LMU LUDWIG-MAXIMILIANS-UNIVERSITÄT MÜNCHEN

9th International Conference
on Clinical Ethics Consultation
Munich, March 14-16, 2013

How geriatrics may save the life of clinical ethics consultation

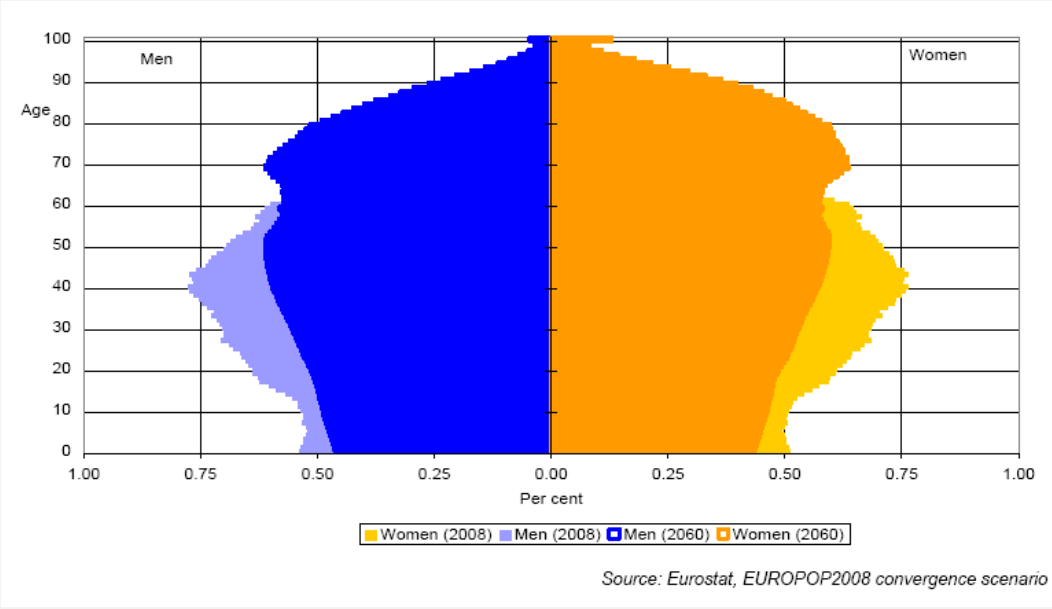
Ralf J. Jox, MD PhD
Institute of Ethics, History and Theory of Medicine &
Interdisciplinary Center for Palliative Medicine
University of Munich, Germany

Structure

1. Geriatric ethics and its relevance
2. Particularities of geriatric ethics consultation
3. Decisional capacity and the two cases

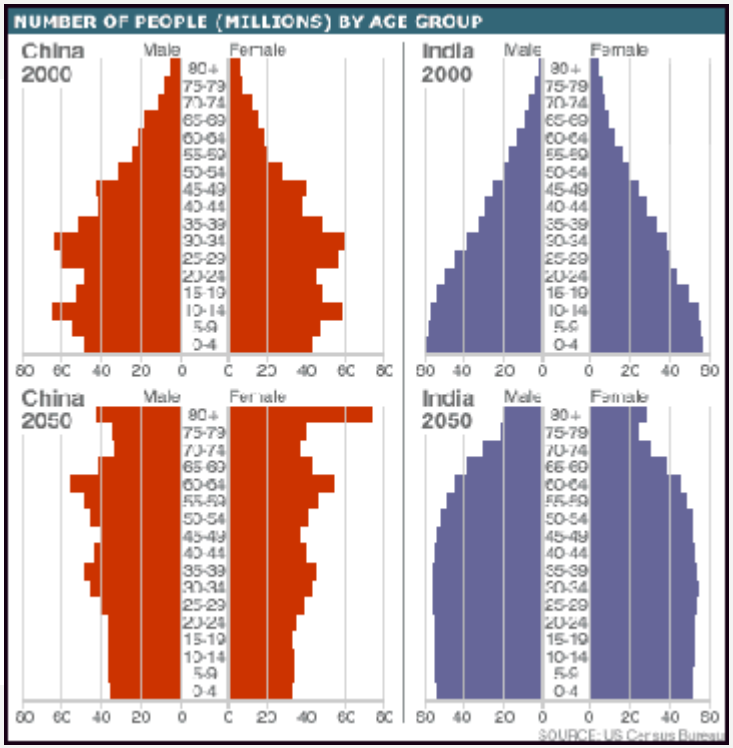
Demographic change

European Union:



