

# Ethics and Vulnerable Adults: Implications for APS Practice



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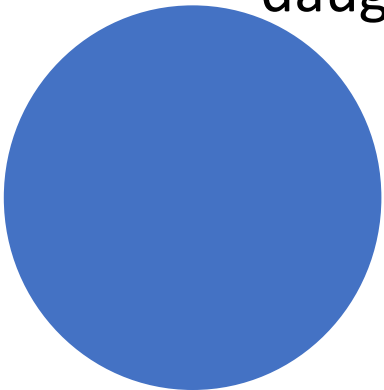
National Adult Protective Services Conference

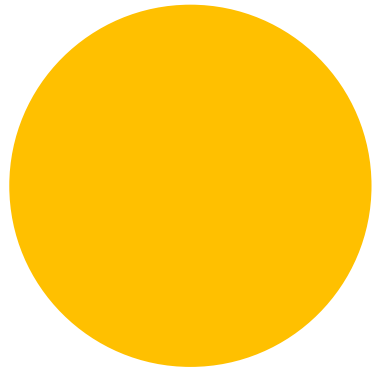
Denver, Colorado

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# An APS Case Study: Ms. C.

Ms. C is 85, has suffered a stroke which has left her paralyzed on one side of her body. She also has some cognitive impairment. Medical staff feel her condition require that she enter a skilled nursing facility for rehabilitation at least for a while. She insists she wants to go home and says her daughter will care for her. You are aware that the daughter works full time and has 2 children ranging in age from 2 to 7 years. The daughter's home is not suitable for Ms. C., as it has a lot of stairs leading to bedrooms and the bathrooms are not wide enough to accommodate Ms. C's walker or wheelchair. You are also aware that the daughter's spouse does not like Ms. C and finds her abrasive and difficult.





# Why Discuss Ethics?

- APS faces difficult challenges when trying to create interventions for clients
- Little literature focusing on ethical decision making in about 20 years
  - We all want to act ethically but may not know how to make ethical decisions
- Clients
  - Often frail, with varying degrees of cognitive impairment, and/or emotionally dependent
  - May be in unsafe and even life threatening situations
  - APS cannot force an older person to do something
- How arrive at a just result?

# Developing an Intervention

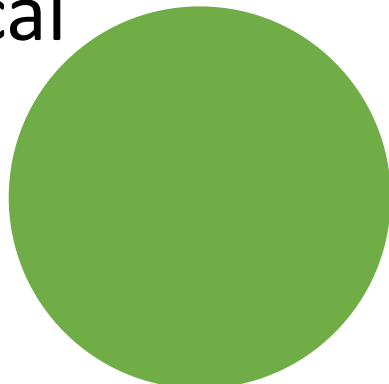


- Difficult balancing of safety and autonomy
- What the client wants vs what the client may need to be safe
- Cultural component of who makes decisions for an older client and how decisions made
- Often work with a client unwilling to accept some or all recommended steps and changes



# What is “Ethics”?

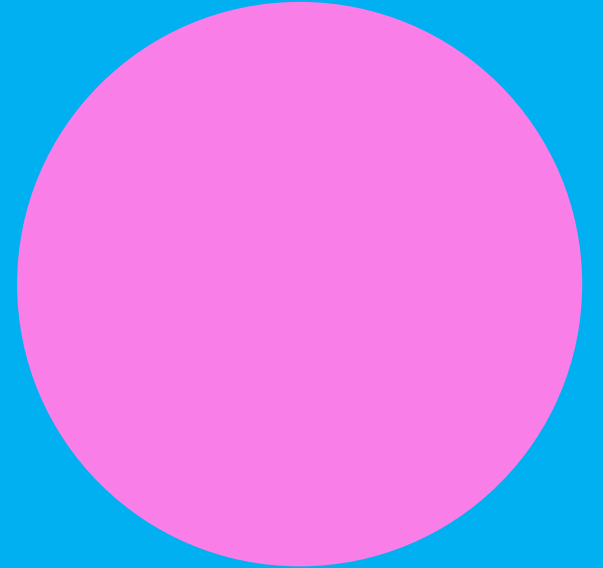
- Ethics is a branch of philosophy that explores differences between what is a right action and what is a wrong one.
- Explores morals, values, and virtues of human conduct, with an emphasis on the “ought”
- Addresses how people and organizations ought to act or to proceed given a certain situation.
- **Ethical dilemmas** arise when there are competing ethical principles and deciding which principle should prevail



