

Taking the High Road in Ethical Conflicts

Nearly every professional faces conflicts of interest throughout his or her career. Physicians are no different. Consider if your office manager approached you because she smelled alcohol on the breath of another physician who contributes to the success of your practice. How would you handle it? Or here is a common situation: a patient needs a special treatment but can't afford it and his insurance won't cover it. Would you break the law by submitting a false diagnosis to the patient's insurance

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Back in the 1990s, Dr. Nabil El Sanadi faced a similar challenge. While managing a hospital emergency room, he received a call from a local pharmacist asking him to correct a prescription written by another ER physician who, as fate would have it, was unreachable that day.

After speaking with the pharmacist, Dr. El Sanadi learned that the physician had repeatedly prescribed anabolic steroids to a teenage boy whose mother worked as a nurse at the same hospital. It didn't take long for their scam to unravel: the teenager was selling the drugs and splitting the profits between himself, his mother and the prescribing doctor.

Dr. El Sanadi was stunned. The prescribing doctor had been practicing medicine for more than 20 years and was an excellent clinician and overall nice guy.

Dr. El Sanadi asked the pharmacist to fax him a copy of the prescription. Then he arranged to have another physician cover the doctor's next shift. Before the doctor started work that day, Dr. El Sanadi confronted him, saying he had "irrefutable evidence" that he was writing these prescriptions for profit. The doctor confessed his part in the scam—claiming he did it because he was financially strapped—then asked his boss for a second chance. After all, his career record was spotless up to this point.

Dr. El Sanadi faced a quandary. If he reported his colleague, the physician's career would be ruined. He could also face criminal charges and end up in jail. Dr.

When faced with a touchy decision, Dr. Nabil El Sanadi, an ER physician in Fort Lauderdale, Fla., says that he looks at the big picture and identifies the consequences of his potential actions. "I try to consider the impact on my patients, family, nursing staff," he says.

El Sanadi could just ignore it, or he could simply ask the doctor to resign. But if he took that route, could Dr. El Sanadi guarantee that the doctor would stop placing people's lives in danger by writing phony prescriptions?

He weighed many different options and struggled to find the best solution. But all along he knew there was only one right

answer. He asked the physician to resign on the spot, then reported both him and the nurse to the hospital board and medical board.

"He was a great doctor," says Dr. El Sanadi, now an emergency-room physician, chair and director of emergency medicine at Broward General Medical Center in Fort Lauderdale, Fla. "It's so amazing how brilliant minds and great physicians can't think their way to do something honest to garner more income. It was an easy way for him to get more money."

Dr. El Sanadi also sits on the board of medicine for the state of Florida. Within the last several years, he's been involved with several other cases where physicians have been easily seduced by greed. One time, he says, a doctor and a physician assistant actually set up an office in the back of a strip club and dispensed narcotics and sexual performance-enhancing drugs. The local police soon learned about their operation, set up a sting and busted both healthcare providers, who served time in jail.

While Dr. El Sanadi can't explain their abhorrent behavior, he says that physicians who are tired or emotionally drained appear more vulnerable to straying off the right path. When faced with a touchy decision, he says, he stands back, takes a deep breath, looks at the big picture and identifies the consequences of his potential actions.

"I try to consider the impact on my patients, family, nursing staff," he says. "If I still can't come up with what I believe is an acceptable answer, I talk to a peer. Just by articulating what the problem is, usually the solution pops up."

Balancing Act

While some decisions may be more obvious or clear cut, there's never a one-size-fits-all answer. Physicians are plagued with ethical dilemmas that impact their practices, patients, payers and everybody in between.

End-of-life issues are among the most controversial and may be even more difficult when the patient is a colleague.

"My partner's patient has prostate cancer and is a doctor," says Dr. Garrison Bliss, who practices internal medicine at Seattle Medical Associates in Seattle, Wash. "He's lying in bed, can't move, probably going to live for another two to three weeks. He wants to die now and is requesting an end to his life soon. He would like Dr. Kevorkian to visit."

