MEDICAL ETHICS ADVISOR®

FOR OVER 25 YEARS, YOUR PRACTICAL GUIDE TO ETHICS DECISION MAKING

FEBRUARY 2017 Vol. 33, No. 2; p. 13-24

INSIDE

AHC Media

ASBH to Address Lack of National Standard for Ethics Consultation

Consistent quality 'pivotal to the legitimacy of what we do'

Evaluation of individuals who perform healthcare ethics consultations (HCECs) varies widely. In some cases, it doesn't occur at all.

"We would never tolerate that for any other clinical intervention, be it bypass surgery or primary care," says **Joseph J. Fins**, MD, MACP, chief of the division of medical ethics at Weill Cornell Medical College in New York City.

Ethics consults often involve some of the most important decisions in the hospital, notes Fins. Ethicists routinely help to resolve issues such as whether life-sustaining therapies will be continued or withdrawn, or whether a patient's religious beliefs are respected or not in the context of a medical need, for instance.

"We need to assure the American public that people who are doing ethics consults are capable of doing so," says Fins. "It's pivotal to the legitimacy of what we do."

The American Society for Bioethics and Humanities (ASBH) recently

MEDICAL ETHICS ADVISOR SPOTLIGHTS QUALITY

This month's issue of *Medical Ethics Advisor* is a special issue on quality and ethics. Our cover story reports on efforts to create a national standard for individuals who perform clinical ethics consultations. Inside, we cover standards for training on clinical ethics consults, how to demonstrate providers' satisfaction with ethics consults, how to begin to assess the quality of an organization's ethics program, the VHA's comprehensive approach to ethics evaluation, a growing trend of ethicists seeing more complex cases, and new research on identification of quality measures for ethics consults.

Financial Disclosure: Consulting Editor **Arthur R. Derse**, MD, JD, Nurse Planner **Susan Solverson**, BSN, RN, CMSRN, Editor **Jill Drachenberg,** Ebook Design Specialist **Dana Spector,** and Contributing Editor **Stacey Kusterbeck** report no consultant, stockholder, speakers' bureau, research, or other financial relationships with companies having ties to this field of study.

MEDICAL ETHICS ADVISOR®

Medical Ethics Advisor®,
ISSN 0886-0653, is published monthly by
AHC Media, LLC
One Atlanta Plaza
950 East Paces Ferry Road NE, Suite 2850
Atlanta, GA 30326.

Periodicals Postage Paid at Atlanta, GA 30304 and at additional mailing offices.
GST Registration Number: R128870672.

POSTMASTER: Send address changes to:
Medical Ethics Advisor
P.O. Box 550669
Atlanta, GA 30355.

SUBSCRIBER INFORMATION:
Customer Service: (800) 688-2421.
Customer.Service@AHCMedia.com.
AHCMedia.com
Hours of operation: 8:30 a.m.-6 p.m. Monday-Thursday; 8:30 a.m.- 4:30 p.m. Friday.

SUBSCRIPTION PRICES:
U.S.A., Print: 1 year (12 issues) with free CE nursing contact hours, $519. Add $19.99 for shipping & handling. Online only, single user: 1 year with free CE nursing contact hours, $469. Outside U.S., add $30 per year, total prepaid in U.S. funds.

MULTIPLE COPIES: Discounts are available for group subscriptions, multiple copies, site licenses, or electronic distribution. For pricing information, please contact our Group Account Managers at Groups@AHCMedia.com or (866) 213-0844.

ACCREDITATION: AHC Media, LLC is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians.

AHC Media, LLC designates this enduring material for a maximum of ***18 AMA PRA Category 1 Credits™***. Physicians should only claim credit commensurate with the extent of their participation in the activity.

Relias Learning, LLC is accredited as a provider of continuing nursing education by the American Nurses Credentialing Center's Commission on Accreditation. This activity has been approved for 1.5 nursing contact hours using a 60-minute contact hour.

This activity is intended for acute care physicians, chiefs of medicine, hospital administrators, nurse managers, physician assistants, nurse practitioners, social workers, and chaplains. It is in effect for 36 months from the date of publication.

Opinions expressed are not necessarily those of this publication. Mention of products or services does not constitute endorsement. Clinical, legal, tax, and other comments are offered for general guidance only; professional counsel should be sought for specific situations.

EDITOR: Jill Drachenberg
(jdrachenberg@reliaslearning.com)
EBOOK DESIGN SPECIALIST: Dana Spector
SENIOR ACCREDITATIONS OFFICER: Lee Landenberger.

EDITORIAL QUESTIONS
Questions or comments?
Call **Jill Drachenberg** at (404) 262-5508

surveyed practicing ethics consultants across the country to assess their interest in a possible certification program. The survey will also define the knowledge and skills that they use in their practice.

Current ASBH president **Amy M. Haddad**, PhD, expects the study's findings to be considered at the board's spring 2017 meeting.

"If the market research proves that a voluntary certification program is sustainable, the information we have gathered about knowledge and skills will form the foundation of a credible, defensible certification program to improve the quality of HCEC services," reports Haddad, director of the Center for Health Policy and Ethics and Dr. C.C. and Mabel L. Criss endowed chair in the health sciences at Creighton University in Omaha, NE.