# Key Ethical Principles

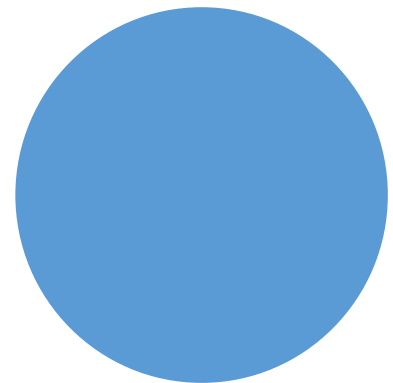
## Key ethical principles

- Beauchamp and Childress—
- Autonomy
- Beneficence
- Non-maleficence
- Justice
- Scenarios



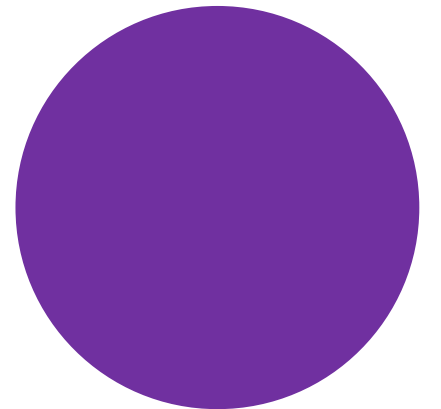
# Autonomy

- A person's right to make decisions, free from coercion, about his or her own life
  - Associated with the right of an individual to make and execute plans concerning his or her person
  - Highly prized and emphasized in the United States and other democracies
  - Often regarded as primary among the four ethical principles



# Beneficence

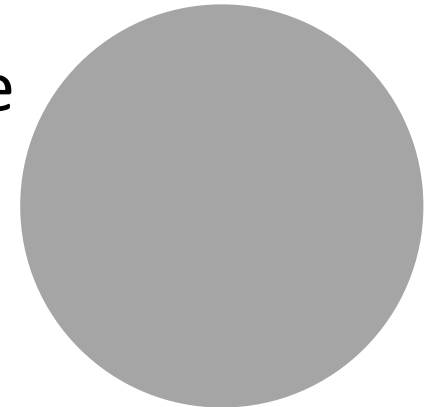
- Associated with being and doing good, as well as with kindness, generosity, and keeping others safe and is central to being moral
- Grounded in being compassionate for its own sake.
- Autonomy and beneficence may become competing principles, e.g., should a driver who is cognitively impaired driver be allowed to keep a driver's license?





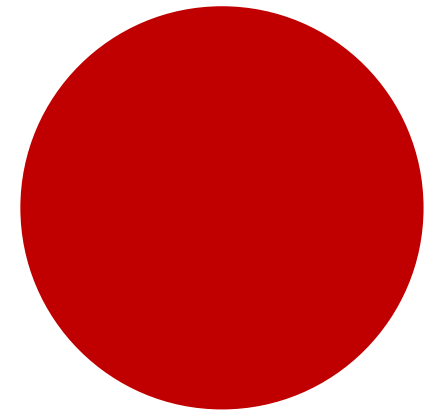
# Nonmaleficence

- Means to do no harm or that clients or patients should not leave an encounter with a service provider worse than when s/he entered it.
- Example: When Adult Protective Services (APS) seeks to intervene in an elder self-neglect case against the wishes of the older adult.
  - Should the individual have decisional capacity, then state intervention must not proceed.



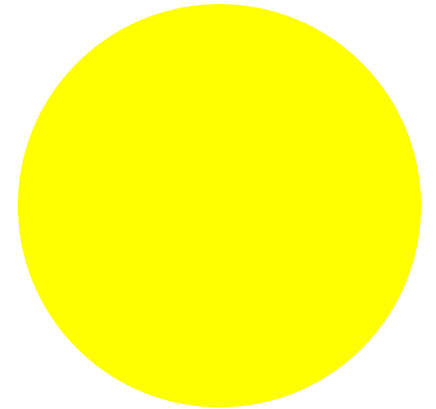
# Justice

- This principle reflects what is fair, equitable, and appropriate, including treating people in a manner free from prejudice and distributing goods and resources equitably.
- Example: ensuring that lesbian, gay, bisexual, and transgender elders are recruited appropriately and justly as research participants as are heterosexual elders.



