- institutional
- legal
- cultural
- financial

* For each of the above categories, one must also question the degree of certainty of the data base, as well as its relevance to the particular case.
Key Points:

- 3.2) iv:- despite the apparent comprehensive and systematic approach of the given methodology, it should be clear that a calculus that involves values and principles is not conducive to an arithmetical calculation. Ethical analysis cannot be reduced to a summation of positive and negative consequences. In the end, there is no way to avoid the realization that a given conclusion is fundamentally an ethical judgment based on a careful weighing and balancing of the considered options. This process of weighing and balancing has yet to be explicitly defined. This art accounts for the inevitability that two moral agents (e.g. clinician and patient) could reasonably use the same methodology in good faith (i.e. reasoning towards a conclusion rather than rationalizing a foregone conclusion) and yet arrive at fundamentally differing positions.

- 3) Just as step 1 (identifying and articulating the ethical question) requires the clinician to translate a question concerning actions into a question concerning fundamental values, so too must the answer or clinical resolution be phrased in ethical terms, i.e. philosophical argumentation (please see next overhead)

- 4) Checking for consistency is a difficult and controversial act in and of itself. If the clinician finds that the resolution to the clinical problem grossly undermines the fundamental values held dear by all parties, then there is a very high probability that the calculus has gone astray. On the other hand, consensus building may inevitably require that individuals or groups ultimately modify the interpretation or prioritization of their values because of their conscious use of a systematic approach to ethical analysis
3. Analyze the information in context of the question(s). *

1) Generate all real options

2) Consider each option in terms of the relevant values, principles and consequences:
   i) for each option, access underlying personal values or principles
   ii) for each of these, consider the corresponding immediate, short- and long-term consequences of interpreting, applying or rejecting the relevant values and principles
   iii) consider the benefits and limitations of each option
   iv) weigh and balance the options to make an ethical judgment on which one is best

3) Articulate your choice by framing it as an ethical argument

4) Check for consistency:
   - is the conclusion consistent with fundamentally accepted values and practice?

* Italicized terms denote required skills
Key Points:

- there seems to be a natural tendency to state opinions and positions without always providing the ethical justification for them. Without these justifications, there is little possibility for true ethical discourse, and a high probability of developing polarized views.

- true ethical discourse occurs at the level of understanding the reasons we give for our ethical positions

- the ethical positions we hold are only as convincing as the fundamental argumentation and beliefs on which they are based
Figure 5

COMPONENTS OF AN ETHICAL ARGUMENT

1. WHAT

(thesis)

+ 

2. WHY

(reasoned argumentation invoking the balancing of competing values, principles and consequences)

+ 

3. QUALIFIERS

(unique aspects of particular case which limits ability to generalize)
Key Points:

- the following series of overheads provides some basic information about the elements of western philosophy. It is intended to provide some elementary background to step #3 of the methodology. The actual ethical analysis of a clinical situation is fundamentally grounded in philosophy. This simple introduction is intended to stimulate the clinician to pursue further studies in philosophy as it applies to clinical ethics.

- ethics is formally one of the five branches of classical western philosophy.

- the following overhead provides some basic definitions of these five branches of philosophy.
PHILOSOPHY

**Logic**
- the study of ideal method in thought & research:
  - observation & introspection
  - deduction & induction
  - hypothesis & experiment
  - analysis & synthesis
- the study of the structure & principles of reasoning or of sound argument

**Esthetics**
- the study of ideal form, or beauty
- the study of art

**Ethics**
- the study of ideal conduct
- the study of good & evil
- the study of the wisdom of life

**Epistemology**
- the study of the theory of knowledge:
  - the nature & derivation of knowledge
  - the scope of knowledge
  - the reliability of claims to knowledge

**Metaphysics**
- the study of the “ultimate” reality of all things
- the study of establishing indubitable first principles as a foundation for all other knowledge
Key Points:

- the discipline of applied ethics, and in particular medical ethics, has evolved from classical philosophical ethics
ETHICS

**Normative Ethics**
- abstract theories concerned with guiding action

**Meta-Ethics**
- abstract theories concerned with ethics

**Applied Ethics**
- application of ethical reasoning to specific issues or areas of practical concern
Key Points:

- there are a multitude of normative ethical theories or philosophical schools of thought, most of which are attributed to a particular philosopher or group or philosophers

- one of the limitations of current North American medical ethics is that it relies heavily on western philosophy, which is predominantly a Judao-Christian tradition written almost exclusively by males. Recent inclusion of eastern and feminist philosophical traditions has enriched the field

- given the above limitations, it is practical, although somewhat reductionist, to classify most of the existing philosophies into two distinct types - those primarily focusing on principles or values as a framework for analysis (deontological) and those primarily focusing on consequences (teleological)

- medicine has a rich tradition of utilizing both kinds of ethical reasoning

- either category of analysis, used in isolation or taken to its extreme, is likely to be inadequate in providing a comprehensive analysis. The wise clinician tries to seek an effective blend of both types of philosophical argumentation
NORMATIVE ETHICAL THEORIES

PRINCIPLES
(Deontological)

CONSEQUENCES
(Teleological)
Key Points:

- the following is a generic example of a deontological method of ethical analysis. It is borrowed form Howard Brody’s book *Ethical Decisions in Medicine*. 
Figure 14. Deontological ethical method.
Key Points:

- the following is a generic example of a teleological (consequentialist) method of ethical analysis. It is borrowed from Howard Brody’s book *Ethical Decisions in Medicine.*
Figure 15. Act-utilitarian ethical method. This method fails if: (1) one is unable to predict consequences accurately, or (2) one is unable to estimate accurate happiness values.
Key Points:

- critiques of ethics:
  - the fundamentals of ethics are not universal, but are dependent on cultural norms, and are thus highly relative with respect to time and place
  - there is no single, unequivocally superior philosophy that is universally accepted
  - therefore, there are no right or wrong answers, only opinions

- partial response:
  - clinical ethics finds its meaning within its context
  - the context of clinical ethics is that it is a branch of applied ethics that is concerned, in part, with improving the care of patients. The necessary constraints imposed by practical resolutions to clinical problems has led to a pragmatic strategy of integrating the most helpful elements that various philosophies have to offer. These elements are then presented in a eclectic format which is most easily recognizable and useful to the practicing clinician, i.e., a clinically oriented problem solving approach
  - while there may not always be a single, self-evident solution to challenging dilemmas, there are many situations where there is a unanimous recognition of an ethical “wrong”.
  - the relative nature of morality does not necessarily render it arbitrary
WHICH PHILOSOPHICAL PERSPECTIVE?

Ethical Problem

Teleological

Virtue ethic

Caring ethic

Casuistry

Comunitarianism

Deontological