

A Method for Ethical Problem Solving

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I have always thought that if there is a sense that there is an ethics issue at hand, then there probably is. I often tell my colleagues: "If you have an ethical itch then you probably need to understand what it is you need to scratch." It seems as if there is almost a moral instinct that begins to send an alert to us and our task is to ferret out what is at issue and then directly address it.

Robert Veatch and his colleagues have a five-step model for outlining the process that will be described in this brief introduction:

1. Respond to the 'sense' something is wrong....acknowledge the itch.
2. Begin to gather information about the case in order to develop an assessment of the itch.
3. Identify the ethical and moral problem (ethics diagnosis).
4. Find a resolution.
5. Involve all of the stakeholders to determine a course of action.

I will now outline the process by looking at the following case study using the five steps.

The Crafty Pediatrician: A Case Study

Dr. Fritz has a practice of seeing most of his pre-adolescent and adolescent patients in private without the parents being in the examination room at least initially. He will bring in the parents after any discussion with the patient especially if any intervention is needed that a parent may give consent for or at least for information purposes.

He had a scheduled appointment with John a 14-year-old patient whom Dr. Fritz had been seeing on a regular basis since his birth. At this visit, John expressed his desire to have his rather extensive acne treated. He was beginning to be interested in dating and was, as are most adolescents, very self-

conscious about his appearance. While John was explaining his desire to have his skin clear Dr. Fritz noticed the smell of cigarette smoke on John's clothing but he said nothing to John about his smoking habits and assumed that if he was at least experimenting with cigarettes. After John finished talking Dr. Fritz came up with what he thought was a brilliant plan. He told John that he could in fact treat his acne with a prescription, that the drug was very effective, and that he would get some real improvement with his complexion in a short period. Dr. Fritz went on to add that the drug that he was going to prescribe had an adverse reaction with nicotine and the drug would not have the desired effect for clearing up John's skin if he were to smoke cigarettes even if he vaped electronic cigarettes. While the adverse reaction is fictional Dr. Fritz went on to get John's assurance that he understood that to have clear skin he could not use nicotine. Dr. Fritz then asked John's mother into the room and let her know that he was prescribing an acne medication but did not mention the issue of nicotine.

1. Respond to the itch...the sense there is something wrong

The first step in ethical decision-making is to respond to the sense that there are certain conflicts within the situation. In this case one might sense there is some kind of disconnect concerning Dr. Fritz' decision not to address the possibility that John is smoking cigarettes. There may also be a sense of discomfort that John's mother was not consulted about cigarette smoking within the household. Another issue might be concerning the deception performed by Dr. Fritz in telling John that the acne medication is neutralized by nicotine. There might be other issues involved in this case and in most cases, you will face in the future. The first step is to begin to identify and bring to the open what those issues might be. Talking to others about a case, seeking consultation with peers, is always a helpful way to identify the 'itch that needs scratching'.

2. Gather relevant information

It is often said that good ethics begins with good facts. In order to be able to make a good and sound decision about an ethical problem one needs to identify and organize the relative facts surrounding the case. Such questions as the patient's medical status, the length and quality of the relationship between practitioner and patient, the diagnosis and prognosis, the interventions involved, the patient's ability to understand and process medical information, and others need to be asked. In addition, who are the main players involved in the case and how can/should they be

involved? In the case with John, we know that he is a healthy 14 year-old boy well known to the physician and that he lives with his family and no doubt, we would know far more than what the case study provides. At any rate, this second step in ethical decision making one gathers and details the medical, social, and psychological facts of the case.

