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New Health Care Models Raise the Ethics Bar for Case Managers

By Catherine M. Mullahy, RN, BS, CRRN, CCM

Over the past several years, we have witnessed a dramatic change in the health care landscape. New models of care, from consumer-driven health care insurance models like health savings and flexible savings accounts (HSAs and FSAs) to medical homes and medical tourism, have introduced new opportunities and challenges for case managers. Further causing the health care ground to shift has been the "Patient Protection and Affordable Care Act" ("Affordable Care Act"). While signed into law by President Obama on March 23, 2010, it is only recently, as more of the legislation's provisions have been enacted, that its real impact is being felt. Most notably, the legislation has ushered in another model of care—the Accountable Care Organization (ACO). This model specifically speaks to the matter of accountability and is causing health care providers to revisit and revamp how they deliver care. For case managers, the new opportunities presented by the ACO model introduce new ethical issues. It is imperative that case managers serving in today's changing health care environment recognize the ethical questions they may face and be prepared to respond to higher standards of care and performance.

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Evolving Health Care and Evolving Ethics

The proliferation of new regulations, along with the new options and broader rights and protections for consumers, is holding insurance companies and health care providers more accountable than ever. No longer will administrative procedures trump patient care in the disbursement of health insurance premium dollars. Under the Affordable Care Act, insurance companies selling insurance directly to consumers or to small groups must demonstrate that the majority of their premium dollars are being spent on medical care and improvements in the quality of care. By ushering in the so-called health Co-Ops, the Affordable Care Act also has placed more responsibility on consumers who, through this presumed consumer-friendly and economical insurance option, can now afford to purchase insurance. In fact, the law is requiring all consumers to have insurance. Although the method by which the federal government intends to enforce this particular provision is yet to be known, the fact is that consumers too are being held to a higher standard of accountability for their own health care. Therefore, insurance companies and health care providers will place greater reliance on case managers in this post–health care reform era. So too, consumers will be needing more help from case managers to navigate their responsibilities and rights.

Understandably and regardless of its intentions, the Affordable Care Act has come under direct fire for many things—infringement on individual rights, infringement on state rights, government interference with business, etc, as well as its ethical underpinnings. Among the ethical challenges raised regarding this legislation are:

- Are we requiring consumers who can afford insurance and who do have insurance to ultimately assume the cost burden of paying for the "have nots"?
- By mandating insurance for all Americans, will the poor be forced to make choices between compliance or putting food on the table for their families?
- Will many businesses, already struggling in today's economy, and now required to shoulder a larger health care cost burden due to new provisions under the Affordable Care Act (ie, elimination of lifetime coverage limits and restriction of annual limits, prevention of excluding children from coverage due to ▶

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preexisting conditions, provision that young adults can now remain on their parents' health plans until age 26, etc.) be forced to lay off employees, thus causing declines in business productivity and potential revenues and ultimately, their ability to compete in the marketplace?
- By requiring electronic medical records, does the new legislation potentially pose threats to consumers' rights for privacy under the Health Information Portability and Accountability Act (HIPAA) and confidentiality?

These ethical challenges will not be answered any time soon. They do, however, cause us to pause and recognize that professionals on the line providing care and interfacing directly with patients are traveling across new, unchartered ethical territory. Perhaps it's best to review where ethics starts for case managers in order to prepare them for what now lies ahead.

Ethical Responsibilities of Case Managers

First, let's review the pillars of ethics for case managers, tenets of both the Case Management Society of America (CMSA) and the Certification of Disability Management Specialists Commission (CDMS):
- The patient's right to self-determine his/her health care versus beneficence or the case manager's responsibility to act in the patient's best interest
- Fidelity in performing one's duties and being trustworthy in the performance of one's role as a case manager
- Justice or acting in a manner that is right and fair
- Nonmalfeasance or doing no harm and correcting harm found

Within the context of each of these ethical responsibilities often come difficult decisions that must be made when applied to real patient cases. For example, what does a case manager do when her patient is HIV positive, performs a job in which this condition potentially could place fellow employees at risk, but the patient does not want this condition revealed to the employer? An ethical way to handle this situation would be for the case manager to attempt to persuade the patient to consider transitioning to a new position in the company, gently motivate the individual to recognize the importance of telling a supervisor of the HIV-positive status, and notify the patient's plan of the individual's HIV-positive status and current job (and related risks).