The question here is whether to administer lethal drugs or supply the physician with them so he can end his own life. The patient and his family believe that this is the most humane approach. But assisted suicide is illegal in the state of Washington.

Dr. Bliss points out there's a distinction between what is legal and what is right. If his partner does what's morally right, he could lose his license. If he does what's legally right, a dying man will suffer needlessly.

He says the problem with ethical situations is that there are multiple, desirable outcomes that are often in conflict. In other words, you can never have it both ways. The same holds true for decisions on a much smaller scale. What would you do if a patient handed you a list of important questions about his or her illness that required detailed explanations? You want to answer them, but your waiting room is filled with patients. Do you take another

30 minutes to address them—backing up other patients who may have their own valid list of questions—schedule another visit or address only a few important questions?

Dr. Bliss says that there are two levels of ethical thought. One involves intention and ethical principles while the other deals with action, which is often what people forget. He says physicians faced with an ethical problem must not only examine their intent but also evaluate the potential results of their actions, which could be disastrous.

He points to Medicare as an example. While the federal government's intention for Medicare was noble, is the program delivering on its promise? He says the outcome of the government's actions has produced the exact opposite effect.

Consider Dr. William Smits, an allergist who also specializes in pulmonary medicine in Fort Wayne, Ind. He says he's one of the few allergists in town who will treat Medicare or Medicaid patients because reimbursement is so poor. Frequently, he says, Medicare patients come to him with infections, requiring a specific antibiotic shot that is barely covered.

"I know if they don't get the shot, they're going to end up in the hospital," he says. So he has two choices. He can deny these patients the shot they need, placing the blame on Medicare. Then if they're hospitalized, Medicare would appropriately reimburse him for their healthcare.

But that decision is a much larger burden to society, the Medicare program, patients and their families, he says. Besides, no physician wants to see a patient's condition grow worse if it can be easily prevented. So Dr. Smits takes the ethical path. He gives these patients the shots when needed and absorbs the costs.

"Some of our back [office] people say, 'This is crazy—to be giving a service and taking a loss,'" Dr. Smits says. "From a business standpoint, it's true. In our office, we give [the shot] because it's the right thing to do, [we can] absorb the cost and hope that profits from other parts of the business would pay for it."

That decision has also produced an indirect bonus. He says local physicians frequently make referrals to him because they want an allergist who will treat all of their patients, not just those who are fully insured.

"I believe the whole karma thing, that if you give, you receive,"

Poll: Physician Leaders Concerned About Ethics

Physician leaders in hospitals, large group practices and academic health centers are “deeply concerned about ethical violations and unethical business practices impacting U.S. healthcare,” according to a recent survey by the American College of Physician Executives (www.acpe.org). Following are the responses to the question: Please indicate the level of your concern about the potentially unethical business practices listed below:

	Very Concerned	Moderately Concerned	Slightly Concerned	Not Concerned
Physicians being influenced by pharmaceutical companies to prescribe a certain drug.	36%	40%	20%	4%
Physicians being influenced by medical device companies to perform a certain procedure.	39%	40%	16%	4%
Board members with conflicts of interest.	33%	33%	27%	7%
Physicians under-treating patients to keep costs down and protect bonuses.	29%	22%	32%	18%
Physicians over-treating patients to boost their income.	45%	33%	19%	4%
Physicians accepting gifts from vendors.	24%	36%	33%	7%
Physicians refusing to accept call on patients who don't have insurance	59%	21%	14%	5%
Physicians inappropriately admitting patients to a hospital	30%	24%	32%	14%
Physicians discharging patients from the hospital too soon to avoid length-of-stay outliers	28%	26%	33%	14%

Source: American College of Physician Executives, Ethical Behavior Survey, 2005

Dr. Smits says. “I have to believe that most physicians chose the profession to be of service. They can capture some of the non-monetary rewards of practicing medicine, which are priceless.”

