

An Overview of Ethics Consultation in the US

Catholic Health Care Ethics: Clinical, Social and Global Concerns
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The need for ethics committees/ethics consultations

- Karen Teel, a pediatrician, argued for a greater role for ethics committees in the mid-1970s (cited by the Quinlan court)
 - Physicians are sometimes ill-equipped to deal with ethical issues
 - Little or no dialogue
 - Need for a regular forum for discussion
 - Composed of different professionals (physicians, nurses, lawyers, theologians)
 - Advisory body

The need for ethics committees/ethics consultation

- Joint Commission on Accreditation of Healthcare Organizations (JCAHO) requires "a mechanism for the consideration of ethical issues arising in the care of patients and to provide education to caregivers and patients on ethical issues in health care."

The need for ethics committees/ethics consultation

An ethics committee or some alternate form of ethical consultation should be available to assist by advising on particular ethical situations, by offering educational opportunities, and by reviewing and recommending policies.

No. 37, Ethical and Religious Directives

What is Ethics Consultation?

- "...a service provided by an individual or a group to help patients, families, surrogates, healthcare providers, or other involved parties address uncertainty or conflict regarding value-laden issues that emerge in healthcare"

– American Society for Bioethics and Humanities. *Core Competencies for Ethics Consultation: The Report of the American Society for Bioethics and Humanities*. Glenview, IL. 1998.

What are the goals of ethics consultation?

- "To promote an ethical resolution of the case at hand"
- "To establish comfortable and respectful communication among the parties involved"
- "To help those involved to work through ethical uncertainties and disagreements on their own."
- "To help the institution recognize ethical patterns that need attention."

• Judith Andre, *Bioethics as Practice* (UNC Press, 2002), pp. 17-18.

Who is the ethics consultant?

- “The ethicist is neither a medical insider nor an outsider, but often serves as a facilitator and negotiator, a listener and a guide.”

– Patricia Talone, “Catholic Health Care Ethics Consultation: A Community of Care,” HEC Forum. 2003; 15(4): 323-337

What are the different approaches to ethics consultation?

- Authoritarian approach
- Pure Facilitation approach
- Ethics Facilitation approach
- Conflict resolution/mediation approach (Dubler/Liebman)

One Traditional Method

- Jonsen, Winslade, Siegler “4 boxes approach”
 - *Medical Indications*
 - *Patient Preferences*
 - *Quality of Life*
 - *Contextual Features*

Medical Indications:

Consider each medical condition and its proposed treatment. Ask the following questions:

- Does it fulfill any of the goals of medicine?
- With what likelihood?
- If not, is the proposed treatment of any therapeutic benefit?

Patient Preferences:

Address the following:

- What does the patient want?
- Does the patient have the capacity to decide? If not, who will decide for the patient?
- Do the patient's wishes reflect a process that is
 - informed?
 - understood?
 - voluntary?

Quality of Life:

- Describe the Patient's quality of life **in the patient's terms.**
- What is the patient's subjective acceptance of likely quality of life?
- What are the views of the care providers about the quality of life?

Contextual Features:

Social, legal, economic, and institutional circumstances in the case that can:

- influence the decision
 - be influenced by the decision
- e.g., inadequate social support

Another Approach

Kuczewski

- Narrative
- Language and Issues of Case
- Perspectives and Key Issues
- Facilitating Resolution

What are the skills necessary for ethics consultation?

- Ethical skills
 - Distinguish ethical issues from other issues
 - Clarify key concepts
 - Justify a range of morally acceptable options
- Process skills
 - Facilitate meetings
 - Build consensus
- Interpersonal skills
 - Effective listening
 - Communicating interest, respect, support and empathy

Are there any standards for ethics consultation?

- Core Competencies Report by ASBH (national society for US bioethicists)
- AMA's Code of Medical Ethics
- Not clear how widely adopted these competencies are
- No certification or licensure requirements

AMA's Code of Medical Ethics

- **E-9.115 Ethics Consultations.**
- All hospitals and other health care institutions should provide access to ethics consultation services.
- Members should include either individuals with extensive formal training and experience in clinical ethics or individuals who have made a substantial commitment over several years to gain sufficient knowledge, skills, and understanding of the complexity of clinical ethics.

