Chapter 1
Introduction to Medical Law, Ethics, and Bioethics
Why Study Law, Ethics, and Bioethics?

- Illegal is almost always unethical. For example, although marches during the Civil Rights movement were illegal, they were certainly not unethical.
- Basic understanding of law as it applies to medical practice is essential.
- Helps to protect patients from poor medical care.
Why Study Law, Ethics, and Bioethics?

- Helps protect employee and employer from lawsuits
- Assists medical professional in making decisions based on reason and logic rather than on just emotion
- We live in a litigious society.
Medical Law

- Addresses legal rights and obligations that affect patients and protect individual rights, including rights of health care employees
- Provides yardstick to measure or judge actions
- Punishes unlawful actions
- Laws are rules or actions prescribed by a government authority that have a binding legal force
Medical Practice Acts

- Regulate how medicine is practiced in each state
- Provide legal definition for the practice of medicine in that state
- List requirements and methods for licensure
- Define what constitutes unprofessional conduct
Ethics

• Branch of philosophy related to morals, moral principles, and moral judgment
• Morality is being virtuous; practicing right conduct
• Uses reason and logic to analyze problems and find solutions
• Concerned with actions and practices that improve welfare of people in a moral way
Medical Ethics

- Concerns issues related to practice of medicine
- Explores and promotes principles guiding conduct of health care professionals
- Involves the welfare and consideration of others in deciding how to act
Utilitarianism

- Greatest good for the greatest number
- Impact of actions on welfare of society as a whole, rather than merely the individual
- Ends justify the means
Utilitarianism

• Example: Medicare
• Weakness:
• The rights of some people, such as the poor or ill, may be ignored
• Can result in biased allocations
• Virtually impossible to quantify all variables
• The vulnerable (young, sick, handicapped) may be ignored
Rights-Based Ethics

- Emphasis on individuals’ rights
- Rights belong to all people
- Weakness: may result in individualist, selfish behavior—even anarchy
Duty-Based Ethics

- Focuses on performing duty
- Explores conflicting opinions about “duty”
- Differs depending on professional role (i.e., RN, physician assistant, medical assistant)
- Weakness: difficult to know who determines one’s duty
Justice-Based Ethics

• Based on a “veil of ignorance” to allow decision-makers to be impartial in their decisions

• Weaknesses:
  • Unfair for the healthy to subsidize the unhealthy?
  • Due to media coverage and huge healthcare system it is impossible to have a “veil of ignorance”
Virtue-Based Ethics

• Emphasis on people, not on decisions or principles involved
• Based on character traits such as integrity
Virtue-Based Ethics

- Virtues are good habits
- Examples: fairness, honesty, courage, and justice
- Seeking the “good life”
- Weakness: a person may become too trusting and complacent
Values That Drive Ethical Behavior

- Beneficence
- Fidelity
- Gentleness
- Humility
- Justice

- Perseverance
- Responsibility
- Sanctity of or respect for life
- Tolerance
- Work
Interpersonal Ethics

- Respect
- Integrity
- Honesty
- Fairness
- Empathy
- Sympathy
- Compassion
- Loyalty
Workplace Issues

- Privacy, or confidentiality
- Due process
- Workplace free from sexual harassment
- Comparable worth
Three-Step Ethics Model

1. Is it legal?
2. Is it balanced? For example, does one person or group benefit or suffer more than another as a result of your actions?
3. How does it make me feel (i.e., embarrassed, proud)?
Seven-Step Model for Examining Ethical Dilemmas

1. Determine the facts
2. Define the precise ethical issue
3. Identify the major principles, rules, and values
4. Specify the alternatives
5. Compare values and alternatives
6. Assess the consequences
7. Make a decision
Dr. Bernard Lo’s Clinical Model

1. Gather information
2. Clarify the ethical issues
3. Resolve the dilemma
What Ethics Is Not

- Not just about how you *feel*
- Not about sincerity of beliefs
- Not about emotional response
- Not only about religious beliefs
Bioethics

• Moral dilemmas and issues resulting from advanced medicine and medical research relating to life
• Examples: cloning, stem cell research, and gene therapy
• Bioethicists: specialists in the field of bioethics
Ethics Committees

• Examine ethical issues relating to patient care
• Contain a variety of members from many health care disciplines
• Can serve in advisory capacity to patients, families, and staff for case review of difficult ethical issues
• Develop and review health policies and guidelines regarding ethical issues
Quality Assurance

• Gather and evaluate information about services
• Examine results
• Compare information against a standard
Medical Etiquette

- Certain rules, or standards of professional behavior, that physicians practice in their relationships or conduct with other physicians
- For example, telephone calls from one MD to another should be taken promptly