

# Chapter 1

## Ethics

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### ABSTRACT

*In all areas of medicine physicians are confronted with a myriad ethical problems. It is important that intensivists are well versed on ethical issues that commonly arise in the critical care setting. This chapter will serve to provide a review of common topics, including informed consent, decision-making capacity, and surrogate decision-making. It will also highlight special circumstances related to cardiac surgical critical care, including ethical concerns associated with emerging technologies in cardiac care.*

### INTRODUCTION

Patients undergoing surgery and those that are critically ill are vulnerable and require special consideration. This chapter will provide a brief overview of ethical principles and discuss common ethical issues that arise during the care of cardiac surgical patients. It concludes by exploring contemporary and emerging ethical problems associated with technological advances in life sustaining therapies.

### BACKGROUND

#### Basic Principles of Medical Ethics

Several decades ago, Beauchamp and Childress described a framework to address ethical issues that arise in medical care (Beauchamp, 1979). It consists of four central principles: beneficence, non-maleficence, autonomy and justice. While there are limitations to relying solely on these four principles to address the range of issues encountered in the care of the critically ill, they do provide a foundation for contemporary medical ethics.

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## **Beneficence**

Beneficence is the desire to act in the best interest of the patient. The core of medical practice is the desire to heal or, at the least, to ease the suffering of a patient. Physicians should consider whether treatments and procedures truly offer the potential for benefit, and counter this against any potential for burden. The modern practice of medicine can make this calculation more complex.

## **Non-Maleficence**

The well-known primary principle of the ethical practice of medicine is the admonition by Hippocrates “primum non nocere” – “first do no harm.” This principle can be especially important when considering highly invasive surgery, such as cardiac surgery. Again, the potential burdens and benefits of the intervention should be fully explored to ensure a reasonable balance,

## **Autonomy**

The principle of autonomy is the right of an individual to govern decisions made about his or her own body. Autonomy is the fundamental groundwork for the informed consent process.

## **Justice**

The principle of justice refers to fairness in the distribution of healthcare resources, as well as respect for the governing laws. Justice is usually invoked when discussing access to treatments that are limited by availability or cost.

## **Informed Consent**

Obtaining consent for a surgery or invasive procedure is frequently focused on the signing of a consent form. However, the informed consent process is far more complex. The written documentation of permission is the result of a frank and open conversation between practitioner and patient. The groundwork to the modern standard of informed consent was laid a century ago. The landmark case, *Schloendorff vs. The Society of the New York Hospital*, is often cited as the turning point in the doctor patient relationship. The patient, Ms. Schloendorff, presented for an examination under anesthesia to investigate a fibroid uterus. The court transcripts note her explicit refusal of surgery before she was placed under anesthesia (Chevernak, 2014). After she was unconscious, the surgeon performed an examination, and upon diagnosing a tumor, proceeded to perform a hysterectomy. The patient sued, and Judge Benjamin Cardozo found in favor of the defendant and stated in his opinion that “...every human being of adult years and sound mind has a right to determine what shall be done with his body; and a surgeon who performs an operation without his patient’s consent commits an assault, for which he is liable in damage, except in cases of emergency, where the patient is unconscious and where it is necessary to operate before consent can be obtained” (Chevernak, 2014). In the (then) largely paternalistic medical environment, this was a dramatic shift. In addition to elevating the requirements for permission to perform invasive procedures, it marked a move toward honoring patients’ autonomy. Many decades after the *Schloendorff* case, the informed consent standards were again legally challenged by cases in which patients suffered

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