Maintaining our Ethical Culture

3. Next Steps

ST JOHN OF GOD
Health Care

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Program

1. Review of Day One
2. Ethics at the End of Life
    - Decision-Making & Case Studies
3. Processes for Ethics
4. Another Framework for Ethics
5. Homework for Day Three
6. Your Case Studies

1. Review of Day One

- Five Steps to Learning
- Contemporary Eclipse of Moral Values
- The Real Standard for Ethics
  = human flourishing
- Two Areas for Ethics
  - Ethics of Being
  - Ethics of Doing

Ethics and Values

- Values

  ↓
- Principles

  ↓
- Guidelines

  ↓
- Decisions about cases

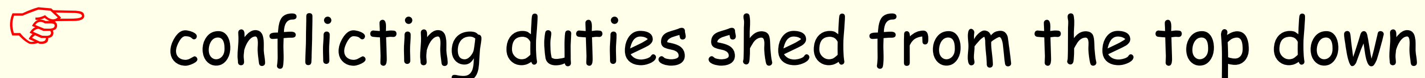
Quality Conversations . . . *with yourself*

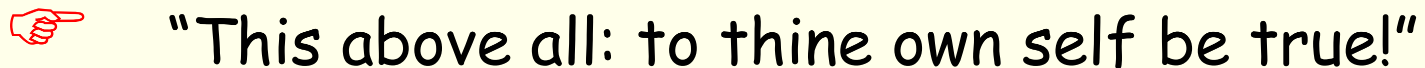
Fiduciary ⟶ duty to employer *(trusted employee)*

Professional → duty to profession *(professional standing)*

Personal ⟶ duty to self *(personal integrity)*

As a general rule . . .





Quality Conversations . . . *with others*

- 'What is happening?' conversation (facts now)
- 'What happened?' conversation (facts then)
- 'Feelings' conversation
- 'Learning' conversation

Possible Issues

- Ethics Violation
- Ethical Dilemma
- Pastoral Issue
- Relationship Challenge
- Emotional Challenge

Resource 1 : The Grid

Problem		Ethical Principle	Legal Position
1	What problem do we see ?	What does CHA Code say about this ?	What does the law say ?

2. Ethics at the End of Life

- Facing the Truth
- Ethical Standards
- Refusing Treatment
- Pain Control
- Tube Feeding
- Advance Care Planning
- End of Life Case Studies

Facing the Truth

- "Patients need to be able to rely on their practitioners to communicate truthfully and sensitively with them…"
- "Although it is wrong to lie to patients, the information-giving process may need to take place over a period of time rather than all at once."
  - *Code of Ethical Standards* II.1.8

Ethical Standards:

1. **Traditional Morality (Catholic standards)**

- Each person has a moral responsibility to use those means of sustaining our lives that are effective, not overly burdensome and reasonably available (‘ordinary’ or ‘proportionate’ means)
- Each person has a moral right to refuse any treatment that is futile, overly burdensome or morally unacceptable (‘extraordinary’ or ‘disproportionate’ means)

Ethical Standards:

2. ‘New’ Morality

- Each competent person has an unlimited right to refuse all medical treatment.

These two standards

- *Traditional / Catholic morality*
- *‘New’ morality*

co-exist in health care,

sometimes in an uneasy tension.

Refusing Treatment
(Traditional / Catholic Standard)

- Futile and/or
- Overly burdensome
  - physically too painful
  - psychologically too distressing
  - socially too isolating
  - financially too expensive
  - morally repugnant
  - spiritually too distressing
- ‘heroic’ or ‘cruel’ treatment
- may be refused

Pain Control

- Nowadays, it is rare for appropriate use of pain control to significantly shorten life.
- Even so, “it is licit to relieve pain by narcotics, even when the result is decreasing consciousness and a shortening of life, if no other means exist…” (Pope Pius XII, 24 February 1957)

Tube Feeding

- John Paul II. "Address to Participants in the International Congress on 'Life-Sustaining Treatments and Vegetative State." (20 March 2004)
- ACBC Bishops Committee for Health, Bishops Committee for Doctrine and Morals, and Catholic Health Australia. "Briefing Note on the Obligation to Provide Nutrition and Hydration." (2004)
- Congregation for the Doctrine of the Faith. "Responses to Questions Concerning Artificial Nutrition and Hydration." (1 August 2007)
- McGovern, Kevin. "Catholic Teaching about Tube Feeding." *Chisholm Health Ethics Bulletin* 16, no. 2 (Summer 2010): 8-12. CCCHE, http://www.mercy.com.au/About_Us/Research/Bulletins
- McGovern, Kevin. "Tube Feeding, Catholic Teaching and Dementia." *Health Matters* 64 (Summer 2012): 36-37.

Tube Feeding (cont'd)

- Catholic teaching on tube feeding has considered a specific condition, *Post-coma unresponsiveness (Vegetative state) (PCU)*
- In PCU, tube feeding "should be considered, in principle, *ordinary* and *proportionate*, and as such morally obligatory." (John Paul II)
- Tube feeding usually offers little if any benefit in advanced dementia.
- Decide on a case-by-case basis. In most cases, however, a feeding tube would not be inserted into a person with advanced dementia.

