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# The Board's Responsibility for Ethical Policy Making

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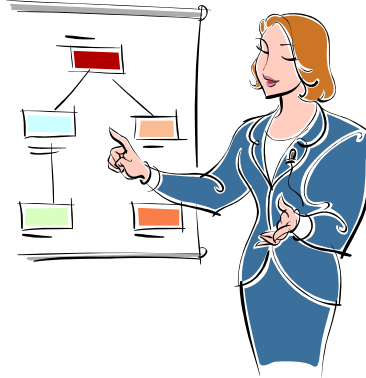
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Nashville, Tennessee



# Presenters

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# Objectives

- Identify (other) ethical challenges.
- Describe ethical obligations related to human flourishing.
- Describe an accountability framework of policies, processes, and practices related to (other) ethics.



# Assumptions

- Ethics should apply to all areas of health care
  - When a someone asks, “Is this an ethical organization?” You should be able to answer.
  - You should be able to explain how you know this, metrics.
    - Provide empirical data with respect to certain indicators
- Same principles apply to individuals, organizations, business
  - The context differs.
- Capital assets involve not just buildings, equipment but also people
- Organizational ethics is about collective accountability



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# What is Ethics?

- It can be about resolving dilemmas,
  - but not only this
- It can be about individual actions,
  - but not only this
- It is also about what kind of persons we are becoming – our character and how our choices shape us.
- Ethics is ultimately about human flourishing, about living well, about achieving good through means that are consistent with real human values and needs.



# What is Organizational Ethics?

- It can be about Compliance,
  - but not only this
- It can be about Due Diligence,
  - but not only this
- It can be about resolving value conflicts,
  - but not only this
- Organizational ethics is primarily about integrity, about making decisions that are consistent with the moral identity and values of the organization, so that the organization, its associates and the communities it serves can truly flourish.



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# What is Business Ethics

- The principles and standards that guide behavior in the world of business.
- Whether a something is ethical or unethical is often determined by stakeholders:
  - Investors, shareholders
  - Employees
  - Vendors, suppliers
  - Customers
  - Government
  - Legal system
  - Community
  - Competitors
  - Interest groups, trade and professional associations
  - Media



# Lessons Learned

- Elemental work is to protect (the most vulnerable) from harm(s).
- Committee functions may serve as a social safeguard for complex areas with potential harm(s).
- Issues relate to difference.
- Conflicts present emotional, psychological, communication challenges.
- Ethics is a group activity, levels the playing field.
- Need awareness of values in play, conflicts of interest.
- Ethical theories help clarify, strengthen understanding.
- Highly individualized decisions worked out in the context of relationships vs. board rooms.



# Common Issues

- Clinical: Patient and family issues
  - Advance directives
  - Surrogate decision making
  - Goals of care
  - Code status
  - End of life
  - Culture and Religion
  - Mediation
- Organizational: Hospital & system's health
  - Allocation of resources
  - Conflict resolution
  - Conflicts of interest
  - Confidentiality
  - Research
  - Public actions



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# Ethical Dilemmas

- Conflict between two 'rights'
- Principles, decision making frameworks, or tools help clarify what is important
- Ethics process
  - ID areas of conflict
  - ID (other) resources
  - Provide support, understanding
  - Help move toward resolution
- Goal/hope: a 3rd way forward
  - Something besides two extremes



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# Role of Ethics Mechanisms

- Improve and enhance the quality of patient care
  - Care of employees
- Education
  - Committee, staff, community.
- Administrative
  - Policy development and review.
  - Oversight and comment on operations with ethical impact.
- Consultation and case review
  - Conflict resolution.
- Inform other institutional efforts
  - Regulatory compliance
  - Reduction of costs (without increasing mortality)



