



Medical Ethics Subcommittee

Decision Brief:

Ethical Guidelines and Practices for U.S. Military Medical Professionals

**Defense Health Board
February 11, 2015**

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Overview

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Problem Statement

(1 of 2)

There are unique challenges faced by military medical professionals in their dual hatted positions as a military officer and a medical provider. Such positions require them to balance and prioritize their role as an officer in the military, and their role as a medical professional with ethical responsibilities to their patients.



Problem Statement

(2 of 2)

The following two questions from the ASD(HA) were reviewed and addressed by the board:

- How can military medical professionals most appropriately balance their obligations to their patients against their obligations as military officers to help commanders maintain military readiness?
- How much latitude should military medical professionals be given to refuse participation in medical procedures or request excusal from military operations with which they have ethical reservations or disagreement?

-Acting Under Secretary of Defense for Personnel and Readiness
Memorandum dated January 29, 2013

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Membership

Medical Ethics Subcommittee

- Five members



Meetings/Briefings

- Subject Matter Experts
- Active duty and Reserve/National Guard personnel
- DoD & former DoD health care personnel
- Representatives from health care professional organizations
- Uniformed Services University for the Health Sciences representatives
- Service-specific ethics consultants



Timeline

August 2013: DHB subcommittee members begin investigation.

November 2013 – December 2014: Members receive briefings from DoD and civilian subject matter experts.

June 2014 – February 2015: Members develop draft report and findings and recommendations for the DHB consideration.

February 2015: Present pre-decisional draft to DHB.



Structure of the Written Report

- Executive Summary
- Introduction
- Principles and Practice of Medical Ethics
- Principles and Practice of Military Ethics
- Ethical Issues in Military Medical Settings
- Ethics Education and Training
- Conclusion: The Need for a Systems Approach to Military Medical Ethics Preparation and Practice



INTRODUCTION



Oath of Commissioned Officers

“I, _____, having been appointed an officer in the Army of the United States, as indicated above in the grade of _____ do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office upon which I am about to enter; So help me God.” (Department of the Army Form 71, July 1999, for officers).”



Modern Hippocratic Oath (excerpt)

“I will apply, for the benefit of the sick, all measures which are required, avoiding those twin traps of overtreatment and therapeutic nihilism.”

Primum non nocere (“first, do no harm”)



World Medical Association

“Medical ethics in times of armed conflicts is identical to medical ethics in times of peace.”



Dual Loyalty / Mixed Agency

- Conflicts between two or more moral or external obligations
 - Often involves resources, preferences, or health information
- Examples:
 - Patient vs Law Enforcement
 - Patient vs Employer/Military
 - Patient vs Hospital/Insurance Company
 - Patient vs Public Health
- Professional ethics: interest of the patient above all others
- However, competing interests may merit consideration



Organizational Mitigation As A Solution

- Organizational and leadership ethos
- Effective education and training at all levels
- Infrastructure to support individuals in acting ethically
 - Mechanisms to seek guidance/support without retribution
- Recognition of situations in which duties may conflict with:
 - professional codes
 - standards of conduct
 - religious or moral beliefs
- Addressing moral injury in healthcare providers
- Limits based on national security/military necessity



FINDINGS and RECOMMENDATIONS



Finding 1

DoD has many efforts already underway to promote ethical conduct in the military health care setting. However, DoD does not have a formal, integrated infrastructure to promote an evolving ethical culture within the military health care environment. Creating a comprehensive ethics infrastructure within the MHS could foster and inform ethical conduct in health care and could serve to lessen, mitigate, or assist in resolving ethical conflicts that might arise among health care professionals or between health care professionals and line leadership.



Recommendation 1

(1 of 2)

DoD should further develop and expand the infrastructure needed to promote DoD-wide medical ethics knowledge and an ethical culture among military health care professionals, to include: code of ethics; education and training programs; consultative and online services; ethics experts; and an office dedicated to ethics leadership, policy, and oversight.



Recommendation 1

(2 of 2)

To achieve these goals, DoD should form a tri-Service working group with appropriate representation to formulate policy recommendations on medical ethics. This should include development of a DoD Instruction to guide development of the infrastructure needed to support the ethical conduct of health care professionals. In addition, this working group should consider the best ways to implement the recommendations in this report.



Finding 2

The Subcommittee reviewed the ethics codes of multiple health care professional organizations, as well as the management of ethics consultations in health care settings. Existing codes are consistent with and applicable to much of the health care practiced by military personnel in the Military Health System (MHS). All emphasize the health care provider's primary responsibility to the patient. However, unique challenges can arise when there are real or perceived conflicts among professional codes of conduct, personal values, patient values, and requirements of the chain of command.