The ASBH survey included questions on ethicists' background, work setting, and the core skills they rely on during consults, such as assessment, analysis, and moral reasoning. "A rating scale allowed respondents to express their judgment of the significance of each area as it applies to their current role in HCEC," Haddad explains.

During his tenure as ASBH president, Fins convened a task force that took the first steps to assess the competence of clinical ethics consultants.[1] "It's untenable that clinical ethical consultation is not the object of some type of assessment and certification process," Fins states. "It's a patient safety issue."

A recent study demonstrated that using portfolios as an evaluation tool for quality of clinical ethical consultation is a feasible approach.[2]

"We were able to demonstrate that we could assess the complex process of ethics consultation, with concurrence between reviewers," says Fins. "That was a tremendous step forward in a rather nebulous area of assessment."

The researchers view their findings as important progress toward an eventual certification process for clinical ethics consultants. "Conceptually, we proved it was doable. The next challenge will be implementation," says Fins.

Fins believes a national standard is necessary for clinical ethicists to be taken seriously in a healthcare climate increasingly focused on outcomes and evidence-based standards.

"If we don't seize the moment, it might jeopardize the field," Fins says. "A standard is needed so people with similar kinds of dilemmas and

EXECUTIVE SUMMARY

The American Society for Bioethics and Humanities (ASBH) is considering developing a national standard for assessment of individuals who perform clinical ethics consultations.

- Some ethicists believe a national standard is necessary for clinical ethicists to be taken seriously in a healthcare climate increasingly focused on outcomes and evidence-based standards.
- ASBH recently surveyed practicing ethics consultants across the country to assess their interest in a certification program, and define the knowledge and skills they use in their practice.
- The results will help the ASBH board of directors determine whether to move forward with a national certification program.

problems are treated in a consistent fashion, as we would expect for any other clinical activity."

Fins notes that important medical/legal decisions in the hospital setting are often handled by ethics committees.

"We have authority in hospitals, that in a sense, courts have ceded to us going back to Quinlan," Fins says. "If we do not have a process that can withstand rigorous scrutiny, others will begin to question the legitimacy of the activity."

How a certification process would be funded, and whether individuals who perform ethics consults would be willing to pay for certification, are important questions. "Establishing a national standard is not only a methodological problem to solve — it's also a political and financial challenge," says Fins.

To explore these issues, ASBH is currently conducting market research to assess the fiscal sustainability of a voluntary certification program. "The steps currently underway are designed to meet industry standards for legal defensibility and credibility," Haddad explains. Criteria for accreditation, as established by organizations such as the National Commission for Certifying Agencies, must also be met.

Alexander A. Kon, MD, FAAP, FCCM, president-elect of ASBH, says that in order to obtain robust data, ASBH sent surveys to all known and potential healthcare ethics consultants throughout the U.S. "Based on the findings of this project, the ASBH board of directors will consider whether to move forward with a national certification program," says Kon, clinical professor of pediatrics at University of California, San Diego School of Medicine.

The market research portion of the project is designed to assess interest among those currently providing HCEC services throughout the United States in obtaining national HCEC certification. This will provide data regarding feasibility and sustainability of national certification.

"The role delineation portion of the survey will provide a snapshot of what current healthcare ethics consultants do on a day-to-day basis," explains Kon. This will shed light on what knowledge and skills consultants use in practice — necessary information for development of professional certification examinations.

"Therefore, this information is imperative if national certification in HCEC is to meet standards set by organizations that certify such professional certification programs," says Kon.

Exciting Time for Ethics

Lack of standards for what qualifies an individual to provide ethics consults results in "tremendous variability in terms of quality of such services," says Kon.

Hospitals may simply relegate this important task to individuals who are willing to take on the role, but lack the necessary expertise. "Assigning this task to individuals who lack appropriate education and training can — and often does — lead to substandard decision-making, and therefore, suboptimal patient care," says Kon.

Creating standards for education and training, coupled with a national certification program, "has the potential to dramatically improve patient care," says Kon. It also promises increased respect and credibility for the field. "As seen in other fields in healthcare — medicine, nursing, social work, chaplaincy, and pharmacy — as standards are promulgated, and professionals seek state or national certification, the quality of care improves," says Kon.

With standards in place, adds Kon, "it is likely that facilities will be more willing to provide adequate funding for HCEC services, which is sorely needed."

Haddad is enthusiastic about the future. "This is an exciting time for the field of clinical ethics consultation," she says. ■

REFERENCES

1. Kodish E, Fins JJ, Braddock C, et al. Quality attestation for clinical ethics consultants. *Hastings Cent Rep* 2013; 43(5): 26–36.
2. Fins JJ, Kodish E, Cohn F, et al. A pilot evaluation of portfolios for quality attestation of clinical ethics consultants. *Am J Bioeth* 2016; 16(3):15-24.

SOURCES

- **Joseph J. Fins**, MD, MACP, E. William Davis, Jr., MD Professor of Medical Ethics and Chief, Division of Medical Ethics, Weill Cornell Medical College/Director of Medical Ethics, New York-Presbyterian Hospital/ Weill Cornell Medical Center, New York City. Phone: (212) 746-4246. Fax: (212) 746-8738. Email: jjfins@med.cornell.edu.
- **Amy M. Haddad**, PhD, Director, Center for Health Policy and Ethics/ Dr. C.C. and Mabel L. Criss Endowed Chair in the Health Sciences, Creighton University, Omaha, NE. Phone: (402) 280-2164. Fax: (402) 280-5735. Email: ahaddad@creighton.edu.
- **Alexander A. Kon**, MD, FAAP, FCCM, Clinical Professor of Pediatrics, University of California, San Diego School of Medicine. Email: kon.sandiego@gmail.com.