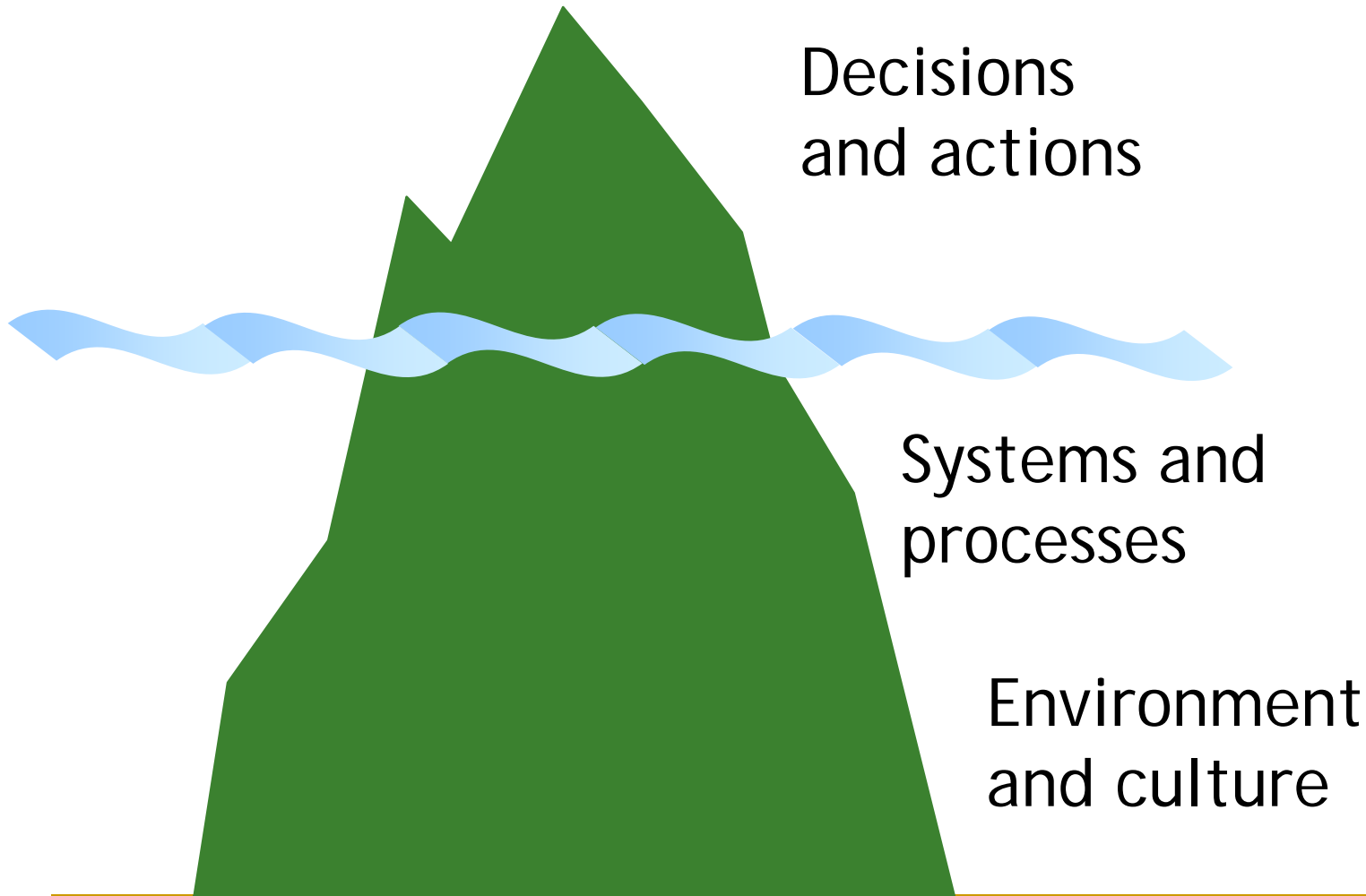
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# Process/Plan