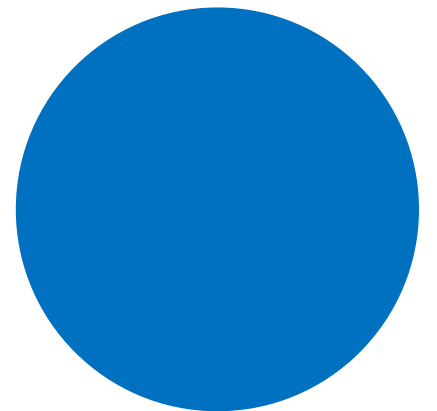
# Returning to the Case of Ms. C

- What are examples of these ethical principles:
  - Autonomy
  - Beneficence
  - Nonmaleficence
  - Justice
- What ethical dilemmas are raised in the scenario?

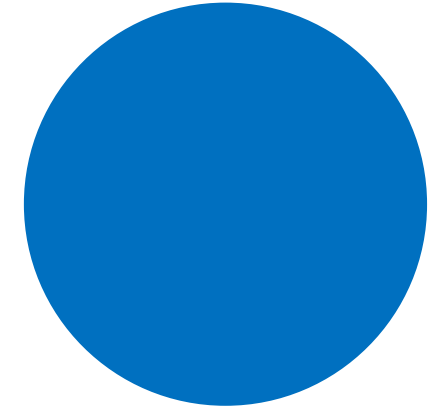


# The Role of Law

- Ethics describes how we should act; law describes how we minimally must act
  - Oliver Wendell Holmes (1897) The Path of the Law “If you want to know the law and nothing else, you must look at it as a bad man who cares only for the material consequences which such knowledge enables him to predict... (The good man finds reasons in his conduct both in the law and outside of it) “in the vaguer notions of conscience”
- Many laws evolved from ethical principles
- Some laws defy ethical principles—slavery, trafficking



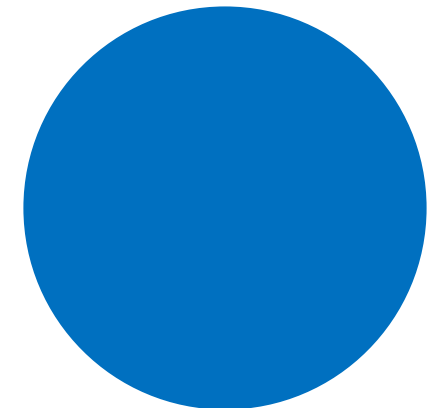
# The Role of Law-2



- Laws and ethics can be in conflict
  - “young attorney asked to obtain a parade permit for the KKK to march down the main street in Charlotte, North Carolina. “There are ‘good’ reasons to help the KKK to obtain the parade permit, mostly based on the First Amendment, and the moral debate is a tough one between one’s belief in constitutional rights for everyone and one’s abhorrence of racism” Bennett, 2001, at p. 26)
  - Disparate funding for child abuse vs. funding for elder abuse
  - Evidence of guilt vs. societal protection of legal relationships (privileges), rules for a fair trial (exclude admissible/probative evidence because of how obtained; hearsay, a person’s prior criminal history)—better 10 guilty men go free than one innocent man be convicted

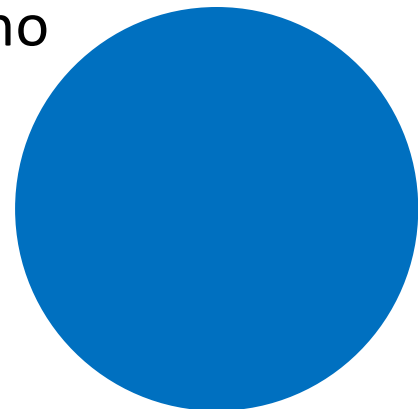
# The Role of Law-3

- What if law and ethics are in conflict...
- Mandatory reporting of elder abuse (may be intended to protect a victim who is unable to report or protect self but it may be unwanted by the elder, may be resisted by advocates who see it as denying autonomy and self determination, and even causing harm if reporting is not supported by a robust response and ample community resources)
- Follow the law



# The Role of Law-4

- Ethical Principles and the Law
- Roles of courts: criminal, civil, probate
  - Civil—litigants decide how to proceed and can terminate or resolve a lawsuit (autonomy and self-determination; beneficence)
  - Probate—court acts to protect a frail party; court of equity (nonmaleficence, beneficence)
  - Criminal—primarily built around public protection so victim does not control if and how a case is prosecuted. That authority rests with prosecutor who represents the community not an individual. (Justice)



# A Framework for Addressing Ethical Dilemmas

- Identify the Problem or conflict
- Gather the facts
- Identify relevant organizational policies or guidelines and laws
- Make the decision
- Implement the Decision
- Review for Effectiveness



