

Ethical Decision Making: A Framework for Considering Resident Work Hours

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Trainee (Resident) Hours and Work Schedules to
Improve Patient Safety

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Ethics

- u An examination of the moral life
- u Answers the question: WHY should I (we) do X?
- u From thinking scientifically (what can we do?) to thinking analytically and contextually (what should we do, and why?)
- u Raises questions and offers arguments

Value

u Definition

- the regard that something is held to deserve; importance or worth.
- principle or standard of behavior
- an ideal accepted by some individual or group

u No public policy is value free; each builds in value-based premises

Public Policy

- u Set of normative, enforceable guidelines that have been accepted by an official public body to govern a particular area of conduct
- u Forces “one-size fits all” approach: How build in flexibility?
- u Specify abstract principles/rules and empirical data for broad implementation, accounting for:
 - Feasibility
 - Efficiency
 - Cultural pluralism
 - Political procedures
 - Risks
 - Uncertainty
 - Etc.

Ethical Dilemma

- u Situation involving a difficult or persistent moral problem in which two or more moral actions
 - Conflict
 - Can be supported
 - Are equally unsatisfactory
 - Are without conclusive evidence favoring one position
- u No “right” answer; focus on the best available

Limited Framework

- u Utilitarian

- Cost/benefit analysis
- Based on evidence of likely consequences

- u Balance goals

- Resident safety vs. patient safety
- Educational benefit vs. resident protection

Competing values

- Individual resident safety
- Resident health (mental and physical)
- Patient safety —fewer errors
- Status conducive to learning
- Forces efficiencies
- Increased staffing
- Redistributed work load
- Respect for persons
- Continuity of care/communication
- Patient safety—errors from impairment/fatigue/depression
- Educational opportunities—see more
- Maintains status quo/history
- Cheap labor/Indentured servitude
- “Professionalism” (avoiding moral decline)

<i>Ethical Dilemma</i>	<i>Ethical Values at Stake</i>	<i>The Trainee/Physician's Perspective</i>
Patient Safety	Nonmaleficence; Utilitarian moral reasoning	<i>"I can't work these hours! I'm going to end up hurting someone!"</i>
Resident Safety	Resident "consent;" Obligation to teach residents; Obligation for safe workplace	<i>"I can't work these hours! I'm going to end up hurting myself or someone else!"</i>
Residents as Persons	Integrity	<i>"I've always wanted to be a doctor, but I didn't really understand what I was getting myself into."</i>
Resident Roles	Conflicts of obligations	<i>"I can't work these hours! How am I supposed to be a parent for my children?"</i>
Conflicts of Interest	Conflicts of interest; professionalism	<i>"I can't work these hours! How am I supposed to do any moonlighting?"</i>
The Attending's Lament	Equity; fairness	<i>"Why are you complaining? I'm exhausted too!"</i>
Professional Norms	Moral regression related to fatigue	<i>"I wished he would just die...so I could get some sleep."</i>

Adapted from Matthew Wynia, unpublished 2002

Areas of Ethical Questions

- 1. Need to regulate hours**
- 2. Value of continuity of care**
Medical practice as system
- 3. Health care system**
- 4. Medicine as a profession**
- 5. Residents as workers and/or learners**
- 6. Fairness**
- 7. Litigation potential**

1. The Need to Regulate Hours

- u Need for policy to regulate this aspect of training --has allowing individual practice really failed?
- u Working to task rather than to hours-- Ethical responsibility to complete a task (i.e. seeing a patient's care through)
- u Limits as expectations—why must we regulate down to 80 hours?
- u Power dynamics—right to continue working becomes obligation to work
- u Limits perpetuate a sense that there is not enough time to complete work

2. Continuity of Care and Patient Safety

- u Tired familiar physician vs. fresh unfamiliar physician?**
- u Harms from hand offs? What cracks may patients fall through in transition?**
- u Balance of harms: from hand-offs vs. from fatigue/overwork**

3. A Health Care System

- u **Reconceptualize the very way medicine is practiced**
 - Discard preconceptions and existing arrangements; consider ideal working conditions
 - System instead of a series of individual provider-patient relationships
 - Shared rather than individual responsibilities; “our” patient not “my” patient
- u **Existing inefficiencies not tolerated in any other business model**
 - Review resident job description
 - “Wasted” time in long hours.
 - Power of deadline—working to task

4. Medicine as a Profession

u Medicine as a moral vocation

- Reframe in terms of virtues
- Recontextualize in terms of community expectations
- Moral decline—altruism subverted (wishing for pt demise to save time)
- “Punch the clock” attitude

u Morally relevant similarities and differences with other professions?