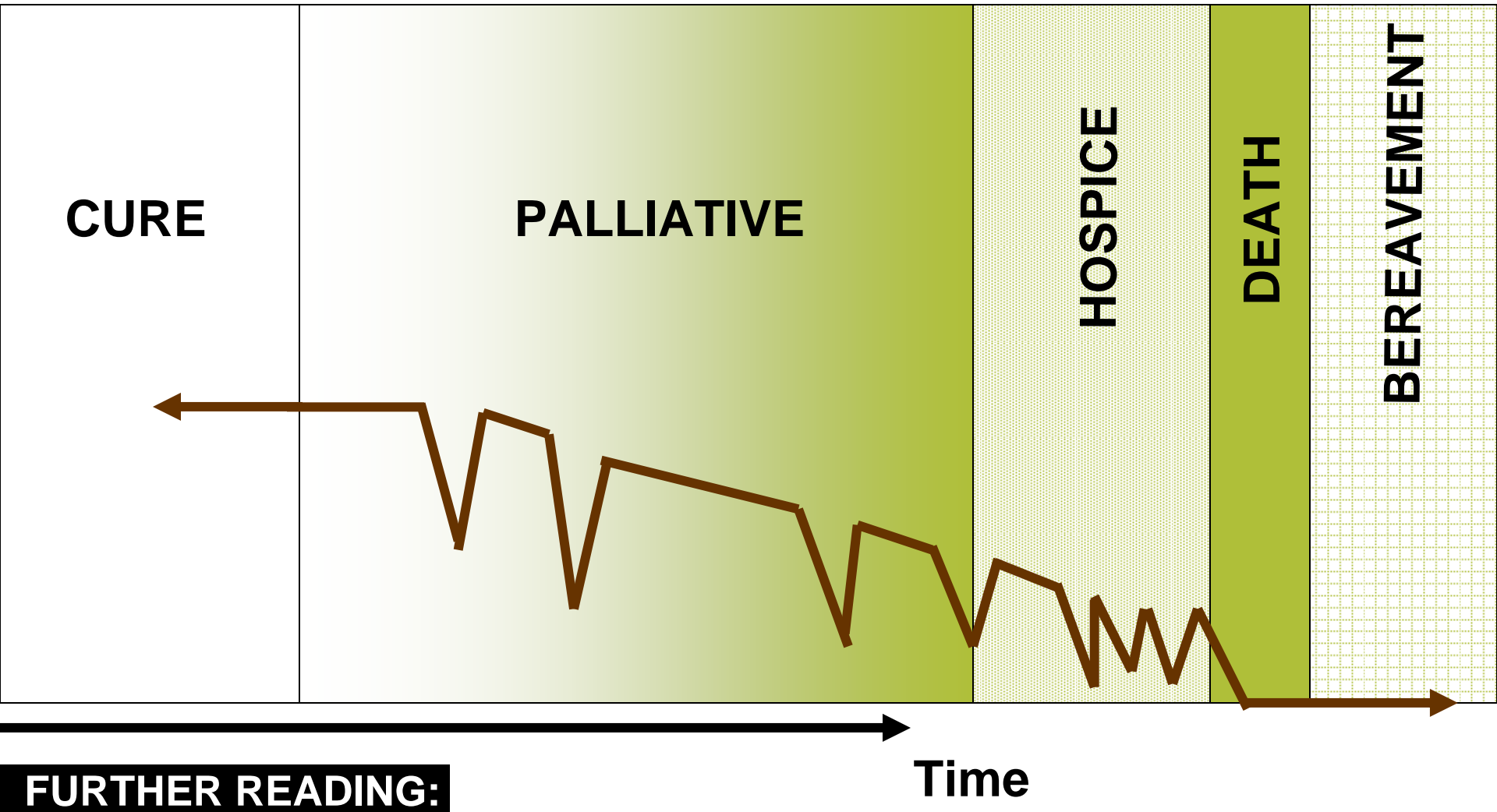
1. Is there a moral or ethical issue?
2. Who are the stakeholders?
3. What are the relevant facts?
4. What values are at stake?
5. What are the options?
6. What resources might be helpful?
7. Are there legal or ethical norms at stake?
8. Am I comfortable with the decision?
9. Make a decision and evaluate its results.



