Reviewer's report

Title: Comparison of Ethical Judgment exhibited by Clients and Ethics Consultants in Japan

Version: Date: 26 November 2013

Reviewer: Bert Molewijk

Reviewer's report:

Dear authors,

I read your paper for the first time. I think the paper is interesting in many ways (comparison client and CEC, moral reasoning, the Japanese context). I also think the paper needs some major revisions. I have mentioned some suggestions below, I hope this helps you.

Good luck with your important (research) work.

Bert Molewijk, VUmc, Amsterdam, NL

Major revisions

- the abstract should be clarified a little bit more: e.g. What are the actual research questions and why are they important, and what is the aim of the research? Are you talking about one CEC (institutional, national) for whole Japan? Why focus only on decisional capacity?

- I do not understand why the client already makes a judgment, isn't he/she asking for recommendations only? And does the request form require argumentation from the client? In other words: is it morally fair and methodologically reasonable to compare the reasoning of client and CEC team while they have a very different starting point

- did you, beside the CEC recommendation, also made use of the notes/minutes of the CEC team? Or email communications between client and CEC? Please clarify.

- I feel the reader needs more information, before the method section, on this specific CEC practice and on what exactly your empirical data consisted of. Perhaps use attachment of inform the reader more about the context.

- please clarify how exactly the coding was done/interpreted, and what you did when there were different codings among researchers

- the presentation of the 'typical' (?) cases is somehow confusing: perhaps inform the reader what you are going to present?

- I feel that the Discussion section be structured e bit more, f.e. By starting with a summary of the results, then a discussion of the results, then a connection with the literature, and then the limitations (perhaps in separate section)?
- Conclusion: "Further analysis regarding rationale of ethics consultant and comparison of healthcare professionals of this matter will contribute to improve the well-being of patients and cultivate professional expertise of ethics consultants." On what is this assumption based?

- Conclusion: "The reasons leading to the judgments differed between the CEC-clients and the CEC-Team; the CEC-Team’s judgment was developed using critical and reflective bases aiming to veracity, while the CEC-clients’ judgments were developed from rather situational and practical bases". Is this not an open door, in the sense that you expect a certain difference BECAUSE the CEC team is focusing on reflection/criticism?

- can you give some recommendations for the future of CEC (research) in Japan, the differences with Europe/USA?

Minor revisions:
- perhaps do not use the term 'client' since some readers may think about patients, but use f.e. CEC requester or a synonym
- perhaps add the CEC request form as attachment
- make explicit what the role of the authors are: are they both members of the CEC team and researchers?
- working with a national CEC team is extra ordinary in Europe, could you reflect somehow more on the pros and cons of such a construction?
- in your discussion on case B on page 14 it is not clear to me whether these are results or your interpretation/discussion of the results.
- page 14 in discussion: "More specifically, CEC-client judgments were based on psycho-social aspects and legal, organizational standpoints, whereas CEC-Team judgments were based on views of patient preference and on the patient’s biomedical and psycho-social best interests, both identified through case analysis." What is the difference between psycho-social aspects & psycho-social best interests? Can you refer to your results/tables to found this conclusion?
- page 15: Why do you say balance the power, while they are in favor of the family? "In other words, healthcare providers seem to seek a balance of power between patient and family. Consequently, healthcare providers are more sensitive to the family than the patient is and tend to confirm the intentions of the family, not those of the patient"
- perhaps you could reflect upon the fact that the CEC team stayed the same, and use less or more the same analytical framework, while the clients were N= 1 cases, from very different places in Japan?

Discretionary:
- Page 6: "Presence or absence of a patient’s decisional capacity is based upon their decision making" what do you mean with 'their'?
- page 6: As a patient does not have the decisional capacity based on patient autonomy, it is difficult for a third party to estimate a patient’s best interests." Do
you mean 'when a patient ..'?

- page 6: Thus, conflict can arise from the differences in values among participants, and most often leads to participants being dissatisfied." What do you mean with participants?

- the order of reasons (1 to 7) on page 8: does it mean a specific order (first reason mentioned most?)

**Level of interest:** An article of importance in its field

**Quality of written English:** Needs some language corrections before being published

**Statistical review:** No, the manuscript does not need to be seen by a statistician.

**Declaration of competing interests:**

No competing interests