- Airline industry as a helpful start but falls short with regard to relationships
- Consider the Teaching profession? Parenthood?

u Models/metaphors of practice?

- Technician
- Parentalist
- Dialogical...

5. Residents as workers and/or learners?

- u **Breaking point: At what point do limited hours break residency as an educational system?**
- u **Balancing obligations—which take priority?, which suffer with decrease in hours?**
- u **Need for “purposeful teaching” –improved mentorship and use of educational time**
- u **Educational value of continuity of care**
- u **Felt-sense of responsibility for a patient (shared with supervising physician) and recognition by patient as “main” physician**
- u **Balance between “on the job” education and study time**
- u **Promotion of life-long learning**

6. Fairness as Distributive Justice

- u What is the impact resident hours limits on the workload of attendings? Of Students? Nurses? Others?
- u How is the workload best distributed?
- u What are the burdens of work hours on residents? (e.g., fatigue, depression, families)
- u What are the burdens to others (i.e., patients, team members, institution, society)?

7. Litigation Potential

- u Balance likelihood of litigation due to tired mistakes vs. hand-off mistakes
- u What will enterprising JDs make of gaps in continuity, less training time? Vs. what they now do with fatigued/impaired residents?
- u Work hours relationship to litigation due to poor communication

Goals

- u **Determine options with regard to goals:**
 - Maximize patient safety—nonmaleficence
 - Benefit patients
 - Maximize resident safety
 - Maintain resident health
 - Respect residents
 - Equitable distribution of work among all team members
 - Maximize learning opportunities/ develop skilled physicians
 - Minimize impact on student educational opportunities
 - Minimize impact on faculty workload
 - Efficient institutional operations

Options Scheduling

- u Creative scheduling—limits and flexibility
- u Break/“napping” policies
- u Shift work system
- u Overlapping shifts
- u Increased resident staffing
- u Hand-offs—communication issues, overlapping responsibilities

Options: Other Areas for Attention

u **Resident benefits**

- Better pay
- Mental health assessment and treatment
- Family benefits (e.g. child care, marriage counseling)

u **Staffing needs**

- All levels (faculty, nursing, PA, MA)
- Efficiencies assessment

u **Educational program**

- Balance work and education
- More purposeful teaching
- Enhanced ethics and professionalism education

The Underlying Issue

u **Culture**

- Perpetuation of long work hours
- Shared responsibilities
- Teamwork
- Integration and appreciation of education
- Respect for persons involved
- Motivation for work

Ethical Theories as Tools

- u **Theories**—arguments for how ethical decision making (should) proceed:
 - **Consequences** of each action (Utilitarianism)
 - **Duties**/responsibilities of persons involved or the nature of the act itself (Deontology)
 - **Intentions** of persons involved (Teleology)
 - **Character** (habits) of persons involved, community expectations of those persons (virtue theory)
 - **Principles**: prioritize and balance prima facie principles: respect for persons, beneficence, nonmaleficence, justice
 - **Cases**: what does experience suggest based on morally relevant similarities and differences (typology and moral triangulation)

Professionalism: technical competence and care

u **The non-technical virtues and practices that typify the caring and competent physician, including the placement of patient interest above self interest.**

- Altruism
- Accountability
- Excellence
- Duty
- Honor & Integrity
- Respect for Others

u ABIM

u **Expect of residents;
demonstrate to residents?**



Balancing Values

- u Deliberation and judgment regarding the relative weights of norms
- u Criteria for prioritizing values
 - Quantitative—more reasons favor one option
 - Qualitative—better reasons favor one option
 - Realistic possibility of achievement
 - No morally preferable alternative exists
 - Least infringement of other values possible
 - Minimize negative effects of infringement

Tests of Ethical Decisions

u Formal tests:

- Consistency and coherence
- Completeness and comprehensiveness
- Simplicity
- Clarity

u Substantive tests:

- Congruence with ordinary experience and judgments
- Fidelity to accepted authorities