Clinical Ethics Consultations

Thalia Arawi, PhD
Director,
Salim El-Hoss Bioethics & Professionalism Program
Clinical Bioethicist
Vice Chair, Medical Center Ethics Committee

ta16@aub.edu.lb
What is a Clinical Ethics Committee?

Final treatment decisions are made between the attending physician and patient or surrogate-decision maker.
What is Clinical Ethics

Fletcher and Siegler define ethics consultation "as a service provided by an individual consultant, team or committee to address the ethical issues involved in a specific clinical case. Its central purpose is to improve the process and outcomes of patients' care by helping to identify, analyze, and resolve ethical problems".

Members should represent

• major medical departments
• other clinical departments (such as nursing, social work)
• Religious views
• hospital administration
• lawyer
• specific bioethics expertise
• the community

Members bring experience and expertise from their areas.
Common Ethical Issues

- Withholding or withdrawing treatment
- Do Not Attempt Resuscitation orders (DNR/AND)
- Identification of patient’s representative
- Advance directives
- Medical futility
- Informed consent
- Determining decision-making capacity
- Palliative care issues
- Conflict resolution
- Perinatal & neonatal issues
- Other
Ethics Committee recommended the Ashely Treatment
Born 1997 with static encephalopathy (permanent brain damage) of unknown etiology

Breathes on her own but unable to raise head up, sit up, hold and object, walk, talk, must be tube fed

2003 Signs of puberty

2004 received “Ashley Treatment”

• High doses of estrogen to halt growth
• Hysterectomy (ovaries were left intact)
• Breast bud removal
Was this right?

• Who should decide?
• Who should be involved when making the decisions?
• The fact is that the decision created a great deal of controversy.
• But it was done in good faith.
• The fact is also that HECs have been sued..
On this blog, Professor Thaddeus Pope tracks judicial, legislative, policy, and academic developments concerning medical futility and the limits on individual autonomy at the end of life.

Saturday, March 14, 2009

New Case -- Phebe Mantha -- Suing the Ethics Committee

More on this later..
Special Section: Healthcare Ethics Committees and Consultants: The State of the Art

Liability of Ethics Consultants: A Case Analysis

GORDON DUVAL
In an increasingly litigious clinical environment within an increasingly litigious society, persons exercising, or purporting to exercise, professional judgment should be aware that they may be held legally responsible for such judgments. Doctors, lawyers, accountants, and other professionals accept and undertake this responsibility as part of their working lives. While the likelihood of successful suit against an ethics consultant may be low, there is no doubt that consultants must accept the exposure to professional liability entailed by the fact that others turn to them for specialized advice and direction. If ethics consultants are to be acknowledged as professional members of a healthcare team, offering advice and insight meant to be of practical value in making difficult decisions about the care of patients, they bear the professional responsibility that attaches to such status.
Functions of a Clinical Ethics Committee

**Education**
- facilitate educational opportunities for healthcare professionals, patients, and their families.
- provide consultative services regarding ethical issues pertaining to a specific patient.

**Case Consultation**

**Policy**
- discussion and evaluation of policies and procedures having ethical implications.

MCEC
Some local HECs

Education

Case Consultation

Policy
The average hospital ethics committee receives \textbf{3} requests for case consultation per year.
the fact that many ECSs have a very low level of consultation activity may be cause for concern. Is there sufficient activity to develop and maintain the competencies required for the ethics consultation?
Since 2005, only 5 cases were referred to the medical center Ethics committee for recommendation.

Why?

What should be done?
A Closer Look at Case Consultations
The purpose of a consult

“Although it is generally agreed that neither ethics committees nor consultants should have decision making authority, they can advise physicians on ethical matters.”

(American College of Physicians Ethics Manual)
• “The central purpose [of an ethics consultation] is to improve the process and outcomes of patient care by helping to identify, analyze, and resolve ethical problems.”


Director of the Center for Biomedical Ethics at the University of Virginia
When is a Case Consultation Indicated?

- When requested by any involved parties.
- When there is a need to clarify ethical dimensions of treatment options.
- If disagreement about those options has arisen.
- When there is uncertainty, anxiety, or conflict regarding issues loaded with values.

Who should be entitled to ask for an ethics consult?

What is (are) the mechanism(s) for doing so?
Why is Consultation Important?

1. Joint Commission requires a mechanism for dealing with ethical dilemmas
2. Effective consultation increases the credibility of the clinical ethics committee
3. Effective consultation helps resolve conflict...which serves patients and families and may decrease litigation
4. Effective consultation provides much-needed support for clinical staff (and may decrease clinician burn-out)
Who is a Clinical Ethics Expert?

• Core Competencies:
  – Ethical Assessment Skills
  – Facilitation Skills
  – Interpersonal Skills

• Core Knowledge:
  – Ethical Theory
  – Current literature on common healthcare ethics concerns
  – Institutional context including policies and procedures
  – Cultural context of patients and staff
Core Competencies for Health Care Ethics Consultation

The Report of the American Society for Bioethics and Humanities

- 50 pages
- “report identifies core competencies identified as necessary for doing health care ethics consultation and is intended for ethics consultants, educational programs that help prepare individuals, teams or committees to do ethics consultations, and all health care organizations that offer ethics consultation services.” (American Society of Bioethics).
Clinical ethicists have ...