Dr. Kochy Tang, a family practitioner at Seven Hills Family Practice in Henderson, Nev., found herself caught in the middle of an ethical situation between a patient whom she had known personally for many years and a physician specialist.

“I believe the whole karma thing, that if you give, you receive,” says Dr. William Smits, an allergist in Fort Wayne, Ind. “I have to believe that most physicians chose the profession to be of service. They can capture some of the nonmonetary rewards of practicing medicine, which are priceless.”

Her patient was experiencing gastrointestinal problems, so she referred the woman to an endocrinologist. According to the woman’s version of the story, the doctor came into the exam room for several minutes, barely talked to her, didn’t give her a chance to ask questions, wrote her a prescription and told her to come back in four weeks. To make matters worse, she was billed more than \$500 for the visit.

She returned to the office with bill in hand, asking to speak with the physician about the charges. She was not given the opportunity to speak with the physician directly, only his office manager and other staff who she claimed were very rude.

Dr. Tang then received a phone call from the physician who learned about the story secondhand from his office staff. He did not call the patient to hear her version of events and based his conclusions solely on staff comments. He said the woman was belligerent and rude and he called her “crazy.”

Dr. Tang couldn’t dispute what the doctor heard or how her patient even behaved in his office, but she says being rude or belligerent was completely out of character for her. So she apologized to the physician and thanked him for the information.

In the end, the patient paid the bill because she didn’t want to fight with staff anymore. Dr. Tang, however, no longer refers patients to this specialist. She believes he should have called the patient to learn her side of the story and straighten out the facts before passing judgment and calling her crazy.

Whenever faced with ethical situations, Dr. Tang suggests that

physicians approach them in the same way they diagnose an illness—by exploring all avenues.

“In the medical profession, everything’s included all at once,” she says. “You can’t separate things solely by being ethical, solely by being practical or solely by being medical. Take a step back and look at the whole situation from [all] sides.”

Alternate Paths

One of the reasons physicians are constantly being bombarded with ethical decisions is that they’re now being asked to consider things that they were never asked to think about in the past, says Ann Mills, assistant professor at the Center for Biomedical Ethics at the University of Virginia in Charlottesville, Va.

From identifying training needs for staff and securing business loans to deciding what hardware or software to use, doctors are in a climate that’s rife with conflicts of interest and conflicts of obligation, Ms. Mills says. While conflicts of interest are generally financial, there’s often no good answer, forcing most physicians to choose the lesser of the evils, she says.

“Professionals are expected to exercise their expert judgment in their practice and to abide by their professional code of ethics, which should override other considerations if a conflict should arise,” she says. “Yet because most professionals today are also employees, partners in practice or in contractual relationships, organizational or partnership interests may conflict with professional judgments or the demands of a professional code.”

That’s what occurred in one situation, which ended in a lawsuit that made it all the way to the U.S. Supreme Court in 2000 (*Pegram v. Herdrich*). Dr. Lori Pegram, an employee of Carle Clinic Association, an HMO, examined Cynthia Herdrich, who complained about pain in her abdomen. Dr. Pegram discovered an inflamed mass in Ms. Herdrich’s abdomen. Yet she did not order an immediate ultrasound at a local hospital. Instead, she scheduled the test for eight days later at another facility staffed by Carle employees; that facility was more than 50 miles away. The patient never made it. Her appendix ruptured, causing peritonitis. She sued both the doctor and Carle Clinic for medical malpractice and fraud, claiming that the HMO’s policy of paying financial incentives to physicians was a breach of its fiduci-

ary obligation to its members under federal law.

Ms. Herdrich received \$35,000 in compensatory damages on the malpractice charges. The Supreme Court ruled unanimously that eligibility determinations that involve the exercise of medical judgment are not fiduciary decisions.

Ms. Mills says physicians are often faced with ethical conflicts when their employer's rules or policies of third-party payers prohibit them from doing what may be medically necessary. But, she says, as healthcare professionals, physicians have higher standards and should ask themselves a series of questions that will help them reflect on the nature of the conflict they're facing.