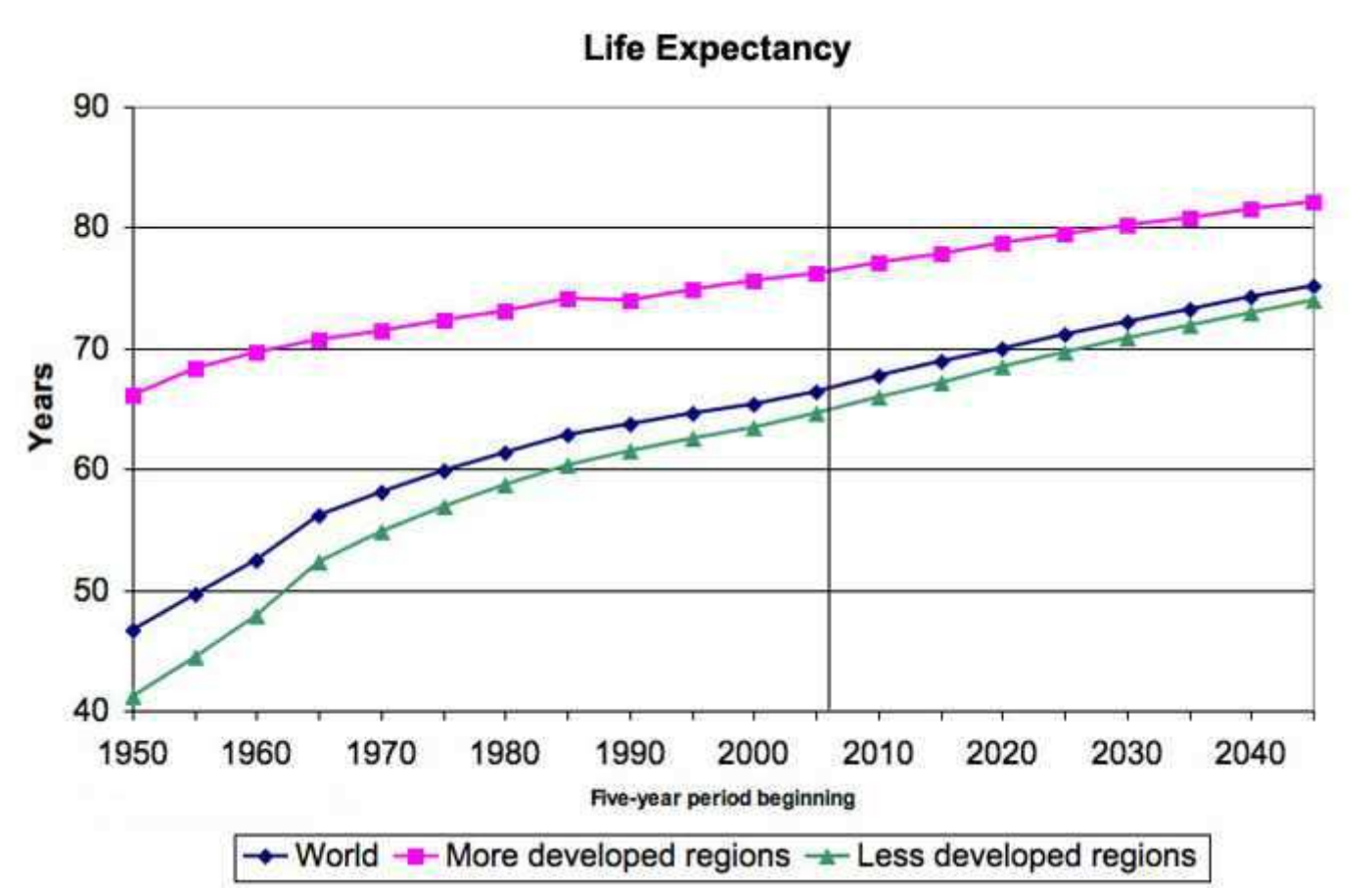
Source: Eurostat, EUROPOP 2008 convergence scenario

China and India:



