CLINICAL ETHICAL CONSULTATION IN DECISION MAKING PROCESS

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ABSTRACT

Making ethical health decisions often requires accumulated professional experience and wisdom in simultaneous interaction with known ethical principles of the medical profession. This overview article aims to explain how clinical ethics consultations influence decision-making in healthcare practice. Clinical ethics consultations support the ethical decision-making process, and the role of the clinical ethics consultant as a participant is to apply a widely accepted facilitating approach when dealing with an ethical case. Recommendations could be made at the request of stakeholders.

Keywords: clinical ethics consultation, decision-making, health care, ethical principles.

List of abbreviations:
COVID-19 – coronavirus disease 2019
USA – The United States of America
UK – The United Kingdom

RÉSUMÉ

Consultation éthique clinique dans le processus décisionnel

Prendre des décisions éthiques en matière de santé nécessite souvent une expérience et une sagesse professionnelles accumulées qui sont en interaction simultanée avec les principes éthiques connus de la profession médicale. Cet article de synthèse vise à expliquer comment les consultations d’éthique clinique influencent la prise de décision dans la pratique des soins de santé. Les consultations en éthique clinique soutiennent le processus de prise de décision éthique et le rôle du consultant en éthique clinique en tant que participant est d’appliquer une approche de facilitation largement acceptée lorsqu’il traite un cas éthique. Des recommandations pourraient être faites à la demande des parties prenantes.

Mots-clés: consultation en éthique clinique, prise de décision, soins de santé, principes éthiques.
INTRODUCTION

Decision-making in medical practice is different from other types of decision making. It is an extended process, requiring time to critically think about the health problem, to reduce uncertainty. When faced with a health issue, if no action is taken, the decision will be made by default. Such a decision can put the patient in a potentially risky situation. Making ethical health decisions often requires an extensive professional experience and wisdom in interaction with known ethical principles of the medical profession. The codes of ethics are always written broadly. Although they are applied in clinical practice, they are rarely used as a methodology for ethical decision-making. Clinical ethics consultations facilitate and support the ethical decision-making process and are provided by clinical ethics committees and consultants worldwide. There is no consensus on the form in which consultants should make recommendations, offer moral advice upon request, and express their personal opinion. Moreover, there is no unified opinion about the extent to which the acceptability of ethical consultations is advocated.

This overview article aims to explain how clinical ethics consultations influence decision-making process in healthcare practice. Four different conceptual domains, based on clinical ethics experience and preliminary literature searches, were investigated: the models of healthcare ethical decision-making, clinical ethics consultation, ethics reports, and ethical principles in clinical ethics consultation.

A systematic review of scientific publications was performed in accordance with the recommendations of the Cochrane Collaboration and the Guide to Preferred Elements for Reporting Systematic Reviews and Meta-Analyses. An active search for scientific publications was conducted using the following keywords: clinical ethics consultation, decision-making, health care and ethics report, in PubMed/MEDLINE databases. The articles were published between January 1990 and July 2023. A total of 272 publications were found, and 36 articles were removed because no abstract was available.

MODELS OF ETHICAL DECISION-MAKING

From 236 screened studies, 28 articles presented models and frameworks for ethical decision-making when considering ethical situations, dilemmas, and approaches in clinical medical practice. Most studies (71.4%) were conducted in the United States of America (USA), Canada and the United Kingdom (UK). Randomized controlled trials to evaluate the decision-making approaches are extremely difficult to apply and qualitative exploratory approaches were used in most studies.

The number of studies on ethical decision-making approaches in medical practice has increased over the past decade, but a sharp decline in reports is obvious after 2018. This fact could be a result of the coronavirus disease 2019 (COVID-19) pandemic and the change in the types of ethical situations observed in healthcare services and daily medical practice. We can expect that pandemic situations will, in some form, also change the ethical situations in which patients and health professionals find themselves.

All healthcare providers struggle to establish ethical decision-making standards to provide guidance in a challenging practice environment. Practitioners do not always have complete control over the situations they are forced to face. Ethical decision-making skills are supported by studying cases and applying a strategy (model) to deal with ethical problems.

Despite the large number of scientific articles related to ethical approaches in healthcare decisions, articles that analyse a specific model or framework for dealing with ethical situations and emerging ethical dilemmas are relatively few. There are general frameworks for ethical decision-making that are developed by healthcare institutions and applied as a common framework in different clinical and organizational contexts.

