



Review of the Alberta Health Services Draft Code of Conduct (October 28)

Submitted to the Ethics and Compliance Office, Alberta Health Services
November 10, 2009

Introduction

On November 6, 2009, the Provincial Health Ethics Network (PHEN) held a teleconference discussion to review the *Alberta Health Services Draft Code of Conduct – October 28* from an ethics perspective, and, in response to a request to do so, provide feedback to the Ethics and Compliance Office of Alberta Health Services (AHS).

Participants (including comments later submitted via email) included eight ethics committee members, front-line health care workers and ethics services staff, spanning various professions.

This document provides a summary of the feedback received. It is not intended to be a position paper and does not express the organizational opinion of PHEN, which does not advocate for or take substantive positions. While every effort has been made to accurately reflect the most salient concerns and suggestions raised, the information outlined below does not necessarily represent a consensus among participants, except where otherwise noted.

Overall Impressions

Participants generally agreed that grounding the Code of Conduct in the language of principles is an improvement over the previous code. The tone seems to recognize that most staff are already governed by a Code of Ethics for their profession and as such do not need to be reminded of this information in the Code of Conduct.

A Code of Conduct or a Code of Ethics?

Participants expressed the concern that the document attempts to combine both a Code of Ethics and a Code of Conduct into one. The understood distinction is that a Code of Conduct outlines expectations of behaviour of employees and stakeholders and the disciplinary action that will be taken in the event of non-compliance. A Code of Ethics generally details an expressed set of principles and values to guide behaviour, and as such is ideally an aspirational document that can direct and inspire individuals to the highest levels of ethical excellence.

No one can be expected to uphold the highest degree of ethical behaviour at all times and people may interpret values differently. As a result, a Code of Ethics is not meant to prescribe behaviour or be punitive in nature, but to provide guidance and motivation for individuals to aspire to the values of the organization or profession and to create an ethical climate within the organization. Participants cautioned that combining a Code of Ethics and a Code of Conduct into one document allows for the possibility of someone being

disciplined for not fulfilling another person's interpretation of a value or for not being ethically perfect.

One way to address this inherent tension is to split the two into separate documents or, at minimum, to make them very clearly two distinct sections of a document entitled Code of Ethics and Conduct. This would help to make it clear that the first section outlines the core values of the organization, and the second clarifies the circumstances under which employees and stakeholders may be called to task and its potential consequences.

A Guide to the Code of Conduct

The sentence "*Whether we are working in one of the AHS facilities, on the road or at home, our actions should always be guided by the Code*" caused some concern among participants. It was felt by some that this implied that AHS has the right to govern an employee's behaviour outside of work, which is beyond the scope of a Code of Conduct. If the intention of the statement is to indicate that the Code of Conduct should guide behaviour wherever an employee or representative is working, whether in an AHS facility, in the community or from home, perhaps the following wording would be more clear: "*Whether we are working in one of the AHS facilities, working on the road, or working at home, our actions should always be guided by the Code.*"

Principle #1 - Treat people with respect, compassion, dignity and fairness

It was suggested that this section could include a statement about encouraging employees to take responsibility for establishing and maintaining healthy relationships, with an eye to attempting to work together to address conflicts.

Principle #2 – Be open, honest and loyal

Some participants were troubled by the word "loyal" in this Principle. While all understood the importance of supporting and working with an organization to achieve its goals, they felt that too often, giving voice to organizational concerns (even when done respectfully) can be construed as being disloyal. It was suggested either that this term be removed from the Principle or that a Glossary be added and the word "loyal" be defined in the context of this document. Participants were also unclear about the party to whom this loyalty is owed – to patients/clients, the organization, the public, one's profession, or oneself.

Principle #5 – Respect confidentiality and privacy

Participants expressed numerous concerns about the phrase "AHS business information" in the statement "*Not engaging in public discussions or comments about confidential patient, client, employee or AHS business information*". Participants felt that it is important to be able to have open dialogue about issues that may negatively impact patient safety. Since AHS is a publicly-funded body, many participants felt that restrictions of information and public dialogue that may be appropriate for private corporations may not be as appropriate for AHS.

