The Medical, Ethical, and Legal Implications of DNR Code Status: A Discussion Not a Death Panel

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Disclosures

• I have no financial or other conflicts of interest related to this presentation.

• Any mention of off-label use of drugs will be clearly mentioned as such.
Objectives

• Define advance directive terminology
• Demystify medical interpretation of DNR
• Discuss ethical principles of EOL care
• Understand legal responsibilities of care provider
Mrs. E’s Story

• 65 yo female presents to ER in respiratory distress
• PMH of COPD
• Hospitalized for COPD exacerbation 6 months ago
• Previous hospital admission note for DNR
What do you do?

- Bipap?
- Intubate?
- CPR?
- Wait for family?
What is an Advance Directive?
Advance Directive

- Written document
- Competent individual
- Gives instructions for healthcare
- Implemented when patient lacks decision making ability
Decision Making Capacity

- Listen to the information
- Manipulate information to show comprehension
- Communicate decision
- Offer consistent explanation of decision

- Must evaluate if current medical condition impairs capacity
What are the types of advance directives?

“I have an advance directive, not because I have a serious illness, but because I have a family.”

Ira Byock, MD
Advance Directives

- Do Not Resuscitate Order
- Living Will
- Durable Power of Attorney for Health Care
LIVING WILL

DO NOT put this person on artificial life support of any kind for any reason what so ever.

DO harvest reusable parts when he is dead, and then cremate all that remains.

Lee Su
Witness 1

Michael D
Witness 2

K. Bae
Witness 3
2. Durable Power of Attorney for Health Care

• What?
• Who?
• How?
• When?
• Why?
3. Do Not Resuscitate Declaration

- Form signed by patient (or advocate) expressing wishes
- Valid outside of hospitals and nursing homes
- Do not have to have terminal diagnosis
- Not required for hospice enrollment
Do Not Resuscitate Order

• Medical order
• In a hospital or nursing home
• Signed by the physician
• Valid for particular admission
• NOT signed by patient
What does Do Not Resuscitate mean?

- What does it include?
- Central Line?
- Intubation?
- Cardioversion?
Medical/Legal Definition

- When breathing and heartbeat stop
- No attempt at resuscitation
NOTICE

'Do not resuscitate' does not mean 'do not treat'

What ethical principles relate to DNR?
Ethics

- Autonomy
- Non maleficence
- Informed consent
- Utilization of resources: Social Justice
Karen Quilan

- April 1975 age 21
- Persistent Vegetative State
- New Jersey Superior Court
  - No advance directive
  - Family argued right to privacy, freedom of religion, and protection from cruel and unusual punishment
  - Judge assumed she wanted to live
  - “termination of respirator...would be homicide and an act of euthanasia”
Karen Quilan

• NJ Supreme Court: “not to be considered euthanasia in any way”
  – “The interruption of attempts at resuscitation, even when it causes the arrest of circulation, is not more than an indirect cause of the cessation of life, and we must apply in this case the principle of double effect.” 1976

• Physicians weaned vent, continued artificial nutrition and antibiotics

• Died June 1986 of pneumonia
Euthanasia?!

- 1975-1986 AMA policy: withdrawing medical supports same as active euthanasia/murder.
- Withdrawing/withholding ethically equivalent.
You have two options ma'am. You can be a no code or a slow code.

Now, which is it gonna be?
Background
Responsible, shared decision making on the part of physicians and patients about the potential use of cardiopulmonary resuscitation (CPR) requires patients who are educated about the procedure’s risks and benefits. Television is an important source of information about CPR for patients. We analyzed how three popular television programs depict CPR.
Un-extraordinary measures: Stats show CPR often falls flat

(CNN) -- In his 20 years of practicing emergency medicine, Dr. David Newman says, he remembers every patient who has walked out of his hospital alive after receiving CPR.

It's not because Newman has an extraordinary memory or because reviving a patient whose heart has stopped sticks in his mind more than other types of trauma. It's because the number of individuals who survive CPR is so small.