AMA's Code of Medical Ethics

- Explicit procedural standards should be developed and consistently followed.
- In general, patient and staff informed consent may be presumed for ethics consultation. However, patients and families should be given the opportunity, not to participate in discussions either formally, through the institutional process, or informally.
- In general, ethics consultation services, like social services, should be financed by the institution.
- A consultation service should be careful not to take on more than it can handle.

What knowledge areas should an ethics consultant possess?

- Moral reasoning and ethical theory
- Bioethical issues and concepts
- Local healthcare institutional policies
- Clinical context
- Relevant health law
- Beliefs and perspectives of patient and staff population
- Relevant codes of ethics
- Guidelines of accrediting organizations

What is the prevalence of ethics consultation?

- 81% of US hospitals have some kind of ethics consultation service
 - Present in all hospitals with 400 or more beds
 - Dominant models:
 - Small team approach (68%)
 - Full Committee (23%)
 - Individual consultant (9%)
- E. Fox "Ethics Consultation in U.S. Hospitals: A National Study and Its Implications" Presentation at ASBH 2002. Cited in "Ethics Committees and Ethics Consultations." *Encyclopedia of Bioethics*. 2004

Four models of ethics case consultation

- Pure committee model (no ethics consultations, just committee work)
- Committee member as consultant (a committee member performs consultations but these are not systematically reviewed by the ethics committee)
- Post-facto committee review (the committee reviews the consultations after they have been performed)
- Pure consultation model (no ethics committee, just an ethics consultation service)

» Singer, Pellegrino, Siegler. Clinical Ethics Revisited. BMC Med Ethics. 2001; 2: 1.

Three Key Concerns

- Abrogation of moral decision making by the referring physician
- Usurpation of moral decision making by the ethics consultant
- Diffusion of responsibility within the ethics committee

– Singer, Pellegrino, Siegler. *Clinical Ethics Revisited*. BMC Med Ethics. 2001; 2: 1.

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What are the numbers?

- 29,000 individuals devoted more than 314,000 hours in 36,000 consults (Fox, et al, AJOB)
- 36% are physicians
- 30% are nurses
- 11% are social workers
- 10% are chaplains
- 10% are administrators
- Less than 1% are philosophers or theologians

– E. Fox "Ethics Consultation in U.S. Hospitals: A National Study and Its Implications" Presentation at ASBH 2002. Cited in "Ethics Committees and Ethics Consultations." *Encyclopedia of Bioethics*. 2004

Who requests ethics consultations?

- Physicians
- Nurses
- Family members
- Social Workers

– G. McGee, et al, "A National Study of Ethics Committees," *AJOB*, Fall 2001, Vol. 1, No. 4.

Availability of ethics consultation services

- According to a national survey of internists:
- (79%) reported that ethics consultation services were available at their predominant practice site
- 19% reported that such services were unavailable
- 2% did not know

– A National Survey of U.S. Internists' Experiences With Ethical Dilemmas and Ethics Consultation
Gordon DuVal, SJD; Brian Clarridge, PhD; Gary Genster, MS; Marion Danis, MD J Gen Intern Med 19(3):251-258, 2004.

What are the major issues involved in ethics consultations?

- Patient autonomy and decision-making capacity
- Improving Communications
- End of Life Care

What are the outcomes of ethics consultations?

- Recommendations to physicians and staff
- Communication with patient/family
- Consultations are documented

– G. McGee, et al, "A National Study of Ethics Committees," *AJOB*, Fall 2001, Vol. 1, No. 4.

Level of training for ethics consultants

- 5% had completed fellowship or graduate degree program
- 41% learned with formal, direct supervision
- 45% learned without formal, direct supervision

Level of experience

- 9%--less than one year of experience
- 53%--one to five years
- 27%--five to ten years
- 10%--more than 10 years

– (Fox, et al AJOB, Ethics Consultation in US Hospitals, vol. 7, no. 2, 2007)

What is the biggest challenge for ethics consultants?

- “Perhaps the biggest challenge in the immediate future, then, will be helping to ensure that ethics committee members and ethics consultants have adequate education and training to carry out the important work that is entrusted to them.”

– Mark P. Aulisio, “Ethics Committees and Ethics Consultation” in S. Post. *Encyclopedia of Bioethics*. 2004

Efforts to train ethics consultants

- Vast majority of individuals doing ethics consultation lack formal training
- The Neiswanger Institute launched an intensive workshop as part of our graduate program
- Series of simulations that involve standardized patients
- Participants act as consultants, are videotaped, and then given feedback.