Source: factsanddetails.com

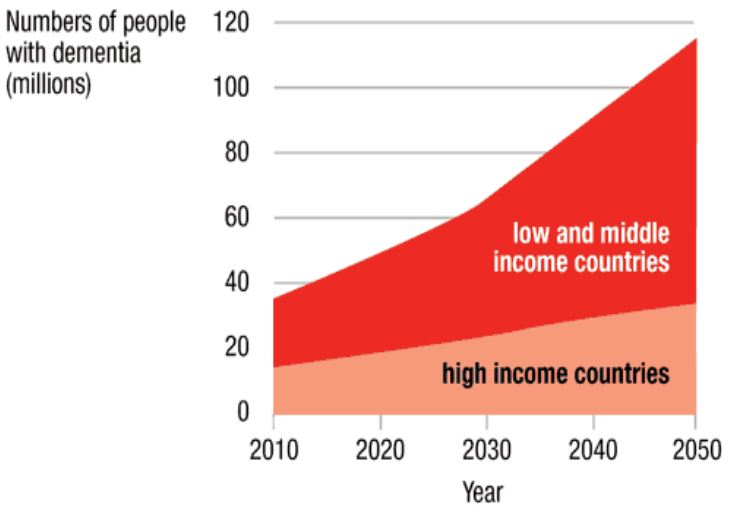
Aging societies



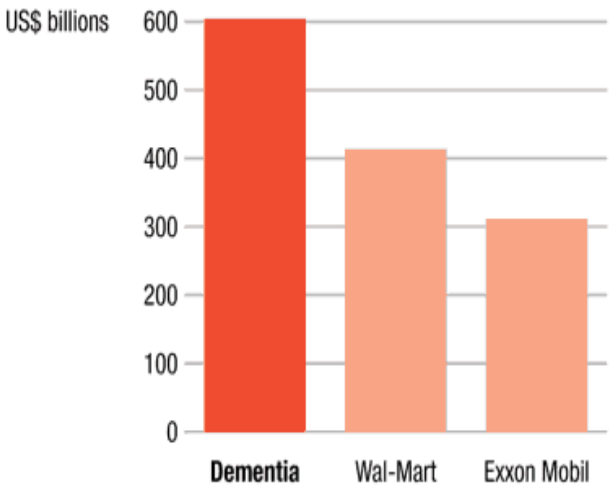
Source: United Nations Population Division, World Population Prospects: The 2004 Revision. Highlights

Dementia

The growth in numbers of people with dementia in high income countries and low and middle income countries



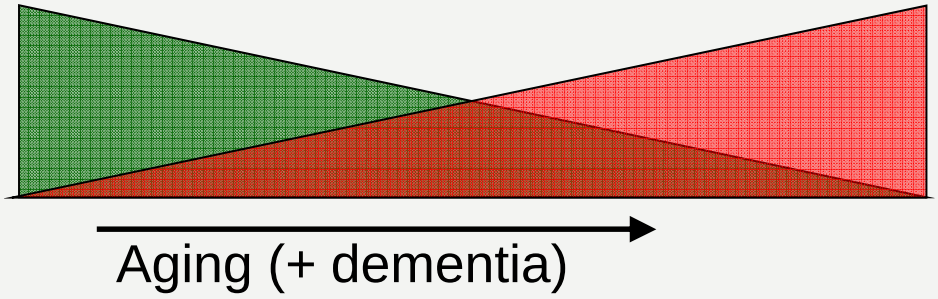
Cost of dementia compared to company revenue



