

# one

## chapter one

## Introduction to Ethics

*I expect to pass through this world but once. Any good therefore that I can do, or any kindness I can show to any creature, let me do it now. Let me not defer it, for I shall not pass this way again.*

STEPHEN GRELLET

### LEARNING OBJECTIVES

The reader on completion of this chapter will be able to:

- Explain what ethics is, its importance, and its application to ethical dilemmas.
- Describe the concepts of morality, codes of conduct, and moral judgments.
- Understand relevant “ethical theories and principles.”
- Describe virtue ethics and values and how they more clearly describe one’s moral character.
- Explain why courage is often considered to be the “ladder on which all other virtues mount.”
- Describe why there is a declining trust in the politics of health care.
- Understand how religious ethics can affect one’s moral character.
- Explain the concept of “situational ethics” and how changes in circumstances can alter one’s behavior.
- Describe the concepts of “ethical relativism” and one’s “moral compass.”

# two

## chapter two

# Contemporary Ethical Dilemmas

*No right is held more sacred, or is more carefully guarded, by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestioned authority of law.*

UNION PAC. RY. CO. v. BOTSFORD<sup>1</sup>

### LEARNING OBJECTIVES

The reader on completion of this chapter will be able to:

- Better understand ethical concepts and how they can be applied in the resolution of health care ethical dilemmas.
- Have a better understanding of the following common ethical dilemmas:
  - Abortion
  - AIDS
  - Artificial insemination
  - Organ donations
  - Research, experimentation, and clinical trials
  - Sterilization
  - Wrongful birth, wrongful life, and wrongful conception
  - Surrogacy
  - Human genetics

# three

## chapter three

### End-of-Life Dilemmas

*When we finally know we are dying, and all other sentient beings are dying with us, we start to have a burning, almost heartbreaking sense of the fragility and preciousness of each moment and each being, and from this can grow a deep, clear, limitless compassion for all beings.*

SOGYAL RINPOCHE

#### LEARNING OBJECTIVES

The reader on completion of this chapter will be able to:

- Describe the human struggle to survive.
- Explain the issues involved in end-of-life dilemmas:
  - Euthanasia
  - Assisted suicide
  - Oregon's Death with Dignity Act
  - Patient Self-Determination Act of 1990
  - Advance directives (e.g., living will, durable power of attorney)
  - Surrogate decision making
  - Futility of treatment
  - Withdrawal of treatment
  - Do-not-resuscitate orders

# *four* *chapter four*

## **Health Care Ethics Committee**

### **LEARNING OBJECTIVES**

The reader upon completion of this chapter will be able to:

- Understand the importance, development, structure, and goals of ethics committees.
- Describe the functions of the ethics committee:
  - Policy and procedure development
  - Educational role
  - Consultation and conflict resolution
- Describe the expanding role of the ethics committee.
- Describe the concept of reasoning and decision making.

# five

## chapter five

## Development of Law

*Laws are the very bulwarks of liberty; they define every man's rights, and defend the individual liberties of all men.*

J. G. HOLLAND (1819–1881)

### LEARNING OBJECTIVES

The reader upon completion of this chapter will be able to:

- Understand the development of law.
- Describe the functioning of our legal system.
- Describe the sources of law:
  - Common law
  - Statutory law
  - Administrative law
- Describe the functions of the three branches of government:
  - Legislative
  - Judicial
  - Executive
- Understand the concept of “separation of powers.”

