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Article abstract

This commentary invites reflection on the positive and negative outcomes of "assistances" provided by a Complaints Commissioner. While the goal of an assistance is to help the user navigate the health system, a lack of clarity and understanding of the process can lead to the user obtaining undue privileges. We suggest three key values to guide the equitable conduct of assistances and we suggest a mixed method research methodology to document the positive and negative impacts of assistances.

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COMMENTAIRE CRITIQUE / CRITICAL COMMENTARY (ÉVALUÉ PAR LES PAIRS / PEER-REVIEWED)

Complaints Commissioners' Assistance Function: System Navigator or Queue Jumper?

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Résumé
Ce commentaire invite à réfléchir sur les résultats positifs et négatifs des « assistances » fournies par un commissaire aux plaintes. Bien que l'objectif d'une assistance soit d'aider l'usager à s'orienter dans le système de santé, un manque de clarté et de compréhension du processus peut faire en sorte que l'usager obtienne des privilèges indus. Nous suggérons trois valeurs clés pour guider la conduite équitable des assistances et nous suggérons une méthodologie de recherche mixte pour documenter les impacts positifs et négatifs des assistances.

Mots-clés
plaintes, ombudsman, assistance, qualité des soins de santé, équité

Abstract
This commentary invites reflection on the positive and negative outcomes of "assistances" provided by a Complaints Commissioner. While the goal of an assistance is to help the user navigate the health system, a lack of clarity and understanding of the process can lead to the user obtaining undue privileges. We suggest three key values to guide the equitable conduct of assistances and we suggest a mixed method research methodology to document the positive and negative impacts of assistances.

Keywords
complaints, ombudsman, assistance, quality of healthcare, equity

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INTRODUCTION

By law, in the province of Québec, Canada, all health organizations need to have a Complaints Commissioner (i.e., an ombudsperson)[1]. The Complaints Commissioner's office is a neutral and independent trusted actor, for both the health organization and the user. Complaints Commissioners' offices examine situations related to users' dissatisfaction. These examinations aim at improving the quality of care and services, ensuring the respect of users' rights, and also assisting users to navigate the system to obtain required care and services. This role entails informing users of their rights, explaining the complaint process, but also providing mediation, and ensuring that users did not fall through the cracks of a complex healthcare system.

It is essential to pay close attention to questions related to the way that Complaints Commissioners' offices influence access to services for users, especially during "assistance" processes. While the purpose of an assistance is to help users navigate the healthcare system, this influence could lead to unwanted consequences, and thus calls for careful scrutiny. The goal of this commentary is to help Complaints Commissioners enhance positive outcomes while limiting the risk of negative impacts when conducting assistances to help users navigate social and health services. The first part of this critical commentary presents the mandate of Complaints Commissioners specifically for complaints and assistance. Then, a concrete example of assistance is presented to highlight the potential ethical challenges. Finally, an ethical analysis is provided to reflect on the positive and negative outcomes of assistance, and to propose a framework of ethical values to guide such assistance, as well as avenues for research on this topic.

CURRENT COMPLAINTS COMMISSIONERS' MANDATE AND THEIR IMPACT: DIFFERENCE BETWEEN COMPLAINTS AND ASSISTANCE

Complaints usually occur after a user has received care and services that they deemed unsatisfactory, or when users failed to receive care and services (1). Users or their representatives submit a complaint describing the situation they experienced, usually intending to contribute to improved care for themselves and/or for other users. Treating a complaint is a step-by-step process that requires time as well as consultation and verification of policies and processes, and it does not yield immediate results for the complainant. In Quebec, Complaints Commissioners have 45 days to provide a conclusion to the complainant, describing the details of the review and examination of the complaint. At the end of the analysis, if a failure to provide adequate care and services is demonstrated, recommendations are made by the Commissioner's office to the health organization as to

[1] *Act Respecting Health Services and Social Services* (Loi sur les services de santé et sociaux – LSSS).

