MEDICAL ETHICS
Board Review Questions

ACP Internal Medicine
Board Review Prep Course
July 20, 2023

Adapted from slides by Joyce Wipf, MD, MACP
by Ananth Shenoy, MD, FACP

ETHICS OF MEDICAL CARE

All cases have "ethics": most of the time they go smoothly

4 Essential topics:

1) Medical indications
2) Patient preferences
3) Quality of life
4) Contextual features: social, economic, legal, administrative

ETHICS ON BOARDS

Think about:

"*What is the objective of the case?*"

"*What is the ethical principle that guides my decision-making in this case?*"

Case 1.

A 56-yr old patient has recently been diagnosed with metastatic renal cell carcinoma. The diagnosis was made in pre-op evaluation for a humerus fracture sustained after a fall, with pulmonary nodules on CXR (Stage IV). He has had extensive consultation with Oncology who recommended Immunotherapy for prolonged survival.

The patient has declined Rx and wants only palliative care. He has two children, ages 14 and 17.

Case 1.

Newly diagnosed renal cell carcinoma with metastases; the patient declines Rx. *What should you do?*

A. Have the patient declared incompetent
B. Refer the patient back to Oncology for another discussion
C. Initiate palliative care
D. Strongly urge the patient to have immunotherapy

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"Respect for patient autonomy"

PATIENT PREFERENCES

- Principle:

  "Respect for patient autonomy"
- In US, marked emphasis on autonomy of patient in decision-making
- Focus on pt choice, rather than family wishes
  - This right has been upheld by the US Supreme Court
  - Children more complex; teens may be able to voice preference per court cases
- Important to communicate with families

Case 1: Renal Cell CA
Test-taking strategy

A. Have the patient declared incompetent
B. Refer the patient back to Oncology for another discussion
C. Initiate palliative care
D. Strongly urge the patient to have immunotherapy

Note: 3 options (A, B, D) are similar in that ignore the patient's wishes

One option (C) is to "Listen to the patient/respect the patient's wishes"

Case 2.

A 21 yr old college student is brought by his roommate to the ED for acute symptoms of headache and stiff neck x 18 hrs.

PMH: neg

Exam: pt somnolent but arousable
Temp 39, BP 100/52, P 112
+Nuchal rigidity
Remainder unremarkable.

Labs: WBC 24,000

Case 2.

ED course:

Consent obtained for lumbar puncture, and order for a STAT dose of IV antibiotics. The patient hears the order and becomes agitated, refusing antibiotics.

The physician carefully explained the high risk of death from meningitis without antibiotic Rx. The patient continues to refuse, but is becoming increasingly somnolent.

Case 2. Patient with meningitis
What is the most appropriate care?

A. Treat with IV fluids only, as antibiotic therapy carries a significant risk and should not be given without patient consent.

B. Since the patient has a life-threatening condition, he should be treated against his will.

C. Obtain a court order urgently, withholding treatment until the case can be reviewed.

D. Obtain consent from the patient's roommate and proceed with antibiotic therapy.

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"Principle of beneficence"

LIMITS OF PATIENT PREFERENCE

- Principle of beneficence:

  An obligation to assist others in furthering their legitimate interests

  "To help or at least do no harm."

- **Enigmatic** refusal of therapy for life-threatening condition (Example: healthy young adult refusing antibiotics for meningitis)

  When risk of Rx low and benefit great, and high risk of non-Rx, provider ethically obligated to probe why refusing→ If still unclear, pt should be treated, even against his will.

Religious Preferences

- Court cases have upheld that:
  - Adults can refuse care on religious basis
  - Adults cannot legally withhold life-saving care for their children on religious basis
  - Women cannot be forced to have cesarean section or internal fetal monitoring

PATIENT PREFERENCES: Cultural differences

- In some cultures, more acceptable to have grown children take responsibility for pt
- Pt may defer to grown children to make decisions and may accept choice of child to "protect them from bad news"
- Problematic for us to withhold information:
  Open discussion of diagnoses is optimal to review Rx options and prognosis

- Ask the patient, "*Who would you like to make medical decisions if serious problems arise*"

Disclosing Information

Case 3.