Recommendation 2

Throughout its policies, guidance, and instructions, DoD must ensure that the military health care provider's first ethical obligation is to the patient.



Finding 3

Most organizations representing health care professionals have a code of medical ethics by which members of that profession are expected to adhere. State medical boards have standards of professional conduct that must be maintained as a condition of licensure. Many State laws also permit health care providers to invoke a conscience clause by which they may refuse to perform a legal role or responsibility based on moral or other personal objections.



Recommendation 3

DoD leadership, particularly the line commands, should excuse health care professionals from performing medical procedures that violate their professional code of ethics, State medical board standards of conduct, or the core tenets of their religious or moral beliefs. However, to maintain morale and discipline, this excusal should not result in an individual being relieved from participating in hardship duty. Additionally, health care professionals should not be excused from military operations for which they have ethical reservations when their primary role is to care for the military members participating in those operations.



Finding 4

DoD does not have an explicit code of ethics for health care professionals.



Recommendation 4

DoD should formulate an overarching code of military medical ethics based on accepted codes from various health care professions to serve as a guidepost to promote ethical leadership and set a standard for the cultural ethos of the MHS. To inform this process, the ethics codes of relevant health care professional organizations should be reviewed regularly and updates should be made to the military medical ethics code as appropriate.



Finding 5

DoD has not issued directives or instructions regarding the organization, composition, training, or operation of medical ethics committees or medical ethics consultation services within the MHS. It is not clear that consistent, high quality ethical consultation services are readily available to military health care professionals and it may be less likely that deployed units have such specialized expertise available to them, at least not in an organized fashion.



Recommendation 5

(1 of 3)

To provide formal ethics guidance, direction, and support to the MHS and its components, DoD and the Military Departments should:

- a) publish directives/instructions regarding the organization, composition, training and operation of medical ethics committees and medical ethics consultation services within the Military Health System. DoD should review best practices at leading civilian institutions in formulating this guidance.
- b) ensure medical treatment facilities have access to consistent, high quality, ethical consultation services, including designation of a responsible medical ethics expert for each location. For those facilities/locations without onsite medical ethics support, DoD should ensure remote consultation is available.



Recommendation 5

(2 of 3)

To provide formal ethics guidance, direction, and support to the MHS and its components, DoD and the Military Departments should:

- c) provide a “reach back” mechanism for deployed health care personnel to contact an appropriately qualified individual to assist in resolving an ethical concern that has not been resolved through their chain of command.
- d) develop a small cadre of clinicians with graduate level training in bioethics to serve as senior military medical ethics consultants.



Recommendation 5

(3 of 3)

To provide formal ethics guidance, direction, and support to the MHS and its components, DoD and the Military Departments should:

- e) ensure that health care personnel are knowledgeable about their rights and available procedures for obtaining ethics consultation, expressing dissent or requesting recusal from certain objectionable procedures or activities.
- f) review compliance with ethics directives/instructions as part of recurring health service inspections.



Finding 6

Military health care providers report a lack of clarity in policies regarding the level of detail that should routinely be provided to commanders regarding a military member's health status and treatment. Without clear guidance, each provider has to determine whether there is potential for impact, and each provider might have a different threshold for disclosure.



Recommendation 6

DoD should develop clear guidance on what private health information can be communicated by health care providers to leadership, and the justifications for exceptions to the rule for reasons of military necessity.



Finding 7

Lawyers and Chaplains are afforded unique status and privileges with respect to the confidential relationships they have with military personnel seeking their services.



Recommendation 7

DoD should provide military health care professionals with privileges similar to those of Chaplains and Judge Advocates regarding their independence and obligation to protect privacy and confidentiality while meeting the requirements of line commanders.



Finding 8

Cultural norms, social expectations, and rules of engagement can create unique challenges for those providing care to non-U.S. personnel or serving as medical mentors to developing world host nation personnel. Providing care in the context of humanitarian assistance or disaster relief operations may involve unique stressors in coping with extensive unmet health care needs with limited resources. Health care providers would benefit from having a thorough understanding of the issues associated with these operations including the underlying cultural beliefs, social expectations, resource limitations, and altered treatment priorities associated with these environments.



Recommendation 8

DoD should provide specific training for health care professionals designated to serve as medical mentors or health care providers in foreign health care facilities or in support of humanitarian assistance or disaster relief operations. Such training should cover cultural differences, potential ethical issues, rules of engagement, and actions that might be taken to avert, report, and address unethical, criminal, or negligent behavior or practices.