In fact, out of the hundreds of CPR patients who have come to the New York hospitals where he has worked, Newman recalls no more than one individual a year making a full recovery.
How doctors choose to die

When faced with a terminal illness, medical professionals, who know the limits of modern medicine, often opt out of life-prolonging treatment. An American doctor explains why the best death can be the least medicated – and the art of dying peacefully, at home

Ken Murray
The Guardian, Wednesday 8 February 2012 15.00 EST
If I'm ever on life support, unplug me. Then plug me back in. See if that works.
Cost & Advances Directives

- AD’s were associated with lower costs in regions where end-of-life care spending was highest.
- No difference in use of life-sustaining treatments by advance directive status across all spending regions.
- People with AD’s were more likely to use hospice and die outside of the hospital in high spending regions.

Legal Aspects

• POLST
• No universal document in Michigan
• Court presumes patient would choose prolonged life unless otherwise documented
Michigan’s Do-Not-Resuscitate Procedure Act

• February 4, 2014
• Applies only OUTSIDE the hospital
• Defines guardians authority for code status
Michigan’s Dignified Death Act

• Does NOT authorize physician assisted suicide
• Physicians must inform patients of terminal illness
• Must inform patients of all treatment options including comfort care/hospice
• Required doctors to tell patients they have a right to effective treatment of pain
Michigan Dignified Death Act

Your doctor has diagnosed an illness which may shorten your life. Being sick is never easy. Learning that the illness may be terminal can create stress. It can be hard, both for you and for those close to you. This brochure is about your right to make choices about your medical treatments. This includes the right to accept or refuse any treatment that is offered to you. It also covers your right to have someone else make choices for you if you can no longer choose for yourself.

State law says that your doctor must give you certain information. Here is a summary.

Information About Other Medical Treatments and Their Risks

You have the right to be informed by your doctor about your treatment options.

- This includes the treatment your doctor recommends. Your doctor must tell you the reason for this recommendation.
- Your doctor must tell you about other forms of treatment. These must be treatments that are recognized for your illness. They must be within the standard practice of medicine.
- Your doctor must tell you about the advantages of the treatment. They must also tell you about the disadvantages and risks. They must tell you the same things about the other treatments you have talked about.

- Your doctor must tell you about your right to limit treatment to comfort care.
- They must also tell you about hospice. Hospice cares for people who have a terminal illness. It also helps their families.

You should feel free to ask your doctor any questions you have about your illness. You should also ask questions you have about the treatments for your illness.

Possible Decisions

You, or those making decisions for you, can decide to:

- Begin treatment
- Refuse treatment or stop it once it has begun. This includes food and water.
- Be given enough medicine to control pain. You can decide this even if you could live longer with less pain medicine.

Choosing A Patient Advocate

You have the right to make decisions about your treatment as long as you are able. You also have the right to designate a patient advocate. This person will make treatment decisions for you if you can no longer choose for yourself.

The law does not require you to appoint a patient advocate. Your insurance company and health care providers can’t make you appoint one. They may give you information about how to appoint one. If you appoint a patient advocate, it must be in writing.

Your advocate can make decisions for you, just as if you are making them yourself. Your advocate can decide about treatment for your illness. This includes getting, continuing and ending treatment. Your advocate may also choose treatment to manage your pain. Your advocate may also choose hospice care or other treatments to increase your comfort.

To appoint a patient advocate you should fill out a Durable Power of Attorney for Healthcare form. You can get these forms from doctors and hospitals. You can also ask an attorney to help you fill one out. On this form you may include a statement about the type of care you want. This will help your patient advocate know what type of care you desire. You may also pick an alternate person. They would be your advocate if your first choice is not available for some reason.
Summary

• DNR is a decision made by patient/provider that when the heart stops there will not be an attempt to restart it.
• Other goals of care must be identified for the time leading up to cardiac arrest.
• For a patient with capacity, it is ethically and legally permissible to decline care.
Resources

- www.lastacts.org
- www.eperc.mcw.edu
- www.partnershipforcaring.org