First, she says, you must acknowledge that the problem exists, then address it with those involved or affected by it. She suggests asking these questions:

- What are the harms or benefits from acting on the conflict?
- Who is affected and in what way?
- Are your professional standards being compromised?
- Can your actions be justified if made public?
- Can your actions pass a moral minimums test? For instance, are you harming someone, violating his or her rights to freedom, life or property or treating someone with disrespect?
- Has this conflict occurred before? Are there commonly accepted precedents for dealing with it?
- Are there ways it can be minimized?
- Are there organizational structures or accountability procedures that are causing the ethical dilemma? If so, can you do something about it?

These questions, which were modified by Ms. Mills, are published in the book, *Organization Ethics in Health Care* (Oxford University Press, 2000), written by E.M. Spencer, A. E. Mills, M.V. Rorty and P.H. Werhane.

A key difference between conflicts of commitment and conflicts of interest is that when the latter occur, physicians can step aside. Not so with conflicts of commitment. "You cannot disengage from a conflict of commitment," Ms. Mills says, explaining that they arise because of the various roles physicians perform. For example, as an employer, physicians will have obligations to their practice and staff; but as a contractor, they will have responsibilities to third-party payers.

The best way to deal with conflicts of commitment is to disclose the situation to affected parties and determine who is the least harmed and most benefited. Then, she says, ask yourself, “Which demands are necessary for professional excellence? Which least violate one’s other role commitments? Which of them can you put aside?”

Still, in any ethical dilemma, especially those stemming from treatment decisions, the patient must come first, says Dr. Donald Hofreuter, chief executive officer of both Wheeling Hospital in Wheeling, W.Va., and its affiliate, Belmont Community Hospital in Bellaire, Ohio.

He says physicians in all practices—large or small—need to address these questions:

- Is this a benefit to the patient?
- Is what I’m doing causing a patient potential harm or potential inconvenience?
- Is my treatment prolonging something that’s inevitable?
- Am I causing more harm than good by using this treatment?

Sometimes, by addressing ethical situations with colleagues, you may see options that hadn’t crossed your mind.

“By discussing it, you can usually come to a good decision because of the process you went through of weighing the pros and cons of something,” Dr. Hofreuter says.

Physicians can call upon groups for advice, such as hospital ethics committees that are usually composed of multi-disciplinary members, who are objective, open-minded and observe certain guidelines, for example, that the interest of the patient must be preserved or that resources are fairly used. Doctors can also turn to their state medical society, which may also support similar committees. While they won’t make the decision for you, they will provide realistic options to help you make the best decision for you and your patient. As a last resort, you can always excuse yourself from the case and ask another doctor to step in.

Dr. Philip Bonanni, who practices internal medicine at Unity

Physicians often face ethical conflicts when their employer’s rules or policies of third-party payers prohibit them from doing what may be medically necessary. But as healthcare professionals, physicians must have higher standards, says Ann Mills, assistant professor at the Center for Biomedical Ethics at the University of Virginia.

Health System in Rochester, N.Y., served on the board of censors for the Monroe County Medical Society for more than 15 years. Its members investigated a variety of complaints that often fell into the gray area. If it was a minor infraction, he says, the board of censors would approach those doctors, asking them to change their behavior. But if it was a serious transgression, the board was obligated to report it to the state licensing board, which could result in either the doctor's suspension or removal from practice.

He recalls one patient who complained to the medical society about his physician's selling vitamins and energy supplements. There was no question that the pills were safe, but whether they had any therapeutic effect was debatable. Dr. Bonanni says that the board approached the physician about his side business. The doctor didn't believe he was doing anything wrong. After all, he never prescribed them to any of his patients or claimed they were miracle cures.