- the ability to identify ethical issues and sensitize others to these;
- the ability to acquire information relevant to decisionmaking;
- the ability to bring systematic thinking to bear on an ethical problem;
- the ability to make and defend sound ethical judgments;
- the ability to communicate effectively;
- the ability to mediate, negotiate, and arbitrate;
- the ability to recognize one’s own biases and, as much as possible, to leave aside personal beliefs where inappropriate;
- the ability to participate in group decisionmaking; and
- the ability to withstand the influence of public opinion and to question existing assumptions.

Type of case consultations
Informal Case Reviews

Clinicians informally asking an individual ethics committee member for information, elucidation, or an opinion about a certain issue or current case

This shows that committee members are, at least to some extent, being recognized, that they are credible, & approachable.
Informal Case Reviews

2 things the committee should be aware of…

1. Are committee members capable (and comfortable) providing reliable information in these instances?

2. Are committee members able to identify questions & cases which should be referred to the full committee?

The importance of training, education and experience in Clinical Ethics
Formal Case Reviews

Formal case reviews involve:

- Clarifying information
- Detecting communication gaps
- Facilitating an satisfactory resolution

Role of the clinical ethics committee

1. Gathering information
2. Clarifying relevant ethical issues to be resolved
3. Nurturing effective communication between different parties
4. Initiating an ethically appropriate resolution
What is the Method Followed in a Consult?

Several models exist. All have in common:

1. Assess medical indications.
2. Treatment: goals, probability, alternatives.
3. Patient capacity to participate in decision.
4. Identify ethical problems.
5. Patient preferences and values. Involve all relevant parties. “Open access” is the goal.

JCAHO: Patient must be involved and families may be involved “with permission of the patient or surrogate.”
The complaint alleges that doctors at Montreal Children's suggested the parents consider withdrawing life support as well as Phebe's feeding tube -- the parents agreed. But a month after Phebe's birth, the hospital ethics committee met without informing them, and decided to re-establish life support.
• 6. If patient lacks capacity, determine surrogate decision maker and advance directives.

• 7. Patient’s ensuing QOL

• 8. Plans for palliative care in case treatment is foregone.

• 9. Endeavor open, honest dialogue, without pressure.
Which principles should guide the process?

1. Beneficence and non maleficence
2. Autonomy
3. Preserve the dignity of the patient
4. Confidentiality (and exceptions)
5. Fairness
6. Fairness in resource allocation
7. Sensitivity to social, cultural language, and religious considerations
• 8. Awareness of legal and institutional considerations
• 9. Awareness of similar cases, for guidance
• 10. Control conflicts of interest
• 11. Professional integrity of health care providers

Thus the importance of having a multidisciplinary and diverse membership.

• 12. Promotion of trust among all parties
Principles and procedures of medical ethics case consultation

Ethical conflicts are common in hospital medicine. This article reviews core medical ethics principles, describes models for conducting hospital-based ethics case consultations, and highlights the contributions of hospital ethics committees to high quality patient care.
Should an ethics consultation note be placed in the medical record?
Putting Ethics Consult in the Medical Record

• “The attending physician...will be advised...to document...in the medical record that an Ethics Review was requested and the results of the meeting.”

Fletcher: Not documenting the consult in the patient’s chart a classic error in ethics services.
Including an Ethical Concerns section of the medical chart that specifically addresses how well the physician has recognized the patient’s experience of illness and incorporated that perspective in decision making is another step in improving efforts to ensure empathetic and ethical care.
Case is NOT closed

- Follow up outcome for benefit of people involved, for committee’s own experience, for hospital's information, and for possible relevance to future cases.
what is needed

Education

Case Consultation

Policy
Ethics Matters Lecture Series
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<td>Ethics and Pharmacogenetics</td>
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<td>Ethical Manufacturing and Marketing</td>
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<td>17-Nov-11</td>
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Public Health Ethics

Ethics of Organ Donation

Manufactured Medicine

Ethics and Patient Compliance

Changing Faces

Emergency and Disaster Ethics

Ethics and pharmacogenetics
Conferences and Workshops
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Important take home points

Publicity

(many do not know that MCEC is available at the hospital)

Appropriateness of consult

Adequate knowledge & training
MCEC Handbook

American University of Beirut Medical Center

Medical Center Ethics Committee Handbook
MCEC Website

http://www.aub.edu.lb/fm/shbpp/mcec/Pages/index.aspx
C.A.S.E.S. APPROACH
References

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- Ron Huff, Are Clinical Ethics Committees Effective
- Banerjee, Dipanjan; Principles and Procedures of Medical Ethics Case Consultations, British Journal of Hospital Medicine. March 2007, Vol 68, No. 3.
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Thank you