Which of the following best defines therapeutic privilege?

A. An exception to the rule of informed consent because the physician determines that full disclosure of relevant health information is medically contraindicated.
B. The physician can determine which options of therapy are considered "reasonable" for a given patient situation and share only those.
C. The physician can omit discussion of therapeutic options that have high side effects or mortality or cost.
D. The physician is obligated to share with a patient all aspects of their health condition, and withholding relevant information is never permissible.
E. An exception to the rule of informed consent because the patient may be saddened by the health information.

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E. An exception to the rule of informed consent because the patient may be saddened by the health information.

DISCLOSURE OF MEDICAL INFORMATION

- Therapeutic privilege

  "*Unusual situation where physician may be excused from fully disclosing patient information when disclosing may be medically contraindicated (ie cause a serious psychological threat).*"

- Code of Ethics (AMA):consider this unjustified.
- Sensitive communication, essential patient trust.
- ACP (2017 policy): states this threatens the rule of informed consent. Note rarely indicated and only after consultation with a colleague re: risks and benefits. Errors must be disclosed.

Case 4.

A 56 year old man with type 2 diabetes is hospitalized for treatment of cellulitis. He is given 100 units of long-acting insulin subcutaneously instead of the 10 units that he usually takes.

This mistake is discovered 15 minutes after the patient receives the dose. He is placed on a D10 IV drip.

Case 4.
What should you tell the patient?

A. Say nothing: disclose this error only if the patient asks about it.

B. "*You are at risk for low blood sugar so you will be receiving a drip with glucose in it*."

C. "*We are concerned that you could have too much insulin and may develop low blood sugar, so we will be monitoring you closely with a glucose drip*."

D. "*A dosage error was made, and you received 10x the insulin dose ordered. You are receiving glucose to help prevent low blood sugar*."

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Disclosure of Medical Errors:
Tell the patient

- A medical error should be disclosed if a physician suspects or knows that it has an actual or potential impact on the patient's health, well being, or medical decision making.
  - Disclosure is not conditioned by the likelihood that the error will be otherwise recognized.
  - Errors do not necessarily imply negligent or unethical behavior, but failure to disclose them may.
- Healthcare professionals are ethically obligated to be forthcoming about healthcare injuries and errors.
- Virtually all patients want physicians to acknowledge even minor errors.
  - ACP "Disclosing a medical error"

MEDICAL CARE MISTAKES

- Communication: tell patient about the mistake
  - Data shows physicians still often do not disclose errors (Gallagher et al)
  - Evidence that patients who are informed are less likely to sue (although they still might: patients want an explanation and an apology)
- Explain how the mistake has been corrected
- Notify "risk management" service in your institution
  - Helpful in problem-solving; can have costs of correcting mistake removed from patient's bill
- Do not need to offer financial restitution

Case 5.

A 16 yr old gifted athlete comes to urgent care for physical exam required for school soccer. The girl's mother (legal guardian) is at work and unavailable. She has no contact with her father. The chart reveals numerous missed appts. It has been >10 yrs since last tetanus shot.

The patient is anxious to have the tetanus booster so her coach will let her practice, and she shows adequate understanding of potential complications of vaccine. She also asks about contraception.

Exam: healthy, completely normal physical. Normal urinalysis.

Case 5.

The state has a mature minor statute, and laws about care for emancipated minors that do not include immunizations in urgent care.

What should be given in care of the patient?

A. Give information about contraception and give the tetanus booster
B. Defer both tetanus and contraception discussion until her mother is available
C. Defer booster but provide information about contraception
D. Give tetanus booster and defer contraception discussion until mother is available

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Care of minors

- Minors can change status legally to act on their own behalf (rarely done)
- Laws have created exceptions to the requirement for guardian consent for care:
  - Include emergent/urgent Rx, STDs, pregnancy, contraception
  - Age of consent by minors varies by medical condition and state
  - Immunizations not included in most statutes on "exceptions to consent"

Care of minors - 2

- Mature Minor Treatment Statutes
  - *Minors may receive immunizations without parental consent under the Mature Minor Doctrine: "In determining whether the patient is a mature minor, providers will evaluate the minor's age, intelligence, maturity, training, experience, economic independence or lack thereof, general conduct as an adult and freedom from the control of parents."*
- Vaccinations of minors require consent of guardians in most states

Case 6.