But the board strongly disagreed, explaining that selling any product from facial cream to vitamins was not an accepted or approved industry practice; and, if he continued, they would

Conflicts and Commitments Internal to a Practice

Ann Mills, assistant professor at the Center for Biomedical Ethics at the University of Virginia in Charlottesville, Va., details the conflicting obligations physicians face in medical practice:

■ **Patients.** Whom do I treat? What about Medicare and Medicaid patients? What about reimbursement issues? How much time do I spend with each patient? What duties can be delegated? How do I respond to informed-consent issues? What if I think honesty is not in the best interest of the patient?

■ **Practice.** Do I follow rules of practice when they conflict with the patient's interest and my own interest? How do I grow the practice? How does the practice affect the community? What about my own needs and the needs of my family?

■ **Staff.** How do I reconcile competing needs—between staff and professionals and the practice? How do I reconcile competing perspectives? How do I handle infringements with practice rules and ethics?

■ **Payers.** What if a patient can't pay for a procedure that I know the patient needs? What if insurance does not cover it?

report his unethical behavior to the state medical board. Since his livelihood was potentially threatened, the doctor stopped selling the supplements.

Another common complaint came from patients who were charged by physicians for missing their doctor's appointment. Dr. Bonanni says the board's members sided with the physician if a sign was posted in his or her office stating that missed appointments without a reasonable excuse or 24-hours notice would result in a fee. But if no sign existed, he says, physicians were not allowed to spring the fee on patients simply by saying it's their custom to charge patients who don't show up or call.

Then there were patients who complained about being overcharged. He says the board members would always discuss the matter with both parties. Sometimes, Dr. Bonanni says, they would issue a small warning to physicians, explaining that they need to break down their charges so that patients understand why their bill is so high.

Other times, patients complained about their doctor being dropped from an HMO. The board members would later learn that it was because the doctor was performing unnecessary testing or failing to meet industry standards of care.

"We couldn't say that to patients," Dr. Bonanni says, adding that it would be unethical for the board of censors to offer an opinion or even comment on their physician's standing to patients. "Sometimes you wonder whether or not patients realize what's happening. More patients would rather stay in the HMO and change doctors than pay privately for the care of the doctor they've been going to for a long time."

There will always be ethical situations that physicians can't predict and those in which they must avoid imposing their prejudices or beliefs upon patients or their family.

For instance, if you're a Catholic physician who doesn't perform abortions, you can certainly tell your patients that if they want an abortion, they must seek another doctor. But, says Dr. Bonanni, you also need to go one step further by providing them with the name of a doctor who does.

"Giving the name of another doctor who does abortions in my opinion is quite ethical and also respects the physician's religion [and patient]," he says.

Dr. Bonanni once found himself in a scenario that challenged his own belief system. One of his patients suffered from heart and lung disease but wasn't end stage. Then his kidneys failed. Although he was making some progress, he had a long and difficult hospitalization.

If you're a Catholic physician who doesn't perform abortions, you can certainly tell your patients that if they want an abortion, they must seek another doctor. But, you also need to provide them with the name of a doctor who does, says Dr. Philip Bonanni, a Rochester, N.Y., internist who served on the board of censors for the Monroe County Medical Society.

One morning when making rounds, Dr. Bonanni visited the patient, who told him that he no longer wanted treatment. He had made this decision after thoroughly discussing it with his wife and children, who ultimately supported it. Although Dr. Bonanni told the man that he wasn't terminal, the patient simply replied that he was tired of struggling and didn't care to live anymore.

"He was competent, not depressed," says Dr. Bonanni. "As his physician, I had to respect that.

We stopped the active treatment, got into making him comfortable. He was sent home and died within a few weeks. That was a shocker to me because I never had a situation like that before."

Tough Call

Laurence McCullough, Ph.D., says physicians in his classes frequently share real stories about ethical challenges and offer varying opinions about how to resolve them. As professor of medicine and medical ethics and associate director for education in the Center for Medical Ethics & Health Policy at Baylor College of Medicine in Houston, he also teaches an on-line course called Ethical Challenges for the American College of Physician Executives (ACPE).