# six chapter six

## Introduction to Law

*Every instance of a man's suffering the penalty of the law, is an instance of the failure of that penalty in effecting its purpose, which is to deter from transgression.*

WHATELY

### LEARNING OBJECTIVES

The reader upon completion of this chapter will be able to:

- Identify and explain tort law.
- Describe the elements of negligence and how they apply to health professionals.
- Identify and describe intentional torts and how they apply to health professionals, such as:
  - Assault and battery
  - False imprisonment
  - Defamation of character
  - Invasion of privacy
  - Infliction of mental distress
- Identify and describe criminal law and how it applies to health professionals, including:
  - Criminal trial
  - Fraud
  - Manslaughter

**LEARNING OBJECTIVES (continued)**

- Murder
- Theft
- Identify and describe contract law and how it applies to health professionals, including:
  - Elements of a contract
  - Employment contracts
  - Exclusive contracts
  - Commercial ethics and noncompetitive agreements
- Understand the pretrial and trial process and how it applies to health professionals:
  - Pleadings
  - Discovery of evidence
  - Preparation of witnesses
  - The court
  - The jury
  - Subpoenas
  - Opening statements
  - Burden of proof
  - Evidence
  - Examination of witnesses
  - Defense of one's actions
  - Closing statements
  - Judge's charge to the jury
  - Jury deliberation
  - Damages
  - Appeals

**INTRODUCTION**

Laws are enacted to regulate human behavior for the benefit of society. They are designed to prevent harm to others while protecting the rights of individuals. In the law we are taught that we have a duty to care and that if we breach that duty and someone is injured as a result of that breach, there will be a penalty to pay, which could be financial loss, loss of license, and/or jail

# seven

## chapter seven

### **Government, Ethics, and the Law**

*Nothing is politically right which is morally wrong.*

DANIEL O'CONNELL (1775–1847)<sup>1</sup>

#### LEARNING OBJECTIVES

The reader upon completion of this chapter will be able to:

- Describe the loss of trust in government.
- Explain the purpose of the United States Office of Government Ethics.
- Describe the meaning and sources of public policy.
- Describe important laws designed to protect each individual's rights:
  - 14th Amendment to the U.S. Constitution
  - Civil Rights Act of 1964
  - Sherman Antitrust Act
  - Privacy Act of 1974
  - Health Insurance Portability and Accountability Act of 1996
  - Emergency Medical Treatment and Active Labor Act of 1986
  - Health Care Quality Improvement Act of 1986
  - Agency for Healthcare Research and Quality



**LEARNING OBJECTIVES (continued)**

- Ethics in Patient Referral Act of 1989
- Patient Self-Determination Act of 1990
- Sarbanes-Oxley Act of 2002
- Patient Protection and Affordable Care Act of 2010
- Understand the concept of political malpractice.
- Understand Ethics in Public Service.

**INTRODUCTION**

*Let every American, every lover of liberty, every well wisher to his posterity, swear by the blood of the Revolution, never to violate in the least particular, the laws of the country; and never to tolerate their violation by others. As the patriots of seventy-six did to the support of the Declaration of Independence, so to the support of the Constitution and Laws, let every American pledge his life, his property, and his sacred honor—let every man remember that to violate the law, is to trample on the blood of his father, and to tear the character of his own, and his children's liberty. Let reverence for the laws, be breathed by every American mother, to the lisping babe, that prattles on her lap—let it be taught in schools, in seminaries, and in colleges; let it be written in Primers, spelling books, and in Almanacs—let it be preached from the pulpit, proclaimed in legislative halls, and enforced in courts of justice. And, in short, let it become the political religion of the nation; and let the old and the young, the rich and the poor, the grave and the gay, of all sexes and tongues, and colors and conditions, sacrifice unceasingly upon its altars.*

ABRAHAM LINCOLN

The words of Abraham Lincoln, so eloquently spoken, have too soon been forgotten. Political corruption, antisocial behavior, declining civility, and rampant unethical conduct have heightened discussions over the nation's moral decline and decaying value systems. The numerous instances of questionable political decisions, numbers-cooking executives with exorbitant salaries, including health care executives working for both profit and non-profit organizations, cheating at work and in school, and the proliferation of X-rated websites have contributed to this decline. Legislators, investigators, prosecutors, and the courts are finally stepping up to the plate and are taking action. The question, however, remains: Can this boat be turned around, or are we just plugging the holes with new laws and creating more leaks in a misdirected sinking boat? The answer is more likely to be a return to practicing the values upon which this nation was founded.

