

# Ethics In Emergency Medicine: Principles to Guide Practice

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**Notes: Although principles of medical ethics are fairly universal within North America, there are some variations in practice among the various jurisdictions.**

## Ethical Principles

- Respect for persons/autonomy
- Beneficence
- Nonmaleficence
- Justice

Principles of Biomedical Ethics  
BeauchampTL, Childress JF 1979

## Basis for Consent

- Principle of autonomy
- Respect for persons
- Legal requirement
  - No consent: battery
  - Inadequate consent: negligence
- Professional requirement

## Elements of Consent

- Implied or Explicit (Written, Oral)
- Disclosure (Informed)
  - Provision of relevant information
  - Proposed treatment and effects
  - Alternatives
  - Consequences of declining/refusing
- Comprehension
- Voluntary
- Capacity

## Capacity Requirements

- Ability to understand information relevant to a decision
- Appreciate reasonably foreseeable consequences of decision or lack of decision
- Not affected by
  - Depression
  - Psychosis
- Specific to particular decisions
- Can change over time

**Capacity and Ontario Law: Health Care Consent Act:** "...rely on the presumption of capacity except in circumstances where there are reasonable grounds to doubt the capacity of the person..."

*What does this mean? --- The health care worker does not have to PROVE incapacity, but only has to have reasonable concerns. While this wording is specific to Ontario legislation, the principle likely applies elsewhere.*

### **Exception to Consent**

- Emergency treatment of incapable persons
  - Common law
  - Statutory law
- Involuntary admission of psychiatric patients
- Patients with communicable disease

### **Emergency Situations**

- Patient experiencing severe suffering or is at risk...of sustaining serious bodily harm
- Patient incapable
- Reasonable attempt to provide SDM
- No reason to believe that the person, while capable, expressed a wish to refuse consent in such a situation

*NOTES: The Province of Ontario has specific legislation to this effect, but the principle derives from common law.*

### **Decision-making in health care: Who Decides?**

- Patients with capacity to make the decision in question
- Advance directives
- Substitute (surrogate) decision-maker

### **Substitute Decision-making**

- Hierarchy of values
  - Patient's previously expressed wishes
    - Written
    - Verbal
  - Patient's known values and beliefs
  - Patient's best interests
- Hierarchy of decision-makers
  - Guardian
  - Attorney for Personal Care
  - Representative appointed by CCB
  - Spouse/Partner
  - Child (>16y) or parent or CAS
  - Sibling
  - Any other relative

## Public Guardian and Trustee

*Note: Advance directives are instructions to the substitute decision-maker (SDM), not to the health care provider. In cases where the SDM disagrees with the advance directives, it may be prudent to follow the directives of the SDM.*

### **Confidentiality**

- Ethics
  - Trust
  - Autonomy (control of information)
- Law
  - Regulations (CPSO)
  - Civil liability
  - PHIPA (Ontario)
- Policy – Hospital Rules

### **Statutory Exceptions to Confidentiality: Mandatory Reporting**

**These DO vary from jurisdiction to jurisdiction. You should be aware of the appropriate law in the area where you practice. In Ontario, the following apply:**

- Communicable disease
- Unfit to drive/fly an airplane
- Suspected Child Abuse
- Suspected Elder Abuse in nursing homes
- WSIB Reports
- Vital Statistics Act (Births, deaths, stillbirths)
- Court subpoena
- Health card fraud
- Sexual abuse by a health professional
- Termination of employment of a health professional due to incapacity or incompetence

Gunshot wounds: **Every facility** that treats a person for a GSW shall disclose to local police services

- That a person is being treated for a GSW
- Person's name
- Name and location of the facility

**Permissive Disclosure: - *Disclosure is expected, but there may be no specific legislation protecting the health care worker***

- Disclosure to Prevent Imminent Danger (Duty to Warn/Duty to Inform)
  - 1.Is there a clear risk to an identifiable person or group of persons?
  - 2.Is there a risk of serious bodily harm or death?/Does the need to protect the public supercede the duty of confidentiality?
  - 3.Is the danger imminent? (Likely that the threat will be carried out)

When Considering “Permissive Disclosure”:

- Can usually take time
- Response proportional to the danger
- Least intrusive
- Protection, not punitive

**Handy Resources:**

CPSO Website (Policies and Publications) <http://www.cpso.on.ca/policies>

CMPA website (Education)

[http://www.cmpa-acpm.ca/cmpapd04/docs/publications/com\\_education-e.cfm](http://www.cmpa-acpm.ca/cmpapd04/docs/publications/com_education-e.cfm)

Bioethics For Clinicians Series [http://www.cmaj.ca/misc/bioethics\\_e.dtl](http://www.cmaj.ca/misc/bioethics_e.dtl)