

**WINTER 2005**

## How Does the Ethics Committee Work?

IMAGINE THE FOLLOWING SCENARIO:

Your father has just sold the small manufacturing company that he founded and ran for fifty years and is enjoying his first year of retirement. He is a spirited and vivacious man of seventy-five. He and your mother have been looking forward to travel and relaxation. Suddenly, their plans are thwarted. Your father suffers a serious stroke. He has been in intensive care for two weeks, dependent on a respirator and unable to communicate. Doctors tell you that, while he might survive, he will probably have permanent physical and mental damage. Your mother, you and your siblings are left to decide your father's fate. Your doctor suggests that you seek an ethics consultation.

You, your sister and one of your brothers (the other is in Europe) have dinner at your mother's. There is little agreement about what to do. Mom is very distressed and uncertain. You strongly believe that Dad would not want to live disabled. Your sister only expresses hope in full recovery. Your brother states that the family's church forbids its faithful from causing death. Everything must be done to sustain Dad's life. None of you is very sure what Dad's future will be, nor are you clear about who has the authority to make a decision. Your mother says she will not be the one to end Dad's life. At the end of the evening, you are delegated to call the doctor and ask him to arrange an ethics consultation, even though you are uncertain what that is. Your eldest brother will return tomorrow.

Your doctor calls Dr. A, chairperson of the CPMC ethics committee. Dr. A is an experienced internist who has studied medical ethics. Your doctor tells him the basic medical facts of the case and about the family's uncertainty. Dr. A selects from a twenty-four member ethics committee, a sub-committee of three: a surgeon, a

nurse and a social worker (the committee is comprised of a variety of health care providers, including a chaplain and a public member).

The sub-committee goes to the ICU to read through your father's medical record. They talk to your father's doctor, the consulting neurologists and the nurses. The sub-committee then meets to share the information they have gained and to plan how best to discuss this serious decision with the family in a Patient Care Conference.

The subcommittee has four important points to review:

1. They must be as clear as possible about your father's medical condition and, above all, his diagnosis and prognosis. Medical facts are often uncertain, even when described by specialists, with frequent differing opinions from different doctors. It is crucial that the ethics sub-committee understand what is going on with the patient so that they can clearly explain it to you. They do not take the place of your father's doctor or consultants, but rather they attempt to coordinate and clarify the picture.
2. The committee will want to know whether your father had ever expressed his wishes. Had he ever made a Living Will? He had not. When a patient cannot state preferences, who has the moral and legal authority to speak on their behalf? Often a spouse, parent or close friend may be the obvious proxy. But frequently no one emerges as the appropriate decision maker. The proxy decision maker, once identified, must make decisions based on his or her knowledge of the patient's preferences or on the basis of the patient's best

*Ethics Committee, continued on back*

interest (a very complex matter). In your father's instance, your eldest brother, a very forceful man, now arrives and asserts that he should be the one to make the decision. "Dad," he says, "must be allowed to die. He could not live as a cripple."

3. The sub-committee needs to consider a third factor, namely, the assessed quality of life of the patient. This is intimately associated with the medical indications and with what is known about your father's values, preferences and lifestyle. What does it mean to "live as a cripple"? Will he be a cripple? How do we know that he could not live "as a cripple"? The sub-committee must take into account the prejudices and biases that we, the family and the health care professionals, have about life and its limitations. The sub-committee knows that studies show relatives and providers are more often wrong than right when they assume how a patient would evaluate quality of life.
4. Finally, the sub-committee needs to know whether there are extrinsic factors that might influence the decision. For example, family finances may have some influence, particularly inheritance. Religious or cultural beliefs may also play a large role. In some cases, scarcity of medical resources, such as transplantable organs, may affect the decision. The sub-committee must know whether any such factors are present in your case. One alone seems relevant, though not dominant, in your father's case: the expressed religious feelings of your younger brother.

When the sub-committee has discussed these four features of your father's case, they hold a meeting with all of you. They do not bring a conclusion or even a recommendation but rather a clear picture of options and useful information about various matters, such as decision making authority. They can provide advice. They notice, for example, that your younger brother's religious beliefs are not exactly what his church holds about the obligation to sustain life. They

suggest that discussion with his clergy person might clarify his understanding.

How the Patient Care Conference concludes is hard to say. The facts of the case, the guesses about the future, the calm examination of opinions and the broad experience of the sub-committee all have their affect. The family learns that it is ethically permissible to withdraw life-support in medical situations where further treatment is non-beneficial. But they are still uneasy because several of you wonder whether being alive should be considered a benefit, even with disability. Then your mother mentions that she recalls that your father did talk about such a situation with their previous physician when they had lived in another city. One sub-committee member volunteers to contact this physician. She reports that the conversation was substantial, confirming and clarifying what you and your older brother believed your father would want. Now Mom states that she is satisfied that Dad would want to die under these circumstances and that she will authorize the doctor to discontinue the respirator. You and your siblings agree. It is made clear that a competent course of palliative care will immediately begin. This will assure that your father's last hours are comfortable.

Later the full ethics committee reviews this case and its outcome in its regular meeting. It endorses the approach and expresses satisfaction that the sub-committee had aided your family through this difficult time. One major ethical principle had emerged as central: a confirmed expression of the wishes of the patient interpreted in the light of his medical condition. Your father's case had gone well, albeit sadly. The ethics committee believes that they perform a useful service in these distressing situations. They are not infallible but they are informed and supportive.