Source: World Alzheimer Report 2009 and 2010

Decision-making capacity

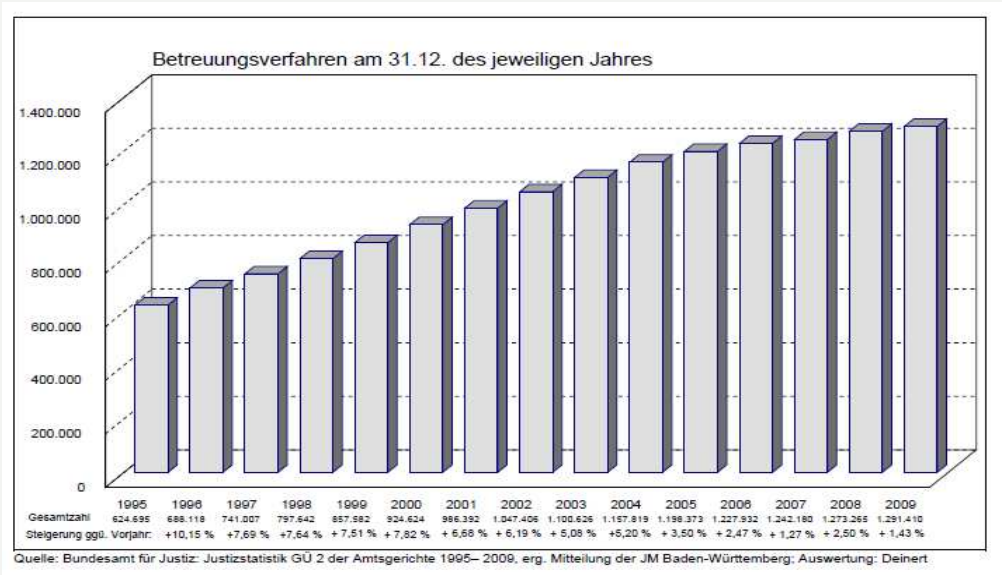
Capacity to decide autonomously



Existential weight of the decisions

Aging (+ dementia)

Rise of guardianship cases per year in Germany



Guardianship cases 1995-2009 (official statistics)

Structure

1. Geriatric ethics and its relevance

2. **Particularities of geriatric ethics consultation**

3. Decisional capacity and the two cases

Geriatric ethics consultation (GEC)

- Ethics consultation for the elderly has long been appreciated (first ethics committee 1978)

  Hoffmann et al. 1995, Sansone 1996

- Very little research on geriatric ethics consultation

- Differences to hospital ethics consultation:

1) Cross-sectoral approach
2) Different care teams
3) Broader range of ethical issues
4) Focus on benefit-burden analysis

Cross-sectoral approach

- GEC not related to a type of institution (like HEC), but to a patient group / **social cohort**
- **Care settings:** hospitals, outpatient clinics, private practice, nursing homes, long-term facilities, retirement homes, flat-sharing communities…
- **Ethical issues** cross the various care settings (e.g. advance care planning)

→ ***Cross-sectoral GEC necessary***

Different care teams

- Elderly care is less physician-centered and more **nurse-centered**
- Care teams often include **less professionalized** caregivers (e.g. volunteers, temporary staff)
- More caregivers with a migration background → **intercultural** and language problems
- Long and personal **relationships** patient-caregiver

→ Different way of caring influences GEC

Range of ethical issues

- **Hospitals:** end-of-life decisions, resuscitation, medical futility, advance directives, suicidality

  Swetz et al 2007, Hurst et al 2007

- **GEC:** same medical issues, but in addition:
  - *Long-term placement, risk management*
  - *Behavioral problems, violence, restraints*
  - *Privacy, independence in daily living, financial affairs*
  - *Social conflicts, decisional capacity*

  Zuckerman 1994, Caplan 1990, Hoffmann 1995, Hayley 1996, Bockenheimer-Lucius 2009, Walaszek 2009, Dauwerse 2012