In one situation, a case manager was faced with a patient with a strong substance abuse problem stemming from a serious motor vehicle accident. The patient's abuse problem was being fueled by a physician who was overprescribing opioids. Further complicating the case was the fact that the patient, who had been molested as a child, was currently working with developmentally disabled young adults.

In attempting to respect the patient's right to self-determine, to act in good faith, to do no harm and to do what was right, the case manager was faced with deciding what her responsibilities were in conjunction with the patient's rights. Should the case manager voice an opinion that the young adults in this patient's charge were potentially at risk for molestation? Should the case manager issue a report regarding the physician who was overprescribing addictive drugs to this patient? Should the case manager consider that this patient may have other underlying medical and/or psychological conditions contributing to her addiction problem?

In this case, the ethical way to proceed was to consult with medical doctors and psychiatrists to clarify the patient's condition, to assist the patient with outpatient care to help with her existing psychological and substance abuse problems, to report the patient's information to the benefit plan, and to encourage the plan to remove the drug-prescribing physician from its preferred provider list. What the case manager's ethical responsibilities to uphold the patient's confidentiality prevented her from doing was to report the findings of the patient's past sexual abuse to the employer since no evidence was revealed that the patient had ever abused any of the young adults in her care.

These are just two examples of the kinds of ethical dilemmas case managers face on a day-to-day basis. Probably the most prevalent ethical issue facing case managers is that of the conflict between the patient's right to self-direct and the case manager's ethical responsibility to act for the patient's good. What does a case manager do when a patient absolutely refuses to follow direction regarding his prescriptions, meal plans, and/or medical procedures? What does a case manager do when a patient's choice is to die rather than continue a course of medical care

that could save and/or prolong her life? These questions were difficult to answer before health care reform and some might argue, become more challenging with changing models of care. Let's consider these new models of care and the implications to the case manager's ethical responsibilities.

Case Managers' Ethics in the Medical Home

Even before considering the ethical issues facing case managers in the medical home setting, this model of care has been extremely controversial. One controversy pertains to primary care physicians and the substantial investment (ie, upwards of $100,000) and operational revisions required of them to establish a medical home program. There are also the considerably higher risk factors. Further, many physicians simply lack the knowledge and training required to develop an effective medical home model.

Medical homes also pose a potential loss of revenue to hospitals stemming from fewer admissions and emergency room visits, which the Deloitte Center for Health Solutions estimates is 10% and 20%, respectively. Health plans, both commercial and public (eg, Medicare) are expected to experience both positive and negative repercussions relating to the medical home model. On the plus side, they both would benefit from the medical home model's shifting of costs from acute care to improved preventive care and care coordination, particularly relating to high-risk patients. The downside is the potential disruption to provider-patient relationships.

For case managers, the medical home model introduces many opportunities to be vital and far more visible members of a team striving to foster more holistic, integrated, and cost-effective medical care. A 30-month pilot program conducted by Capital District Physicians' Health Plan (Albany, NY) demonstrated the value case managers add to the medical home model. By identifying high-risk, chronically ill plan members and assisting them with enhanced coordination of care, a marked improvement in the quality and efficiency of patient care was recorded. This finding is consistent with prevailing views and other survey results. One example is a 2009 survey conducted by the Commission for Case Management Certification (CCMC). Based on 6,909 respondents' input, CCMC found that as medical care increases in complexity and accountability requirements, the role of case managers grows in importance. This is especially applicable to care coordination across the spectrum of care settings, including the medical home model. Additionally, the survey highlighted the critical role of case managers as key communications links between various providers, as well as between patients and providers.

There is little question that the medical home model will prevail. Its potential for improving patient satisfaction, care, and outcomes, as well as containing cost is recognized at the highest levels. In 2009, before President Obama signed the Affordable Care Act into law, US Department of Health & Human Services Secretary Kathleen Sebelius reported on funding for state-based, multipayer primary care medical home programs concurrent with the issuance of a Department of Defense policy requiring this model be used to "improve patient satisfaction and outcomes." Its success, however, will depend on the execution, for which case managers and their ethical standards will be intrinsically tied.