**In our next issue: A REALLY TOUGH CASE**

**William Andereck, M.D.** and **Albert Jonsen, Ph.D.** are the Co-directors of the Program.

**Dr. Andereck** has practiced Internal Medicine in San Francisco since 1979, after graduating from the University of Tennessee at Memphis Medical School, he started as an intern and resident at CPMC. A fellowship from National Endowment for the Humanities allowed him to study medical ethics for a period at Vanderbilt University and later to continue this study while in residency at CPMC. He has been Chair of the CPMC Institutional Ethics Committee since 1985 and served on the Council for Ethical Affairs of the California Medical Association since 1990. He is now a Trustee of the CMA.

**Albert Jonsen, Ph.D.** (Yale '67) established the teaching of medical ethics at University of California, San Francisco in 1972, where he became Chief of the Division of Medical Ethics. He moved to University of Washington School of Medicine in 1987, where he chaired the Department of Medical History and Ethics until 1999. He has served on five government commissions on issues of medical ethics and is an elected member of the Institute of Medicine, National Academy of Science. He received the Lifetime Achievement Award of the American Society of Bioethics and the Humanities. He is author of *The Birth of Bioethics* (Oxford University Press, 1998) and *Clinical Ethics* (McGraw-Hill, 5th edition, 2001)

**Kathleen Warinski** is the Administrator of the Program. She graduated from the University of Nebraska and has worked as a program coordinator at UCSF, Kaiser San Francisco and University of Nebraska. She has lived in the Bay Area for thirty-seven years.

**James "Wes" McGaughey** is the Program's Research Associate. He is from Southern California and is currently studying political science and international relations at San Francisco State University. His last employment was in social research in the Office of State Senator Jackie Speier, 8th District.

# News

**Dr. Albert R. Jonsen**, Senior Ethics Scholar in Residence and Co-Director of the Program in Medicine and Human Values was honored by DHHS Secretary Tommy Thompson in Washington, DC on November 16, 2004. Dr. Jonsen and six other members of the National Commission for Protection of Human Subjects of Biomedical and Behavioral Research, set up by Congress in 1974, formulated the rules for involvement of humans in medical experimentation. They wrote the Belmont Report that stated the Principles of Respect, Beneficence and Justice that should govern such research. The year 2004 was the twenty-fifth anniversary of the publication of that report.

**Dr. Jonsen** was an invited lecturer at a conference on stem cell research, sponsored by the Willie Brown Jr. Foundation for Politics and Public Service, held at Fort Mason on October 12, 2004.

**Dr. Andereck** will give Grand Rounds in the Department of Medicine on the work of CPMC ethics committee over the last ten years.

**The Program in Medicine and Human Values** has been fortunate to have received many welcome contributions toward its fundraising goal of \$2 million. Two particularly generous grants have been received from the Bechtel Foundation and the Richard and Rhoda Goldman Fund.

**Dr. Jonsen** will give Grand Rounds in Obstetrics-Gynecology on March 1 on the California Campus. His topic will be *New Twists in Old Ethical Problems in Perinatal Medicine*.

**Professor Jacob Needleman** and **Dr. Robert Pearlman** have accepted invitations as the first Bechtel Visiting Scholars in the Program in Medicine and Human Values. Jacob Needleman is professor of Philosophy at San Francisco State University. He is internationally known for his books that bring philosophical concepts close to personal and social life. He is author of *The Way of the Doctor*, which he wrote after a year of discussions with CPMC physicians. He is also author of *Money and the Meaning of Life*. Professor Needleman will collaborate in the Colloquium on Commercialism in Medicine. Dr. Pearlman, an internist and gerontologist, is Director of Ethics Evaluation for the Veterans' Health Administration. He is the acknowledged expert on empirical studies of ethics. He will bring to CPMC his broad experience in evaluating the ethical context and climate of medical institutions.

CPMC's Program in Medicine & Human Values presents

# How has Commercialism Changed the Practice of Medicine?



*"While it's not a cure, it does mean a guaranteed income for me."*

**M**oney, commercialism, and exploitation are perennial for society, and they have also become problems for medicine: doctors have always needed to make a living, yet more often than not, sick persons cannot afford to pay for their services and care. In recent years, medical care has become so costly, systems for payment so complicated, and industry and media so involved that money and commercialism has profoundly affected the ways in which medicine is practiced. This public forum is the culmination of our colloquium in which eight leading medical ethicists have pondered this pressing issue. They will present their thoughts, inviting responses from the medical community and the public.

Friday, February 11, 2005

7:00 pm

University of the Pacific Auditorium  
Arthur A. Dugoni School of Dentistry  
2155 Webster Street (at Sacramento)  
Admission is free.

Speakers and participants will include:

**William S. Andereck, M.D.**, Founder, Program in Medicine & Human Values, California Pacific Medical Center; Trustee, California Medical Association; former editor, *San Francisco Medicine*

**Albert R. Jonsen, Ph.D.**, Senior Ethics Scholar in Residence, Program in Medicine & Human Values, California Pacific Medical Center; Professor Emeritus, Ethics in Medicine, University of Washington

**Steve L. Heilig, MPH**, Director of Public Health & Education, San Francisco Medical Society

**Joseph J. Fins, M.D., FACP**, Associate Professor of Medicine and Associate Professor of Medicine in Psychiatry, Columbia University College of Physicians and Surgeons; Chief, Division of Medical Ethics, New York-Presbyterian Hospital-Weill Cornell Center

**Jacob Needleman, Ph.D.**, Professor of Philosophy, San Francisco State University; author, *Money and the Meaning of Life* and *The Way of the Physician*

**Larry R. Churchill, M.D., Ph.D.**, Ann Geddes Stahlman Chair in Medical Ethics, Vanderbilt University Medical Center

**Jonathan D. Moreno, Ph.D.**, Director, Center for Biomedical Ethics, University of Virginia

**Lawrence J. Schneiderman, M.D.**, Professor, Department of Family & Preventive Medicine and Department of Medicine, University of California, San Diego