An example of such a general framework is the ‘four boxes’ approach developed by Jonsen, Siegler and Winslade. The quadrants of Jonsen’s four topics approach are medical indications, patient preference, quality of life and contextual issues. In many cases, medical staff are trained to use a basic ethical framework such as the four boxes without the involvement of ethics consultants themselves. In this approach, the ethicist maintains neutrality. The clinical moral reasoning approach incorporates philosophical insights framed in a structured thought process that is styled after the systematic approaches to medical thinking that clinicians are trained to employ. This approach follows all procedural and technical implementation frameworks, which are also accepted as standards in the profession. Many times, however, even when the standard is fulfilled, because of the individual nature of each clinical case, the results of such decisions may remain unsatisfactory. Using this approach, the patients are not always protected from not receiving health care because they cannot meet the standard. At the base of the narrative approach there is the medical care and successful decision-making depends on whether physician and patient share the same goals. Narrative ethics requires that a healthcare practitioner get to know and understand the
patient’s personal needs and desires, and refrain from making decisions without taking these aspects into consideration. However, such an approach is often limited in time, since no matter how much the patient talks, he/she may still not share his/her feelings or experiences, which will not be considered when making a decision. The ethics of care-based approach concentrates more on the responsibilities for relevant ethical decisions rather than emphasizing the ‘duties’. This approach is not only the application of ethical principles in a particular situation because it recognizes that each situation has an unique context which prevents comparing one situation to another. It also attempts to account for imbalances in health authorities, exploring dependencies and vulnerability and giving a ‘voice’ to those who are not usually heard. The care-based approach follows the ethical standard “do unto others as you would have them do unto you”. The approach is good, but when it comes to the responsibility of the decision taken, the patient may fall into hesitation, which often stems from fear for his health condition or due to a form of decision-making incompetence. However, concern for the patient’s condition always helps to reduce his fear. In recent decades, the so-called shared decision-making approach has been widely applied, as shown by the analysis of the present studies. This approach implies not only concern, but also communication and a kind of training of the patient through what he must go through. The three essential elements of shared decision-making are: recognizing and acceptance that a decision is required, acknowledging and understanding the best available evidence-based options, and incorporating the patient’s values and preferences into the decision.

Some ethical decisions require goal-based frameworks which serve as a guide to make decisions about a specific type of clinical or organizational ethics. These frames are used for subspecialties of health ethics such as organizational, clinical, professional, business, education, and research ethics. Goal-based frames can be applied to more complex problems which are also expected to be repeated within a healthcare organization. Such frameworks can also be developed in emerging crises to prepare for the difficult solutions that are expected. The goal-based approach follows the ethical principle of beneficence ”do whatever produces the greatest good for the most people”. The results of this approach appear to be good for all stakeholders. A goal-based approach is more concerned with the common good of society and may be detrimental to the specific needs of the patient. A similar approach is applied in cases of a pandemic situation and large-scale crises situations.

**Clinical Ethics Consultation**

Clinical Ethics Consultation is an advisory service designed to assist patients, families, and all health care professionals in identifying, analyzing, and resolving ethical dilemmas and issues. Making a decision in medical practice requires both knowledge and professionalism, as well as skills in the art of ethical decision making. Of the known approaches to clinical ethics consultation, most studies used an ethics facilitating approach adopted by the American Society for Bioethics and Humanities’ Core Competencies. The authoritarian approach, in which the clinical ethicist adheres to his own convictions, has been abandoned by ethicists. A pure consensus approach is also inappropriate, as it aims to achieve agreement between stakeholders on patient care without taking ethical norms into account. In the screened studies, the clinical ethics services and consultations have been used as a mandatory part of developing standards, protocols or guidelines for practice, diagnostic investigations and treatment options, participation in shared decision-making, clinical trials, randomized controlled trials, meta-analysis and systematic reviews. The rest of the reviewed studies mention the use of ethics consultations without a clear understanding of the role of clinical ethics services. Clinical ethics consultations are desirable and significantly more frequent, but they vary in form and function. There are not enough recommendations for a minimum standard to meet clinical ethics consultation. Jansen presents three main branches of clinical ethical services: individual case consultations and policy work, education for clinical staff, and scientific medical research.

Each of the principles of ethics must be accepted as a basic duty by the ethical consultant, which must be fulfilled unless it conflicts, in a particular case, with another ethical principle. Fundamentally, most ethical consultations in the everyday clinical practice are due to a conflict of competing ethical principles. An example of a conflict in ethical principles that can be easily resolved is: a patient who needs fluid resuscitation and the placement of an intravenous catheter which is causing pain and swelling. Here, the principle of beneficence prevails over the principle of non-maleficence. Thus, the construction of a standard tool for assessment is a relatively easy scenario for doctors and clinical ethicists to deal with. If a conflict is a result of a misunderstanding of information and patient self-condition or treatment options, a facilitating approach may help to resolve the ethical conflict. Many of the decisions that doctors and patients need to make are more complex and complicated, such as...
for example, the patient’s refusal of a potentially life-saving intervention. The solutions are also complex and complicated when they refer to large health policy situations such as pandemics. Most studies in the present series point to the preservation of neutrality in the absence of clear recommendations from ethicists. The more pronounced the conflict between ethical principles, the more complicated is the work of ethical specialists, and neutrality in these cases contributes to the pacification of the parties who need to make a decision. The lack of clearly defined rules for ordering ethical principles by priority, as well as the change of health models and policies in some form, change the ethical situations in which patients and health professionals find themselves. This may explain the lack of standardized organizational policies that define clinical ethics consultation, training and education of consultants. Thus, clinical ethics consultants do not have a clear perspective on what the purpose of ethical practices should be: mediating ethical relationships, facilitating clinical ethical decisions, or generating recommendations.

