

Bioethical Mediation: Peacemaking and End of Life Conflicts

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Joseph was lying in intensive care. The prognosis for his recovery was grim, but there was the possibility that a final surgery might save him. The likelihood of success was not great considering Joseph's frail condition.

Victoria, his wife of 50 years, wanted the surgery. John, his son, who held a durable power of attorney over medical decisions, did not want the surgery. No one knew how long Joseph would live, and the hospital was concerned about the use of an expensive, scarce intensive care bed. Joseph had instructed that no extraordinary means be used to prolong his life. A conflict evolved between the hospital, Victoria and John over Joseph's future care.

The hospital staff called on a bioethics mediator to intervene. The mediator consulted with the medical team and the nursing staff to better understand the medical situation. She asked the entire group who would be most appropriate to represent the hospital and medical team. The attending resident and a nurse agreed to participate.

The mediator found Victoria and John in a waiting area near Joseph's room. She sat down with the resident and nurse and explained that she was retained by the hospital in situations like this to help people find common ground. She briefly outlined the process choices to Victoria and John. They agreed to participate.

Victoria began by describing her long marriage to Joseph and her inability to accept his death. Her story was poignant and tearful. The mediator gently summarized Victoria's story, creating an empathic connection with her. John spoke next about his love for his father, and his responsibility to carry out his father's wishes under the power of attorney. He hated the responsibility thrust upon him and the fact that his obligation to his father conflicted deeply with his own needs and his mother's desires. Again, the mediator summarized John's perspective.

The mediator asked the resident and the nurse to present the medical situation. They did so. The mediator asked for clarifications and simplifications so Victoria and John could fully understand Joseph's condition. Victoria and John were invited to ask questions to clarify anything they did not understand.

When everyone was satisfied that their stories had been told and heard, the mediator asked Victoria and John to identify the interests they needed satisfied to resolve the conflict. As the mediator assisted them in articulating their personal interests, everyone realized that John and Victoria were really aligned. The hospital's interests were expressed clearly by the resident and the nurse. First and foremost, Joseph's care was paramount. After further discussion, the tearful decision was made to remove Joseph from life support and provide him comfort with palliative care.

Joseph passed on later that night.

Bioethics mediation is a new application of peacemaking to difficult decisions about appropriate medical care. Because all of the decisions are usually difficult, what process should be utilized to reach the “least bad” result? Hospitals are rigidly hierarchal institutions. Thus, the decision could be made by a risk manager tucked away in some office, the attending physician, or a bioethical consultant. The risk manager would be considering future liability issues, the physician the best course of treatment, and the bioethicist, the legal and moral dimensions of the decision.

Bioethical mediation, on the other hand, embraces all of the interests of all of the parties. It assures that decisions are based on respect for all of the people affected, respect for their interests, and on the rights of patients and families. It brings differences of opinion and belief out on the table where they can be constructively discussed and respected.

Bioethics mediation is, however, an adaptation of interest-based mediation, to a critical care situation. It differs from the pure form of interest-based mediation in several significant aspects. The mediator is usually retained or employed by the hospital and is therefore not purely impartial and neutral. The mediator is working with knowledgeable repeat players on a regular basis. The ability to walk away from the mediation is not an option—a decision must be made. Time is of the essence. The conflict is usually over a life or death issue. The mediation usually takes place in the hospital, and the mediator cannot control the environment. The parties are generally under enormous emotional and personal stress. The mediation may occur at any time of the day or night. All of the participants have a common interest in the well-being of the patient and the family.

Despite these differences, bioethical mediation provides a respectful way for resolving difficult medical care conflicts. It honors the interests of all of the stakeholders and seeks peace through a caring, understanding process. Bioethics mediation, although new, is another example of how positive peacemaking is finding its way into our culture, our institutions, and our daily lives.