No Current Standards for Training on Ethics Consults

The Association of Bioethics Program Directors (ABPD) is currently considering standards for healthcare ethics consultation training programs. "There are currently no clear standards for training clinical ethics consultants," says **Amy L. McGuire**, JD, PhD, current president of ABPD. McGuire is Leon Jaworski professor of biomedical ethics and director of the Center for Medical Ethics and Health Policy at Baylor College of Medicine in Houston.

"As a result, it is difficult to assess the competence of an individual who completes a training program and professes to have expertise in clinical ethics consultation," says McGuire.

The purpose of developing standards for training programs is to ensure that all clinical ethics consultants who graduate from training programs are proficient in the core competencies required to conduct ethics consultations.

"There is really no other aspect of patient care that does not require training in a program of demonstrated quality to meet industry standards," says McGuire.

ABPD looked at accreditation and evaluation standards for different fields. **David Magnus**, PhD, a past president of ABPD and chair of the workgroup that addressed the development of training standards,, notes, "There was a lot of heterogeneity in the quality of the assessments. Frankly, accreditation in some fields is not worth having." For instance, one clinical field requires a financially stable program and a certain number of hours in practice, but has absolutely no content requirements for accreditation.

Magnus says that in most fields, including medical specialties, there are significant deficiencies in how educational programs are actually evaluated, compared to what the literature says is necessary for valid evaluations.

"So while we thought — and still think — accreditation is worthwhile, we want to take the time to do it right," says Magnus, director of Stanford (CA) Center for Biomedical Ethics and Thomas A. Raffin professor in medicine and biomedical ethics at Stanford University.

ABPD developed a self-study guide for ethicists to put together a substantial amount of information about their program. "The problem was in defining what counted as passing," says Magnus.

Magnus feels certification of individual practitioners will be needed to motivate programs to be accredited. "The accreditation will need to provide an output to assist in program evaluation, rather than relying solely on 'environmental' assessment of the educational program through information provided by the programs," says Magnus.

Programs that have fellowships in clinical ethics have made efforts to agree on standards. "But to date, consensus has been elusive," says Magnus.

There are substantial differences of opinion about how many hours and cases a trainee needs to lead, and how much philosophical and ethical background a trainee should have prior to a fellowship.

"We expect to continue to work to see if we can achieve consensus, and potentially bring any disagreement to the larger ABPD group to adjudicate the differences," says Magnus. ■

SOURCES

- **Amy L. McGuire**, JD, PhD, Leon Jaworski Professor of Biomedical Ethics/ Director, Center for Medical Ethics and Health Policy, Baylor College of Medicine, Houston. Phone: (713) 798-2029. Fax: (713) 798-5678. Email: amcguire@bcm.edu.
- **David Magnus**, PhD, Director, Stanford (CA) Center for Biomedical Ethics. Phone: (650) 723-5760. Email: dmagnus@stanford.edu.

Want to Assess Ethics? Clear Standards are a Good Start

As a consultant who helps healthcare organizations with their ethics programs, **Ellen Fox**, MD, often finds people want to evaluate quality but don't know where to begin.

"When they look to the published literature for help, the evaluation methods they read about seem overly complicated, or impractical, or not a good fit for their organization," says Fox, director of the Washington,

DC-based Center for Ethics in Health Care of Altarum Institute. Fox is professor of bioethics at Clarkson University in Potsdam, NY, and founder of Fox Ethics Consulting in Arlington, VA. She suggests starting with the following three questions:

1. Have we established clear and specific quality standards?

Few organizations have clear and specific policies to guide the practices of their ethics programs. Establishing these is a good starting point, according to Fox.

Many hospital policies aren't specific enough for evaluation purposes. For example, a policy might say that members of the consult service will interview the patient and other stakeholders "as appropriate."

"To be useful for quality evaluation, this standard would need to clearly specify who should be interviewed under what circumstances," says Fox.

2. Are the quality standards we have established consistent with widely accepted industry standards?

"Some hospitals have established clear standards that are problematic," says Fox. For example, an ethics consult service might have a policy that says only attending physicians can request ethics consultations — whereas the accepted industry standard is that anyone with standing in a case should be able to request an ethics consultation.

"While there is no single authoritative source for quality standards in ethics consultation, I recommend two resources that were extensively vetted by stakeholders from multiple healthcare organizations," says Fox. These are the American Society for Bioethics and Humanities (ASBH)'s Core Competencies for Healthcare Ethics Consultation *(http://bit.ly/2iFCYwG)* and the VHA's primer on Ethics Consultation *(http://www.ethics.va.gov/ECprimer.pdf)*.

3. Are we consistently following our own quality standards?

"Some hospitals have clear standards, but they don't follow them — or at least not consistently," says Fox. Fox recently consulted for a healthcare system with detailed policies on ethics consultation procedures. "But when I interviewed stakeholders at one of the system's hospitals, they told me that the policies were completely ignored," says Fox.

