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Advocate Health - Midwest History

e-Ethics, 2000 March

Advocate Aurora Health

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Surrogate Decision Making

As a result of injury, illness, or side effects, patients may temporarily or permanently lose decision-making abilities. In addition to evaluating the cause and extent of impairment, if there is no applicable advance directive (living will, health care durable power of attorney, or mental health treatment declaration), the medical team should be prepared to identify a decision maker in accordance with the Illinois Health Care Surrogate Act.

The physician must determine whether the patient has a qualifying condition (or QC). This includes terminal illness or injury, permanent unconsciousness, or incurable/irreversible conditions which impose severe pain or inhumane burden and no reasonable prospect of recovery or cure. The presence or absence of a QC makes a difference in physician documentation and the scope of surrogate decision-making.

Physician documentation: A physician must document loss of decisional capacity (including its cause, nature, and duration), and whether the patient has a QC. If the condition qualifies, a second physician must personally examine the patient, and document his or her incapacity to decide as well as the QC.

Surrogate identification: Reasonable effort must be made to identify who ranks highest on

This newsletter is available on the cc:Mail system as a bulletin board called e-ethics. Watch for monthly postings.

the following list: guardian of the person; spouse; adult son or daughter; parent; adult sibling; adult grandchild; close friend; guardian of the estate. If the highest level includes two or more persons, they must make reasonable efforts to decide by consensus. If they cannot, the decision of a majority applies, unless surrogates in the minority initiate guardianship proceedings. The name, address, and telephone number of the identified surrogate(s) must be recorded. A social worker, chaplain, or other associate should confirm and document unavailability of anyone higher on the list than the recorded individual(s).

Surrogate decision making: The extent of surrogate authority depends on whether a QC exists. If the patient's condition qualifies, the surrogate's authority *includes* decisions to forgo life-sustaining treatment. If the condition does not qualify, the surrogate may make medical decisions *except* forgoing life-sustaining treatment. In either case, decisions should be

properly documented. When a QC exists and the surrogate decides to forgo treatment, conversations must be documented *and witnessed* in the chart.

Surrogates should understand their role is not to decide as they would for themselves, but to represent patient wishes. The patient's previous conversations or correspondence with family or friends may be instructive. If determining a patient's wishes proves impossible, the surrogate may decide based on what appears to be in the patient's best interests.

Patients without decisional capacity must still be informed of surrogate identity and decisions. The record must reflect whether a patient objects to either. When objections arise, the Surrogacy Act does not apply, and hospital legal counsel should be consulted to initiate guardianship proceedings.

Although advance care planning is on the rise, most patients do not record health care wishes. Therefore, when patients lose decisional capacity, identifying surrogates as provided by Illinois law constitutes an important clinical skill.

Margaret Freeman is being discharged following surgery at Chicagoland Hospital. When her daughter arrives to take her home, they discover that Mrs. Freeman's coat is missing. The temperature outside is below freezing. The nurse on duty responds, "Which would you rather I do—notify transport to bring a wheelchair, which will take twenty minutes, or call security, which could take two hours?" Mrs. Freeman bites her lip and says, "I just want to go home." While her daughter gets the car, an associate leaves Mrs. Freeman at the front entrance, where she sits in a cold draft. No one apologizes for the loss of her coat, offers a blanket, or tells her how to notify hospital security.

While it is clear that individual associates in this case erred, at an organizational level the case raises concerns about what some writers call "ethical congruence." Ethical congruence involves the extent to which an organization's stated values fall in line with actual knowledge and behaviors of associates, and the tools organizational leadership provides for identifying and resolving difficulties.

Certainly the associates in this case should have behaved differently toward Mrs. Freeman and her daughter. Implementation of Advocate's MVP, including sympathy for her

predicament, apology for her loss, and attention to her immediate need for warmth, could have done much to allay Mrs. Freeman's feeling of abandonment.

Unlike Chicagoland Hospital, Advocate's Service Recovery program enables clinical associates to go a step further and rectify the loss. Service Recovery encourages associates to use discretion and creativity in problem solving by covering expenditures up to \$250. Responsible use of this organizational tool entails understanding "recovery" as a key concept. The intent is not to reward, or to replace compassionate behavior and quality care. But when untoward events occur, despite the team's best efforts, it is means for timely response. In this case, if a reasonable inquiry into the disappearance of Mrs. Freeman's coat is unsuccessful, a \$150 gift certificate from a department store near her home enclosed with a note of regret and best wishes would be in order.

This case illustrates that care involves more than technical competence. Even if Mrs. Freeman's surgery proves successful, she and her family may be reluctant to return to Chicagoland Hospital in the future. At Advocate hospitals, the MVP and Service Recovery provide important tools for ethical action and reparation.

Calendar of Events March - May

Ethics for Lunch

Call (708) 425-8000 for more information.

March 17

Christ Hospital

April 21

Christ Hospital

May 19

Christ Hospital

Religious Traditions and Health Care Ethics Series

Time: 8:00-9:30 A.M.

Cost: \$25 (Includes breakfast)

Will take place at the Park Ridge Center. To register, or for more information, call Bernice Chantos at (312) 266-2222 ext. 255, fax (312) 266-6086, or e-mail bmc@prchfe.org.

March 16

Jehovah's Witness and Health Care Ethics

April 18

Islam and Health Care Ethics

May 9

Judaism and Health Care Ethics

Ethics Conference: Health Care Ethics, Public Policy and Judaism: Dialogue or Debate?

April 13

Time: 8:30 A.M.-3:30 P.M.

Cost: \$125

Presented by the Park Ridge Center. Will take place at Beth Emet The Free Synagogue, Evanston, IL. To register, or for more information, call Liz Maziarz at (312) 266-2222 ext. 262.

e-Ethics provides discussion of important ethical issues in clinical care and organizational life. In specific cases, fuller ethical analysis may be required, in addition to consideration of hospital policy and legal standards.

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