A 49-year-old man required two tooth extractions for severe caries. He was given oxycodone for 5-days post-procedure. He calls his PCP MD on Friday pm for additional 5-day course due to persistent pain. He denies site bleeding, swelling or drainage. No fever or neck pain.

PMH: VTE, Medications include Apixaban.
The dental office is closed.

What is the most appropriate acute analgesic plan?

A. Duloxetine
B. Ibuprofen
C. Tramadol
D. Ketorolac injection
E. Acetaminophen

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Case 6 Discussion.

Why not give "*just a few more days*"?

CDC data over 10 years(1):

Of patients who are opioid-naive who were given a 10-day course of Oxycodone for dental procedure:

1 year later: 20% of pts remained on Oxycodone.

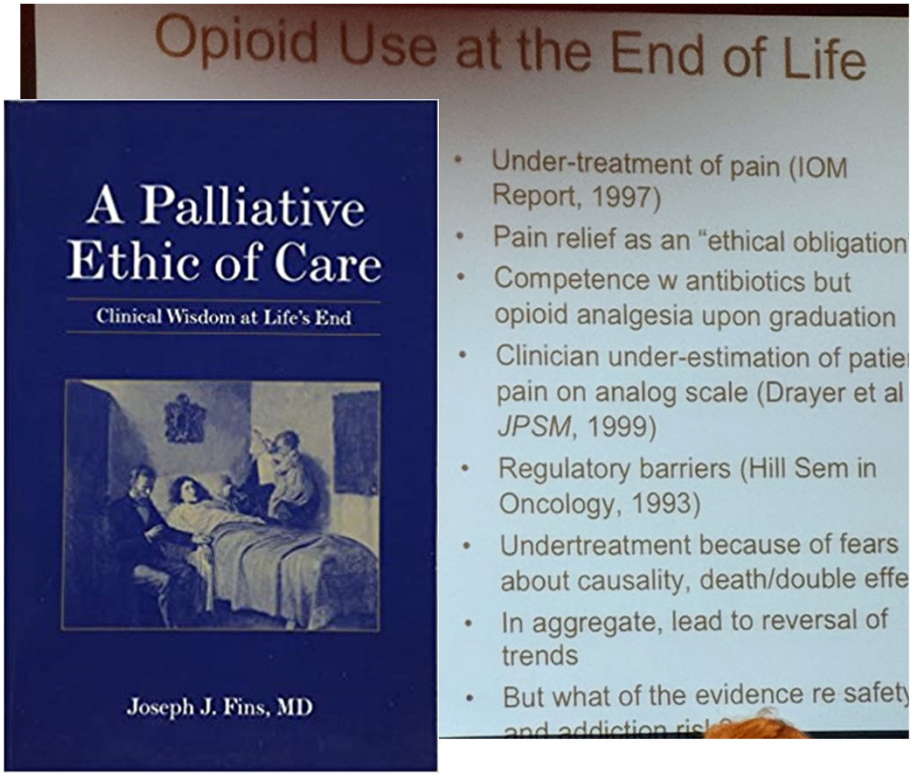
3 years later: 15% of pts remained on Oxycodone.