This will be most evident as the medical home model is applied to the highest-risk population. We know, based on previous benchmarking of the medical home model, that hospitals can derive a 15% to 20% reduction in readmissions. With case management more widely applied, this percentage is likely to increase. But what will be the ethical challenges to case managers in balancing the goal to reduce readmissions while also improving patient care outcomes? How will case managers address situations where elderly, chronically ill patients, for instance, become less compliant in the home setting, asserting their rights regarding their care in a manner that jeopardizes their well-being and undermines the preventable readmissions objective?

For Certified Case Managers, whose CCM designation comes with "Rules of Conduct," (ie, Certificants will place public interest above their own at all times, respect the rights and inherent dignity of all of their clients, maintain objectively in their relationships with clients, act with integrity in dealing with other professionals…,obey all laws and regulations, etc.), how will some of the other defining aspects of the medical home model beyond care coordination such as the broader use of health information technology (ie, enhanced access to care using email, texting, online chats, and telephone messaging) affect case managers' ethical behavior? This remains unchartered territory in which each case manager will be a pioneer. Many believe that these components, along with the care coordination and clinical team features of the medical home model, will increase competency in case management and, in doing so, raise functional and ethical performance.

The ACO and the Case Manager's Principles

Given that accountability is a primary driver in the ACO model, this is where the conflict for case managers and their ethics may arise. Case managers' ethics may be challenged with respect to the accountability relegated to patients. Over the past several years, many health care industry leaders and government officials have advocated for patients' more active role and ▶

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responsibility in their own health care. Some felt so strongly about patient accountability that they were willing to offer financial incentives for patients adhering to healthier behaviors and lifestyles. Of course, case managers, in performing their primary duties, would be natural choices to serve as the motivators and monitors of their patients' health-related behaviors. As such, they would inevitably influence which patients should receive the financial incentives and which should not. The ethical dilemma is introduced when consideration is given to how incentive strategies may be inherently unfair to lower income individuals with less access to certain resources promoting better health (eg, higher nutritional value foods, fitness equipment, gym memberships, etc), as well as those individuals whose current health status is viewed in a context absent of other health determinants.

The American College of Physicians' position is that evidence-based programs supporting a patient's role in achieving positive health outcomes should be applied and that these programs should emphasize disease prevention and treatment strategies, respect for patient autonomy, recognition of patients' varying learning and comprehension abilities, and differing cultural, religious, and socioeconomic factors. This position is consistent with two of the ethical principles outlined in the CMSA's "Standard of Practice for Case Management—Ethics," specifically:

- To respect individuals' rights to make their own decisions, and
- Justice (to treat others fairly)

So too is the position consistent with the ethical principles of the CDMS, which include autonomy, beneficence, nonmaleficence, justice, and fidelity.

The case manager's ethical principles of beneficence and nonmalfeasance also point to the validity of applying evidence-based programs within the ACO model. Case managers, in conjunction with their clinical team members, should be advocating for treatments and procedures that have been scientifically established as sound and effective. While this would seem to be how health care should always have been delivered, sadly, it is not the case. The ACO model, however, has greater potential of living up to this higher standard of care in serving the patients' best interests; an ethical responsibility of case managers. Best practices will be at the core of the ACO model. Best practices in case management will be essential to the success of ACOs. Further, and in accordance with another CMSA tenet of its "Code of Ethics for Case Managers" (ie, "Maintenance of respectful relationships with coworkers, employers, and other professionals"), case managers will need to be active members of the health care team. They will need to more actively voice their opinions and assume a direct and shared role with other members of the patients' team in decision making relating to their patients' care.

While it will be important for case managers to adhere to this ethical behavior for all of their patients, whether a high-risk Workers Compensation or palliative care, end-of-life patient, it will not be easy. As a group, case managers have not been good at positioning themselves as authoritative members of the health care team. Instead, case managers too often are viewed as tentacles of other members in the health care continuum (ie, insurers, health plans, provider, etc). Under the new models of care, it is imperative that case managers learn to be advocates for their role with the same passion they should have in advocating for their patients. There will instances where they will be especially challenged in this regard, for example, in cases where medical errors are suspected.