The following quote from the *Washington Post* illustrates how even in the nation's capital, people are being taxed because of illness.

# eight

## chapter eight

# Organizational Ethics and the Law

### LEARNING OBJECTIVES

The reader upon completion of this chapter will be able to:

- Describe corporate structure.
- Describe the value statements that should be included in an organization's code of ethics.
- Discuss why the conduct of organizations is under scrutiny.
- Explain the doctrine of *respondeat superior* and the concept of corporate negligence.
- Describe corporate duties, responsibilities, and the ethical and legal risks of organizations.
- Describe various strategies that can be taken to restore organizational trust.

# nine

## chapter nine

# Health Care Professionals' Ethical and Legal Issues

*Ethics is nothing else than the reverence for life.*

A. SCHWEITZER

### LEARNING OBJECTIVES

The reader on completion of this chapter will be able to:

- Understand how ethics and the law impact health care professionals.
- Recognize similarities in the various professional codes of ethics.
- Understand how ethical and legal issues described in any single case have applicability to the various health professions.
- Explain the difference between the certification and licensure of a health care professional.
- Discuss helpful advice for health care professionals.

# *ten* *chapter ten*

## **Physicians' Ethical and Legal Issues**

### **LEARNING OBJECTIVES**

The reader on completion of this chapter will be able to:

- Describe the principles of medical ethics.
- Discuss the credentialing process for physicians.
- Explain the hospital's duty to ensure the competency of physicians.
- Understand how ethics and the law impact on physicians.
- Identify the variety and complexity of patient care issues that physicians face daily.
- Describe how practicing one's professional code of ethics can assist in resolving the day-to-day issues that arise during the care of patients.
- Explain the importance of understanding the physician–patient relationship.

# eleven

## chapter eleven

### **Employee Rights and Responsibilities**

*Education/Learning as a Value: It is expected that each professional have current understanding of one's area of specialization and practice. Education has value and is a legal necessity in order to be in conformity with the national standard of care of one's profession. Every professional is responsible to be current in his or her knowledge and skills. This comes by reading one's professional literature, attending continuing education programs, and mentoring.*

UNKNOWN

#### **LEARNING OBJECTIVES**

The reader on completion of this chapter will be able to:

- Describe and understand the rights of employees.
- Describe and understand the responsibilities of employees.
- Discuss what professionals can do to improve professional relationships between one another as well as between caregivers and patients.

# *twelve*

## *chapter twelve*

# **Patient Consent**

### **LEARNING OBJECTIVES**

The reader on completion of this chapter will be able to:

- Describe a patient's right to self-determination.
- Describe consent and its various aspects:
  - Informed consent
  - Consent and ethical codes
  - Assessing capacity to consent
  - Adequacy of consent
  - Proof of consent
  - Authorization for consent
  - Implied consent
  - Right to refuse treatment
  - Statutory consent

# *thirteen*

## *chapter thirteen*

## **Patient Abuse**

### **LEARNING OBJECTIVES**

The reader on completion of this chapter will be able to:

- Understand the pervasiveness of senior and child abuse.
- Identify the signs of abuse.
- Describe the reporting requirements for abuse.

# fourteen

## chapter fourteen

# Patient Rights and Responsibilities

*The unexamined Life is not worth living.*

SOCRATES

### LEARNING OBJECTIVES

The reader on completion of this chapter will be able to:

- Describe and understand patient rights.
- Describe and understand patient responsibilities.



# fifteen

## chapter fifteen

### Summary Case—Star Chamber

*“There is nothing,” says Plato, “so delightful as the hearing or the speaking of truth”—for this reason there is no conversation so agreeable as that of the man of integrity, who hears without any intention to betray, and speaks without any intention to deceive.*

THOMAS SHERLOCK

#### LEARNING OBJECTIVES

The reader upon completion of this chapter will be able to:

- Understand that in each encounter with another person there is the spoken word that may not always clearly describe the intent of the message.
- Understand how values are intertwined in the communications process and how they can be instrumental in changing the course of one’s life path.