Advance Care Planning (ACP)

- From C20, modern medicine has greatly increased average life expectancy
  - BUT
    - many more are old, frail and chronically ill
    - towards the end of life, medical treatment probably won't cure, but may make a final illness and death very unpleasant ('dysthanasia')
    - towards the end, many are unconscious/incompetent → at that time, cannot say no to further treatment

Advance Care Planning (cont’d)

‘Living Will’ or Advance Care Directive

→ Substitute Decision Maker

→ Substitute Decision Maker, along with Statement of Wishes and/or Advance Directive

Catholic Teaching on ACP

- *Code of Ethical Standards for Catholic Health and Aged Care Services in Australia*
- *Advance Care Plan*
- *A Guide for People Considering Their Future Health Care*
- *A Guide for Health Care Professionals Implementing a Future Health Care Plan*
  - Download them all for free from **Catholic Health Australia** website: http://www.cha.org.au/publications.html

A Guide for People Considering Their Future Health Care

- Focussed on ongoing communication (NOT just filling in forms!)
  - "Planning your future health care requires good communication between you and your family, friends and health care professional."
- Prefers Substitute Decision Maker to Advance Directive
  - "A health representative can make decisions on your behalf…. These health decisions have the advantage of being flexible in response to changing circumstances."

A Guide for People Considering Their Future Health Care (cont'd)

- Guiding Your Substitute Decision Maker
  - "A good future health care plan should… aim to provide them with clear guidance… which can be adapted according to changing circumstances."
  - "You can allow your representative to make health decisions for you, or you can provide that person with specific advice, verbally or in writing, or by having it recorded in your doctor's records."

Advance Care Planning: Victoria

- SJGHC *Planning your future health care – VIC*
  - Enduring Power of Attorney (Medical Treatment)
    - For this form, see http://www.publicadvocate.vic.gov.au/file/file/Powerofattorney/Power%20of%20attorney%20forms%202010/Enduring_power_of_attorney_medical_treatment_with_instructions2010.pdf
  - Refusal of Treatment Certificate
    - only for current conditions
    - For this form, see http://www.health.vic.gov.au/__data/assets/pdf_file/0004/275251/mta88_sched01.pdf
  - Person Responsible
    - See http://www.publicadvocate.vic.gov.au/medical-consent/467/

Advance Care Planning: New South Wales

- SJGHC *Planning your future health care – NSW*
  - Enduring Guardianship
    - for more information, see http://www.publicguardian.lawlink.nsw.gov.au/agdbasev7wr/_assets/publicguardian/m406751l1/finalweb_version.pdf
  - Advance Care Directive
    - no one form is mandated
    - for more information, see http://www.health.nsw.gov.au/policies/gl/2005/pdf/GL2005_056.pdf
  - Person Responsible
    - See http://www.publicguardian.lawlink.nsw.gov.au/agdbasev7wr/_assets/publicguardian/m406751l1/finalweb_version.pdf

End of Life Case Studies: Case Study 2

64-y-o male with inoperable oesophageal cancer

- Metastases in liver, bone (arm), perhaps brain
- PEG feeding
- Analgesia for bone cancer pain
- Advanced diabetes, insulin-dependent for 20 years
- Chronic suffering for 2 years, including surgical debriding of feet
- Competent: alert and communicative

Asks for insulin to be discontinued

- "I'm ready to die"

The Case of Christian Rossiter

- 49-year-old Perth man with spastic quadriplegia
- fed through PEG
- described his life as a “living hell”
- Because he wanted to die, told Brightwater Care Group (BCG) to stop feeding him
- BCG asked Western Australia’s Supreme Court whether they could legally keep feeding him
- On 14 August 2009, the Court upheld his right to refuse food
- “There’s a possibility I could still be dissuaded.”
- refused treatment for chest infection, and died on 21 September 2009

Christian Rossiter: Euthanasia by Omission?

- Euthanasia is "an act or omission which of itself and by intention causes death, with the purpose of eliminating all suffering"
- Advised by prominent euthanasia advocate, Dr Philip Nitschke
- Wanted to refuse nutrition and hydration
- Not dying

Christian Rossiter: Refusing Overly Burdensome Treatment?

- “I want to die” may mean “I want to be free of overly burdensome treatment”
- The Catholic tradition has broad understanding of burdensome treatment
- *Vehemens horror*
- The Catholic tradition does not require someone to be dying before refusing burdensome treatment

Christian Rossiter: Kevin McGovern's First Conclusion

- "Except in exceptional circumstances, a request to discontinue tube feeding could not be honoured in a Catholic hospital or aged care facility…. A patient who persists in this request may have to transfer to another, non-Catholic facility."

Christian Rossiter: Kevin McGovern's Final Conclusion

- There is genuine doubt here!
- Catholic principle: a doubtful rule does not bind
- "A quadriplegic patient receiving complicated care may legitimately refuse further treatment, and a Catholic facility may legitimately continue to care for them even as death approaches."
  - "Rethinking the Ethics of Refusing Treatment," *Health Matters* 53 (Autumn 2010): 24-25, 27.

The Case of Margaret Page

- 60-year-old New Zealand woman
- severely disabled after cerebral haemorrhage in 1991
- not fed through PEG
- from 2001, cared for at St John of God nursing home in Karori, NZ
- mostly confined to bed, needed help to eat and shower
- because she wanted to die, refused food from mid-March 2010
- staff “continued to provide a very high level of care,” and offered food and water “whenever they went into her room and at regular intervals”
- died 16 days after she stopped eating, on 31 March 2010

3. Processes for Ethics

- Good processes ensure that:
  - important steps are not forgotten,
  - and are done in an orderly manner.
- Advance Health Directive AHD - Procedure
- Protocol in the event of an Ethical Problem

4. Another Framework for Ethics

A values-based framework

- What are the facts of the case?
- What are the values at stake?
- Are there any guiding ethical principles?
- Who should be involved in deciding?
- Can the decision be reviewed?

5. Homework for Day Three

- Read a chapter of Part II of the *Code of Ethical Standards*
- Fill in the Reaction Sheet

6. Your Case Studies

- Does the Grid help?
- What about the values-based framework?
- Or the *Code of Ethical Standards*?