****2018-19 New guidelines restricting duration for post-op pain management (usually ≤ 3 days)*

1) MMWR CDC 2016

ETHICS OF PAIN MANAGEMENT

- National ACP meeting 2018 "Ethics Review"
  - Presentation J. Fins, text 2005 by Joseph Fins – regret impact
- Opioid epidemic
  - Pain as the 5th vital sign
  - Adaptation of cancer care to non-cancer pain
  - Well-meaning providers, but we have responsibility
  - Highly addicting
  - Criminal: Communities flooded with pills, other



ETHICS OF PAIN MANAGEMENT

- Questions -- anticipate on boards and in practice:
  - Highly judicious use of opioids
    - Advanced malignancy/ Hospice
    - Rarely in non-cancer acute care or chronic pain
    - "Legacy" patients long-standing Rx NMP
    - Minimal #days perioperatively
      (Health care organizations, states tracking use)
  - If must use; assess risk/flags
    - document informed consent, UDAS, check state database for outside Rx (15+% have + UDAS other substances in studies)
    - Shortest duration possible, avoid renewals
  - Prioritize non-opioid options
  - Avoid dual opioid and benzodiazepine
  - Buprenorphine

ABIM Blueprints for ethics questions

MOC example:

GERIATRIC SYNDROMES *(3% of exam)*	**Diagnosis**	**Testing**	**Treatment/ Care Decisions**	**Risk Assessment/ Prognosis/ Epidemiology**	**Pathophysiology/ Basic Science**
ETHICS IN THE ELDERLY *(<2% of exam)*					
Assessment of decisional capacity and competency; surrogate decision-making in the elderly	✓	/	✓	/	/

Case 7.
Mrs. C., an 84 yo woman who resides in a skilled nursing facility, is admitted with an aspiration pneumonia. She is unconscious and deteriorating. ABG reveals pH 7.28/pCO2 60/pO2 52.

The pt has been started on IV antibiotics and fluids. Her niece is the durable power of attorney (DPOA) for health care. The patient has never completed a living will or advance directives.

The niece meets with you, stating that her aunt has progressive dementia over many years. The niece would like IV fluids and antibiotics discontinued, with comfort care only.

Case 7.

Which of the following statements regarding the niece is true?

A. **The niece's request to d/c IVF and ABX is within her capacity to act as the patient's durable power of attorney.**
B. Since the patient herself left no advance directive, instructions to d/c IVF and ABX cannot be carried out.
C. Children of patient would make decisions as next of kin rather than niece, despite being named durable power of attorney.
D. The niece's instructions can be carried out only if it is determined that she had discussed this issue with her aunt (ie, carrying out "substituted judgment").

Durable power of attorney for health care

- Statute passed by state legislature
- Authorizes individuals to appoint another person to act as their agent to make all health care decisions after they become incapacitated
- **Obligations of DPOA are to:**
  - Carry out the wishes of the pt (substituted judgment) or
  - If the pt's wishes are unknown or unclear, to act in the pt's best interests and welfare
  - This includes authority to make end-of-life decisions about continuing or withholding Rx
- Supersedes wishes of family members
- DPOA authority ends with the patient's death
  - (Autopsy decisions by family!)

DPOA authority & limits

- In order to be valid, order for DPOA must be made when pt capable to do so:

  "Patient able to consistently understand complex medical and legal issues and decisions."
- You must be comfortable that the DPOA is acting in the patient's best interests
- Increasing emphasis on goals of care (ie POLST forms)

Living will

- Allows persons to express their wishes for care when they themselves are incapable of expressing preferences
- Gives guidance in terminal & irreversible states
- May pose problems:
  - Management when a condition is potentially irreversible
  - Terms are often vague: "Forego artificial means and heroic measures"
- Language may require interpretation in the setting of the case

Decision-making

- Many states have ranking of priority for family members: Example: spouse, parents, children, siblings
- With multiple family members requesting access to physician for input in pt care, physician can select a representative among them to speak for family
  - Representative may be individual whom physician feels is most knowledgeable about pt wishes and most involved in patient's life, not automatically the eldest child or sibling.
- Court may need to appoint a guardian to determine best interests of patient when can't resolve conflicting views

Decision-making - 2

- A short trial of therapy to determine response and course may be beneficial when there are conflicting views about aggressive therapy or when the prognosis is unclear.
  - *Example: intubation if uncertainty about reversible condition*
  - *Example: initiation of dialysis in elderly patient who wants treatment*
  - *Example: pt with acute stroke, recovery is uncertain*
- Note: The courts view withdrawing Rx as the same as withholding Rx, although to providers they seem very different.