Finding 9

DoD does not have an online portal to provide efficient access to medical ethics information and resources.



Recommendation 9

DoD should create an online medical ethics portal. At a minimum, it should include links to relevant policies, guidance, laws, education, training, professional codes, and military consultants in medical ethics.



Finding 10

It is not evident that line leadership always has a clear understanding of the roles, responsibilities, and limitations of health care personnel with respect to what actions they may or may not take and what information they may or may not provide based on ethical codes, licensure standards of conduct, and legal restrictions.



Recommendation 10

DoD should include in professional military education courses information on the legal and ethical limitations on health care personnel regarding patient care actions they may or may not take in supporting military operations and patient information they may and may not communicate to line leadership.



Finding 11

Military health care personnel could benefit from opportunities for debriefing, particularly following deployments that involved intensely emotional experiences, as a means of coping with moral injury and reducing their sense of isolation. Debriefing may also provide, an opportunity to identify those who need additional help post-deployment.



Recommendation 11

DoD should ensure that systems and processes are in place for debriefing health care personnel to help them transition home following deployment. Debriefing should occur as a team when possible. Not only could this help mitigate potential moral injury in health care personnel, but it may also provide lessons learned and case studies for inclusion in ongoing training programs.



Finding 12

Having senior medical officers as full members of the Commander's staff provides an opportunity for regular two-way communication. Medical leaders would have insight to key goals, issues, and concerns of the command while also ensuring that the Commander is aware of medical limitations and potential ethical concerns in planning and operations.



Recommendation 12

To create an environment that promotes ethical conduct and minimizes conflicts of dual loyalty, DoD leadership should emphasize that senior military medical professionals are full members of the Commander's staff as an advisor on medical ethics as it relates to military readiness.



Finding 13

When Service members simply fill in slots on deployments as an individual and do not train with their unit, they miss an opportunity through the training environment to establish relationships and build trust with members of their unit prior to deployment. This could make resolution of medical ethical conflicts that occur more challenging in the deployed environment.



Recommendation 13

To minimize isolation of health care personnel, the Military Departments should make every effort to ensure personnel who are deploying to the same location train together as a team prior to deployment. Establishing relationships prior to deployment may enable better communication and trust among line command and health care providers in the deployed setting.



Finding 14

Medical ethics training appears to vary among Military Departments and specialties. DoD would benefit from having a common baseline training requirement in medical ethics across the Military Departments to ensure a consistent understanding and approach to medical ethics challenges.



Recommendation 14

DoD should issue a directive or instruction designating minimum requirements for basic and continuing education and training in military medical ethics for all health care personnel in all components and indicate the appropriate times in career progression that these should occur.



Finding 15

In recognition that health care professionals will come from different education and training backgrounds, personnel preparing for deployment would benefit from a pre-deployment review of key ethics challenges, reminders of available support tools and information, and provision of contact information for resources that might be of assistance should an ethical challenge arise. Health care providers indicated that including challenging medical ethics scenarios in realistic pre-deployment and periodic training was beneficial for both line and medical personnel.



Recommendation 15

To enhance ethics training for military health care providers and the line command, DoD should:

- a) ensure pre-deployment and periodic field training includes challenging medical ethics scenarios and reminders of available resources and contact information to prepare both health care professionals and line personnel; Curricula should include simulations and case studies in addition to didactics;
- b) provide a mechanism to ensure scenarios and training curricula are continually updated to reflect specific challenges and lessons learned through debriefing from real-world deployments and garrison operations; and
- c) ensure key personnel returning from deployment who have faced significant challenges provide feedback to assist personnel preparing for deployment.



Finding 16

Joint Knowledge Online provides a Basic and Advanced Course in Medical Ethics and Detainee Health Care Operations. These courses provide valuable information for deploying medical personnel on ethical issues related to the care of detainees. The current implementation of the course could be improved to provide more efficient communication of the concepts and scenarios covered. In addition, it would be beneficial to have a course covering basic principles of medical ethics for all health care personnel.



Recommendation 16

To enhance health care practices in the military operational environment, DoD should:

- a) update the Joint Knowledge Online Medical Ethics and Detainee Health Care Operations courses to improve the efficiency with which the information is communicated and maintain currency of the material; and
- b) create a medical ethics course to cover key principles, ethical codes, and case studies applicable to both garrison and deployed environments, in addition to providing resources and appropriate steps to take when assistance is needed in resolving complex ethical issues. This course should be required for all health care personnel.



Questions

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