Once clear standards are established, it's a relatively simple matter to assess program performance relative to those standards. "I often recommend to hospitals that they do this sort of evaluation before they undertake evaluations of other things such as access, satisfaction, or outcomes," says Fox.

Fox was lead author of a 2007 national study on ethics consultation in U.S. hospitals, which found that only 28% formally evaluated the consultations they performed.[1] In almost half of hospitals that had a formal evaluation process, the process involved nothing more than an internal review and discussion of case records by members of the consult service.

"The study is more than 15 years old, so the situation may have changed," Fox acknowledges. "But in my experience, rigorous evaluation of ethics consultation services is still rare."

Updated Data Coming

Updated data on evaluation practices are forthcoming, with a research study underway at the Altarum Institute's Center for Ethics in Health Care. "We will ask a random sample of 600 U.S. hospitals about their ethics consultation practices and their views on potential improvement strategies," says Fox. The study, funded by the Greenwall Foundation, will answer the following questions:

- How have ethics consultation services changed since the prior national study?
- How do ethics consultation practices compare with the standards articulated in the ASBH Core Competencies report?
- What do ethics practitioners think about ethics consultation? For example, do they believe the resources devoted to ethics consultation are sufficient?
- What strategies to improve ethics consultation do they think would be most effective?
- How much do hospital administrators know about ethics consultation services? Do their perspectives differ from those of ethics practitioners?

Part two of the study will involve a systematic review of 300 ethics consultation records from 100 hospitals.

"We are developing and testing a new tool to score the quality of these records, building on the Ethics Consultation Quality Assessment Tool I developed with my former colleagues at VA's National Center for Ethics in Health Care," says Fox. ■

REFERENCE

1. Fox E, Myers S, Pearlman RA. Ethics consultation in United States hospitals: a national survey. *Am J Bioeth* 2007; 7(2):13-25.

SOURCE

- **Ellen Fox**, MD, CEO, Fox Ethics Consulting, Washington, DC. Email: EllenFoxMD@gmail.com.

Ethicists Demonstrate Benefits by Surveying Clinicians

In **Lucia D. Wocial**, PhD, RN's experience, systematic quality assurance for ethics is performed "rarely, if at all," due mainly to lack of time and resources. Many consultation services rely on volunteers, with no organizational supports to conduct regular quality monitoring of their activity.

"Without resources, it is unrealistic to expect volunteers to add this to the list of other duties," says Wocial, a nurse ethicist at Fairbanks Center for Medical Ethics at Indiana University Health in Indianapolis. Lack of clear criteria on which to measure quality are another obstacle.

Yet, ethicists are being called to consult on increasingly complex cases involving a new category of patients — the "chronically critically ill," says Wocial. Many patients have multiple comorbidities with chronic illnesses that have no clear trajectory. People live with heart failure and chronic obstructive pulmonary disease much longer, for instance. "But they have the need for hospitalization periodically long before they are on a clear downward trajectory where it is clear that they are dying," Wocial explains.

This is complicated by situations with no clear surrogate decision-maker, where surrogate decision-makers are themselves in frail health, or when there is conflict among them.

"Probably the biggest challenge is when a patient's medical illness is complicated by a psychiatric illness, sometimes undiagnosed," says Wocial.

When evaluating the quality of ethics consults, Wocial says the following are important questions:

- Does the consult occur in a timely fashion?
- Is there evidence that ethicists follow a standard process once their help is requested?
- Do ethicists keep a record of their activity?
- What was the outcome on the patient's plan of care after the ethics consultation?
- What was the effect on the members of the healthcare team, the patient, and the patient's family?

"It is also important to have a transparent review, with discussion about cases and consult team activities in an open forum," adds Wocial.

Wocial and colleagues recently conducted a study to assess clinicians' experience with ethics consults.[1] They concluded that ethics consultation offers meaningful support when clinicians face ethically challenging cases.

"The impetus was, in part, the ASBH core competencies and publications that suggested ethics consultants had an obligation to demonstrate the value of their work — and a genuine desire to evaluate our service," says Wocial.

Researchers interviewed 123 clinicians who initiated an ethics consultation, were interviewed during the course of an ethics consultation, or were present at a patient care conference attended by an ethics consultant. Some key findings include the following:

- More than 60% felt the consultation helped clarify their own values, and those of the patient and family.
- Only 32% indicated the patient's plan of care changed as a result of the ethics consultation. "However, 75% indicated their confidence in the plan of care increased as a result of the ethics consultation," says Wocial.

The group used the positive results to underscore the value of the service to hospital leaders. "The hope is that we can identify meaningful metrics that would result in increased resources to sustain the quality work made possible by the grant to do the study," says Wocial. ■

EXECUTIVE SUMMARY

Ethicists at Indiana University surveyed clinicians about their experience with ethics consultation. Findings include the following:

- Most clinicians reported the consultation helped clarify the values of the individuals involved.
- About a third said the patient's plan of care changed as a result of the ethics consultation.
- Ethicists used the positive results to underscore the value of the service to hospital leaders.

REFERENCE

1. Wocial LD, Molnar E, Ott MA. Values, quality, and evaluation in ethics consultation. *AJOB Empirical Bioethics* 2016; 7(4):227-234.