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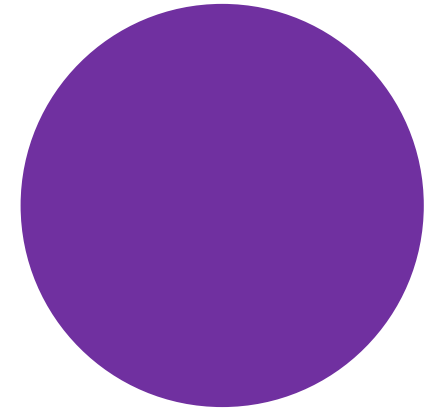


# Identify the Problem or Conflict

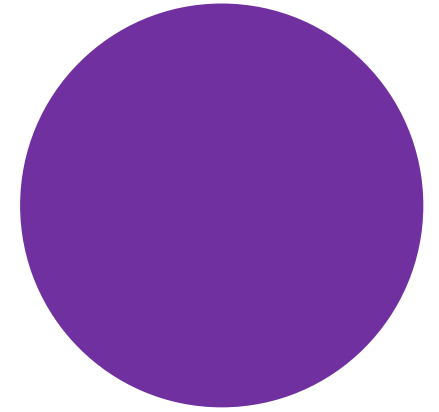
- Who are the legitimate interested parties, and what is at stake for each?
- How much time is available to arrive at a decision?
- What are the available resources?
- Why is there conflict and/or disagreement between the interested parties?
- What are the reactions, loyalties, and/or agendas? Acknowledge feelings
- What is behind the emotions?

# Gather the Facts

- What are the ethically relevant facts? Have all relevant perspectives been obtained? Is anyone else needed for the decision-making process?
- Are there relevant organizational policies or guidelines?
- Is there relevant law about this situation?



# Clinical Ethical Issues

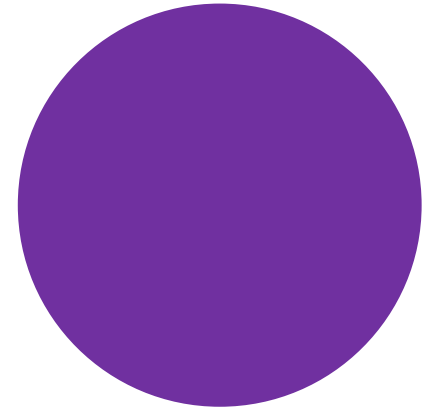


- Decisional capacity
- How older adult views quality of life
- Older adult's values, wishes, and beliefs
- Religious or cultural issues that may affect the person's decisions
- The person's narrative
- Financial factors that create conflicts of interest in clinical decisions
- Limits on patient confidentiality imposed by third parties' legitimate interests
- Any issues of public health and safety

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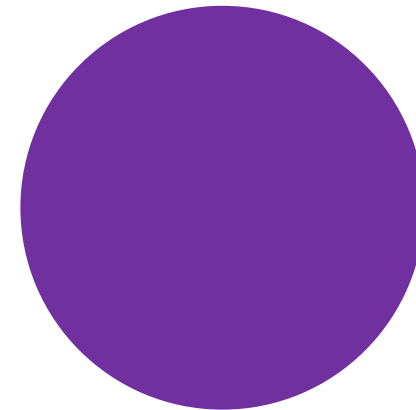
# Make the Decision

- Consider Alternatives
  - What are their likely consequences
  - What are the risks and benefits of each alternative
- Examine Values
  - What are the preferences of the older adult? Are other values relevant? Which of the values conflict?
  - How do the values of the organization inform the ethical issue?
- Evaluate Alternatives



# Make and Implement the Decision

- Articulate the Decision
  - Which alternatives best reflect the ranking of values?
  - Does one alternative best balance values?
- Implement the Decision
- Review for Effectiveness



# The Case of Wilmetta Sweetly



Margaret Dogood



Rufus Rough



Wilmetta Sweetly



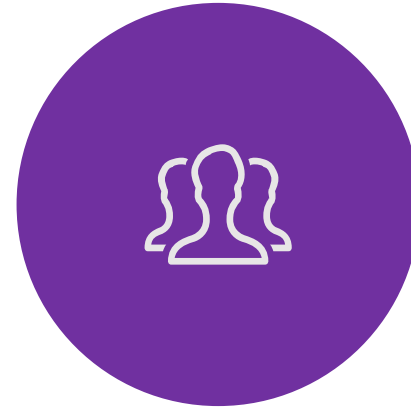
Detective Snoop



Flo Nightingale

# Questions from the Case Study

- What are the ethical issues?
- What are the legal issues?





# Thank You

For your time...

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