Scoping the literature, many of the practitioners in clinical ethics have dismissed the practice of expressing recommendations and the role of the consultant is to identify possible options. In the presence of more than one possible ethically acceptable decision-making option, the choice remains to be made by the parties concerned and the ethics consultant can provide direction on the possible options. When only one of the identified courses of action is ethically appropriate, he/she should state why others are not.

**Ethical reports**

According to the “Update on Core Competencies and Emerging Standards” from the American Society for Bioethics and Humanities’ Core Competencies, every healthcare department should have a health clinical ethics policy which corresponds to five standards: 1) open access (affordable and available ethical services), 2) a thorough, systematic process for conducting each ethical consultation, 3) notification (patient and the attending physician should be informed that an ethics consultation has been requested), 4) documentation (in the ethics consultation office’s internal records and in patient’s health record) and 5) assessment, quality review and process improvement. The results of the ethics consultation are described in the ethics services office and in the patient’s record. The ethics consultant can provide recommendations and expert opinions if requested.

In a few studies, the authors emphasize that there is no clarity about what an ethical expertise should look like. Basically, it is important to organize the relevant expert ethical opinions in three levels: the basic core ethics, normative ethics and applied ethics. The core ethical expert opinion rests on knowledge of ethical theories, professional standards and legal frameworks. Normative expert opinion is based on known moral standards, which are most often described in ethical codes. However, compliance with the standards imposed by the codes of ethics often appears to protect the interests of the profession more than they offer a broad and unbiased moral perspective. This means that they are written to serve doctors in the practice of their profession and there is no code of ethics to which the treated patients can adhere. An expert opinion in the field of applied ethics requires exceptional knowledge of the consultant’s established principles, rules, norms and frameworks that should guide the activity of ethical consultations and define their limits.

**Ethical principles in clinical ethics consultation**

In the analysed articles, the discussion of ethical principles occupies a small part. When ethical consultation is primarily concerned with accepted standards and codes of ethics, it would be useful to note which core ethical principles will be relied upon. Beneficence, non-maleficence, autonomy, and justice make up the four principles of ethics. The first two principles (beneficence and non-maleficence) can be traced back to the time of Hippocrates (“to do good and to no harm”), while the last two principles (autonomy and justice) developed later. However, over time, both autonomy and justice were accepted as important principles in ethics. In the classic approach of John Stuart Mill, autonomy is accepted primarily as the freedom of action and thought of the individual engaged in the social world. In Immanuel Kant’s work, autonomy is connected primarily in terms of the will. In such a way, autonomy is idealized and transformed into an ethical value or principle related to the will of the self-ideal. Such idealized autonomy sets standards that are often far away from everyday medical practice. On the other hand, autonomy and justice seem to be contrary to some understandings of people living today. A good example of autonomy and justice being possible in ideal conditions is the transgression of these principles in pandemic conditions when, for one reason or another, people were forced to adopt behaviours that were sometimes radically different from their views and beliefs. In these cases, beliefs, and convictions that the behaviour adopted during a pandemic by rulers and competent authorities are related to a fundamental principle of “welfare for all” stood above the principle of autonomy and justice for the specific individual. It is evident from the current
state of health care and social functioning that absolute autonomy and justice are ideals that cannot be achieved. The aspiration of ethical consultants is to guide real ethical dilemmas to resolution in a direction approaching autonomy and justice, which will pacify the stakeholders. The ethics consultant must remember this and should not waste resources on achieving utopian autonomy and justice.

**Conclusions**

All healthcare providers struggle to establish ethical decision-making standards to provide guidance in a challenging practice environment. Ethical decision-making skills are supported by studying cases and applying a strategy (model) to deal with ethical problems.

Clinical ethics consultations are desirable and significantly more frequent, but they vary in form and function. There are not enough recommendations for a minimum standard to meet clinical ethics consultation. Fundamentally, most ethical consultations in everyday clinical practice are due to a conflict of competing ethical principles. The lack of clearly defined rules for ordering ethical principles by priority, as well as the change of health models and policies in some form, changes the ethical situations in which patients and health professionals find themselves. This may explain the lack of standardized organizational policies that define clinic ethics consultation, training and education of consultants.

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**Author Contributions:**

V.B.G. conceived the original draft preparation. V.B.G. was responsible for conception and design of the review. V.B.G. was responsible for the data acquisition. V.B.G. was responsible for the collection and assembly of the articles/published data, and their inclusion and interpretation in this review. V.B.G. has read and agreed with the final version of the manuscript.

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