

Appendix 1

VIRGINIA BIOETHICS NETWORK

RECOMMENDATIONS FOR GUIDELINES ON PROCEDURES AND PROCESS TO ADDRESS "ORGANIZATION ETHICS" IN HEALTH CARE ORGANIZATIONS (HCOs)

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Background

In 1995 the Virginia Bioethics Network(VBN) adopted "Recommendations and Guidelines on Procedures and Process and Education and Training to Strengthen Bioethics Services in Virginia"(Recommendations). This set of guidelines was focused on helping health care organizations (HCOs) respond to the needs for ethics services within the organization and surrounding community. The VBN also anticipated that the recommendations could be used as a tool for HCOs to evaluate their ethics services and direct them toward appropriate decisions for improvement of these services. The recommendations also defined certain educational requirements for ethics committee members, ethics consultants, and teachers of introductory and advanced clinical ethics courses.

Since the VBN's action, a number of HCOs, both within Virginia and in other

states, have used the Recommendations to strengthen and evaluate their individual ethics programs. Many of these HCOs have reported that the recommendations have been valuable in preparing for Joint Commission for Accreditation of Healthcare Organizations(JCAHO) inspections and in addressing issues during the inspections. This positive aspect of the recommendations was not unexpected since consultation with Paul Schyve, Senior Vice President, JCAHO, continued throughout their development.

Introduction

In 1995 JCAHO added a section called "Organization Ethics" to its Standards for Patient Rights and Ethics. This was accomplished without fanfare and with very little notice from the community of HCOs which JCAHO accredits. This change, however, has far-reaching implications for the future operations of HCOs and their internal and external relationships (Including relationships with healthcare professionals and managed care organizations). Depending on interpretation and implementation, these new Standards could well become the framework for assuring ethical oversight of the ever changing health care arena for the foreseeable future.

Dr. Schyve has publicly stated on a number of occasions that he believes that

the ethics committee in each HCO should be the organizational base for attention to Organization Ethics. He has challenged the administrations of HCOs to use their ethics committees in this manner and has at the same time challenged ethics committees to rethink and expand their traditional role and services and to make necessary changes to respond to this new and important area.

Ethics committees have responded to this challenge in one of two ways: 1) beginning the process of reorganization required by this new mandate by considering the issues of "organization ethics" and developing a strategy to respond, or 2) refusing to become involved at all in organization ethics or asking to be involved only peripherally. VBN believes that the first response is the appropriate one since it assures that the ethics committee will continue to be a leader in developing and overseeing ethics services within the HCO. This position also assures the HCO board and administration that ethical issues associated with organization ethics will be addressed in an open manner by a committed multi-disciplinary group with input from community members, and that ethics processes, which lead to the best in patient care, which assure professional integrity of the practicing clinicians, and which assure that the HCO maintains the highest of ethical standards in its business and management activities, will be developed and maintained.

VBN's Board of Directors in its annual meeting in October, 1996, voted to develop new guidelines addressing the appropriate response of a HCO's ethics committee to organization ethics issues similar to the recommendations which address the more traditional activities of ethics committees.

The following guidelines have been developed with consultation and input from VBN members and the staff at UVa's Center for Biomedical Ethics. The guidelines have been revised after input from each of these groups and the final version has been approved by the VBN Board. These new "guidelines" are only recommendations and are meant to be adopted or rejected piecemeal or in toto by the boards of HCOs. VBN does not claim that these "Guidelines" represent the only or even the best way to respond to the issues of organization ethics. They do however represent thoughtful consideration of these issues by VBN member institutions, VBN individual members, and Center staff members with the goal of helping to develop a workable mechanism to address organization ethics issues in each HCO, thereby assuring ethics oversight of the policies and processes affecting the organizational aspects of the HCO.

Definition

Organization Ethics consists of a process(es) to address ethical issues associated with the business, financial, and management areas of healthcare organizations, as well as with professional, educational, and contractual relationships affecting the operation of the HCO.

Guideline One - Organization Ethics shall be addressed by each HCO's Ethics Program.

VBN believes that the ethics committee is the appropriate body within a HCO to address organization ethics issues for the following reasons:

1. Who better? There is no other established body within healthcare organizations as well prepared to address ethical issues in an open, honest, straightforward manner.
2. By accepting the responsibility for consideration of organization ethics issues the ethics committee continues as the recognized source for ethics education, consultation and policy review within the HCO.
3. Although expanding the committee's knowledge base to include the organization ethics arena may be necessary, the process remains essentially the same as that used for consideration of patient care ethics issues.

4. The ethics committee is less likely to be unduly influenced by business, financial, and legal considerations than a group composed of administrators, and/or financial officers, and/or institutional attorneys.
5. Attention to ethical issues in organization ethics is more likely to be accepted by the institution's patients and the community it serves if it is overseen by the ethics committee.

Guideline Two - Reorganization of the organization's ethics committee and additional training of ethics committee members shall be undertaken by each HCO so that the ethics program can appropriately respond to organization ethics issues.