SOURCE

- **Lucia D. Wocial**, PhD, RN, Nurse Ethicist, Fairbanks Center for Medical Ethics, Indiana University Health, Indianapolis. Phone: (317) 962-2161. Email: lwocial@iuhealth.org.

VHA Uses Comprehensive Approach to Ethics Evaluation

Is an ethics consultant highly qualified and able to demonstrate his or her knowledge with an impressive portfolio of cases? That's important information to know, but it's not enough for **Kenneth Berkowitz**, MD, FCCP, chief of ethics consultation at Veterans Health Administration (VHA)'s National Center for Ethics in Health Care.

"It doesn't tell you if the quality of the overall ethics consultation service is enough to meet the needs of the patients, the staff, and the institution," explains Berkowitz.

The VHA goes beyond assessing an individual consultant's proficiency. "We need to have proficient consultants performing high-quality consultations in a manner that meets the needs of the patients, family, staff, and institutions they serve," says Berkowitz.

Individual consultants may have a great deal of expertise in ethical issues that arise in the ICU, for instance — but a surgeon routinely discourages nurses from calling ethics consults. "To me, that's not a high-quality ethics consultation service," says Berkowitz.

Access, throughput, timeliness, and participation in organizational learning are all critical success factors. "All of these things are beyond just doing a good consult, but they are part of having a high-quality consultation service," says Berkowitz.

Berkowitz says that currently, many ethics programs in this country "lack consistent standards and are undersupported, and it's very problematic."

Mary Beth Foglia, RN, PhD, a healthcare ethicist at the center's Seattle office, says, "Ultimately, improving consultation quality is about ensuring ethically appropriate outcomes for patients, other stakeholders, and the healthcare system."

The VHA's 15-year effort has focused on improving the quality of its own ethics programs, but also provides tools to improve ethics consultation in general.

"We've tried to tackle ethics consultation quality over the years in terms of structure, processes, and outcomes," says Berkowitz. The following are some ways the VHA has done this:

• During site visits to individual facilities, the team looks at how the ethics program is functioning.

"We talk to the leaders and also people in the trenches — doctors, nurses, social workers, patients, and families — to find out if the program is functioning as well as it looks on paper," says Berkowitz.

Berkowitz says the following are important questions to ask about an ethics program:

- Does the overall ethics program have leadership support?
- Do people feel comfortable bringing up ethical concerns?
- Does the ethics consultation service contribute to organizational learning?
- Is there good access to the ethics consultation service?
- Does the service focus on quality improvement (QI)?
- Does the service assure competency in the full range of ethical questions that might come up, both clinical and organizational?

Berkowitz says that evaluation of healthcare ethics activities should be viewed in the same light as other clinical areas.

"You can have a board-certified transplant surgeon, but if the transplant program isn't functioning well, it doesn't matter how the good the surgeon is," he says. A successful transplant program encompasses more than just individual surgeons' outcomes — it assesses access, fairness, infection rates, patient satisfaction, and multiple other factors. The same is true of ethics, he says.

"I hope that, in addition to assessing individual consultants, there will be a growing movement to evaluate the ethics consultation service at the organizational level," says Berkowitz. "That is my vision for where we need to go as a field."

• The VA developed a standardized process approach to performing ethics consultations.

"Part of the reason why we are so process-focused and structured is that we have to promote consistency within our system," explains Berkowitz.

The CASES Approach (Clarify/Assemble/Synthesize/Explain/Support) was developed over several years, with experts both inside and outside the VHA.

"It's a consistent and systematic process," says Berkowitz. "It's a logical way to think through each ethics question." The center is responsible for ethics consultation services at the VHA's 150 medical centers. "There may be 150 ways to do it, but we need to come up with one way, and say at the VHA, 'This is how we're going to do it,'" says Berkowitz. "This is necessary in order to assess how ethics is doing, and for continuous quality improvement."

Ethicists take the following steps:

- clarify the consultation request and the ethics question,
- assemble relevant information

necessary to fully understand the circumstances,

- synthesize the information and perform an analysis from an ethics perspective,

- explain the synthesis to those who are involved, and

- support the consultation process by providing references, answering questions, continuing as a resource if further concerns or specific cases come up, and performing evaluation.

The CASES approach applies equally well to organizational questions as it does to individual cases.

On the individual case level, a consult might be requested because there was uncertainty or conflict about values surrounding a patient's request to have his or her automatic implanted cardioverter defibrillator (AICD) deactivated. Providers are uncomfortable because they wonder if it's akin to participating in physician-assisted suicide, yet they recognize the patient's right to make choices about his or her own healthcare.

At the organizational level, the chief of cardiology might call to request a consult to review the ethical considerations of AICDs for patients at the end of life in general. "We can help them think through the general concepts involved. The CASES approach provides a great framework for that," says Berkowitz.

• The VA developed ECWeb, a quality assurance software tool.

The tool has been in use systemwide since 2008, and contains records of more than 18,000 ethics consultations.

"Not only is ECWeb a repository of information and useful for quality improvement and education, but the way the data is entered reinforces the use of the CASES approach and promotes strong processes for ethics consultation," says Berkowitz.