# The Ethics Iceberg

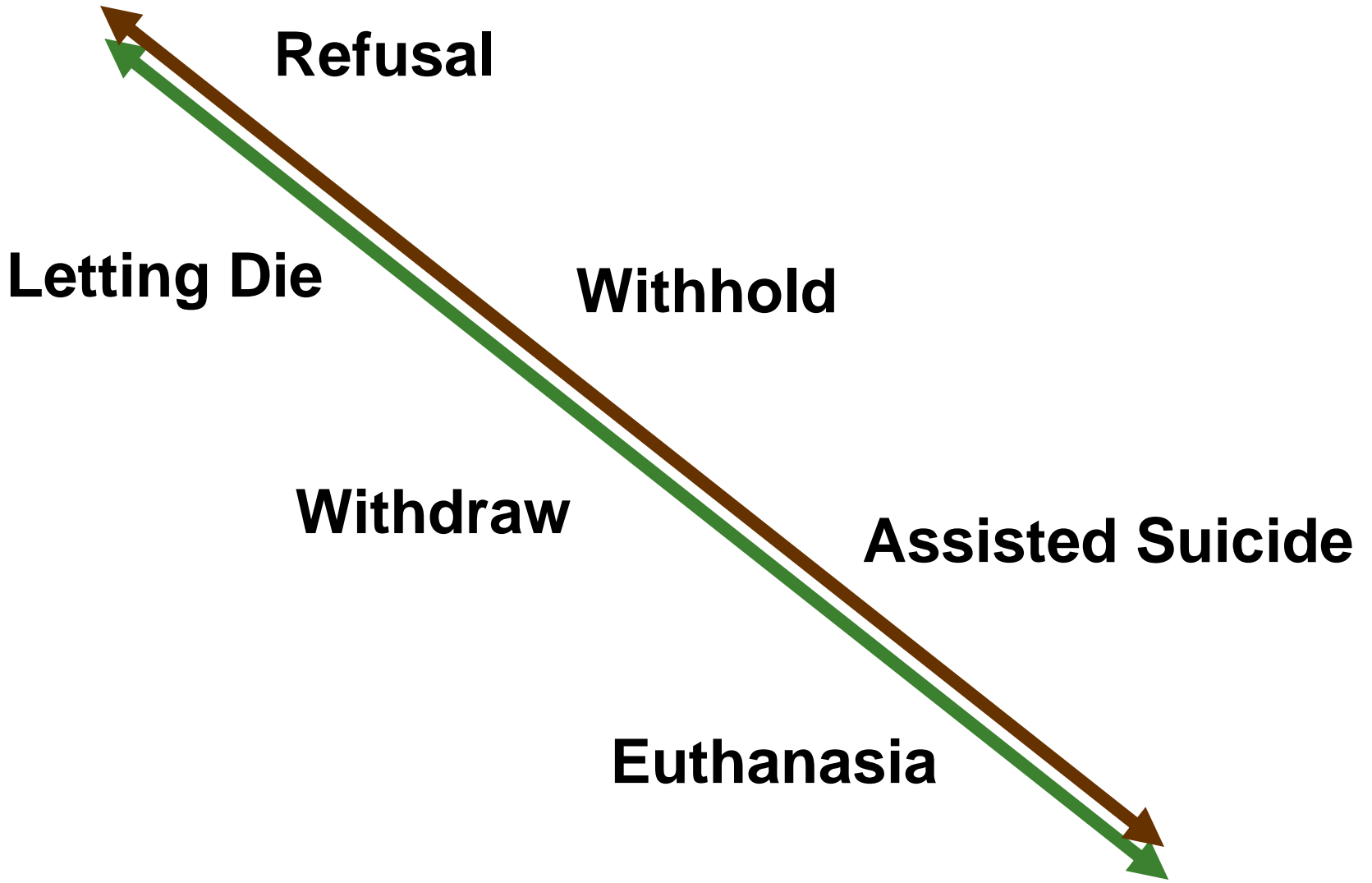


# Chronic, Eventually Fatal Illness



## FURTHER READING:

Melvin TA. The primary care physician and palliative care.  
*Primary Care Clinics in Office Practice*.2001;28:239-248.