Course materials include seven lectures and an on-line forum in which participants meet for three weeks to address clinical, leadership and management issues in healthcare organizations. In one such session, a hospital medical director, who was new in her position, asked participants what she should do about a beloved senior doctor in the community who admitted patients

to her hospital. She discovered that his practice was not always consistent with evidence-based standards for his specialty, which was oncology.

“He was probably injuring his patients and maybe even shortening their lives by giving them inappropriate treatment,” says Dr. McCullough, explaining that cancer had returned in some patients because they weren’t receiving the right chemotherapy. “He fell behind with the literature and was practicing medicine that was 10 years out of date. So his patients were not getting the current standard of care for their cancers.”

The medical director was also an oncologist and well-versed in new treatments and techniques, so she definitely knew that the type of medicine he was practicing was behind the times.

If you were in her shoes, what would you do? Dr. McCullough says the answer was crystal clear for all 27 physicians in the course: protection of patients comes first.

They advised her to gather the facts, which is the first rule in medical ethics, Dr. McCullough says. In this case, she needed to document what the physician was doing that wasn’t up to standards. The medical director said she had already gathered factual evidence. The problem was that he was very powerful and had friends who sat on the hospital’s board of directors. If she confronted him, she would place her own job, and possibly career, at risk.

The group suggested that the way to deal with issues of quality like this one was to present her data to the doctor and simply point out current practice standards, then ask why he wasn’t meeting them, with the understanding that he probably wouldn’t provide any compelling explanation. Once the physician experiences something that scientifically and clinically doesn’t make sense, more than likely he will change and the problem will correct itself, says Dr. McCullough.

But if that approach wasn’t successful, the medical director said she would use the quality-control mechanisms of the hospital. If he still didn’t respond to those processes, she was then prepared to take his case to the board and, if necessary, all the way to the state’s board of medical examiners.

“She basically said, ‘If the board won’t support me, then I know I’m working for an organization I shouldn’t be working for and I’ll quit,’” Dr. McCullough says.

As of this writing, Dr. McCullough doesn't know how the story ends. But, he says, people need to leave organizational cultures that are corrupt. When you're in a leadership position and co-fiduciary, you must ensure that doctors are competent when delivering patient care, that the care meets current standards and that there are no conflicts of interest. If your organizational climate prevents you from fulfilling your role, then you need to walk away. He says that concept is not only endorsed by the ACPE but also being taught in their classes.

Another common situation arises when you're in any kind of informal setting, maybe a cocktail party, and a stranger asks for your opinion about another physician whom you believe is a sub-standard doctor. While the person isn't your patient, you still want to ensure they receive appropriate medical care. Do you suddenly excuse yourself? Do you tell the person the truth and open yourself up to a lawsuit based on slander from that doctor?

Here's another alternative. Don't say anything about the doctor, says Dr. McCullough. Instead, make a strong recommendation for another doctor and hope that the person you're talking to

AMA Ethical Code Offers Guidance

The American Medical Association's Code of Medical Ethics is a comprehensive guide for physicians who are grappling with a range of ethical dilemmas. The latest edition of the code includes ethical guidance on a host of clinical issues, from abortion to xenotransplantation, and practice matters, such as financial incentives and contractual relationships.

The AMA's code is based on the following principles of honorable behavior for the physician:

- A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights.
- A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities.
- A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.

can read between the lines.

Besides lawsuits, what seems to annoy doctors more than anything else is when other physicians steal their patients. When Dr. McCullough held a teaching position in a primary-care residency program, he recalls one urologist who was building his practice by stealing patients referred to him by residents in the program.

The situation grew so bad that the residents asked the residency director to talk with the urologist and explain that they wanted to continue sending him patients but would stop if he didn't send them back. Since the director refused to have that conversation, the residents felt they had only one choice. Although the urologist possessed excellent clinical skills, he was not trained to provide appropriate primary care, so the residents stopped sending their patients to him.