VHA efforts are currently underway to develop IEWeb, the second generation of the software. The tool will have improved and streamlined ethics consultation functionality, and will also help with preventive ethics. "It will be much broader in scope and functionality. We hope it will also have applicability for systems outside of VHA," says Berkowitz.

Through the preventive ethics function, the updated software will help teams address systems issues that ethics programs also work on. For instance, there may be a pattern of consults called by ICU clinicians because there was an advance directive in place that the team wasn't aware of until a week or so into the patient's care. "We would say there was a systems issue there," says Berkowitz. "Why didn't the team know about the directives on day one?" IEWeb would help ethicists to study the problem and prevent it from occurring again.

"It will help people close ethics quality gaps when practices don't match the ethics standards," says Berkowitz.

• Participants are routinely asked for feedback about ethics consults.

Outcomes are challenging to evaluate. "We can benefit from learning about the experience of those who participated in ethics consultations," says Berkowitz.

Participants in an ethics consult are surveyed about their overall satisfaction with the consultation, and whether it was helpful.

"They also are asked questions that reflect their perception of the ASBH knowledge and skills competencies for ethics consultants," says Berkowitz. Surveys address ease of access, timeliness, whether the participant felt treated with respect, and their perception of the consultant's expertise and competence.

"Looking back at five years of data, over one-third of all VHA consults received feedback from participants, which I think is amazing," says Berkowitz.

In over three-quarters of the evaluations, participants reported that recommendations were both made and followed. "To me, that's a strong assessment that the consultations had impact," Berkowitz says.

• The ECQAT tool was developed to help the VA's 150 supported consult services to identify improvement opportunities based on the key elements.

"Somehow we have to be able to assess whether the content of the consultation reflects strong practices and is consistent with ethical norms," says Berkowitz. The ECQAT tool was designed to support assessment of the quality of ethics consultations, based on the written record.[1]

"We needed to find some way to assess the quality of the content. That was the seminal concept of the ECQAT project," says Berkowitz. "There's no way around having some sort of standard rubric, with experts assessing the record."

Foglia says, "As with any clinical service, whether clinical ethics consultation or cardiology, we have an obligation to develop approaches to assessing and improving the quality of the service provided."

As a starting point, ethicists identified and described four key elements that must be present in every consultation. "These elements are intended to serve as standards for all ethics consultation case records, regardless of the model used," says Foglia.

The key elements are:

1. the ethics question(s), which focuses the consultation response,

2. the consultation-specific information, which informs the ethical analysis,

3. the ethical analysis, which

provides justification for the conclusions and/or recommendations, and

4. the conclusions and/or recommendations, which promote ethical practices in the area of identified uncertainty or conflict.

"The tool uses a holistic assessment method, reflecting the importance of the interdependence and coherence among the key elements in a consultation," says Berkowitz. The following are some ways the ECQAT can be used:

• Key elements can be used to inform case discussions, and for training or coaching purposes.

• Ethicists can use it in real time to promote quality consultation.

• Evaluators can periodically select a random sample of consultation records and identify improvement opportunities.

"People may say it's not fair to judge the quality of the consult from the record, but that's the way much of healthcare quality is judged now," Berkowitz says. ■

REFERENCE

1. Pearlman RA, Foglia MB, Fox E, et al. Ethics consultation quality assessment tool: A novel method for assessing the quality of ethics case consultations based on written records. *Amer J Bioethics* 2016; 16(3):3-14.

SOURCES

- **Kenneth Berkowitz**, MD, FCCP, Chief of Ethics Consultation National Center for Ethics in Health Care, Veterans Health Administration, Seattle. Phone: (212) 951-3385. Email: Kenneth.Berkowitz@va.gov.
- **Mary Beth Foglia**, RN, PhD, National Center for Ethics in Health Care, Veterans Health Administration, Seattle. Phone: (206) 940-9692. Email: Marybeth.Foglia@va.gov.

- A wide range of materials and tools related to VHA's approach to ethics consultation are available to the general public, free of charge, at: http://bit.ly/2jzYKC1.

Ethicists are Seeing More Complicated Cases

At Springfield, IL-based Memorial Medical Center, increasing numbers of ethics consultations seemed to extend over longer period of times.

"More seemed to involve patients whose family, living, or financial situations ruled out most commonly adopted solutions," says **Bethany Spielman**, PhD, JD, professor of medical humanities and law at Southern Illinois University in Carbondale.

More cases involved the following scenarios:

• several requests for help over a period of a year,

• an unusually large variety of professionals,

• a family member or patient who threatened violence, and

• a care plan that was in constant flux.

"One of the most complex ethics consultations at Memorial, involving a request for sterilization of a minor, included all of these features," says Spielman.

Still, consultants had no way to quantify this. "The field of ethics consultation had not yet developed a way of assessing complexity," explains Spielman, a member of Memorial's Human Values and Ethics Committee (HVEC).

In 2013, the American Society for Bioethics and Humanities (ASBH) described steps necessary to distinguish qualified ethics consultants from unqualified ethics consultants.[1] However, their approach didn't consider whether a consultant could handle complex cases.

"That seemed like a gap that we could fill," says Spielman. Memorial's ethicists set out to create a tool to determine the complexity of cases. They took into account factors such as a history or threat of force, a difficult family or living situation, monetary issues, high levels of emotion, and a large number of professional participants.

