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What Is Ethically Informed Risk Management?

Alan J. Card, PhD, MPH, CPHQ, CPHRM

Abstract
Ethically informed risk management includes both the management of ethical risks and the ethical management of risks (professional ethics). This article aims to rekindle dormant discussion of professional ethics in health care risk management. It frames ethically informed risk management as a patient-centered and evidence-based practice, aligns its scope with that of biomedical ethics, and proposes specific ethical duties to guide risk management practice. It provides a starting point for more robust debate and the development of ethical standards for health care risk managers.

Introduction

There are 2 key avenues for applying ethical reasoning in health care risk management: the management of ethical risk and the ethical management of risk. The management of ethical risks (eg, related to advance directives, disclosure of accidental harm) has been the focus of significant attention in the risk management literature.[1,2,3,4,5,6,7,8] The ethical management of risk (ie, professional ethics in risk management) has not been entirely ignored (see especially Kapp[9]) but has received far less attention and rarely appears to be a primary focus of ethical analysis.

The field of health care risk management has 3 foci, each of which has clear—and sometimes conflicting—ethical implications. It began as an insurance-focused response to the malpractice crisis of the 1970s and soon evolved to include legal and regulatory compliance. By the mid-1980s, its focus had expanded to include tackling clinical and patient safety risks through systems improvement.[10] Outside the health care context, these 3 functions—risk finance, legal and regulatory compliance, and safety improvement—arose from very different traditions, each with its own ethos, praxis, and literature.[11,12,13] Health care risk management encompasses the 3 in a single chimeric profession.[14]

Among risk managers, only attorneys have the benefit of a widely accepted code of ethics.[15] Neither the strictures nor the freedoms (within those strictures) of legal ethics apply to the rest of the risk management community, however, and while the American Society for Healthcare Risk Management briefly promoted a code of ethics for all risk managers,[16] it no longer does.

I will therefore focus on nonattorney risk managers. These professionals face significant moral dilemmas in the course of their work and would probably benefit from a code of professional ethics that speaks to their concerns in a relevant and principled way. In part, such a code would help provide clarity in sticky ethical situations, but, perhaps more consequentially, it would provide a potent defense against pressure (from administrators, clinicians, or even patients) to take unethical actions.[17,18] If such a code of ethics were adopted, then—to paraphrase Latham[18]—when you hired a risk manager, you would get the code. It would serve as a *de facto* part of the employment contract, delineating the scope of action that risk managers would—and would not—take.[18]

It is not possible to construct a code of professional ethics from whole cloth in an article of this length, nor is it a task for a single author. I hope, however, to help begin a conversation about which ethical principles ought to guide an ethical code for health care risk management.

Purposes of Risk Management

On the face of it, risk managers pursue 2 different and sometimes conflicting goals: protecting patients and protecting the health care organization. Tracing the history of health care risk management, one could argue that the driving force behind the emergence of the profession was the need to protect health care organizations from legal liability.[10] As usual, the truth is more complicated, and the rationale for a profession's birth does not necessarily paint a clear picture of its later life.[18] Even accepting this premise, however, the need to protect health care organizations would still be just the starting point for analyzing the *ethical* basis of risk management practice. There are 2 key questions: What socially and ethically desirable purpose is served by protecting the organization? And what does this imply about the ethical duties of a risk manager? It is not enough to say, "My ethical duty is to perform the job I'm paid to do"; the ends served by that work must, themselves, be ethically sound (eg, managing risk for a violent criminal enterprise is unethical because of the organization's role in society).

What, then, is the socially and ethically desirable purpose that is served by protecting a health care organization? It is to serve the *mission* of health care: to improve the health (or at least the health trajectories) of patients.[19] Health care organizations also do other things, of course; some are organized to make a profit, and all serve an important role as employers. But those facts are also true of ice cream shops. The special privileges of health care organizations, which allow them to tinker with the mechanics of life itself, are given to them by society because these organizations provide *care* to improve *health*.

Thus, to the extent that health care risk management exists to protect health care organizations, it does so in service of a mission to promote and protect patients' health. Risk managers accomplish this mission both directly (eg, through patient safety improvement) and indirectly, by protecting the organization's financial and operational ability to deliver on its mission (eg, loss prevention).[20] The patient-centered outlook derived from the health care mission should be a foundational principle of professional ethics for nonattorney risk managers.

