Ethics in Long Term Care
Advance Care Planning

Avera eLTC Education
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Vice President of Ethics, Avera
Learning Objectives

1. Explore the concepts of **advance care planning** and **advance directives** within the **context of health care ethics**.

2. Understand the **components of the advance care planning** process, and the **various types of advance directives**.

3. Be able to describe the **relationship** between **advance care planning**, **human dignity** and patient **self-determination**.
Agenda

1. Health Care Ethics Overview
2. Ethics, Law, Science and Faith
3. Advance Care Planning, Human Dignity and Self Determination
4. Types of Advance Directives
5. Practical Application: Advance Directives and Ethics Consults
6. Questions and Discussion
Explore the concepts of advance care planning and advance directives within the context of health care ethics.
What is Ethics?

The branch of philosophy concerned with right action.

A method of decision-making by which we determine:

- the right thing to do;
- an acceptable range of options;
- the best thing to do;
- or the least bad course of action in a situation.
The Fundamental Questions of Ethics

- **Who are we/who should we be?**  
  *Identity*  
  *Being*

- **What should we do in light of this?**  
  *Integrity*  
  *Doing*
Interrelationship of Science, Law and Ethics

Science

Law

Ethics
Interrelationship of Science, Law and Ethics

Science asks – what can we do? **Options**

Law asks – what must we do/refrain from doing? **Obligations**

Ethics asks – what should we do? **Optimums**
History of Healthcare Ethics

In the 16th Century, theologians were more frequently addressing questions arising in the practice of medicine:

– When does **life begin**?
– When has **death occurred**?
– Which treatments are **morally mandatory**?
– Which medical procedures are **prohibited**?

Well-intentioned individuals may differ in their conclusions.
Advance care planning takes into consideration all of these factors:

- goals of care
- patient’s wishes
- quality of life as determined by patient
- beliefs
- experience
- values
- faith tradition
- science
- law
- emotions
- culture
Learning Objective #2

Understand the components of the advance care planning process and the various types of advance directives.
What is Advance Care Planning?

Not just a document,

even though advance directive document(s) will often result from advance care planning.
What is Advance Care Planning?

Process by which

a person communicates his or her wishes

about future health care decisions

in the event that the person loses decision-making capacity.
What are Advance Directives?

**Documents** by which a person *communicates his or her wishes about future health care decisions* in the event that the person *loses decision-making capacity*. 
Components of Advance Care Planning

1. **Involves relationships** and **conversations** between:
   a. Patient and self about values, beliefs, goals and wishes;
   b. Patient and family or surrogates; and
   c. Patient and caregivers.

2. **Documentation of patient’s wishes** in advance directive forms.

3. **Is a journey over time** which requires ongoing consideration and reevaluation because health status, goals and wishes may change.
Components of Advance Care Planning

1. Relationships
2. Conversations
3. Documentation
4. Journey
1. **Advance Directives re: Surrogates**
   a. Durable Power of Attorney for Health Care
   b. Guardianship (established by court)

2. **Advance Directives re: Interventions**
   a. Living Will
   b. Comfort One
   c. No Blood or Blood Products
   d. Patient’s Wishes as Documented in Medical Record
   e. Code Status Orders
   f. POLST
   g. Other Verbal or Written Directives
Legal Aspects of Advance Directives will be presented by Dan Rafferty, Esq. during the August eLTC webinar.
Learning Objective #3

Be able to describe the relationship between advance care planning, human dignity and patient self-determination.
## Advance Care Planning Terminology

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<th>Ethics and Faith</th>
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<td>Values and Principles</td>
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<td>2 Rights and Duties</td>
<td>Sanctity of Life, Moral Obligations</td>
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<td>3 Autonomy</td>
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<td>6 Advance Directives</td>
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1. Autonomy is the capability for **self-determination**.

2. Autonomy implies that one should be **free from coercion** in deciding to act or to forgo action.

3. In healthcare, a person’s autonomy is exercised through:
   
a. the process of **informed consent**;
   
b. the right to **accept or refuse treatment**;
   
c. the creation of **advance directives**; and
   
d. the appointment of **surrogate decision-makers**.
Ethics and Law: Patient Self-Determination Act (PSDA)

1. Congress passed the PSDA as an amendment to the Omnibus Budget Reconciliation Act of 1990. It became **effective on December 1, 1991**.

2. The PSDA requires hospitals, nursing homes, hospice programs, home health agencies, and HMO’s to give adult individuals, at the time of inpatient admission or enrollment, certain information about their rights under state laws governing **advance directives**, including the right to:
   a. participate in and direct their own **health care decisions**.
   b. **accept or refuse** medical or surgical treatment.
   c. prepare an **advance directive**.
   d. **information on the provider’s policies** governing exercise of these rights.