Christine Gorka, PhD, director of Memorial's Clinical Ethics Center, which employs two full-time ethicists and reviews all ethics consultations at monthly HVEC meetings, notes, "The timing was such that using the tool to assess the complexity of problems encountered in our usual practice provided a way to tackle what we considered a gap in the ASBH competencies regarding required skills."

The group developed a complexity scoring system based on an analysis of more than 500 ethics consults performed during 2013.[2] "The study's findings suggest it is possible to account for case complexity when evaluating an ethics consultant," says Gorka. "To not consider complexity when assessing an ethicist's portfolio seems short-sighted."

Spielman noted the gap between the experience requirements described by ASBH, and what would be required to handle a consult of average complexity at Memorial.

"An individual could almost certainly meet the ASBH requirements that her portfolio demonstrate experience in a 'range of clinical settings'

with a 'range of ethical issues,' and yet be unable to handle a case of average complexity at her own organization," says Spielman.

The researchers recommend that a minimum level of care complexity be required, and attestation portfolios include several cases of moderate complexity and at least one very complex case.

The qualitative measures of complexity paired up well with the quantitative measures that were used. "The pairing of the two independent measurements helped me feel confident in the tool," says Gorka. As the number of complicating factors identified in a consult grew, there was a concomitant increase in the amount of time spent on the consult.

"A complex ethics case can arise in any healthcare organization at any time — not just in those that specialize in research or that serve especially vulnerable populations," notes Spielman.

In Spielman's view, a process that deems consultants qualified without considering their ability to handle complex cases gives a false sense of security. "Patients, families, and health professionals will be harmed," she says. ■

REFERENCES

1. Kodish E, Fins JJ, Braddock C, et al. Quality attestation for clinical ethics consultants. *Hastings Cent Rep* 2013; 43(5): 26–36.
2. Spielman B, Craig J, Gorka C, et al. Case complexity and quality attestation for clinical ethics consultants. *J Clin Ethics* 2015; 26(3):231-240.

SOURCES

- **Christine Gorka**, PhD, Clinical Ethics Center, Memorial Medical Center, Springfield, IL. Phone: (217) 757-2353.
  Email: Gorka.Christine@mhsil.com.
- **Bethany Spielman**, PhD, JD, School of Medicine, Southern Illinois University, Carbondale, IL. Phone: (217) 545-4261.
  Email: bspielman@siumed.edu.

Researchers Propose Approach to Identify Quality Measures for Ethics

While there is a great deal of diverse literature on clinical ethics consultation, it has never been looked at through the specific lens of quality measurement.

Researchers at the Center for Bioethics and Humanities at University of Colorado Anschutz Medical Campus in Aurora recently proposed this novel approach to compile and synthesize this literature, and to derive a framework for assessing quality:[1]

• A scoping review will include categorizing all quality measures for clinical ethics consultation discussed in the literature, both quantitative and qualitative.

• A qualitative synthesis will generate a comprehensive analytic framework for understanding quality.

• A meta-analysis of studies will report the effects of clinical ethics consultation on pre-specified clinical outcomes.

The researchers noted there are almost 25,000 articles on clinical ethics consultation in the worldwide literature. "We decided in the scoping phase to cast a wide net, to get as much of the literature as possible. In this review, we discovered that very few measure quality," says **Jacqueline J. Glover**, PhD, one of the study's authors. Glover is professor in the Department of Pediatrics and the Center for Bioethics and Humanities at University of Colorado.

The researchers hope to integrate known consensus from the literature into quality development efforts for ethics case consultation. "Clinical ethics consultation has been around for more than 20 years, and now it is the norm for most hospitals," notes Glover. The field is only beginning to develop standards for the activity, however.

"The field is starting to professionalize. We have moved beyond volunteers with good intentions," says Glover, adding that there is a strong desire to assess the quality of ethics consultation efforts and the outcomes for patients, families, healthcare professionals, and institutions.

"Quality measures are also essential to provide evidence of the value of ethics consultation for institutional leadership and support," adds Glover. She sees the following ethical implications for efforts to assess quality:

• If researchers fail to develop measures for quality assessment, there is a risk of harm to patients and healthcare professionals.

• With performance measures becoming increasingly prevalent in healthcare, there is a risk that people will focus more on getting a good score than on doing good work.

• Without quality assessment, institutions risk providing ethics consultation services that are

substandard and do not provide benefit.

"We also risk wasting valuable healthcare resources spent on substandard ethics consultation, which becomes a matter of justice," says Glover.

Glover believes bioethicists should play a critical role in the assessment and improvement of ethics consultation in the hospital setting, but can't do it alone. "There are a limited number of professionals dually qualified in the domains of ethics consultation and quality improvement methods," she says.

Ideally, bioethicists will collaborate with hospital QI leadership. This ensures that quality assessment of ethics consultation is developed using recognized quality measures.

"This is an activity that shouldn't happen in a vacuum with each hospital trying to do its own thing. That is the purpose of our study," says Glover.

Given the complex nature of ethics consultation, developing quality measures is not an easy task. "It is essential that we identify measurements that matter, and lead to the outcomes that are valued," says Glover. Costs and risks involved in quality measurement are two important considerations.

