The People’s Court
What Will You Do About Serious Breaches of Professionalism?

Dewesh Agrawal, MD*
Woodson S. Jones, MD †
Lois Bready, MD ‡
Mary Ottolini, MD, MPH §

* Director, Pediatric Residency Program, Children’s National Medical Center, DC
† Dean, San Antonio Uniformed Services Health Education Consortium
‡ Senior Associate Dean for GME, University of Texas Health Science Center, San Antonio
§ Vice Chair for Medical Education, Children’s National Medical Center, DC
Disclaimer

- The presenters have no financial relationships to disclose or Conflicts of Interest (COIs) to resolve.
- The views presented are those of the author and do not necessarily represent the views of the Department of Defense.
Objectives

- At the end of this session, the learners will be able to:
  - Utilize a framework to assess cases of unprofessional behavior, giving them a structured approach to decision making in challenging cases
  - Reflect and justify why their approaches concur or non-concur with the majority decision on the cases presented
  - Describe a broader array of approaches to manage a resident or fellow who has demonstrated unprofessional behaviors

- Session Breaks (self-regulation)
Professionalism Definitions

♦ **Primary Tenets** (Universal Consensus)
  – Subordinate interests to the interests/needs of patients (Hippocratic Tradition)
  – Seek excellence in competency (Hume)
  – Treat all with respect (Patients, colleagues, subordinates)
  – Work for fair allocation of resources
    • Justice-based equitable distribution for the good of health care in society (Rawls)
Professionalism Challenge

- **Assumed behavioral/descriptive consensus**
  - Assumed shared common standard of what behavior constitutes an unprofessional act
  - Trainee’s behavior representative of future behaviors (or character)

- **Limited discussion of how to address specific acts of unprofessional behavior**
  - Self-regulation inherent responsibility of a “profession”
Behavioral Consensus?

- Ginsburg, et. al. (2004 Acad Med)
  - 5 Video MS vignettes / 30 IM/Surgery Faculty
  - Inconsistency among an individual faculty’s ratings of behaviors across different vignettes
  - Inconsistency between faculty in same vignettes

- Borrero, et. al. (2007 Teaching and Learning in Medicine)
  - 16 vignettes to 58 IM residents / 27 IM faculty
  - High variability and lack of agreement across each case
  - Residents & faculty ratings differed in 2 cases (Hierarchy and Hand-off)
Action Consensus – What to do?

- Challenging without behavioral consensus
- Yet necessary (Self-Regulation)
- How?
  - Importance of garnering a “reasonable” consensus of educators
    - Graduate Education Committee
    - Clinical Competency Committee
  - Framework for reviewing cases (PACC)
  - Keeping primary obligation “primary”
    - Good of trainee subordinate to the good of patients
    - Graduates practice independently (less monitored)
Graduate Medical Education Committee (GMEC)

- Major Component of Due Process
  - Academic Action

- Purpose
  - Ensure fair and reasonable process in determining the need for adverse actions

- Academic Actions
  - Non-reportable, non-adverse actions
  - Academic Probation, Termination, Non-renewal
    - Reportable to boards, state licensing agencies, hospital credentialing functions
Judgments of accountability & justification

– Integrated assessment the four elements of a moral event helpful (PACC Framework)

  • Person (or agent)
  • Act Committed
  • Circumstances
  • Consequences

– Examination of each element illuminates the another

Challenge: Which carries greatest normative force in each moral event?

Due Process Requirements

♦ Academic Action (+/- Professionalism)
  – Notice of deficiency
  – Opportunity to *improve*
  – Reasonable decision-making process
    • “Fair hearing” not required
    • Opportunity for “neutral reviewer”

♦ Misconduct (Professionalism)
  – Notice of misconduct
  – Opportunity to be *heard*
  – Reasonable decision-making process
Case Discussion: Ground Rules

- Focus on case presented and information available
  - Can discuss the nuances or “other” information that influenced your vote in small groups
  - Limit focus on reliability/validity of any specific “instrument” (i.e., 360 eval) used to rate professionalism
  - Limit focus on due process & legal issues
  - Use 5 facilitators & slides
Case Discussion: Format

- Designated Institution Official (DIO) moderates each case
- Program Director brings case to GMEC
  - PD Answers questions
  - PD will NOT provide a recommended action
  - Vote followed by small/large group discussions
  - Cases
    - Some Cases with Resident Presentation
    - One case at end occurs within small group
      - Choose one case of interest from attendee
      - OR use supplied case
Audience Response System

1. Use the response pad to record your answers after green “polling open” noted at top of slide.

2. Press the button that corresponds to your answer. You will see the small LED light flash briefly.

3. During the polling, you may change your answer. The response pad will only record your last answer to a specific question.
The People’s Court: What Would You Do About Serious Breaches of Professionalism in Trainees?

Resource Handout

1. PACC Framework

Suggested Resource

1. DUKE Life Curriculum: Disruptive Behavior, Substance Abuse and Boundary Issues
   http://www.lifecurriculum.info/ or free online access at Medical Crossfire:
   http://medicalcrossfire.com/lifecurriculum
2. Treatment of Disruptive Physician:
3. Addressing Sexual Boundaries: Guidelines for State Medical Boards

Suggested Literature

2. Kinghorn, WA. Professionalism in modern medicine: Does the emperor have any clothes? Acad Med. 2007;82:40-45


1. Reflective Writing
2. Vignettes on Professionalism
3. Student or Resident Clinical Observation of the Preceptor (SCOOP or ReCOOP)
4. Faculty Mentors
5. Peer, Nursing and Patient Evaluations
“In any case, what is evident is that full accounts of the moral life, particularly regards to judgments of accountability and justification, require an integrated assessment of the four elements of a moral event – i.e., the agent, the act, the circumstance, and the consequences – in relation to each other.”

Pellegrino – Toward a Virtue-based Normative Ethics p.273

<table>
<thead>
<tr>
<th>Theory</th>
<th>Person (Moral Agent)</th>
<th>Act Committed</th>
<th>Circumstances</th>
<th>Consequences</th>
</tr>
</thead>
</table>
| Focus as expressed in: | - habitual dispositions to act in certain ways, with a focus on intentions, dispositions or motives  
- kind of person a moral agent becomes, wishes to become or ought to become  
- traits associated with moral excellence: compassion (the prelude to caring), intellectual honesty, benevolence fidelity to trust & promise, effacement of self-interest, justice (in healing relationship), prudence – weighing of the alternatives in situations of uncertainty and stress | What duty, rule or maxim was breached? How well established is the particular duty, rule or maxim universally known? | Caring for this person or group in this place.  
Cultural issues  
System issues  
Underlying mental health or medical issues. | Moral Force  
Outcome  
Harms/ Goods  
Cultural issues  
System issues  
Pain/Pleasure  
Utility |
| Other Comments | Key Question: “How would a physician of moral excellence act in the given situation?”  
Positive signs: remorse (sense of feelings for others), ownership of error evidence of compassionate actions isolation (apparently isolated event in private and professional life) empathy, caring | Judged by whether or to what degree the moral conduct is deviant from universalized norm from which the specific actions, rules or guidelines are derived. (Committee vote) | Too enmeshed with rich details of a moral event to have normative component but valuable all the same. | Can be integrally linked to the act committed and the circumstances. Less clearly linked to the intentions (moral agent) unless the character damaging effects of immoral behavior taken into account. |
| Observable Behaviors | Accepts personal errors & honestly acknowledges, Documents and reports clinical information truthfully | Milestones: close gap between general moral rule & application to particular moral event | | |

**Four Lens Frameworks for Viewing a Professionalism Event**