Another purpose of risk managers *as risk managers* is to deliver excellence and effectiveness in the management of risk. Health care organizations pursue their mission primarily by delivering clinical care; they could as easily employ another clinician rather

than a risk manager. To justify that opportunity cost, risk managers must ensure that they deliver the greatest practicable value through their work. Achieving this goal calls for practice that is evidence-based[21] and constantly advancing rather than benchmark-based and complacent in the status quo. It also calls for making the most of the unique and specialized skills that the risk management profession brings to the table: systemic risk assessment and participatory systems design. Risk managers should, to the best of their ability, spend their time actually *managing* risks rather than simply collecting, categorizing, and communicating those risks. By themselves, these activities do nothing to protect the health and safety of patients. It is only by informing the design, implementation, and sustainability of effective solutions that they have any impact on outcomes.

Ethically Informed Risk Management

Here, I propose specific principles that might inform professional ethics in health care risk management. They are not intended as the elucidation of any grand moral theory but rather as the starting point for developing a "practice model"[22] for ethical, patient-centered practice in health care risk management and as a public profession of the standards to which that practice should be held.

I begin by applying to risk management the 4 principles of Beauchamp and Childress,[23] which play a prominent role in contemporary clinical ethics (see Table).[24,25] Aligning the principles of risk management ethics with those most often referenced by clinicians creates a shared ethical vocabulary and helps establish the legitimacy of the broader suite of principles among patients and other stakeholders.

Table. The 4 Principles[23] Applied to Risk Management

Principle	Definition	Application in Risk Management
Beneficence	The obligation to provide benefits, prevent harm, and balance benefits against the risk of harm	Address not only physical and economic benefits or harms, but all other harms, including psychological harm and avoidable suffering.[26,27,28,29]
Nonmaleficence	The obligation to avoid actively causing harm ("first do no harm"), as opposed to the broader obligation to prevent harm from being caused	Apart from disclosure/apology and compensation programs,[27,30,31] current literature provides scant support for assessing how risk management practice can inflict (or avoid inflicting) harm.
Justice	An obligation to pursue the fair allocation of benefits, risks, and costs according to morally relevant criteria	• Concerns about *distributive justice* underlie recognition of inequities in patient safety and quality of care[32,33,34,35,36,37,38,39,40,41] and apportionment of blame when an adverse event occurs.[42,43,44] • Concerns about *procedural justice* have been addressed through the *just culture*[45,46] approach, in which staff are not blamed for problems attributable to their work systems. • Concerns about *restorative justice* underlie disclosure/apology and compensation programs.[27,30,31]

Respect for Autonomy	A duty to (1) refrain from attempting to control and constrain the autonomous actions of others and (2) actively support autonomous decision making, especially by disclosing relevant information.	Risk management literature addresses support for clinicians and health care organizations in deciding how heavily to weigh patient autonomy in health care decision making.[3,5,9] For risk managers, respect for autonomy also pertains to interactions with the health care workforce, which has received far less attention.

These 4 principles represent *prima facie* duties, which means they are binding obligations except when they conflict with one another—in which case, a balance must be struck between them (eg, balancing beneficence and autonomy in the case of a minor who requires a blood transfusion that is proscribed by the parents' religion). Unfortunately, there is no checklist or algorithm to ensure the "right" balance is struck. If all ethical duties cannot be perfectly satisfied, the risk manager must attempt to find a solution that best satisfices[47] (*sufficiently* satisfies) those requirements in context.

Additional Principles

In the context of biomedical ethics, Beauchamp and Childress argue that the 4 principles (along with a few simple rules, such as truth telling) are a sufficient basis for moral reasoning.[23] Even within the systems-focused realm of health care risk management, one could probably use these principles to infer and justify each of the additional principles I will discuss below. In the context of supporting a practice model for risk management ethics, however, it is probably worth highlighting these more specific duties. The principles below are proposed as a supplementary set of *prima facie* obligations, with the aim of specifying key aspects of the 4 principles to better develop what Beauchamp would call the particular professional morality of health care risk management.[48]

Patient-centered practice. As I argued earlier, the ethical duties of risk managers ultimately rest upon the foundation of the health care mission: to improve the health trajectories of patients. Everything else flows from this mission. Because risk managers' scope of practice encompasses the systems level and not just dyadic interactions, patient-centered practice includes respect for the needs of patients in the aggregate (ie, the population of patients served by the organization's mission) as well as the particular patients and families involved in any given situation. Similarly, because risk managers sit at the intersection of clinicians, administrators, patients, and families, they owe ethical duties to all of these stakeholders. The principle of patient-centered practice offers important guidance on how risk managers should uphold respect for autonomy, beneficence, justice, and nonmaleficence by explicitly privileging their ethical duties to patients.