→ GEC requires expertise in many areas

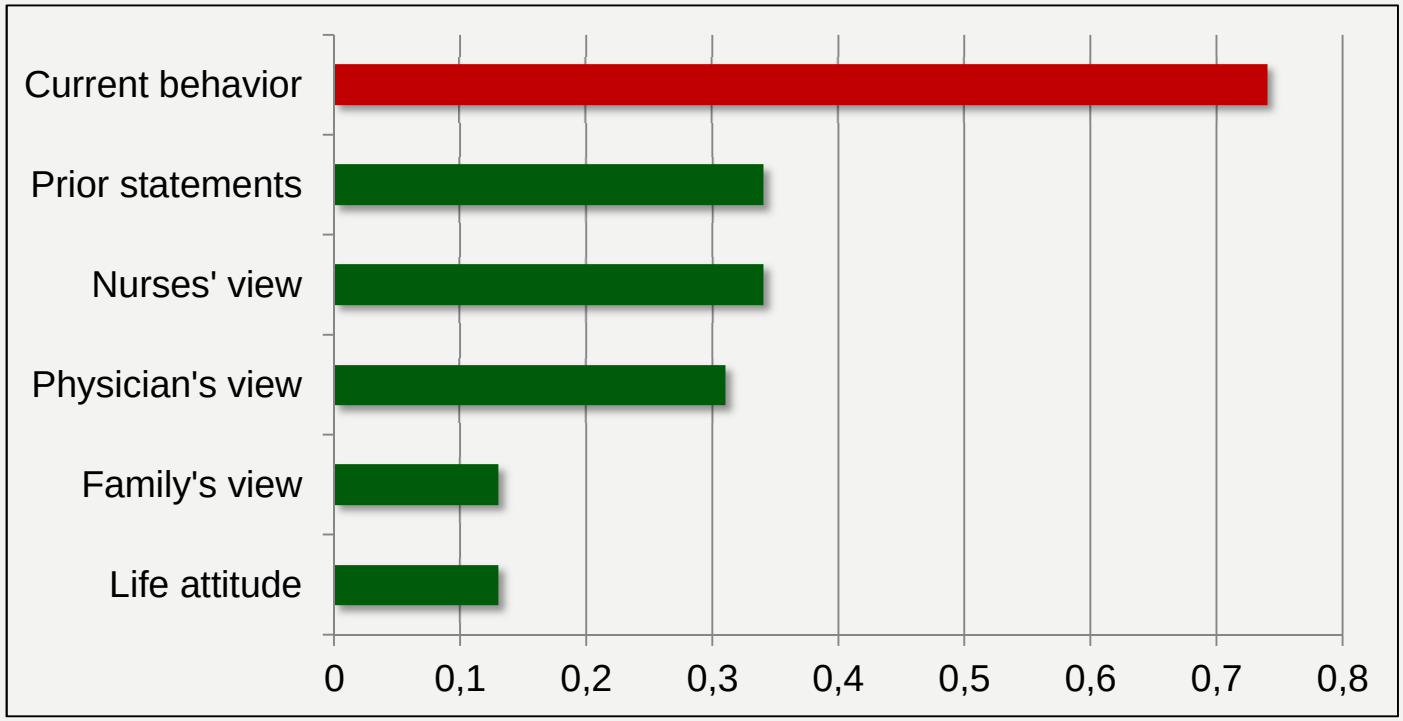
Focus on benefit-burden analysis

- **Decisional capacity** to decide autonomously often lost
- More and more do not have **relatives** who can report patients' preferences or act as proxies
- **Benefit-burden assessment** is challenging because of impaired communication and hard-to-interpret behavior (e.g. refusing to eat and drink)

→ ***Normative focus more on benefit-burden analysis than on autonomy***

Decision making for dementia patients

Variables with the highest impact on surrogates' decisions:



Relative decisional weight (0-1)

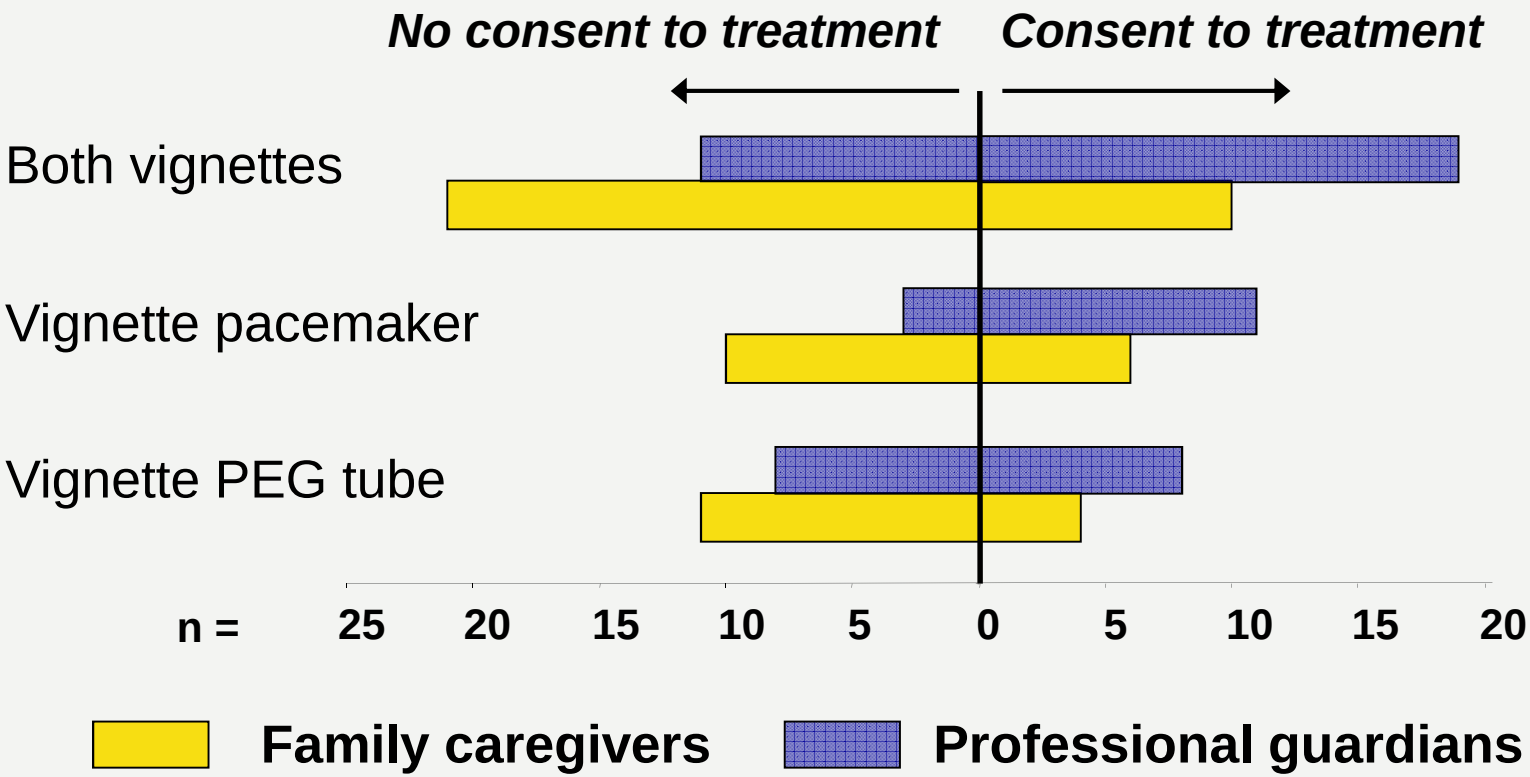
Jox RJ et al. (2012) Int J Geriatr Psychiatr

