

Case Study – The Law or Ethics: Which Should Take Priority?



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Bioethics case study on law verses ethics.

There's always an interesting interplay between bioethics and the law. Bioethics asks, What is the right thing to do? The law, on the other hand, often asks, What are we allowed to do?

This creates situations where what is legally supported isn't always ethically supported. So what do you do when these two ideas conflict? Do you prioritize what you believe is right for the patient, or do you follow what the law allows?

We had a case involving a man in his mid-50s. He was unrepresented—meaning he had no known family or surrogate decision-maker—and he did not have an advance directive. He had been found down and brought to the hospital. He had severe diabetic ulcers and needed an amputation. Because he was unresponsive and unable to participate in decision-making, he lacked capacity. We didn't know whether he would have consented to the amputation.

When we consulted our legal team, they told us we couldn't proceed with surgery because the patient couldn't provide consent. We asked, But if we don't operate, he's going to deteriorate, become septic, and eventually die. The legal response was that we could only act under "assumed consent" once he became critically ill—that is, once his condition reached the point where emergency intervention was legally justified.

This created a deeply morally distressing situation for me and the rest of the medical team. For several days in a row, we came to the hospital asking ourselves: Is he sick enough yet? Is he close enough to death that we can now act to save his life?

That was the challenge. We understood the legal position, but we also knew what was in the patient's best interest and where this was heading. It felt like our hands were tied, and we were being forced to stand by while harm came to this patient—simply because the law hadn't caught up to the ethical need.

In theory, policies are designed to protect patients and serve society's best interests. But when the law contradicts its own intention—when it becomes a barrier to the very protection it's meant to provide—it can actually cause harm.

Questions:

- In moments like this, what should take priority—law or ethics?
- What would be your first instinct in a case like this?
- What feels right for the patient? And is the law aligned with that? What do we do when it isn't?
- Is the law meant to protect us from rash or unethical decisions, or should we be operating in a more ethically grounded way?
- What is owed to this patient? How can ethics best support them?