Ethical Issues in the Allocation of Scarce Resources

TX Council of Community Centers
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Disclosure to Participants

Requirements for Successful Completion of Continuing Education Activity Requires:
1. Completing the registration form,
2. Signing the “Sign – in” Sheet,
3. Attending the entire educational activity,
4. Participating in education activities instructed, and
5. Completing the participant evaluation.

Commercial Support:
This educational activity received no commercial support.

Disclosure of Conflict of Interest
The speakers and planning committee have disclosed no conflict of interest.

Non-Endorsement Statement
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Off-Label Use
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Expiration Date for Awarding Contact Hours
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Fairness in the Allocation of Resources
Mr. Z is a 19-year-old individual with MR who has been receiving specialized services through the school system in his locality. Mr. Z has decided that he does not want to go to school anymore and his family has been looking for appropriate assistance in the community. They have requested services from the CSB but funding is scarce. Mr. Z requires intensive supports and the CSB has determined that it would prefer to use its resources for individuals who have no other options. Is it ethical to refuse to provide services to Mr. Z because he is eligible for school-based support until he is 22?
Ms. E is a CSB client who recently refused to complete the application process to participate in Medicare Part D. Ms. E indicates that she does not want to go through the effort of completing the paper work and choosing a plan, and that she would prefer just to work with the agency to utilize their medication samples to receive free medications. Staff believe that Ms. E would meet eligibility for Medicare Part D and wonder if they can refuse to provide low-cost or no-cost medications given Ms. E’s other alternatives.
Allocation

“He Needs One-On-One”

Mr. A has been unable to fit into his peer group since admission eight months ago and requires his own living space with 1:1 staff support. This staffing ratio has been necessary at all times, except when Mr. A is asleep. Day and evening staff have rotated to meet the 1:1 need, and this has resulted in the cancellation or reduction in size of certain group activities. Staff continue to believe that either Mr. A or others with whom he interacts would be at risk if the 1:1 staffing were not provided. Budgetary constraints prevent the hiring of new staff.
The Ethics of Scarcity

“Serve More Or Serve Better?”

Both Mr. H and Ms. I will do very well with therapy A, but that therapy is so intensive, that staff can only provide it to one client at a time. Both Mr. H and Ms. I will do marginally well with therapy B and that service could be provided to both simultaneously. Is it preferable to maximize outcomes to one individual at a time or secure marginal improvement for multiple individuals simultaneously?
Ms. K and Ms. L are both under consideration for placement in your vocational program. Ms. K has many more challenges than Ms. L and is less likely, therefore, to succeed with long term job placement. While Ms. L is more likely to move through the program efficiently, she has a more substantial family support system and can do better without your support. Should Ms. K or Ms. L receive the next available slot in the program?
The Concept of Fairness: Is Best, Best?
The Allocation of Resources

The Concept of Fairness

Movie One
5mi
Movie Two
3mi
Movie Three
8mi
Movie Four
4mi

A

5mi
9mi
2mi
3mi

B
The Allocation of Resources

Effectiveness, Efficiency, Equality, Equity

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The Ethics of Scarcity

“The Four E’s”

1. **Efficiency**: A maximally efficient outcome is one that provides the highest ratio of output over input in a system. Efficiency does not consider the distribution of outcomes across recipients, but only the return on investment that is generated.

2. **Effectiveness**: A maximally effective outcome is one that maximizes benefit to the recipient of the resources or services in question so as to bring about the greatest gain for the chosen recipient. When we consider effectiveness, we apply the economic principle of maximax; obtaining the best possible best-case outcome.

3. **Equality**: An equal distribution is one that maximizes the degree of similarity of outcome for all recipients of goods or services.

4. **Equity**: A maximally equitable distribution of goods or services is that which minimizes harm to the non-recipient of resources or services in question so as to bring about the least harm to all potential recipients. When we consider equity, we apply the economic principle of maximin: obtaining the best possible worst-case outcome.
The Allocation of Resources

The Concept of Fairness

A

β

α

B

\[ \alpha \]

\[ \beta \]
1. A fair approach to rationing is one that seeks to maximize benefit to the least advantaged member of the group.

