Withholding and Withdrawing Care

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Withholding Vs. Withdrawing
- Active Vs passive distinction
- Conventional wisdom in medicine said withdrawing is “harder” than withholding
- This has been challenged by modern medical ethicists - withholding a treatment that has not been tried is “morally” harder than withdrawing one that has not proven beneficial

“Benefits/Burdens Standard”
- Benefits
  - health benefits - treatment of disease or symptoms
  - quality-of-life benefits - improved mental status or physical comfort
- Burdens
  - increased pain, suffering, debilitation
  - reduced quality of life

What do we know about patients’ intensive care experiences?
- There is evidence of significant suffering in ICU patients with regards to pain, dyspnea, anxiety, sleep disturbance, depression
- A substantial majority of physicians managing ICU care did not specifically discuss prognosis with families
- 54% of family representatives did not understand the diagnosis and prognosis immediately following a conference with the treating MD
- MD’s do 75% of the talking in family conferences

Challenges Unique to the ICU Setting
- Often no prior relationship with patient or family
- Traditional separation of intensive care/palliative care
- Patient often not a participant in discussions
- Families unable to participate in high-tech care

Advance Directives
- The “great hope” of the 80’s and 90’s
- Do not significantly affect the aggressiveness or cost of ICU care
- Do not change decision-making in the ICU
- Can be difficult to interpret for a given patient
- What is “terminal”
- What is “extraordinary means”
- What is “quality of life”
- Still an important piece of the puzzle
Brain Death

- Patient is considered legally dead
- Criteria for diagnosis include combination of neurologic physical exam and testing (apnea test/EEG)
- Cardiopulmonary support sometimes continued until family or others arrive
- Conceptually simple, but can be difficult in practice

Coma

- Relatively short-term (weeks)
- Eyes closed, no evidence of wakefulness
- No evidence of communication or purposeful movement
- Often progresses to PVS

Persistent Vegetative State (PVS)

- First described in 1972
- No evidence of awareness of self or others - unable to interact
- Intermittent sleep-wake cycles
- Some preserved cranial and spinal reflexes
- No purposeful behavioral responses

“Locked-In” Syndrome

- Patients are awake, alert, with normal cognition (to the extent that it can be tested)
- Often caused by pontine infarction or hemorrhage
- Profound quadriplegia, some preserved eye movements
- Can be confused with coma or PVS

Landmark Cases in Futility Ethics

- 1975 - Karen Ann Quinlan
- 1983 - Nancy Cruzan
- 1995 - Hugh Finn

Quinlan, 1975

- 21 yo NJ woman with severe anoxic brain injury after alcohol/drug overdose
- Dx: PVS
- Required ventilator and artificial feeding/hydration
- Father petitioned to stop vent several months later
- Opposed by physicians, backed by local court and State Attorney General
- NJ Supreme Court granted request
- KQ died 10 years later
New Jersey Supreme Court in *Quinlan*, 1975

“the State’s interest (in the preservation of life) weakens and the individual’s right of privacy grows as the degree of bodily invasion increases and the prognosis dims. Ultimately, there comes a point at which the individual’s rights overcome the State’s interest.”

*Cruzan*, 1983

- 25 yo with PVS after MVA
- Required artificial feeding and hydration but not ventilator
- After 4 years, parents asked that hospital stop tube feedings - hospital refused
- Final decision by U.S. Supreme Court affirmed competent person’s right to refuse any life-sustaining treatment, and for incapacitated persons, left to the States the issue of whether legal standard of substituted judgment would be satisfied by only verbal statements
- NC died 1990, 13 days after feeding tube removed

*Finn*, 1995

- 44 yo television newscaster with PVS after MVA
- Wife, sister, and physician wanted feeding tube removed
- Finn’s parents and brothers disagreed
- Governor James Gilmore intervened to block removal of tube, citing the State’s interest in “protecting its most vulnerable citizens”
- Decision overruled by local and State Supreme Court
- Hugh Finn dies 1998 after removal of tube
- Court refuses to force State to pay wife’s legal fees

Who opposes withholding and withdrawing care, and why?

- Advocacy groups for persons with disabilities (NDY)
- “Right to Life” groups
- Some religious groups and organizations