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ETHICAL ISSUES IN CANCER CARE

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I have no disclosures.

OUTLINE

I. Basic Ethical principles
II. Role of Ethics Committees
III. Dynamics of Ethical Conflicts
IV. Medically Ineffective Treatment

Ethical Principles

- Patient Autonomy- Right of patients to make decisions about their medical care without their health care provider trying to influence their decision. (Advance directives;POLST)
- Not an absolute right (e.g. medically ineffective care)

Ethical Priniciples

- Nonmaleficence- first do no harm; primum non nocere
- Patients' behavior may compromise that if they are non-compliant with meds, visits, etc.
- If they withhold pertinent medical information

- Beneficence- balancing the benefits of treatment against the risks and costs involved; do good

Ethical Principles

- Non-abandonment- Ethical obligation of healthcare provider to remain in a continuous caring partnership with his/her patient; professionalism; loyalty

Ethical Priniciples

- Justice -meanings that range from the fair treatment of individuals to the equitable allocation of healthcare dollars and resources (ICU beds; medications that are in short supply or very expensive; charitable care).
- It is a concept involving fairness, equality, and equitable treatment.

Patient Rights and Responsibilities

- Responsibilities include:
- To be Compliant with regimen
- To Provide all relevant medical information
- To avoid interference with care and safety of other patients

Staff Rights

- To decline involvement in patient care based on ethical, cultural and religious rights
- To be protected from verbal/physical abuse, discrimination, harassment

Role of Ethics Committee

1. Develop/review policies and procedures related to patient rights and organizational ethics. E.g. Advance directives, DNR, Staff rights
2. Education of committee members, hospital community and community at large
3. Clinical consultation- Individual vs. committee model

Dynamics of Ethics Conflict

- Previously, conflicts involved Healthcare team saying YES, patient/surrogate saying NO
- More recently, patient/surrogate saying YES, Healthcare team saying NO
- Role of 3rd Party Payors
- Patient Autonomy vs. Medically Ineffective Treatment

“Medically Inappropriate Care”

Not medically indicated
Ineffective
Non-beneficial
Hopeless
Futile

Other names…

- California Medical Association: "**Non-Beneficial Treatment**"
  - "NBT generally not indicated for irreversible medical conditions where imminent death is expected."

- Critical Care organizations: "**Potentially Inappropriate Treatment**"
  - The term "potentially inappropriate" should be used, rather than futile, to describe treatments that have at least some chance of accomplishing the effect sought by the patient, but clinicians believe that competing ethical considerations justify not providing them.

Legal Support
California Law

- California Probate Code 4735:
  - "**A healthcare provider**…..**may decline to comply** with an **individual healthcare instruction** or healthcare decision that requires **medically ineffective healthcare**…"
- California Probate Code 4740:
  - "A **healthcare provider**….acting in good faith and in accordance **with generally accepted healthcare standards**…..is **not subject to *civil or criminal liability*** for any action in compliance with this division, including, but to limited to, any of the following conduct:
    - Declining to comply with a healthcare decision of a person based on a belief that the person lacked authority.
    - Declining to comply with individual healthcare instruction… in accordance with Sections 4734 to 4736."

First California Case Law

- Christopher Alexander et al. v. Scripps Memorial Hospital La Jolla, et al. 5/11/18. D071001. Super Ct. No.37-2014-00016257-CU-MM-CTL

70 yo woman with end-stage pancreatic cancer

Hospital/MDs refused to provide advanced life support (ventilator,dialysis,etc.) despite AD stating patient wanted all measures taken to prolong her life

Hospital/MDs accused of Elder abuse, wrongful death

Medically Ineffective Treatment Policy

1. Ethics committee consult
2. Administrative consult (Chair of Ethics, CMO, patient's MD)
3. Letter given to patient/family: 5 business days to find another medical center to take over or get court injunction

Case Presentation

- 39 yo Chinese man with metastatic HCC to lungs,abdomen, etc. in terminal stage with hepatic encephalopathy, coagulopathy, renal failure from hepato-renal syndrome, and impending respiratory failure
- AD named Caucasian fiancé as agent. Stated he wanted everything to be done, even if he were suffering and even if his life would be prolonged by only seconds.
- Sister and parents wanted comfort measures only, DNR.

Case presentation (2)

- Patient autonomy vs. medically ineffective treatment
- Staff rights
- Non-maleficence
- Invoke Medical Ineffective Treatment policy?
- MD order to change code status to DNR, comfort measures only?