Participatory design. Risk management is, at its heart, a design discipline. Its purpose is to design (or redesign) systems to reduce negative risk and leverage positive risk (ie, potential opportunities) in the service of the health care mission. Current practice focuses primarily on risk assessment (problem exploration), leaving risk control (the design of interventions to improve outcomes) as an afterthought. This oversight leads to predictable and—given the alternatives—frankly unethical failures of the risk management process, especially with regard to patient safety risks.[49,50,51,52,53,54,55,56,57,58] Because health care organizations are complex adaptive systems characterized by what Plsek and Greenhalgh refer to as "individual agents with freedom to act in ways that are not always totally predictable, and whose actions are interconnected so that one agent's

actions changes the context for other agents,"[59] the intervention design process can only hope to be safe and effective if it is informed by stakeholder participation (including that of patients[60] as well as staff).

In addition to ethical motivations related to outputs and outcomes, participatory design (or co-design or co-production) is also motivated by the ethical implications of design as a process (eg, procedural justice and respect for autonomy).[61,62,63,64,65] As Robertson and Wagner state: "Perhaps the core principle of Participatory Design is that people have a basic right to make decisions about how they do their work and indeed any other activities where they might use [the products of design]."[65] In health care risk management, self-determination implies a need to include the voices of patients and families who have historically been excluded from the design process[60] and also to genuinely engage with staff in the design—not just the implementation—of interventions.

Competence, diligence, and evidence-based practice. Risk managers have an ethical obligation not only to do good, but also to do good *well*. Failures of competence and diligence have real impacts on the health care mission that, at a minimum, have implications for justice, beneficence, and nonmaleficence. Health care risk management practice has been built primarily on good intentions, expert opinion, and (often underexamined) consensus standards of practice rather than on evidence[58]—a foundation for practice that is no longer seen as morally acceptable in other areas of health care.[66]

To meet their obligations under this principle, risk managers must move toward a practice based on evidence and excellence. Examples of practice changes that might support this principle include adopting evidence-based approaches for risk control,[50,51,57,58,67,68] adopting proactive disclosure and settlement, and reducing or deimplementing[69,70] practices that have not proven effective, such as overuse of retrospective risk assessment at the expense of prospective risk assessment[54,71,72,73,74] or excessive focus on categorizing and reporting risks in ways that do not inform action.[75,76,77,78]

Respect for privacy. Respect for privacy is well-integrated into risk management practice—so much so that the code of silence can cause risk managers harm.[29] This principle remains worth mentioning, however, because it is important to public acceptance of risk management and because risk managers should be reminded to consider risks to patient privacy when new sources of risk (eg, emerging technologies)[79,80,81] present themselves.

Equity. Equity is clearly implied by the principle of justice, but pervasive inequities in the distribution of patient safety risks, benefits of improvement initiatives,[32,33,34,35,36,37,38,39,40,41] and the burden of blame in safety investigations (eg, preferentially blaming lower-status members of the clinical team)[42,43,44] warrant the recognition of a stand-alone principle.

Honesty and transparency. Finally, risk managers should aim for the highest practicable level of honesty and transparency. Although a duty of honesty is likely to be noncontroversial, the loss-prevention aim of risk management might cause some to balk at a duty of transparency due to a belief that disclosing patient harm or ongoing risks (whether to patients or staff) might cause harm to the organization. Nevertheless, respect for autonomy (of both patients and health care workers) dictates that risk

managers enable informed decision making by being transparent about risks and actual harms. Fortunately, these 2 aims—honesty and transparency, on one hand, and loss prevention, on the other—are not necessarily at odds, as demonstrated by the industry's experience with programs aimed at proactively disclosing and apologizing for adverse events and offering compensation to those affected.[7,30,60,82,83,84]

Conclusion

The practice of health care risk management is a constant exercise in balancing ethical duties and their conflicts. Currently, risk managers face these dilemmas alone, without the support of an agreed-upon set of ethical principles, much less a formal code of ethics. This circumstance might make risk managers less effective in defending ethical decisions, which not only impairs their ability to support the health care mission but also can lead to a sense of futility and ethical failure.[29] This paper does not attempt to develop a formal code of ethics, but it does propose an ethical foundation for risk management practice and hopefully will rekindle the discussion of what constitutes ethically informed risk management.

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Alan J. Card, PhD, MPH, CPHQ, CPHRM is an assistant professor in the Department of Pediatrics at the University of California, San Diego School of Medicine. His research focuses on risk management, patient safety, quality improvement, and patient and health care worker well-being, with a particular focus on the frameworks, tools, and techniques that shape practice.

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