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how to improve care and services offered to that specific user and/or for all users. The back-and-forth discussion between the Commissioner's office and the involved staff and managers provides ample opportunities to clarify goals and expectations. To some extent, the timing, structure, and thoroughness of the complaints process prevent the complainant from benefiting from undue privileges because they complained.

Another mandate of Complaints Commissioners is to *assist* users in obtaining services, which is legally known as "assistance." Such assistance occurs in real-time. For example, if a user is having difficulties reaching their healthcare professional, the Complaints Commissioner could be a liaison by communicating with the manager of the department to invite a call back to the user. This action would be considered an assistance. The motivation for assisting the user is rooted in the principle of beneficence. The Commissioner's office is well-intentioned as it attempts to help a user obtain a service. In the aforementioned example, a user could call the Complaints Commissioner stating that they have attempted multiple times to reach, without success, their outpatient department (OPD) in a hospital to book an appointment. The Complaints Commissioner could then share this information with the OPD's administrative manager. It is important to highlight that in this example, the Complaints Commissioner is only a messenger. The Commissioner is not asking nor requiring the OPD to call back the user to book an appointment; they are merely communicating that the user is unable to reach the OPD.

However, upon receiving this message from the Complaints Commissioner, an OPD employee might interpret this message as an undue obligation to prioritize this user's appointment over other users. Such an interpretation could occur partly because the clinical staff is not necessarily aware a) of the difference between assistance and complaints and b) that every Commissioner's request is not *de facto* a call for action. The employee might think that just because the Commissioner's office is involved, they will get themselves in trouble if they do not solve the issue to the user's satisfaction. As such, an assistance request from the Complaints Commissioner could lead to a user obtaining preferential access to care and services. This constitutes an infringement on the ethical principle of justice since users that needed to be seen more rapidly than the user who requested assistance will have to wait longer. Nonetheless, in this example, it is essential to remember that the user was perhaps a vulnerable person having difficulty using the hospital's phone system. It is also possible that the user's message to the OPD fell into an unintentional administrative gap. Thus, assistance from the Complaints Commissioner may have been truly needed and beneficial to a vulnerable user to obtain overdue services. Yet, the harsh reality is that the positive and negative consequences of the "assistance" of a Complaints Commissioner are empirically unknown.

ETHICAL ANALYSIS

A previous study found that the involvement of a Complaints Commissioner was a factor that influenced clinical decisions regarding users (2). The purpose of the study was to explore how physical therapy OPD staff from three publicly funded hospitals experienced and responded to ethical issues relating to access to physical therapy services. Semi-structured interviews were conducted with 13 participants in Montreal, Canada: 1 manager, 1 administrative assistant, 2 clinical coordinators, and 9 physical therapists. Participants described assertive users – such as someone filling an official complaint to the hospital's Complaints Commissioner – as being more likely to be prioritized on the waitlist or to receive an extended episode of treatment compared to other users with a comparable condition. One of the main reasons reported was that the physical therapy OPD staff was trying to avoid a confrontation while maintaining their reputation: *"…nobody wants to be faced with an angry patient who's then going to complain… it doesn't look good for me."* As developed below, this phenomenon represents a serious ethical issue since the involvement of the Complaints Commissioner can disproportionately benefit a few users to the detriment of others.

In addition, it is critical to note that research has shown that people of more modest socioeconomic status are less likely than well-off people to file complaints (3), and also, that members of cultural and linguistic minorities are less likely than members of majority groups to file complaints (4). This means that the actions by Complaints Commissioners, including the assistance, if not applied carefully, have the potential to further increase health disparities.