Decision making for dementia patients

Professional guardians	Family caregivers
Take time to decide	Decide quickly and intuitively
Try to disregard own values	Consider own values, interests
Focus on patient autonomy	Focus on patient wellbeing
Consult with clinicians	Consult with relatives
Request court decisions	Do not ask the court
⬇	⬇
Professional role	**Existential role**

Jox RJ et al. (2012) Int J Geriatr Psychiatr

Decision making for dementia patients



Jox RJ et al. (2012) Int J Geriatr Psychiatr

Requirements for GEC

- **Payment and staffing** of GEC should enable intersectoral work
- Education and policy-writing is not significantly different from HEC, but **case consultation** is
- Consultation teams should operate across institutions and include **various areas of expertise**
- **Organizing** round-table discussions may be difficult (may have to use teleconference tools)

Structure

1. Geriatric ethics and its relevance

2. Particularities of geriatric ethics consultation

3. **Decisional capacity and the two cases**

Decision-making capacity

- Concept safeguards autonomy and protects the person's wellbeing
- Rationalistic account: capacity mainly depends on cognitive abilities
- Threshold is set by social convention and varies with the complexity of the decision
- Problems: fluctuating cognition, assessment (esp. if uncooperative), person judging?

Case 1: gangrene

- What are the reasons behind her refusal of amputation:

  - delusions? → no capacity
  - denial as coping style → maybe capacity
  - quality of life concerns → capacity

- Evaluation requires holistic assessment

- Benefit-burden assessment may already clarify “futility”

→ *Ethics guideline could advise how to assess capacity*

→ *Case consultation may facilitate benefit-burden analysis*

Case 2: testamentary capacity

- Intuitive reaction: Is the capacity test merely a strategy of the son to safeguard his financial interests?
- Testamentary capacity should guarantee authentic will → has to be performed neutrally
- The primary care physician may not be the best to perform this test (→ independent expert)

→ *Limits of ethics consultation: primarily legal matter*

→ *Ethics consultants should know their limitations and be ready to delegate issues to others (notaries, lawyers…)*

Summary

- Geriatric ethics gets increasingly relevant globally
- Geriatric ethics consultation (GEC) has distinct features that require a different approach
- Decisional capacity is crucial in geriatric ethics, but contains many practical problems
- GEC can help to solve ethical questions, but should be aware of its limitations

Outlook

Stephen Toulmin 1982:
"How medicine saved the life of ethics":

"The fresh attention that philosopher began paying to the ethics of medicine, beginning around 1960…required writers on applied ethics to go beyond the discussion of general principles and rules to a more scrupulous analysis of the particular kinds of 'cases' in which they find their applications."

→ Clinical ethics consultation, suffering from a failure to thrive, could be revitalized and enriched by the practice of geriatric ethics consultation.


Thank you for
the attention!
ralf.jox@med.lmu.de