Dr. McCullough says that this story illustrates the first rule of medical ethics: physicians get into trouble when they overstep their limits. Simply put, don't overstretch. In fact, he says, that's one of the best ways to avoid ethical dilemmas. Other suggestions include the following:

- A physician shall respect the rights of patients, colleagues and other health professionals and shall safeguard patient confidences and privacy within the constraints of the law.
- A physician shall continue to study, apply and advance scientific knowledge, maintain a commitment to medical education, make relevant information available to patients, colleagues and the public, obtain consultation and use the talents of other health professionals when indicated.
- A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate and the environment in which to provide medical care.
- A physician shall recognize a responsibility to participate in activities contributing to the improvement of the community and the betterment of public health.
- A physician shall, while caring for a patient, regard responsibility to the patient as paramount.
- A physician shall support access to medical care for all people.

Source: American Medical Association, www.ama-assn.org/ama/pub/category/2512.html

■ **Don't consider it a failure on your part when patients reach the end of their life.** He says physicians are reluctant to stop treatment at the end of life.

■ **Start paying physicians based on performance, not on the services they provide.** While physicians can't guarantee a patient's outcome, if they provide a high-quality process of care, they're much more likely to produce a healthier patient at the end

When you're in a leadership position, you must ensure that doctors are competent when delivering patient care, that the care meets current standards and that there are no conflicts of interest. If your organizational climate prevents you from fulfilling your role, you need to walk away, says Laurence McCullough, Ph.D., professor of medical ethics at Baylor College of Medicine.

of the process. That results in two bonuses. When patients are healthier, they're often less expensive to take care of or treat. Perhaps equally important, if doctors were paid based on quality, economic conflicts of interest could be eliminated. "That would be one of the most important accomplishments in the history of medicine," Dr. McCullough says. But physicians with less skill or poorer results would have trouble competing and would find themselves with diminished incomes and possibly out of work. "They don't have a right to

work if they're not providing the best care," Dr. McCullough says. "What doctors have to learn is that no one is owed a living. Everyone has to strive constantly to be excellent."

■ **Balance your family life with patient-care obligations.** Think carefully about limits. What types of sacrifices or ethical compromises are you willing to make when it comes to your patients or family? Dr. McCullough says this is a major issue and emphasizes the differences between the generations. In the past, he says, doctors were predominantly male and married women who were willing to stay home, raise children and not see their husbands very often. Nowadays, he says, "such women are rarer than hen's teeth." But senior doctors often don't understand how the world has changed and the importance of developing and maintaining a balanced life.

■ **Stop and think problems through.** The first question to ask yourself is, "What does competent medical care require?" Make

sure that you're following the best evidence-based standards, and identify your conflicts of interest. Are they being responsibly managed?

“Be aware of the tendency in medicine to treat the profession as a merchant guild rather than a public trust,” Dr. McCullough says, explaining that in the past, guild members—just like doctors—often banded together, protected each other and asserted their power in the marketplace for their own benefit. “If you find yourself struggling, you may be putting your self-interest first too often,” he says. “You’ve forgotten what it means to respect patients and engage them in a shared decision-making process. Maybe you’ve drifted from appropriate ethical standards and need to get yourself back.”

Truth or Dare

Do you always tell patients the truth? Or do you hold some things back, depending upon their impact on your practice's bottom line?

Dr. Stephan Baker is honest with his patients, even if it translates into lost income. As a plastic surgeon in Coral Gables, Fla., he says it's not uncommon for him to turn patients away. For example, one woman who recently approached him wanted a tummy tuck. However, he suggested that she come back in a few years because her perceived problems with her stomach weren't severe enough to warrant the risks of a tummy tuck procedure. She appreciated his honesty.