The decision-making process around resource allocation is complex, saturated with ethical issues, and influenced by the dynamics of responsibility and power of all individuals within any healthcare organization, including Complaints Commissioners. Fairness, a principle of distributive justice, requires that all users have equal opportunities to access required resources. While Complaints Commissioners might play a role of a system balancer by improving therapeutic relationships and by helping users obtain needed services (5-8), it is essential to avoid modulating the priority level or the resource allocation. Although a Complaints Commissioner's office can and should intervene to facilitate navigation of the healthcare system, it is important to recognize that clinical decisions pertaining to prioritization are complex and require professional expertise and judgment. Clinicians make these decisions based on a careful pondering of benefits and risks, and after considering the best practices and the latest scientific knowledge. A simple request for communication with the user made by the Complaint's Commissioner should not overturn these decisions.

These findings highlight the need for careful practice by Complaints Commissioners in the assistance they provide, especially when it relates to clinical decisions. We suggest that such prudence could take the form of three guiding values in providing "assistance" in an equitable manner: *neutrality*, *clarity*, and *accountability*.

Neutrality means that in the context of assistance, when communicating with the clinical staff the Complaints Commissioner or commissioner's staff does not advocate for the user to receive services. They simply communicate the situation that was

shared by the user and ask staff to contact the user to clarify the situation and provide information and/or services within the established limits of confidentiality and prioritization.

Clarity means that this neutral stance is communicated explicitly to the clinical staff involved. That is, the Complaints Commissioner or commissioner's staff must make sure that the person they speak to understands that their request is not a call for action, but merely a request to look into the situation to ensure that it is managed according to current norms of practice.

Accountability means that the Complaints Commissioner or commissioner's staff monitor cases in which users could have had undue privileges and adjust their practices accordingly. This could be accomplished through a request for a brief report from the clinical staff on their intervention, by validation in the medical chart, or by contact with the user, depending on the situation. This also raises the question of the clinical staff's understanding of the general role of the Complaints Commissioner, and more specifically, the definition of, and the difference between, complaints and assistance, which are two different attributes of the Commissioner's work. A clearer understanding of the goal of assistance, on the part of clinical staff, would prevent undue privileges from being attributed simply because of the Commissioner's actions. In addition to the clear case-by-case communication promoted above, information activities about the role of the Commissioner's office within the healthcare establishment would contribute to preventing confusion and misunderstanding.

The impact, both positive and negative, of Complaints Commissioners' procedures must be scrutinized so that the practices used are ethically justified and applied in a manner that is transparent, systematic, harmonized, and responsible. In this regard, there is a place for more empirical research pertaining to the activities of Complaints Commissioners' offices and their impact on resource allocation. A mixed-method study could, for example, combine a content analysis of complaint and assistance files with a phenomenological inquiry into the perspectives of the people involved. The quantitative part, a content analysis, would document how often complaints and assistance contribute to users obtaining services. The qualitative part, a phenomenological inquiry, would explore the perspectives of complainants, Commissioner's staff, and clinical staff about the attribution of overdue services and undue privileges compared to other users in a similar situation who did not contact the Commissioner's office. The third value mentioned above, *accountability* in conducting assistance, would, of course, be a prerequisite for such research to be possible.

CONCLUSION

Complaints Commissioners face the risk of inadvertently granting undue privileges to users who seek their help navigating the healthcare system. This is particularly problematic because those users who do seek their help are likely to be already privileged. Undue privileges may be attributed after a Commissioner's action if their request and expectations are not clear or if the clinical staff receiving the request does not understand the nature of the request and the role of the Commissioner. This is even truer when users' requests are addressed as "assistance" as opposed to complaints. Commissioners and their staff may apply three guiding principles to mitigate this risk when they provide "assistance": *neutrality*, *clarity*, and *accountability*. Promotion of and increased awareness about their role within healthcare establishments could also prevent the attribution of undue privileges based on a misunderstanding of the Commissioner's request and mandate. Finally, further research is needed to provide more empirical insight into this issue, both from a quantitative and qualitative perspective. Such research would constitute an opportunity for collaboration and dialogue between Complaints Commissioners as field workers and academics as knowledge producers.

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