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IN THE LITERATURE

Ethics for Ethicists? The Professionalization of Clinical Ethics Consultation

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American Society for Bioethics and the Humanities. Code of Ethics and Professional Responsibilities for Health Care Ethics Consultants.

<http://asbh.org/uploads/publications/ASBH%20Code%20of%20Ethics.pdf>

No one ever said that codes are easy to write.

Thomas Beauchamp [1]

Professionalism and codes of ethics are intrinsically tied. As professions establish themselves, their members write codes of ethics to help define the professions and who can be considered a professional. The codes explain why and how professions are deserving of trust, establish standards with specific guidelines for ethical practice, and designate who will have the authority to enforce standards [2].

One initial task for a code of ethics is to define the profession and exclude rivals. The 1847 American Medical Association (AMA) *Code of Ethics* [3] was part of a strategy to separate physicians from charlatans by excluding the latter from the society of scientifically trained physicians seeking standing and respect for their professional knowledge and expertise. Exclusion means setting standards, and setting standards requires specialized education requirements for professional membership, certification by standardized tests, methods of licensure and credentialing for practitioners, and accreditation for institutions that educate and employ them [2]. All of this is designed to create a sense of trust in the profession and the persons who practice it—a foundation for physicians' fiduciary relationships with members of the public.

Do clinical ethicists need a code of ethics? Since their expertise is in *ethics*, one might imagine they are aware of the ethical responsibilities of being a clinical ethicist and even that they are inclined to act virtuously [4]. Are they *ethics professionals* in particular? Many clinical ethicists are [already members of other professions](#)—bioethicists generally receive terminal degrees in a profession outside of bioethics, commonly in law, the health professions, philosophy, or humanities and owe allegiance to one or another code for members of professional societies, such as the American Nurses Association [5], the National Association of Social Workers [6], the Association of American Chaplains [7], the American Association of University Professors [8], the American Bar Association [9], or the AMA [10]. Clinical ethicists may have academic degrees in philosophy or religion or

another area of humanities or have a certificate or master's degree in bioethics; still others have clinical expertise in social work or chaplaincy. Given this range of expertise, formulating an ethics code for bioethics—which would, among other things, define exclusionary standards that extend or withhold professional membership—leads to an interesting and important question: if putting a clinician, a lawyer, and an academician in the same room to discuss bioethical issues adds invaluable richness and complexity to that debate, how can the field of bioethics maintain that multidisciplinary richness while carving out a distinct professional niche? While professionalization of the field may necessarily incur some loss in interdisciplinary exchange, keeping this question in the forefront may help in the realization of creative solutions to keep this interchange a vital element in the profession.

For decades, the multidisciplinary members of the American Association for Bioethics and the Humanities (ASBH) have debated these and related questions, shedding a good deal of both light and heat on the matter [11-37]. Although the first edition of ASBH's *Core Competencies for Healthcare Ethics Consultation*, published in 1998, came out *against* professionalizing the field of bioethics, due largely to the interdisciplinary nature of the field, it included a list of the special ethical obligations of clinical ethics consultants [38]. In a widely discussed 2005 article, Robert Baker argued that the time had come for bioethics "to assert its integrity and independence" as a professional field by drafting a code of ethics [39]. That same year, ASBH formed a committee to draft a code of ethics for bioethicists; in 2009, another committee was formed to draft a code narrowly focused on health care ethics consultation (HCEC). By 2011, the second edition of the *Core Competencies* had reversed its previous direction; it now endorsed the establishment of professional standards for clinical ethics consultants and provided consultants with a discussion entitled "The Ethical Dimensions of HCEC as an Emerging Professional Practice" [40]. In 2014, ASBH published its "Code of Ethics and Professional Responsibilities for Healthcare Ethics Consultants" [41]. The move to professionalize bioethics is no longer in question, but the myriad [specifications](#) of that professionalism have just begun, as spelled out in this initial code.

A compelling and comprehensive overview of the history, development process, structure, and content of the code is provided by Anita Tarzian et al. in "A Code of Ethics for Health Care Ethics Consultants: Journey to the Present and Implications for the Field" [42]. Noting the controversies over the professionalization of ethics consulting, the need for a transparent and inclusive process of code formation, the diversity of professional ethics consultant duties, and the current lack of educational and professional standards or accountability in the field, the authors present a succinct account of the complex development process that produced the content of the code.

