



AAPM Position on the Problems of Decision-Making Capacity in Patients with Pain

Background

Physicians who treat patients in pain must be aware of their patients' decision-making capacity. In a medical setting, pain itself can alter decision-making capacity, and iatrogenic causes, including pharmacologic and psychological influences, may exacerbate a patient's vulnerability to undue influences. In recognition of the patient's right to self-determination, physicians who treat such patients are ethically and legally obligated to assess and evaluate their patient's decision-making capacity.

Autonomous informed consent requires

1. understanding of information and consequences
2. demonstration of insight
3. reason and judgment
4. the ability to evince a decision or articulate a preference
5. voluntariness.¹

Ethical Tenets

The patient's decision to proceed with any course of therapy should be voluntary and should express the patient's authentic desires and wishes. Patients' decision making should meet all five criteria of autonomous informed consent. The physician whose patient does not adequately meet these criteria needs to determine whether the patient has identified a surrogate decision maker or, in instances in which withholding or discontinuing life-prolonging treatment is being considered, whether an advance directive exists. "In some instances, a patient with diminished or impaired decision-making capacity can participate in various aspects of health care decision making. The attending physician should promote the autonomy of such individuals by involving them to a degree commensurate with their capabilities."²

Recommendation

In all instances, the physician should secure informed consent for treatment from a legally valid source, whether it be the competent patient or the incompetent patient's surrogate. Certain patients with diminished capacity may be able to participate in some or even all decisions pertaining to their care. While ethical dilemmas may arise when the physician believes that the surrogate's decision may be contrary to the patient's best interest, the physician's ethical and legal obligations are to advance the patient's welfare.

Recommendation – continued

The attending physician may wish to consult with an ethics committee or ethics consultant if there is doubt. “When a physician believes that a decision is clearly not what the patient would have decided or could not be reasonably judged to be within the patient’s best interests, the dispute should be referred to an ethics committee before resorting to the courts.”²

References

1. Grisso T, Appelbaum P, Mulvey E, Fletcher K. The MacArthur Treatment Competence Study II. *Law and Human Behavior*. 1995;19, No. 2.
2. *Code of Medical Ethics*, Opinions on Practice Matters, sec 8.081:222, 223.

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