Participants noted that some AHS business decisions have placed employees at odds with their professions' codes of conduct or codes of ethics. For example, the Code of Ethics of

the Alberta Physical Therapy Profession Act states that physiotherapists “may not delegate to a less qualified person any activity that requires the unique skill, knowledge and judgment of a physical therapist.” One participant noted that the AHS decision to hire physiotherapy assistants in place of physiotherapists means that physiotherapists have fewer physiotherapists to whom they can delegate certain aspects of care, causing moral distress and safety issues for physiotherapists working for AHS. In addition to this professional concern, if this decision is understood to be “business information” under the current draft of the AHS Code of Conduct, physiotherapists would be unable to speak publicly about the aforementioned conflict.

Another example of potential conflict between AHS and professional codes was felt to be the Alberta College of Social Workers’ Code of Ethics, which could be interpreted to oblige social workers at points to advocate for systemic changes to improve patient care. If the AHS Code of Conduct prevents employees from addressing such issues, it puts social workers in a potential position of conflict.

It was suggested that the term “AHS business information” be defined in a Glossary so it is clear what information it encompasses. Specifically, participants felt it was important for it to be defined in a way that would not restrict the ability to publicly voice concerns that impact patient safety.

Our Responsibilities

Several participants suggested that quality improvement programs should encourage employees to report mistakes with a view to learning from them both individually and organizationally. It was suggested that it would be beneficial to state here how AHS as an organization will support and work with those covered by the Code to develop and maintain a safe environment for reporting errors or breaches of the Code. Such a statement would engender trust and promote the idea that individuals, AHS as an organization, and employees as a collective are supportive of each other and responsible for adherence to the Code.

What To Do If You Have Questions and Concerns

The document directs that any concerns be brought to one’s direct report or the Ethics and Compliance Office (ECO). It was suggested that the Clinical Ethics Department (CED) also be mentioned here, and that it be clarified what types of ethics issues should be directed to the CED versus the ECO. As a side note, it was noted that there is no reference in the document to the role of the AHS Clinical Ethics Service or any of the approximately 24 regional and facility AHS ethics committees throughout the province. Such a reference may not normally be part of a Code of Conduct. However, given that AHS seems to be combining both a Code of Conduct and a Code of Ethics in this document, participants felt it was a significant omission not to describe the scope and mandate of these resources and how they can be contacted.

There was some concern regarding the statement that the ECO is “*not an appeal body for operational or policy decisions of AHS*”. If an employee has concerns regarding an operational or policy decision, and if they cannot address such a concern publicly nor do they have an

internal mechanism for voicing their concern, this in effect means that such decisions should not be questioned or raised. Participants found this disturbing.

Participants were also unclear what the mandate is of the External Confidential Reporting and Disclosure Service and what its relationship is to AHS. The Contacts section states that it is an independent third party, however it is unclear to whom one would be speaking, what the process is for following up on these reports and whether this body would be able to address operational or policy issues of AHS. It was suggested that this Service be described more fully.

Rights and Consequences

Participants thought that the Rights and Consequences section clearly states the consequences of breaching the Code, but should also explain the rights of those covered by the Code. In addition, if there is an appeal process for disciplinary action, it would be important to outline this here and describe the employee's rights in such a situation.

There appear to be words missing in the first sentence of this section: "It is important to be aware of _____ under the Code..."

Summary

In summary, participants agreed that this draft of the AHS Code of Conduct is a significant improvement over the previous version. However, participants felt that the above suggestions should be taken into consideration, creating a stronger document that could contribute to the growth of Alberta Health Services' ethical organizational culture. Participants were appreciative of the opportunity to provide feedback.

PHEN thanks Alberta Health Services for the opportunity to review and provide comment on this document.

*Provincial Health Ethics Network
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