“In my own practice, I always have to balance in my own mind if a procedure can be recommended to somebody,” he says. “Is the patient going to get enough improvement from what I do to offset the potential risks, the potential complications, and would I recommend the procedure to a family member? That's sort of my measuring stick. From a business point of view, you probably want to operate on everyone who walks through your office, but you have to have strong moral fiber in your body to do the right thing.”

What's more, if a complication arises or something doesn't quite turn out as anticipated, he says, it's important to be honest with patients. Some scars may not heal right, for instance, or there may be a delay or unexpected problem with healing. Instead

of telling patients they're overreacting or denying that a scar isn't healing well, be honest, agree with the patient, then provide options for how it can be improved, he advises.

"Don't lie to people," Dr. Baker says. "Patients aren't dumb. They aren't stupid, and you can't treat them as that. Sometimes some doctors have big egos and are unable to admit that something isn't perfect. That's also part of being ethical, being human."

And so is the need for doctors to trust other physicians. But sometimes that basic tenet is violated.

Dr. Jeff Segal is a former neurosurgeon who is now chief executive officer and founder of Medical Justice Services, a Greensboro, N.C.-based organization that offers physicians deterrence and defense services to combat frivolous malpractice claims. He tells an interesting story of how a medical director at a managed-care organization in the Northeast also served as an expert witness—more than 100 times—against the very doctors who provided services for that organization.

"We believe there's an ethical lapse by virtue of his conflict of interest," he says. "He can do one or the other, take his pick. But he can't review charts that are confidential by their very nature and then end up working for an attorney and somehow, magically, the attorney has these cases. Whether he's transferring these cases or not, there's certainly a perceived conflict of interest."

Dr. Segal says his organization alerted the managed-care organization about the problem and hopes it will prevent its medical director from potentially violating his position of trust both now and in the future.

Other times, professional courtesy may stand in the way of doing what's right.

Dr. Paul Dobransky, a Chicago psychiatrist, once received a phone call from another healthcare provider, asking him to diagnose her 17-year-old child. But there was a catch: the mother was trying to find a doctor who would not diagnose her child with a specific illness, namely psychosis.

"The dilemma that crops up is do you go very slowly in treating the patient, in which case you're simultaneously trying to treat the parent and her anxiety, or do you move quickly to treat [the patient] to get him on board?" says Dr. Dobransky. "You're duty bound to the patient, but the patient is so tied to the parent

that not addressing the parent's concern can cause the patient to precipitously leave treatment."

Despite the mother's indirect plea, Dr. Dobransky wouldn't compromise his professional ethics and diagnosed the teenager with a general category of psychosis, then prescribed a low dose of anti-psychotic medication to help relieve his psychotic symptoms.

Not surprisingly, the mother pulled her child out of Dr. Dobransky's care and chose a different healthcare provider. Dr. Dobransky suspects she was shopping around for someone who would offer therapy rather than medication to treat her child's illness. Other parents object because they don't want the diagnostic label to haunt the child the rest of his or her life.

Dr. Dobransky makes tough decisions by using different scientific models that address ethical situations. He says one model, which was introduced by mathematician John Nash, 1994 Nobel Laureate in Economics, requires the decision-maker to consider context or environment. For example, how would you answer this question: should you fire a gun? Is there an absolute ethical answer?

Not without context, says Dr. Dobransky. Now if the same question was asked with context—should you fire a gun in a shopping mall—the answer would be no. But if you're part of Special Forces in Iraq and your company is under fire, the answer changes.

"So math and John Nash showed us that in not only making an ethical choice does there need to be ethics, but it needs to be tempered with what some may call intuition or the ability to read environments for appropriate response," says Dr. Dobransky. "Strike a balance between not being an absolutist and seeing ethical dilemmas in isolation but always viewing them from a bird's-eye view."

"Don't lie to people," says Dr. Stephan Baker, a plastic surgeon in Coral Gables, Fla. "Patients aren't dumb. They aren't stupid and you can't treat them as that. Sometimes some doctors have big egos and are unable to admit something isn't perfect. That's also part of being ethical, being human."