# Principled Decision Making modified from Robert Orr, MD

**FAITH BASED**

**SECULAR**

Respect for life  
 Truth telling  
 Non-exploitation  
 Advocacy  
 Benefit/burden

Free will  
 Obedience  
 Stewardship  
 Faith  
 Sovereignty  
 Dominion  
 God's purpose

**Medical Indications**

**Patient Preferences**

*Non-Maleficence*

Diagnosis  
 Prognosis  
 Options

Values  
 Goals  
 Wishes

*Autonomy*

*Fidelity*

**Contextual Features**

Social  
 Cultural  
 Legal  
 Financial

Physical  
 Psychological  
 Social  
 Spiritual

**Quality of Life**

Mercy  
 Grace  
 Hope  
 Scripture  
 Eternity  
 Ritual  
 Social justice

*Justice*

*Beneficence*

Sanctity of life  
 Compassion  
 Service  
 Meritorious suffering  
 Redemptive suffering  
 Contentment

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# The 4 Topics Method of Case Analysis

(Clinical Ethics, 6th ed., Jonsen, Siegler, Winslade)

- Medical Indications
- Patient Preferences
- Quality of Life
- Contextual Features
- Systematic method for identifying pertinent features of a case.
- Not exactly a system for resolution.



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# Medical Indications

- What is the story about the disease? How does the patient/family understand it?
- What is the patient's medical problem? History? Diagnosis? Prognosis?
- Is the problem acute? Chronic? Critical? Emergent? Reversible?
- What are the goals of medical treatment?
- Physician and other health care team preferences or biases.



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# Patient Preferences

- What is the patient's story? Who are they to this family?
- Is the patient decisional?
- What has the patient stated regarding his/her treatment preferences?
- Has the patient been informed of the benefits & risks, understood this information, and given consent?
- If incapacitated, has the patient expressed prior wishes? Is there paperwork?
- Who is the appropriate surrogate?



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# Quality of Life

- How does the patient define QOL?
- What physical, mental, and social deficits is the patient likely to experience if treatment succeeds?
- What are the prospects, with or without treatment, for a return to normal life?
- Is the patient's present or future condition such that his or her continued life might be judged undesirable?



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# Contextual Features

- Who is the patient to this family?
- Family or social issues that might influence treatment decisions?
- Provider issues?
  - How do we feel about this story?
- Financial considerations?
  - What is really possible in this story?
- Religious/cultural factors?
- Legal considerations?
- Allocation of resources?



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# Causes of Unethical Behavior

- Meeting overly aggressive financial or business objectives
  - Procedure pressure
  - Reputation related
- Meeting schedule pressures
- Helping the organization survive
- Rationalizing that others do it
- Resisting competitive threats
- Saving jobs
- Personal



# Moral Distress Defined...

- “Painful feelings and/or the psychological disequilibrium that occurs when one knows the right thing to do, but institutional constraints make it nearly impossible to pursue the right course of action.”
  - Jameton A.
    - Nursing Practice: The Ethical Issues. NJ:Prentiss-Hall. 1984



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# ...defined

- 1993 Jameton distinguished:
  - Initial: frustration, anger and anxiety due to
    - Institutional obstacles
    - Interpersonal conflict about values
  - Reactive: due to failure to address initial distress
- 2000 Webster and Baylis included
  - Failure to pursue “right” course of action due to
    - Error in judgment
    - Personal failing
    - Circumstances beyond control
  - May feel cherished beliefs violated
    - Compromised integrity



## ...defined

- “..the pain or anguish affecting the mind, body or relationships in response to a situation in which the person is aware of a moral problem, acknowledges moral responsibility, and makes a moral judgment about the correct action; yet as a result of real or perceived constraints, participates in perceived moral wrongdoing.”
  - Alvita Nathaniel MSN, RNCS
    - In Nursing World, July 28, 2002



Cost control,  
safety, infection control,  
facility, others

Organizational awareness,  
performance improvement,  
information management

Customer service, patient rights,  
communication, teamwork

Professionalism, self-development, respect and  
rational decision making

Accountability, self-control, and resilience

Self esteem/self confidence

## FURTHER READING:

Decker PJ. The Hidden Competencies of Healthcare: Why Self-Esteem, Accountability, and Professionalism May Affect Hospital Customer Satisfaction Scores. *Hospital Topics*. 1999;77:14-26.

