Reviewer’s report

Title: Can clinical ethics committees be legitimate actors in bedside rationing?

Version: 0 Date: 18 May 2019

Reviewer: George Agich

Reviewer's report:

Your introduction of the Procedural Approach of Daniels and Sabin as complemented by Baeroe's seven criteria of legitimacy proceeds to a segue to Aristotle's formal principle of equality. This is quite intrusive and does not seem to do any work in the ensuring discussion. Also, you fail to cite a source for the four demands of justice that you say comprise Aristotle's principle of equality. I understand that these principles inspired Baeroe's requirements for legitimacy of clinical decisions about priority-setting, but unless you show how they inspired the requirements, your reader is left in the dark. Also, how important is this link to Aristotle for your account? That is not clear.

It's immediately evident to your reader that Baeroe's requirements for legitimacy of clinical decisions about priority-setting is relevant to your task. They provide the substance of the position you take about legitimacy, namely that it must be grounded in this set of procedural requirements. But they you introduce Magelssen et al.'s roles of CECs, but their connection to the substantive procedural requirements are never made clear. You need to spell out this linkage and argue for it.

My main problem with your paper is that you analysis of the two cases draws more from Magelssen et al. than Baeroe's requirements for legitimacy even though you say at the beginning that this is your main concern. You fail to show, for example, how the procedural requirements are met by the CECs. Talking about the roles that the CEC played is beside the point if they failed to meet the procedural requirements. That's what needs to be shown.

Are the methods appropriate and well described?
If not, please specify what is required in your comments to the authors.

Yes

Does the work include the necessary controls?
If not, please specify which controls are required in your comments to the authors.

Unable to assess

Are the conclusions drawn adequately supported by the data shown?
If not, please explain in your comments to the authors.

No

Are you able to assess any statistics in the manuscript or would you recommend an additional statistical review?
If an additional statistical review is recommended, please specify what aspects require further assessment in your comments to the editors.
Quality of written English
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