Privacy and Confidentiality

Case 8.

You are asked to provide records via fax to an outside hospital ED, for a 39 yr old patient who presented with fever and dyspnea. He has a mechanical AVR placed for a bicuspid valve 6 weeks ago.

Which of the following should be done to be in compliance with HIPAA rules?

A. The patient's consent is required verbally to fax records
B. The patient will need to sign a written release for information to be given
C. As the patient is too ill, his wife should sign the Release of Information request.
D. You may fax the information without consent from the patient since is for a medical condition.

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HIPAA Privacy Rule 2000, 2002 summary for boards

- Anticipate fairly straightforward issues in privacy questions on ABIM exam
- HIPAA Privacy Rule: Use and disclosure of pt's medical information is allowed for treatment purposes
  - Consent not needed for review of patient's case/ records with consultants
  - Consent not needed to send/ receive fax of outside medical records as long as it is for medical care of the patient.
  - Special rules for psychotherapy records
- Provider can use judgment about discussion of patient status with family members when pt unable to give consent

US Dept HHS, HIPAA 1996, Professionals FAQ

HIPAA rules in setting of threats to public safety

- Jan 2013: letter to providers:

"…*HIPAA Privacy Rule does not prevent your ability to disclose necessary information about a patient to law enforcement, family members of the patient, or other persons, when you believe the patient presents a serious danger to himself or other people.*"

US Dept HHS 2013

http://www.hhs.gov/ocr/hipaa/

https://www.hhs.gov/hipaa/for-professionals/index.html

Case 9.

Your hospital team is caring for a patient with MSSA + sepsis, new neurologic findings and rash. His skin findings include suspected Osler's nodes and Janeway lesions. Your senior resident takes out her cell phone to take foot photos for patient case review in Morning Report. *Which applies to be in compliance with the HIPAA Security Rule?*

A. The patient should be verbally asked if he consents to the photo via cell phone for teaching purposes.
B. Use of the cell phone for photos requires patient informed consent, note use of personal phone and security measures.
C. HIPAA does not apply since the images do not include identifiable patient features.
D. A personal cell phone can never be used when requesting photographs of patient findings.

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HIPAA Security Rule and Mobile Devices

- 2013 US Dept of HHS: The Security Rule establishes a national set of security standards for protecting certain health information that is held or transferred electronically.
- **The Security Rule operationalizes the protections in the Privacy Rule. Applies to health plans, health care clearinghouses, and to any health care provider who transmits health information electronically.**
  - Violation Penalties.
  - Allows healthcare providers to communicate electronically with pts, such as through email, but the law requires covered entities to "*apply reasonable safeguards…*"
  - "requires appropriate administrative, physical and technical safeguards to ensure the confidentiality, integrity, and security of electronic protected health information."
  - Transmission of information only if necessary for care of the patient.
- Image is PHI, even if not readily recognizable to the public.
- Since data stored on the mobile device itself, concerns if lost/stolen.
- Cell phone images of patients: problematic even if patient not identifiable. Need patient informed consent, permission to take the photo and what it will be used for, informing that using a personal phone and security/ encryption measures on the phone. Written consent forms for educational purposes.

US Dept HHS: http://www.hhs.gov/ocr/hipaa/privacy.html

Case 10.

33 yr old man presents to the in the ED with urethritis; discharge shows intracellular gram neg diplococci. When told the dx of gonococcal urethritis, he says, "*Please don't let my wife know, I promise this will never happen again*".

What should you do?

A. Treat the patient and respect his wish for confidentiality.
B. Treat the patient and instruct him to contact his wife.
C. Tell the patient that he and his wife must be treated and that she will be notified about the exposure.
D. Treat the patient and contact the patient's wife to inform her of her risk and need for treatment.