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# The Ethics Audit

- Ethics audit: systematic evaluation of an organization's ethics program and performance to determine effectiveness.
  - Regular, complete, and documented measurements of compliance with the company's published policies and procedures
  - Opportunity to measure conformity to the organization's ethical standards
  - Similar to financial auditing



# Principled Decision Making modified from Robert Orr, MD

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# Ethics and Performance

- Concern: Develop loyalty and competitive advantage
  - Customers, employees, and investors
- Goals: increase customer dependence and to provide products in an environment of mutual respect and perceived fairness.
  - Customer satisfaction and loyalty
  - Satisfying relationships with employees.
  - Supports relationships with investors based on trust, dependability, and commitment.



# Ethics and Employee Commitment

- Mutual commitment: employees believe their future is tied to that of the organization and they are willing to make personal sacrifices for the organization.
  - The more dedication on the part of the company, the greater the employee dedication.
  - Mutual concerns: safe work environment, competitive salaries and benefits, and fulfillment of contractual obligations.
  - Personal and professional integrity.



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# Ethics and Investor Loyalty

- Companies perceived as having a high level of honesty and integrity are more profitable.
- Ethical climates provide a platform for:
  - Efficiency
  - Productivity
  - Profitability



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# Ethics and Customer Satisfaction

- Consumers respond positively to socially concerned businesses.
  - Being good can be extremely profitable.
- Customer satisfaction dictates business success.
- A strong organizational ethical climate often places the customer's interests first.
- Research shows a strong relationship between ethical behavior and customer satisfaction.



# Ethics Contributes to Profits

- Corporate concern for ethical conduct is increasingly being integrated with strategic planning to maximize profitability.
- Corporate citizenship is positively associated with:
  - Return on investment and assets
  - Sales growth
- Many studies have found a positive relationship between citizenship and performance.



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# Resources

- National Center for Ethics in Health Care  
<http://www.ethics.va.gov/>
- American Society for Bioethics and Humanities  
<http://www.asbh.org/>
- Ethics in Medicine, University of Washington  
<http://depts.washington.edu/bioethx/toc.html>
- Bioethics.net / The American Journal of Bioethics  
<http://bioethics.net/>



# References

- American Nurses Association. *Code of Ethics for Nurses with Interpretive Statements*. Washington: The Association.
- Bell J & Breslin JM. Healthcare Provider Moral Distress as a Leadership Challenge. *JONA'S Healthcare Law, Ethics, and Regulation*. 2008;10:94-97.
- Helft, PR, Bledsoe PD, Hancock M, & Wocial LD. Facilitated Ethics Conversations. A Novel Program for Managing Moral Distress in Bedside Nursing Staff. *JONA'S Healthcare Law, Ethics, and Regulation*. 2009;11:27-33.
- Meier DE, Back AL, & Morrison RS. The Inner Life of Physicians and Care of the Seriously Ill. *JAMA*. 2001;286:3007-14.
- Rushton CH. Defining and Addressing Moral Distress. Tools for Critical Care Nursing Leaders. *AACN Advanced Critical Care*. 2008;17:161–168.
- L.J. Schneiderman et al. Effect of Ethics Consultations on Nonbeneficial Life-Sustaining Treatments in the Intensive Care Setting: A Randomized Controlled Trial. *JAMA*. 2003; 290(9): 1166–1172.
- Sumner C. Recognizing and Responding to Spiritual Distress. *American Journal of Nursing*. 1998;98:26-31.
- Ulrich C, O'Donnell P, Taylor C, et al. Ethical Climate, ethics stress, and the job satisfaction of nurses and social workers in the United States. *Social Science & Medicine*. 2007;65:1708-1719.