If organization ethics is to be fully understood by the ethics committee so that it can be fair, objective, and efficient in addressing organization ethics issues, there will, by necessity, need to be changes in the organization and activities of the ethics committee. Following are examples which comprise one workable mechanism for instituting needed changes. Other mechanisms may work as well or better in particular HCOs.

1. Reevaluate the ethics committee's mission statement, policies, and by-laws and change as needed to reflect the expanded scope and activities of the committee in addressing organization ethics issues.

2. Reorganize the ethics committee to include representatives from the business, finance, and management areas of the HCO.
 - A. Enlarge committee and expand work to include organization ethics.

 - B. Divide the committee into two subcommittees: "Patient Care" and "Organization Ethics". Each subcommittee would have primary responsibility for its particular set of issues with the "Patient Care Subcommittee" being responsible for the patient care issues traditionally addressed by ethics committees while the "Organization Ethics Subcommittee" is responsible for organization ethics issues. Both subcommittees should report to the full committee and any actions or recommendations should be from the full ethics committee after appropriate consideration and discussion.

VBN believes that dividing the committee into two focused subcommittees is the preferred mechanism for reorganization of the committee for most HCOs.

3. Begin education program focused on organization ethics for committee members.

Education should focus on 1) introducing ethics committee members to organization ethics, 2) increasing the committee's knowledge of the business, financial and management aspects of the HCO including an introduction to particular ethical issues seen in these areas, 3) a study of conflicts of interest among healthcare professionals, and 4) theoretical and practical issues in "business ethics". This may require taking courses at local institutions of higher learning, taking short (one or two week) intensive courses focused on these issues, contracting with experts to develop and present required education, and discussion concerning these issues among all of the members of the newly formed ethics committee; with the new members from the business, management, and financial areas taking the lead in explaining the

ethical principles they use in decision making.

Guideline Three - The major functions of the organization ethics activities of the ethics committee shall be to develop or revise an Organization Code of Ethics with attention to the organization's mission statement for guidance, to develop or revise policies which support the mission statement and the code of ethics, to develop an educational program concerning organization ethics issues for board members, clinicians, administrators, finance officers, and community members, and to institute a process for addressing issues and problems which arise in conjunction with organization ethics.

1. Develop or review the HCO's code of Ethics

The JCAHO now requires that each HCO which it accredits have a code of ethics which addresses at a minimum the following issues: Marketing, Admission, Transfer, Discharge, Billing Practices, Providers, Payers, and Educational institutions. To date JCAHO has made few specific recommendations as to how the code should address

each of these subjects. JCAHO does require that the code be consistent with the mission of the HCO and that, when needed, specific policies be developed to ensure that the code has meaning within the day to day operations of the HCO.

An appropriate first task for the reorganized ethics committee should be review of the code (if one has been developed) with recommendations for change when needed, or the development of the code and supporting policies if this has not been done previously.

2. Develop and institute an educational program focused on organization ethics issues for the committee, the organization's staff, both clinical and nonclinical, and the community which the organization serves.

The needed education can be accomplished in a number of ways including lectures from outside experts, lectures from knowledgeable committee members and other staff members, panel discussions, general discussions led by a committee member, case discussions, and a repeatable course developed by the committee. Each committee will

decide which of these educational programs are appropriate for the particular HCO. It is imperative for each ethics committee to begin its educational program as soon as possible and to obtain outside help when needed. (VBN will help its members and others with the development and presentation of educational sessions when needed.)

3. Ethics committees should recognize that certain problems and dilemmas related to organization ethics may occur and a mechanism for addressing these organization ethics "cases" should be developed. The mechanism chosen to address these cases can be similar to the patient care ethics consultation mechanism described in the "recommendations" or may take some other form. Whatever approach is selected a formal process defined by protocol should be developed and instituted; such process to address the issues of access, notice, documentation and evaluation of the process as well as education and training of those designated to be responsible for this process. (See Recommendations)

Guideline Four - The organization ethics aspect of the ethics committee shall develop one or more plans for coordination of attention to ethical issues based on

the relationships between the HCO and 1) Managed care organizations with contractual association, 2) health care professionals, and 3) community organizations with ongoing relationships with the HCO.

Relationships and associations (professional, personal, and contractual) among those actively engaged in health care delivery are often of primary importance in understanding and resolving ethical problems. In spite of their importance, little attention has been directed toward these issues. VBN believes that the organization ethics activities of the ethics committee should include attention to these important aspects of the ethical climate of the organization.

1. It is appropriate for the ethics committee with an organization ethics function to consider how specific contractual obligations of the HCO does or does not correspond to the stated mission and code of ethics. The ethics committee should have no authority to change these contractual obligations but should be expected to call attention to perceived deviations from the mission and code within the organization.

2. It is appropriate for an ethics committee with an organization ethics

function to offer assistance to healthcare professionals when problems occur based on conflicts between professional obligations and obligations imposed by administrative and regulatory structures. The ethics committee should not however be involved in strictly professional issues.

3. The ethics committee with an organization ethics function should recognize as part of its obligation enhancement of disclosure and communication between the HCO and 1) its employees, 2) its professional staff, 3) its contractual partners, and 4) most importantly, the community it serves.

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