

LEGAL AND ETHICAL ISSUES WHEN DEALING WITH CHALLENGING PATIENTS

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Do you recognize this patient?

- Is intimidating or threatening.
- Is demanding about care.
- Shows dissatisfaction with care.
- Has unrealistic expectations of care.
- Fails to follow medical advice.
- Insists on being given unnecessary drugs.
- Is verbally abusive.
- Threatens physical violence.

Why?

- Psychiatric disorder
- Personality disorder
- Head injury
- Drug and alcohol issues
- Dementia
- Family dysfunction
- Socioeconomic factors
- Medical issues

What do we bring to the matter?

- Personal feelings and experiences.
- Personal biases.
- Capacity issues.
- Resources issues.

Ethical Dilemma

- Choice between two equally unfavorable alternatives
- Conflict between:
 - individual rights
 - between individual and group
 - between groups
- No simple correct decision
- Must defend decision



The Principles In Medical Ethics

- Autonomy
- Beneficence
- Non-maleficence
- Justice

Respect for Autonomy

We ought to act in such a way as to respect the patient's freedom to choose a course of action (or non-action) in accord with his or her own values and circumstances.

- "respect for persons"
- issues of privacy, choosing freely, responsibility
- right to information
- right to self-determination – to make own decision related to health care
- practical application is informed consent

Beneficence

We are to act first and foremost in such a way as to promote the good of the patient.

- Commitment to the patient's good outweighs self-interest.
- Requires us to put aside our personal feelings about the patient.
- Ancient roots. Hippocrates: duty to act so as to promote the benefit of the patient.

Non-maleficence

Primum non nocere: first [or above all] do no harm. We ought to act in such a way as to avoid harming the patient.

- Also with roots in Hippocrates.
- Current issue: patient safety.
- Balancing benefits and risks/harms.

Justice

We ought to act in such a way as to promote fairness and just distribution of resources.

- Our actions are consistent, accountable, transparent
- No discrimination based on age, sex, religion, race, position or rank
- Equity & distribution of burden & benefits
- Fairness
- Even difficult patients deserve quality health care.

What would you do with John?

- John was admitted with cellulitis on his face.
- John is convinced that the cellulitis has been caused by the government putting vapors in the sewage system.
- The physicians have ordered IV antibiotics to be started immediately, but John is refusing.

What would you do with John?

- The attending physicians believe that John should be involuntarily committed so that we can forcibly give John the antibiotics.
- What are the ethical principles involved?
- Are the ethical issues different from the legal issues?

What about Sally?

- Louise is an 87 year old female who has suffered a severe stroke. She is unconscious and is not responding to any stimuli.
- Louise's daughter Sally, who lives in Florida, is called by social work and told that Louise is gravely ill and Sally should come quickly.
- Sally indicates she will be there in a day or two.
- Louise continues to deteriorate.

What about Sally?

- After a couple of days, social work calls Sally again to urge her to come see Louise. Sally again repeats she will be there in a day or two.
- After several more days, it is clear Louise has sustained a significant brain injury from which she will not recover
- The social worker again calls Sally and informs her that decisions need to be made. Sally says she will be in Lancaster in a couple of days and don't take Louise off life support.
- What should we do??
- What are the ethical principles involved?
- What are the legal issues?

Surrogate Decision Making

- Guardian
- Healthcare Agent appointed by a health care power of attorney
- Healthcare Representative
 - ▣ Spouse/Adult Children from a prior relationship
 - ▣ Adult Children
 - ▣ Parents
 - ▣ Adult sibling
 - ▣ Adult grandchild
 - ▣ Adult who has knowledge of patient's values and beliefs

Poor Don.

- Don is a 55 year old male who shows up in the emergency department with his entire family.
- Don has end-stage lung cancer and is clearly in distress.
- Don's wife takes you into the hallway and tells you that she wants you to do "everything" for Don.
- After pulling Don's medical record, you find an advance directive indicating that Don does not want to be resuscitated.
- You share the information in the advance directive with Don's family.

Poor Don.

- Don's daughter is a paralegal and she says there must be some way to "break" the advance directive.
- Don's wife then tells you that if you don't do everything possible to keep Don alive, she is going to sue the hospital and you personally.
- What do you do?
- What are the ethical principles involved?

The lovely Miss Gloria

- Miss Gloria is a 92 year old very proper southern woman who has been admitted for respiratory distress. Miss Gloria is very pleasant and polite with everyone.
- During her 7 day admission, Miss Gloria has become particularly attached to Nurse Lindsay, RN.
- Miss Gloria is now refusing to have any other nurse, other than Nurse Lindsay take care of her.

The lovely Miss Gloria

- What should you do?
- What if Miss Gloria did not want a man taking care of her?

Risks Related to Difficult Patients

- The health care team is at risk of providing care that deviates from standard of care.
- Easy to “abandon” a difficult patient.
- Confidentiality breaches may occur when discussing the difficult patient's case.

Guidelines

- Be sure patient has decision making capacity.
- Do what is right for the patient.
 - ▣ Make sure the patient is safe.
 - ▣ Respect dignity of patient.
 - ▣ Don't impose your values on patient.
 - ▣ Don't let your feelings interfere with the care being provided.
- Always give the best possible care you can.
- Try to identify the emotion being felt by the patient or family member.

Guidelines

- Document what happened. Be factual, not emotional.
- Never lose your temper.
- Don't put yourself in danger of being hurt.
- Remember, just because they are difficult does not mean they don't have real concerns.

Guidelines

- Use organizational resources – department managers, patient representatives, social work, legal services.
- Be careful discussing difficult patients. The temptation to discuss patients about whom you have very strong feelings is great. Don't risk a breach of confidentiality.
- Keep conversations regarding difficult patients respectful.

Conclusion

- Never hesitate to call.
- Legal Services
 - ▣ Bob Macina
 - ▣ Maggie Costella
 - ▣ Chris O'Connor