2. Once minimum standards are met for everyone, additional resources should be used to improve the situation of those who are least advantaged.
Rationing a PUBLIC resource is morally justified if and only if:

1. There actually exists a shortage of the resource in question, AND
2. An identifiable victim of a failure to ration exists, AND
3. The victim of the adopted rationing scheme is disadvantaged less than the victim of any other rationing scheme, including the lack of rationing altogether.
The Ethics of Scarcity

“Altered Standards of Care”

In an environment of true scarcity, our goal must be to minimize the harms done rather than to maximize the benefits received. ‘Best Practice’ is a luxury for the wealthy. When allocating scarce resources, our only constraint on the lower end is to satisfy minimum standards of care.
Micro-Allocation:
An Operational Algorithm
The Ethics of Scarcity

“Exclusionary Criteria”

Constituency: The facility exists as an agency within a specific geographic and political location that is designed to meet the needs of individuals who reside in that area. While it may be appropriate to enter into cooperative regional efforts with neighbors and thereby extend constituency claims in specific ways, services should otherwise be restricted to those individuals who are residents of the catchment area.

Inappropriate Requests: Some individuals may request services that the facility is simply not designed, mandated or funded to satisfy. We recommend that the organization must clearly define what it does, and that it is ethical to refuse to provide services that are inconsistent with its mission.
The Ethics of Scarcity

“Inclusionary Criteria”

Prior Commitment: Currently enrolled individuals who continue actively to satisfy the terms of their treatment plans should remain enrolled even if new potential consumers present with equal or greater need. We do not believe that active clients should have their services withdrawn for so long as the services that have been initiated are indicated.
The Ethics of Scarcity
“Inclusionary Criteria”

Alternative Resources (Need, Part I): If the organization is defined as a safety net provider, then this designation implies that the facility has a special obligation to help individuals who need to be helped. Individuals who can access services by other means do not actually need our services. Therefore, we recommend that such individuals may ethically be considered as lower priority in the face of scarcity and may be excluded from further consideration.
Need (Part II): We recommend that those individuals with serious and imminent needs should be given priority over those with lesser need. Need must be understood to include the risk of harm associated with a failure to access services. When assessing need, all efforts should be made to identify those individuals who will suffer serious and imminent risk to life or irreversible harm. Clearly, many individuals will present with a variety of needs. At this point in the process, however we consider only those individuals whose need is of a serious, emergent type such that failure to meet their needs will likely result in A) loss of basic physiological function, B) exposure to life and/or safety risks, C) failure to meet basic developmental needs, or D) degeneration of condition that will lead to one of risks A-C. These individuals should be given priority at this step in the allocation process.
The Ethics of Scarcity

“Inclusionary Criteria”

**Efficiency:** Once those with serious and imminent needs have been served, assuming that additional resources remain for allocation, the organization should attempt to serve as many individuals as possible. Therefore, efficiency now becomes a relevant factor. The organization should, at this point, rank possible allocation schemes in order to maximize efficiency. Efficiency should be understood to include not only serving the maximum number of individuals, but also a cost-benefit analysis. If revenues can be generated by serving some clients, those new revenues can then be used to extend the scope of service. These types of efficiency calculations are morally acceptable after we have served those already in the system and those with serious and imminent risks.
Effectiveness: Once we have maximized efficiency, if resources continue to be available, priority may then be placed on individuals who show the greatest likelihood of maximally benefiting from receipt of services. While the concept of efficiency is applied across a group of individuals, the concept of effectiveness is applied to specific individuals and indicates a desire to maximize the outcome for the targeted individuals.
The Ethics of Scarcity

“Inclusionary Criteria”

Comparative Need: Once basic needs have been met and efficiency and effectiveness achieved, attention may then shift to a comparative analysis of lesser needs. At this point in the allocation process, individuals should be rank ordered based upon the likelihood that we can support their achievement of better social functioning, higher cognitive development and employment success. Needs of these types should be distinguished from the more serious and imminent needs addressed above, although we in no way mean to indicate that this level of need is unimportant.
The Ethics of Scarcity

“Inclusionary Criteria”

Random Selection: Once the above delineated criteria have been applied, it is plausible to argue that any remaining claims on services are of relatively equal urgency and efficiency. Recognition of this fact generates an assumption that all additional claims are of equal value and should be treated equally. It is then ethically permissible to allocate any remaining resources on the basis of random selection. We recommend that a first-come-first served selection model is ethically acceptable at this point.
Autonomy, Paternalism and the Limits of Staff Responsibility

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Opening Concepts
An intervention is ‘paternalistic’ whenever the justification for the restriction of an individual’s freedom is calculated to be in their own best interest.
The Ethics of Suicide Intervention

“Commitment Appropriate”