# Further Reading

- Practical Ethics for Students, Interns and Residents by Junkerman and Schiedermayer [http://www.amazon.com/Practical-Ethics-Students-Interns-Residents/dp/1555720544/ref=sr\\_1\\_1?ie=UTF8&qid=1249671703&sr=8-1](http://www.amazon.com/Practical-Ethics-Students-Interns-Residents/dp/1555720544/ref=sr_1_1?ie=UTF8&qid=1249671703&sr=8-1)
- A great little pocket book. Clinical Ethics: A Practical Approach to Ethical Decisions in Clinical Medicine. 6th ed. by Jonsen, Siegler and Winslade [http://www.amazon.com/Clinical-Ethics-Practical-Approach-Decisions/dp/0071441999/ref=sr\\_1\\_1?ie=UTF8&qid=1249671549&sr=8-1](http://www.amazon.com/Clinical-Ethics-Practical-Approach-Decisions/dp/0071441999/ref=sr_1_1?ie=UTF8&qid=1249671549&sr=8-1)  
Might be a good ethics committee book to read together.
- How Good People Make Tough Choices: Resolving the Dilemmas of Ethical Living by Rushworth Kidder
- [http://www.amazon.com/Good-People-Make-Tough-Choices/dp/0688175902/ref=pd\\_sim\\_b\\_1](http://www.amazon.com/Good-People-Make-Tough-Choices/dp/0688175902/ref=pd_sim_b_1)
- Paperback, can really buy it anywhere, easy read. A different look at ethics more generally and applicable to health care.
- Principles in Biomedical Ethics by Beauchamp and Childress [http://www.amazon.com/Principles-Biomedical-Ethics-Beauchamp/dp/0195335708/ref=sr\\_1\\_1?ie=UTF8&qid=1249671571&sr=8-1](http://www.amazon.com/Principles-Biomedical-Ethics-Beauchamp/dp/0195335708/ref=sr_1_1?ie=UTF8&qid=1249671571&sr=8-1)
- Principles of Biomedical Ethics is the original version of the four principles: respect for autonomy, beneficence, nonmaleficence, and justice. Now it's in its 6th edition or so and they've included a lot more about lying, virtues, quality of life, etc. But it's the mainstay for a principle approach.
- Outcome Uncertain. Cases and Contexts in Bioethics by Ronald Munson. <http://www.amazon.com/Outcome-Uncertain-Cases-Contexts-Bioethics/dp/0534556426>  
Cases and commentary.
- Classic Cases in Medical Ethics: Accounts of Cases That Have Shaped Medical Ethics, with Philosophical, Legal, and Historical Backgrounds by Gregory Pence. <http://search.barnesandnoble.com/Classic-Cases-in-Medical-Ethics/Pence/e/9780073535739>
- Bioethics as Practice by Judith Andre [http://www.amazon.com/Bioethics-Practice-Studies-Social-Medicine/dp/0807855839/ref=sr\\_1\\_1?ie=UTF8&qid=1249671598&sr=8-1](http://www.amazon.com/Bioethics-Practice-Studies-Social-Medicine/dp/0807855839/ref=sr_1_1?ie=UTF8&qid=1249671598&sr=8-1)  
Practice of bioethics as its own thing.
- Bioethics Mediation by Nancy Dubler [http://www.amazon.com/Bioethics-Mediation-Shaping-Shared-Solutions/dp/1881277704/ref=sr\\_1\\_1?ie=UTF8&qid=1249671622&sr=8-1](http://www.amazon.com/Bioethics-Mediation-Shaping-Shared-Solutions/dp/1881277704/ref=sr_1_1?ie=UTF8&qid=1249671622&sr=8-1)  
Approach to case resolution using mediation.
- The Birth of Bioethics by Albert Jonsen [http://www.amazon.com/Birth-Bioethics-Albert-R-Jonsen/dp/0195171470/ref=sr\\_1\\_1?ie=UTF8&qid=1249671587&sr=8-1](http://www.amazon.com/Birth-Bioethics-Albert-R-Jonsen/dp/0195171470/ref=sr_1_1?ie=UTF8&qid=1249671587&sr=8-1)  
More theoretical, historical and just good to know for that always elusive question, "What is bioethics".



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# Q & A



**For more questions please contact:**

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