The code thus produced is addressed to bioethicists who practice clinical ethics consultation as well as to students and members of clinical ethics committees. Clinical

ethics consultations take place in health care institutions, and, as noted in both editions of the *Core Competencies* [38, 40], the ethical responsibilities of and potential abuses to these institutions as well as to the patients and families they serve call for an ethical code specifically for clinical ethicists. While the preamble of the code [40] discusses the overall duties of the clinical ethics consultant and the specifications included in the code's seven elements address these specific needs, as outlined below, it is not far-fetched to imagine these elements applying to the entire field of bioethics, with different specifications laid out for the different roles and duties encountered across the field. Indeed, these elements closely overlap with those in one of the precursor documents to the ASBH code, the (as not yet adopted) "Model Code of Ethics for Bioethics" under development by the Canadian Bioethics Society, which is addressed to the entire field of bioethics [43].

The ASBH Code

In an introduction provided for teaching purposes, ASBH notes that the code is a tool for students to learn about the responsibilities involved in ethics consultation and for consultants to use for self-assessment. It "does not discuss or endorse other aspects of professionalization, codify the knowledge and skill that consultants should possess, address *how* the code is enforced, [or] discuss evaluation criteria" [44]. These are serious limitations; without further specification and authority, the code could lose relevance over time if its aspirations remain symbolic and do not materially support the integrity of the profession and its fiduciary responsibilities.

The ASBH Task Force for Quality Attestation is currently piloting a program to certify individual clinical ethics consultants [45]. Once operational, this program will provide standards for evaluating the competence of consultants. Assuming that appropriate training requirements and penalties for unprofessional behavior will then be included in the code, the pilot program will eventually provide a basis for enforceable standards for the first "statement," or principle, in the code: "Be Competent" [40].

The second statement, "Preserve Integrity" [40], counsels consultants to be worthy of trust by acting in a manner consistent with both personal and professional core beliefs and values and recusing themselves when there is a conflict. The third, "Manage Conflicts of Interest and Obligation" [40], identifies conflicts and suggests strategies of avoidance, recusal, and disclosure to manage them. The role of the hospital or health care organization in this area is the elephant in the room; to help enforce this statement, ASBH should find ways to influence hospital policies to acknowledge and address conflicts of obligation in ethics consultation—such as when an ICU director has pressure to limit length of stay for a patient whose interests are better served by a longer admission. The preparation of ASBH guidelines on writing hospital policy for ethics consultations, intended for hospital administrators, might help the individual consultant

reconcile conflicts between staff duties and ethics consult duties. Guidelines for managing entrenched power structures in health care settings would also be helpful.

The fourth statement, "Respect Privacy and Maintain Confidentiality" [40], reiterates established Health Insurance Portability and Accountability Act (HIPAA) rules in the context of ethics consultations and helpfully discusses legitimate uses of information and how to manage confidentiality. The fifth and sixth statements relate to consultants' obligations to the field of bioethics. "Contribute to the Field" and "Communicate Responsibly" [40] ask consultants to advance the profession by conducting research, publishing, teaching, mentoring, and participating in professional organizations, on the one hand, and, on the other, to limit themselves to speaking about their area of expertise and to keep in mind the lay reactions to sound bites on controversial issues when communicating in public venues. These last two elements in particular could easily apply to any bioethicist serving within or outside health care institutions, across the spectrum of bioethicists' responsibilities.

The last statement in the code, "Promote Just Health Care within HCEC" [40], is profoundly aspirational. Its presence asserts that justice is an essential consideration in the context of ethics consultation. The code notes that clinical ethicists need to be attentive to disparities, discrimination, and inequities in health care contexts, and urges clinical ethicists to identify and include voices of marginalized patients, clinicians, or other stakeholders. They must ensure that access to and processes of ethics consultation are fair and not biased by issues of power, privilege, and organizational culture. As ASBH explains, "recommendations of the consultation should not reinforce injustice. When possible, consultants should identify systemic issues constraining fair outcomes in HCEC and bring these issues to the attention of individuals or groups in a position to address them" [46]. Of all the ethical issues addressed in the code, preventing or righting injustice may be the most difficult to realize.