Mr. R is a 58-year-old individual who was preparing to jump from a bridge in response to auditory hallucinations. Mr. R has a history of psychosis and upon evaluation by local mental health providers was determined to be suicidal secondary to his psychosis. Should the local hospital petition the court for civil commitment?
Mr. H is a 79-year-old long-term care resident who suffered a stroke resulting in left side hemiparesis and difficulty swallowing. According to a modified barium swallow, Mr. H can only safely tolerate a level two diet of thickened liquids. Mr. H objects to the dietary restrictions and currently receives a level three mechanical soft diet. Nevertheless, he desperately wants access to thin liquids, especially a morning cup of coffee, and to some other contraindicated foods. A mental health evaluation was performed and although it indicates a possibility of some underlying dementia, it clearly states that Mr. H is not at imminent risk of causing harm to self or others and that he is able to understand the alternatives, risks and benefits associated with eating potentially dangerous foods. Mr. H’s children indicate a desire that the resident’s diet be restricted, but Mr. H is adamant about his desire to eat at least certain types of food and drink that are not consistent with a limited diet. This ethics consult was requested to examine the ethical implications of restricting access to food for an individual who has capacity to make his own healthcare decisions.
Requirements For Paternalism

Paternalistic interferences with clients’ liberty of action are justified only when:

- The client lacks the capacity for autonomous choice regarding the relevant issue
- There is a clearly demonstrated clinical indication for the treatment or restriction under consideration
- The treatment or restriction under consideration is the least restrictive alternative that is reasonably available and capable of meeting the client’s needs
- The benefits of the treatment under consideration outweigh the harms of the interference itself

*Paternalistic interventions must attempt to advance the values of the individual whose freedom is restricted.*
Case Studies
Ms. B is a 24-year-old patient who carries a diagnosis of Anorexia Nervosa, Bulimia, Borderline Personality, Osteoporosis, Hypotension and was recently referred for replacement of her J-tube after she cut it with a plastic knife. Ms. B would benefit from placement in an eating disorders facility, but her dependence on enteral feeding and non-compliance make transfer impossible. Staff members have raised concern that given Ms. B’s chronic non-compliance, her condition is untenable and that it might be appropriate to consider withholding further reinsertions on the grounds that she is terminally ill.
Difficult Group Home Issues

“Cross Dressing”

Mr. S is a 24-year-old client who works in a supported program sorting clothes for donation to a variety of facilities including ID group homes. While sorting through the clothing one day, Mr. S decided to try on some women's clothing. He wore a dress for most of the day and then cooperatively took it off when it was time to go home. Mr. S has repeated this behavior several times. He seeks out women's clothing and accessories and wears them, and he does not seem to bother any of the other clients while doing so.

Recently, staff at Mr. S's group home had difficulty in redirecting his behaviors when he became agitated at home. One staff member suggested that female clothing be provided as a redirection for Mr. S, as dressing up in such clothing is clearly an activity that is desirable for the client, and one that calms him down appreciably. Should staff allow/support/encourage this behavior?
Mr. C is a 57-year-old resident of a mental health group home who suffers from alcohol induced persisting dementia and severe hepatic failure. Mr. C is incontinent of bowel but he refuses to accept placement at a long term care facility. Staff do not believe that they can meet his needs at his present location, but they do not know how to deal with his choice to remain at the group home.
The Ethics of Patient Refusal

“The Limits of Provider Support”

Optimal Care

Sub-Optimal/Super-Standard Care

Sub-Standard Care

Staff never have an obligation to commit malpractice
The Ethics of Patient Refusal

Three Resolutions to Conflict

When care provider A and care recipient B are involved in a dispute whereby B refuses (or demands) care that A believes is (in) appropriate, three options are available.

• A May Give in to B’s Demands (if A is unable to show that B’s choice would involve negligence, abuse or sub-standard care)

• A May Forcibly Overrule B’s Choice (if A can show that B’s choice would require A to engage in negligence or abuse)

• A May Legitimately Refuse to Satisfy B’s Demands, But B May Receive the Demanded Services Elsewhere (if A cannot show that B’s choice would entail negligence or abuse, but A can show that B’s choice would involve A in the provision of sub-standard care)
A Closing Case
(if time permits)
Withholding Treatment

To Treat or Not To Treat…

Mr. J is a 40-year-old patient with schizoaffective disorder, dementia NOS and has a history of poly-substance abuse. Mr. J became progressively more disoriented and is now being treated with Aricept. The Aricept is achieving marked results and has improved Mr. J’s alertness and orientation, to the point where his is able to act on his delusions. Is it ethically better to treat Mr. J with Aricept, which increases his autonomy, or to withhold Aricept so that, although clearly less oriented, Mr. J will not engage in confrontational behavior and will experience reduced agitation?