3. Prohibits institutions from discriminating against a patient who does not have an advance directive.

4. Requires institutions to document patient information and provide ongoing community education on advance directives.
## Ethics and Faith

<table>
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<th>Principles and Values</th>
<th>Theological Reflection</th>
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<tr>
<td>1 Human Dignity</td>
<td>Inestimable and inalienable <em>worth of every person</em>. Flows from humankind's creation in the image and likeness of God.</td>
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<tr>
<td>2 Sanctity of Life</td>
<td>Human life is a <em>gift from God</em> and the basis for all other human goods. Respect for life from conception until natural death.</td>
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<tr>
<td>3 Respect for Persons</td>
<td>Health care decisions are to be <em>made by the patient</em>, and in light of patient’s wishes, goals, values and beliefs (autonomy, self-determination).</td>
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<tr>
<td>4 Professional-Patient Relationship</td>
<td>Relationship <em>requires mutual respect, honesty and appropriate confidentiality</em>; avoids manipulation, intimidation, condescension.</td>
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<td>5 Holistic Care</td>
<td>Healthcare as a community of healing that treats the physical, psychological, social and spiritual <em>dimensions of the person</em>.</td>
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<tr>
<td>6 Stewardship of Human Life</td>
<td>Person has a <em>duty to preserve life and health</em>, but duty is based on what is reasonable and beneficial from patient’s perspective.</td>
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<tr>
<td>7 Priority of Care</td>
<td>The <em>task of medicine is to care even when it cannot cure</em>. Such caring involves relief from pain and the suffering caused by it.</td>
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<td>8 Respect for the Dying</td>
<td>The use of life-sustaining technology is judged in light of the <em>Christian meaning of life, suffering and death</em>, avoiding two extremes: latent pain; or with the intention of causing death.</td>
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Common Issues for Ethics Consults in Advance Care Planning

1. Capacity and Competency
2. Health Care Consent
3. Advance Directives
4. Surrogates
5. End of Life, Futility/Non-beneficial Interventions
6. Palliative Care and Hospice
Common Issues for Ethics Consults in Advance Care Planning

1. Capacity and Competency:

a. Capacity is a threshold determination for applicability of advance directives.

b. **Capacity** is a medical determination of whether patient is able to:
   i. understand;
   ii. deliberate and decide; and
   iii. communicate his/her wishes.

c. **Competency** is a legal determination. An *incompetency determination* results from a court hearing, and a guardian is then appointed to make decisions for the incompetent person *(ward)*.

d. Capacity may fluctuate, whereas “incompetency” is generally a long-term status.

e. An incompetent patient lacks capacity, so decisions must be made by the patient’s guardian.

f. During the time that patient **possesses capacity**, the patient provides consent for health care.

g. If and when patient **lacks capacity**, advance directives become effective.
2. Health Care Consent

a. May be expressly stated by competent/capacitated patient.

b. May be directly or indirectly stated in advance directives.

c. Presumed in emergency situations when there are no directives or previous instructions to the contrary.

d. If surrogates are providing consent:
   i. Do they know patient’s wishes?
   ii. Are they willing to honor patient’s wishes?
Common Issues for Ethics Consults in Advance Care Planning

3. Advance Directives

a. Were advance directives executed while patient still possessed competency/capacity?

b. Do advance directives satisfy legal requirements (signed, dated, witnessed, notarized)?

c. What instructions, surrogacy and/or authority do advance directives confer and to whom?

d. Are advance directives available to the surrogates and health care team?

e. Advance directives are interpreted and applied in light of the situation at hand.
Common Issues for Ethics Consults in Advance Care Planning

4. Surrogates

a. Is surrogate reasonably available and willing to be involved?

b. Is surrogate knowledgeable about patient’s wishes and willing to honor them?

c. How is surrogate relating to patient and the health care team?

d. If there are multiple surrogates, how are they relating to each other? How are differences of opinion resolved?

e. Are the resources of health care team being expended in attending to emotional, spiritual and social needs of surrogate(s)?
Common Issues for Ethics Consults in Advance Care Planning

5. End of Life, Futility, Non-Beneficial Interventions

a. Requests/demands for interventions which are not medically indicated.

b. Requests by surrogates for interventions which are contrary to patient’s stated wishes and instructions.

c. Requests/demands for interventions which will not achieve the patient’s goals of care.

d. Guilt feelings of surrogates if they don’t insist on interventions to preserve patient’s physiologic life/prolong dying process.
Common Issues for Ethics Consults in Advance Care Planning

6. Palliative Care and Hospice

a. The goal of medicine is to care, even when it cannot cure.

b. We may withhold/withdraw certain interventions, but **we never withhold/withdraw care.**

c. How might surrogates misinterpret our words? Do they hear that we’re giving up? Abandoning patient? No longer providing care?

d. Relief of pain and suffering is of the utmost importance.

e. Legal and moral distinction between **allowing** death versus **intending** death.
Catholic Health Care Ministry
and Advance Care Planning

Sickness speaks to us of our limitations and human frailty.

It can be temporary or chronic, debilitating, or terminal.

Yet the follower of Jesus faces illness and the consequences of the human condition aware that our Lord always shows compassion toward the infirm.
Jesus not only taught his disciples to be compassionate, but he also told them who should be the special object of their compassion.

The parable of the feast with its humble guests was preceded with the instruction: “When you hold a banquet, invite the poor, the crippled, the lame, and the blind” (Luke 14:13).

These were the people whom Jesus healed and loved.
Catholic health care is a response to the challenge of Jesus to go and do likewise.

Catholic health care services rejoice in the challenge to be Christ’s healing compassion in the world.

Catholic health care is a sign of that final healing that will render each of God’s children a new creation.
Questions and Discussion

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