

# Managing Ethical Dilemmas in Occupational Medicine

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# The fundamental challenge

- Occupational medicine physicians are “double agents” in that they serve two masters
- Ethical conflicts (i.e. a conflict of “right” vs. “right”) cannot be avoided; they can be managed productively

# Codes for Occupational Medicine

- Many, many codes in the health professions
- ACOEM, rev. 1993
  - “Accord the highest priority to the health and safety of the individuals in both the workplace and the environment”
  - Little specificity
- ICOH, 1991
  - “The primary aim of occupational health practice is to safe guard the health of workers and to promote a safe and healthy working environment
  - Addresses more specific issues than ACOEM Code, but, in the end delegates to “the highest professional standards and ethical principles”
- In truth, none of these fine sentiments, oaths and vows are of significant practical help in making a real world decision when “right” conflicts with “right”

# Bioethical principles are another tool

- Can be applied to the truly difficult conflicts
- These well-established principles give guidance in a process that balances conflicting claims and aspires to a workable resolution
- The principles sometimes conflict, and none is absolute
- Any form of deception is viewed as unethical
- The same principles have been promoted by the Medical Professionalism Project as the basis for its recent Charter on Medical Professionalism

# Primary Bioethical Principles

- **Autonomy**
  - individuals understand their own best interests better than anyone else; sometimes called “respect for individuals”
- **Beneficence**
  - do good for all stakeholders
- **Nonmaleficence**
  - minimize harm to all stakeholders
- **Justice**
  - fair distribution of benefits and costs across all stakeholders

# Common case management practices (1)

*There are largely unwritten “codes” of widely accepted behavior (“morality”) within the occupational medical profession*

- Early “case management”
  - Involve all players; understand expectations
- Accommodation and early RTW
- Strict confidentiality
  - Communication with management is through “restrictions”
  - Signed consent for release of any medical information; logs
- Do your homework – medical, statutory, case law, company policies, other precedents -- before working ethical conflicts

## Common case management practices (2)

- Frequent external referrals
  - Both for treatment and assessment of capabilities and limitations
  - Employ the best resources (professional competence and objectivity)
- Transparency for all parties
  - “Mirandizing” employee/patient
  - Employee/patient access to the medical record
- Try to maintain professional independence – always a tension when professionals operate within organizations
  - Organization of the medical function, preventing professional isolation, constant education of management and employees regarding appropriate role
- Safety sensitive situations are managed very tightly

# RTW Case, Situation 1

- “Higher risk” for more severe impairment if..., and a fully informed individual is willing to assume the risk
- “Respect for the individual” conflicts with “doing good”
- My experience is that the risk of further injury and impairment is often misunderstood and exaggerated, and the focus is on a single injury or illness rather than overall health
  - The ADA’s language states that a threat of harm must be “high probability,” “severe” and “imminent” before restricting from work
  - The most widely accepted definition of health adopted in 1946 by the WHO – “Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity”
- Occupational physicians vary widely in how they manage this situation; “paternalism” is frequent

# RTW Case, Situation 2

- Are the complaints of fatigue, disturbed sleep and daily headaches real? Were they real in the previous situation?
- The conflict here is respecting the individual's assessment of his problems, while balancing the legitimate claims of the mission (autonomy, beneficence and justice all apply)
- Is there a safety sensitive issue?
- Many of these cases present physicians a tricky opportunity to say more than they or anyone can know; don't be afraid to admit to professional inadequacy ("I don't know")
- In some situations one can refer to guidelines that give historical norms on RTW; but, each case is unique
- A useful strategy can be to buy some time and possibly get more information; an example here would be to return the employee temporarily to a non combat role and reassess in 3 months