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CONFIDENTIALITY

- Doctor-patient relationship is not absolute.
- Patient who asks that medical information be withheld should be honored unless it is in "common good" to notify others at risk ("reportable diseases") or would harm a specific individual
- If patient specifically conveys to his/her doctor plans to harm a named individual, these must be conveyed to the authorities

REPORTABLE DISEASES

- 1997 CDC updated uniform criteria for state health depts when reporting notifiable diseases to CDC : *Case Definitions for Infectious Conditions Under Public Health Surveillance* (MMWR 1997;46)
- STDs:
  - Chancroid, Chlamydia, GC, Herpes simplex (initial genital and neonatal), NGU, Acute PID, Syphilis, etc
- HIV: AIDS
- Each state also has individual rules
  - Example: WA declares primary care provider responsible for notification of partners
- HIV Infection: States require reporting & attempts to notify partners (often code #)

Case 11.

You are the primary physician for a 44 year old man with polyposis of the colon, recently s/p colectomy. He has two children, ages 18 and 22, from a previous marriage.

FH: Father died age 32 in a motor vehicle accident, mother A&W; no siblings.

When you discuss the genetics of this condition, the patient says that he does not want to notify his children.

Case 11. Patient with polyposis of the colon. *What should be your response?*

A. Urge the patient to allow you to contact the children.

B. Contact the patient's wife.

C. Tell the patient that you are legally required to notify the children due to high risk of cancer.

D. Do nothing since transmission is autosomal recessive and the risk is low.

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Confidentiality: Genetic Conditions

- No laws currently requiring notification of those at risk for inherited disease
  - Example: familial polyposis
- **Can try to urge patient to do what is best for health of children**
- Recent cases settled out of court

Case 12.

Your surgical colleague just performed cholecystectomy on your patient. As you are visiting the patient post-op, you talk with the surgeon and realize that the surgeon has signs of alcohol withdrawal. You also suspect Wernicke's encephalopathy.

What should you do?

A. Ignore ("Charlie will be Charlie")
B. Talk with his wife
C. Bring up with the hospital board urgently
D. Talk directly with the surgeon and urge him to seek counseling

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If an ethical dilemma can't be resolved…

- When in doubt, do not withhold care in an urgent situation (ie intubation)
  - Remember, courts view withdrawal and withholding of care the same (clinically we try to avoid withdrawing care, emotionally harder)
- Consider an ethics consult (when have time)
  - Ethics team can help to clarify issues; more time to delve into conflicts, assess prior documents of advance directives.
- Obtain advice from hospital attorney/risk management
- Court decision (last resort)
  - Vast majority of cases handled outside of court, and the courts do not want to be managing medical care
  - Legal system is slow!

Thanks for participating in our course!

Good luck!

ananth.shenoy@vmfh.org

Two more quick cases…

Case 13.

A patient with advanced lung and CV disease wishes to be "Do Not Resuscitate (DNR)" status if he "will be on a ventilator forever" or if he has a tumor. He now presents with pulmonary symptoms and pneumonia on chest x-ray.

What is the most appropriate code status for him?

A. Full code since the patient has a potentially reversible condition
B. Full code since the patient is ambivalent about preferences
C. Antibiotic therapy and DNR, since if intubated may have difficulty weaning from the ventilator
D. DNR and comfort care

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Case 14. Approval for autopsy?

A 66 yo man dies after a protracted illness. It is not clear what diagnosis caused his decline. His spouse wishes to get an autopsy. His daughter who had DPOA for medical affairs does not wish to get an autopsy. He has two other children who have not expressed their opinion. What should be done regarding autopsy?

A. Do not obtain an autopsy
B. Obtain an autopsy
C. Hold a meeting with all three children to see if they all agree
D. Contact the patient's brother for permission for autopsy

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A. Do not obtain an autopsy

B. Obtain an autopsy (wife next of kin)

C. Hold a meeting with all three children to see if they all agree

D. Contact the patient's brother for permission for autopsy

Case answer sheet:

- Case 1 = C
- Case 2 = B
- Case 3 = A
- Case 4 = D
- Case 5 = C
- Case 6 = E
- Case 7 = A

Case 8 = D
Case 9 = B
Case 10 = C
Case 11 = A
Case 12 = C
Case 13 = A
Case 14 = B