Conclusion

The influence of a code of ethics lies in its usefulness and relevance. Ideally it is a living document that is regularly updated to reflect changes in the field. ASBH and its committee members have formulated a code of ethics that represents the first efforts of the bioethics community to come together, to agree on values and responsibilities, and to move forward the untidy process of professionalizing bioethics consultation. An unanswered question is whether ASBH is continuing work on a code of ethics for bioethics as a profession. If so, will the current code for clinical ethicists be incorporated as a subsection or enlarged and adapted for different areas of bioethicists' professional responsibilities, which can include scholarship, research, teaching, and interacting with the media? What are barriers to a comprehensive code for bioethicists across settings and roles? Whether and how the code will prove useful, grow, and flourish will depend on ASBH members' and committees' continuing efforts.

References

1. Beauchamp TL. What can a model professional code for bioethics hope to achieve? *Am J Bioeth.* 2005;5(5):42-43.
2. For a comprehensive online database of codes of professional ethics, see Illinois Institute of Technology Center for the Study of Ethics in the Professions. Ethics codes collection. <http://ethics.iit.edu/ecodes/about>. Accessed March 23, 2016.
3. Jonsen AR. *A Short History of Medical Ethics*. New York, NY: Oxford University Press; 2000.
4. For a discussion of the virtue ethics approach to normative ethics, emphasizing moral character, see Virtue ethics. *Stanford Encyclopedia of Philosophy*. <http://plato.stanford.edu/entries/ethics-virtue/#4>. Published July 18, 2003. Updated March 8, 2012. Accessed March 23, 2016.
5. American Nurses Association. Code of ethics for nurses. <http://www.nursingworld.org/codeofethics>. Accessed March 22, 2016.
6. National Association of Social Workers. Code of ethics of the National Association of Social Workers. <https://www.socialworkers.org/pubs/code/code.asp>. Revised 2008. Accessed March 22, 2016.
7. Association of Professional Chaplains. Code of ethics. http://www.professionalchaplains.org/Files/professional_standards/professional_ethics/apc_code_of_ethics.pdf. Revised September 24, 2000. Accessed March 22, 2016.
8. American Association of University Professors. Statement on professional ethics. <http://www.aaup.org/report/statement-professional-ethics>. Revised 2009. Accessed March 22, 2016.
9. American Bar Association. Model rules of professional conduct. http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents.html. Accessed March 22, 2016.
10. American Medical Association. *Code of Medical Ethics*. <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics.page>. Accessed March 22, 2016.
11. Antommaria AH. Characterizing clinical ethics consultations: the need for a standardized typology of cases. *Am J Bioeth.* 2015;15(5):18-20.
12. Baker R. The significance of the ASBH's code of ethics for healthcare ethics consultants. *Am J Bioeth.* 2015;15(5):52-54.
13. Cohn FG. Growing pains: the debate begins. *Am J Bioeth.* 2005;5(5):52-53.
14. Davis M. Comments on Baker's "Draft model aggregated code of ethics for bioethicists." *Am J Bioeth.* 2005;5(5):57-59.
15. Eckenwiler LA, Cohn F, eds. *The Ethics of Bioethics: Mapping the Moral Landscape*. Baltimore, MD: Johns Hopkins University Press; 2007.