Addressing Medical Errors in the New Models of Care

Not highly publicized, but nonetheless pervasive, are the preponderance of medical errors that case managers witness regularly. When these errors occur in a traditional health care setting such as a hospital, the ramifications of reporting them are far-reaching and may have a major impact on multiple parties. Medical errors occurring in the medical home setting may be contained to fewer parties, but are no less egregious. Considering the medical home model's greater reliance on technology, which is at the root of a large percentage of errors, case managers serving in this setting may actually find themselves facing more medical error ethical dilemmas. Within the ACO model, pointing a finger at a fellow member of one's clinical team may be even more difficult than in the hospital setting.

In either setting, however, case managers will have to live up to their professional ethical standards and act accordingly. This will be necessary even if doing so flies in the face of one or more of the new models' objectives. As an example, what does a case manager's ethics require when she finds a patient is abusing her medications by being treated by multiple doctors all prescribing the same medications? Both of the

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Certified Case Manager News

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Can Common BP Meds Lower Dementia Risk?

Autopsy results of a group of 774 older Japanese-American men, reported by the American Academy of Neurology, showed that those who had taken beta blockers for hypertension had significantly fewer Alzheimer's lesions, fewer microinfarctions, and less brain atrophy than men who had been treated with other medications. The study was performed at the Pacific Health Research and Education Institute in Honolulu. Researchers also reported that systolic blood pressure greater than 120 mm Hg in midlife predicted dementia in 17% to 27% of the cases. ■

Moms With HIV Should Avoid Breastfeeding

The American Academy of Pediatrics issued a policy statement urging HIV-positive mothers to avoid breastfeeding as the only way to completely prevent HIV transmission through human milk. Without antiviral prophylaxis, the risk of infection for a baby who is breast-feeding from a mother with HIV is about 1% per week in the first 4 to 6 weeks of life, falling to 0.2% per week thereafter. Despite undetectable maternal plasma RNA viral concentrations, transmis-sion can occur. Health care providers are urged to help mothers who need financial assistance to find support for the purchase of infant formulas through organizations such as the Special Supplemental Nutrition Program for Women, Infants, and Children. ■

CARF International Standards for Eating Disorder programs

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charter describes the following rights of persons with eating disorders and carers:

- Right to communication and partnership with health care professionals
- Right to comprehensive assessment and treatment planning
- Right to accessible, high-quality, fully funded specialized care
- Right to respectful, fully informed, age-appropriate, safe levels of care
- Right of carer(s) to be informed, valued, and respected as a treatment resource
- Right of carer(s) to accessible, appropriate support and education resources

Some examples of the quality results desired by different stakeholders of these services include:

- Replacing the person's connection with the eating disorder with satisfying, supportive and meaningful relationships and the use of healthy coping strategies
- Effective transitions between levels of care or transition to community living
- Development of an effective and efficient network of community support services including access two therapies, medical supports, and other school, work, and community-based resources
- Achievement of goals in health, education, work, and activities of daily living
- Personal and family development
- Maintenance of recovery and improved functioning CM

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doctors in effect are making medical errors, although it is the patient who is acting irresponsibly. Or, what if a case manager observes a physical therapist providing therapy to a patient that does not adhere to the prescribed guidelines? In these and all cases in which a case manager uncovers a medical error or irresponsible medical treatment, regardless of the setting, the case manager's code of ethics requires reporting the medical error through proper channels in a timely manner and providing related documentation to substantiate the claim.

In short, the case manager's ethics should not be compromised by the case or the setting even as new models of care are introduced into our health care delivery system. CEU

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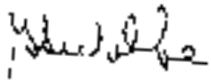
and informed on how to handle ethical dilemmas. Talking with colleagues and other members of the health care team is one opportunity to explore ethical dilemmas. To stay informed may mean that the case manager seeks out published articles about ethical issues. In this issue, we present "New Health Care Models Raise the Ethics Bar for Case Managers" by Catherine M. Mullahy, RN, BS, CRRN, CCM. This is an excellent article that identifies some of the current dilemmas faced by case managers.



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