"Inadequate quality measures may put at risk the needed financial support for these services, as well as the benefits that may accrue to patients, families, healthcare professionals, and institutions," says Glover. ■

REFERENCE

1. Leslie L, Cherry RF, Mulla A, et al. Domains of quality for clinical ethics case consultation: a mixed-method systematic review. *Syst Rev* 2016; 5:95.

SOURCE

- **Jacqueline J. Glover**, PhD, Professor, Department of Pediatrics, Center for Bioethics and Humanities, University of Colorado Anschutz Medical Campus, Fulginiti Pavilion for Bioethics and Humanities, Aurora, CO. Phone: (303) 724-3992. Email: Jackie.Glover@ucdenver.edu.

Ethical Implications of Burdensome Readmissions

Dual eligibility for Medicare and Medicaid is associated with lower 30-day readmission rates in patients enrolled in a hospice program, found a recent study.[1]

"It makes sense that patients with more coverage for essential services outside of the hospital have lower readmissions near the end of life," says study author **Liz Chuang**, MD, MPH. Chuang is an attending physician on the palliative care team at Montefiore Medical Center in Bronx, NY.

Of 2,755 inpatients who received palliative care consultation and were discharged with hospice services, 9.24% of patients with dual Medicare and Medicaid coverage were readmitted within 30 days, compared with 13.12% of others. "This matches my clinical experience working with patients and families quite well," Chuang says.

However, the finding is somewhat surprising in another way: At other points in the trajectory of chronic illness, those who are dual eligible for Medicare and Medicaid have been shown to have high healthcare utilization, including hospital readmission.

"This is likely due both to their greater disease burden and to limited social resources," says Chuang. The study's findings show that with appropriate custodial care provided by Medicaid, these patients can achieve lower hospital utilization at the end of life.

"This finding has ethical implications for end-of-life care," notes Chuang.

Multiple studies have shown that patients prefer to be cared for at home at the end of life. "Hospitalization near the end of life results in poorer quality of care and increased cost," adds Chuang.

In Chuang's view, providing custodial support — home attendants or nursing home care — through Medicaid, in addition to hospice care, can achieve the quality of care that dying patients deserve.

"One interesting point is that patients who are near poor or lower middle class tend to fare less well," says Chuang. These patients cannot afford to pay for custodial care, but have income that's too high to qualify for Medicaid.

"This speaks to the need for better long-term care coverage for the elderly in the U.S.," says Chuang. ■

REFERENCE

1. Whitney P, Chuang EJ. Relationship between insurance and 30-day readmission rates in patients 65 years and older discharged from an acute care hospital with hospice services. *J Hosp Med* 2016; 11(10):688-693.

SOURCE

- **Liz Chuang**, MD, MPH, Assistant Professor, Department of Family and Social Medicine, Palliative Care Services, Montefiore Medical Center, Bronx, NY.
  Email: echuang@montefiore.org.

MEDICAL ETHICS ADVISOR®

CME/CE INSTRUCTIONS

To earn credit for this activity, please follow these instructions:

1. Read and study the activity, using the provided references for further research.
2. Log onto AHCMedia.com and click on My Account. First-time users must register on the site. Tests are taken after each issue.
3. Pass the online tests with a score of 100%; you will be allowed to answer the questions as many times as needed to achieve a score of 100%.
4. After successfully completing the test, a credit letter will be emailed to you instantly.
5. Twice yearly after the test, your browser will be directed to an activity evaluation form, which must be completed to receive your credit letter.

CME/CE QUESTIONS

1. **Which is true regarding evaluating quality of ethics consultations?**

   A. Researchers have demonstrated that using portfolios as an evaluation tool for quality of clinical ethical consultation is a feasible approach.
   B. Little variation exists on quality of ethics consults, despite lack of a national standard.
   C. Facilities are prohibited from assigning ethics consults to individuals lacking appropriate education and training.
   D. A national standard is expected to result in higher expenses for organizations and less funding for clinical ethics consult services.

2. **Which is recommended for assessment of ethics programs, according to Ellen Fox, MD?**

   A. Hospital policies should not specify who should be interviewed by members of the consult service.
   B. Requiring ethics consultations to be requested solely by attending physicians is a good approach if other providers are largely unfamiliar with the process.
   C. Hospitals should begin by establishing clear and specific quality standards for ethics consultation practices.
   D. Satisfaction and outcomes should take priority over assessment of compliance with detailed policies on ethics consultation procedures.

3. **Which is true regarding evaluation of ethics, according to Kenneth Berkowitz, MD, FCCP?**

   A. Strong evidence of highly qualified consultants is sufficient to conclude an ethics program is successful.
   B. Surveyed clinicians' responses showing that ethicists' recommendations were followed can be used as evidence of the program's effect.
   C. Ethics programs should be evaluated differently than other clinical areas because individual consultants' proficiency is paramount.
   D. Standardized approaches are problematic because they aren't effective for cases involving system problems.

4. **Which is true regarding hospital readmissions and patient preferences, according to Liz Chuang, MD, MPH?**

   A. Patients with more coverage for essential services outside of the hospital had significantly more readmissions near the end of life.
   B. Multiple studies have shown that patients prefer to be because of the better quality of care at the end of life.
   C. Dual eligibility is associated with lower 30-day readmission rates in patients enrolled in a hospice program.
   D. Patients had higher hospital utilization at the end of life with custodial care such as home attendants.