3. Identify the ethical and moral problem(s): The ethics diagnosis

A good and general rule of thumb in diagnosing ethical issues in medical practice and research is the notion that there is a conflict between competing ethical principles. You may remember that there are at least four general principles of medical ethics: the respect for autonomy; beneficence; nonmaleficence; and justice. An ethics issue arises when one or more of these general principles are found to be in conflict in specific situations. A simple but good example of a conflict of principles is a patient wanting antibiotic medication for a common cold. In this example, there is a conflict between the respect for autonomy, respecting the patient's wish to have her or his life enhanced or relieved of avoidable suffering and the physician's beneficent responsibility to do right by the patient and for the patient's welfare. In this case the issue of justice is also a factor. We do respect the patient's expression of their autonomy in how they live and play out their life expectations while at the same time the physician knows that that antibiotic medication is not in the best interests of a person with a viral infection. Finally, the physician also knows that the overuse of antibiotic medication increases the mutation of resistant bacteria which threatens the general public health. Therefore, in this example we have a conflict between autonomy, the physician doing right by the patient in beneficence, the physician not causing harm (nonmaleficence) by over prescribing antibiotics thereby protecting the common public health (justice).

In our case with John, one can see some potential conflicts between our ethics principles. Clearly, John has his autonomous interest in clearing up his acne and Dr. Fritz has the ability to treat

him safely. He can do right by the patient. However, Dr. Fritz is in danger of doing real harm to his physician patient relationship with John: is it ever OK for physicians to lie to their patients....even if the intention is to do the good? In addition, might a beneficent thing to do in this case be to engage John in a dialogue of counseling about smoking thereby doing right by John in getting the information he needs to make an informed decision thereby respecting his autonomy to make life course decisions?

Making the ethical moral diagnosis is an essential part of the decision making process. Keep in mind the four general principles and find where in the case the principle compete for attention. When those tensions are identified then the next steps can fall in place.

4. Find a resolution

The resolution phase of decision-making must require the proposal of more than one course of action and the examining of the ethical justification of those actions. Often we avoid this step in order to save time or reduce stress by picking the first resolution we think of. In our case with John and Dr. Fritz, there are several options. One obvious option is to decide that the 'simple deception' should stand because Dr. Fritz could argue that the benefits for John are greater in the deception than in giving a 14 year-old the freedom to make his own decisions in the face of peer pressures etc. He knows John well enough and may be able to make an argument in that direction. Clearly, another option would be to counsel John about the issue of smoking including long-term effects (incidentally ones that have dermatological implications!) thereby honoring his developing autonomy, protecting the physician-patient relationship, and maintaining the virtue of physician truth telling. A third option would be an expansion of the counseling option but including the mother in that discussion. This would be especially important if the household had other active smokers. There might be a risk of compromising

John's developing autonomy in making this decision but nonetheless an argument can be made for this resolution as well as the others.

The point is that after making the ethics diagnosis we must allow for and recognize the possibility of more than one resolution option. Rational arguments must be explored for each option and then and only then can one make a decision on the best option suiting the situation and our personal sense of ethical and moral comfort. Please take note: there will usually be what I call the 'ethical remainder'. Rarely will there be a choice that is so clear and compelling that there are no other justifiable options for resolution. We usually have to live with that remainder and trust our best judgement. Getting consultation is also a remedy for living with the 'ethical remainder'.

5. Involve others to determine a course of action

Ethics, particularly practical ethics is not done in a vacuum or in a library cell. There is no such thing as the private practice of medical ethics. Ethics is a communal practice. Our ethical decisions always involve other primary stakeholders. A good ethical resolution is a result of all stakeholders having the opportunity to discuss their perceptions, value, and concerns. Keep in mind that the first step of the process, sensing the ethical itch, is a subjective one limited by our own subjectivity that is influenced by class, gender, race and other factors. Getting input from colleagues as well as the direct stakeholders in the case is therefore essential. In cases that are more complicated an institutional ethics committee can be called upon for consultation as well. Some consideration of including John's parents in this discussion must be made. Perhaps first consulting John about his would respect his autonomy so that he might have some choice in the matter. Indecently, I did not make up this case. While I have changed the names of the two named persons, in this case it is a real one: the pediatrician involved consulted me with this case. He involved others to come to a resolution. He finally decided that the deception was not in the best interests of the patient and he

decided to counsel him but knowing that no others smoked in the household decided to respect John to make the decision for himself. He did receive the medication for his acne and on follow-up said he was no longer experimenting with smoking.