16. Freedman B. Bringing codes to Newcastle: ethics for clinical ethicists. In: Hoffmaster B, Freedman B, Fraser G, eds. *Clinical Ethics: Theory and Practice*. Clifton, NJ: Humana Press; 1989:125-139.
17. Glenn LM. Lessons from other codes: is it the journey or the destination? *Am J Bioeth*. 2005;5(5):59-60.
18. Kipnis K. The elements of code development. *Am J Bioeth*. 2005;5(5):48-50.
19. Klugman CM. As advisors, nondirectional consultation is best. *Am J Bioeth*. 2005;5(5):56-57.
20. Lantos JD. Commentary on "A draft model aggregated code for bioethicists." *Am J Bioeth*. 2005;5(5):45-46.
21. Latham SR. The (low) life of ethics codes. *Am J Bioeth*. 2005;5(5):46-48.
22. Latham SR. Professionalization of clinical ethics consultation: defining (down) the code. *Am J Bioeth*. 2015;15(5):54-56.
23. Magnus D, Fishbeyn B. The proper locus of professionalization: the individual or the institutions? *Am J Bioeth*. 2015;15(5):1-2.
24. Meyers C. Codifying but not professionalizing bioethics. *Am J Bioeth*. 2005;5(5):68-69.
25. Miller FG. The case for a code of ethics for bioethicists: some reasons for skepticism. *Am J Bioeth*. 2005;5(5):50-52.
26. Miller J. A code of ethics for bioethicists: prospects and problems. *Am J Bioeth*. 2005;5(5):66-68.
27. Molewijk B, Hartman L, Weidema F, Voskes Y, Widdershoven G. Fostering the ethics of ethics consultants in health care: an ongoing participatory approach. *Am J Bioeth*. 2015;15(5):60-62.
28. Morin K. Code of ethics for bioethicists: medicine's lessons worth heeding. *Am J Bioeth*. 2005;5(5):60-62.
29. Özdemir V, Kiliç H, Yildirim A, et al. A code of ethics for ethicists: what would Pierre Bourdieu say? "Do not misuse social capital in the age of consortia ethics." *Am J Bioeth*. 2015;15(5):64-67.
30. Peña A. A critique of the (aspirational) code of ethics. *Am J Bioeth*. 2015;15(5):62-63.
31. Perlman D. Bioethics in industry settings: one situation where a code for bioethicists would help. *Am J Bioeth*. 2005;5(5):62-64.
32. Petrini C. Codes for health care consultation: which definitions? Which experiences? *Am J Bioeth*. 2015;15(5):67-69.
33. Regenber AC, Mathews DJ. Resisting the tide of professionalization: valuing diversity in bioethics. *Am J Bioeth*. 2005;5(5):44-45.
34. Schuklenk U, Gallagher J. Status, careers and influence in bioethics. *Am J Bioeth*. 2005;5(5):64-66.
35. Spike J. A hearty critique of Baker's proposed code for bioethicists. *Am J Bioeth*. 2005;5(5):54-55.
36. Wasson K, Kuczewski MG. The duty of competence and the role of simulated

- ethics case consultation. *Am J Bioeth.* 2015;15(5):58-59.
37. Weise KL, Gallagher Chief CM, Hynds JA, Secker BL, White BD. Becoming a competent ethics consultant: up to code? *Am J Bioeth.* 2015;15(5):56-58.
 38. American Society for Bioethics and the Humanities. *Core Competencies for Healthcare Ethics Consultation.* Glenview, IL: American Society for Bioethics and the Humanities; 1998.
 39. Baker R. A draft model aggregated code of ethics for bioethicists. *Am J Bioeth.* 2005;5(5):33. Also see associated peer commentaries listed in the bibliography.
 40. American Society for Bioethics and the Humanities. *Core Competencies for Healthcare Ethics Consultation.* 2nd ed. Glenview, IL: American Society for Bioethics and the Humanities; 2011.
 41. American Society for Bioethics and the Humanities. Code of ethics and professional responsibilities for healthcare ethics consultants. <http://asbh.org/uploads/publications/ASBH%20Code%20of%20Ethics.pdf>. Published 2014. Accessed March 22, 2016.
 42. Tarzian AJ, Wocial LD; ASBH Clinical Ethics Consultation Affairs Committee. A code of ethics for health care ethics consultants: journey to the present and implications for the field. *Am J Bioeth.* 2015;15(5):38-51.
 43. MacDonald C; Canadian Bioethics Society. Draft: model code of ethics for bioethics. <https://www.bioethics.ca/resources/PDF%20documents/draftcode.pdf>. Accessed March 22, 2016.
 44. American Society for Bioethics and Humanities Clinical Ethics Consultation Affairs Committee. Introduction to ASBH's *Code of Ethics and Professional Responsibilities for Healthcare Ethics Consultants* [slide deck]. Glenview, IL: American Society for Bioethics and Humanities; 2014:22. <http://slideplayer.com/slide/8003189/>. Accessed March 24, 2016.
 45. Kodish E, Fins JJ, Braddock C 3rd, et al. Quality attestation for clinical ethics consultants: a two-step model from the American Society for Bioethics and Humanities. *Hastings Cent Rep.* 2013;43(5):26-36.
 46. American Society of Bioethics and Humanities, Code of ethics, 5.

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