

Balancing the perspectives. The patient's role in clinical ethics consultation

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Abstract. The debate and implementation of Clinical Ethics Consultation (CEC) is still in its beginnings in Europe and the issue of the patient's perspective has been neglected so far, especially at the theoretical and methodological level. At the practical level, recommendations about the involvement of the patient or his/her relatives are missing, reflecting the general lack of quality and practice standards in CEC. Balance of perspectives is a challenge in any interpersonal consultation, which has led to great efforts to develop "technical" approaches, e.g., in psychological counseling or psychotherapeutic treatment. In ethics, unbalance or partiality is a matter of justice and has provoked significant theoretical work, also relevant for practical medical ethics. A lack of balance seems to be particularly serious in those situations, where ethical conflict is triggering a consultation and where the "parties" involved may try to persuade the consultant that their particular opinion is the most convincing; but to our knowledge the connection between patient/relatives involvement and balance has not yet been discussed in the context of CEC. Central questions of access and involvement of the patient and his/her relatives will be analysed and discussed regarding the challenge of balance and the adequate role or attitude of a Clinical Ethics Consultant. It is argued that the Clinical Ethics Consultant should have a methodological awareness regarding the concepts of "neutrality" versus "advocacy" in his/her role and try to achieve a balanced procedure that allows for an optimum of change of perspectives. The argumentation is developed along the narrative of a real case study. Recommendations concerning the involvement of (the perspectives of) the patient or the relatives are formulated for the practice of CEC.

Key words: advocacy, balance of perspectives, Clinical Ethics Consultation, family, hospital ethics committee, patient rights, neutrality, recommendations, role of ethics consultant

1. The problem of unbalance in Clinical Ethics Consultation

How can Clinical Ethics Consultation cope with the risk of unbalance related to who is presenting and discussing the problem? What is the best attitude for the consultant: advocacy or neutrality? How can we approach a balanced procedure vis-à-vis the conflicts of interests where the "veil of ignorance" obviously cannot be applied? Is multi-directional partiality an option reconciling the two oppositions?¹

In Clinical Ethics Consultation (CEC) we often deal with a patient's known or unknown wishes, with doctors' obligations, and with various key issues like "dying with dignity," but mostly we are struggling with ethical ambiguity and conflict. Conflict is not the only matter of ethics, but in medical and health care ethics it is certainly a dominant one.² Therefore, it is surprising that the role and attitude of a clinical ethics consultant have rarely been studied concerning advocacy or neutrality towards the conflicting interests of the parties involved. As a first working hypothesis – lacking sound empirical data – we assume (1) that CEC

is generally triggered by a conflict, mostly initiated by health care professionals seeking assistance to solve a problem. We may as well expect (2) that most ethicists will be very aware of patient rights as a central ethical dimension to reflect upon, and that some may tend to ally with the patient's party (2a), whereas others will identify more with the colleagues caring for the patient, doctors or nurses (2b). There is, and this is our third assumption (3), no "natural neutrality" in the role of the clinical ethics consultant (CECo); we can rather assume that unbalance is inherent in CEC, at least in the beginning of the process, where much information is missing and a full change of all perspectives is not present. Therefore, the question has to be answered how the CECo may handle the various loyalties and on which theoretical grounds.

2. Which way to go in Europe?

Experiences with "clinical ethics" in Germany seem to rely much on the organisational challenges of building hospital ethics committees, especially in hospitals