No Shoes, No Shirt, No Service?
Ethical Dilemmas Caring for Uninsured Patients

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Outline
- Relevance: many cases, all ages, repeated themes
- 3 Cases: adult and pediatric, multiple jurisdictions
- Principles for ethical decision-making
- Potential for conflict: professional ethics
- Moral duty to buy health insurance
- Implications for policy reform

Principles of Ethics
- Autonomy
  - Respect for patient autonomy; informed consent a common thread
- Beneficence
  - Obligation to ‘do good’; act in a way that is likely to benefit the patient; proceeding with a beneficent plan of care, using clinical judgment
- Nonmaleficence
  - Ethical obligation not to harm or cause injury; to prevent foreseeable harm
- Justice
  - Issues involving allocation of resources; organizational ethics; availability of services; “like cases”; fairness; equity
Relevance

- Uninsured and 'underinsured' patients have the potential to burden our healthcare system
- Immigration policies place financial pressure on healthcare organizations who provide access and quality of care to all patients including undocumented patients
- Confluence of immigration reform and healthcare reform
- Medical schools / teaching hospitals
- Most medical students and graduates make an ethical pledge, in one form or another, declaring commitment to treat all patients regardless of social or economic circumstances
- Physicians, social workers, hospital administrators
- Role of ethics consultation

Regulation: The American Experience

- 2009 American Medical Association (AMA) Council on Ethical and Judicial Affairs: Resolution on Physician Responsibilities for Safe Patient Discharge
- 2010 Patient Protection and Affordable Care Act (ACA) (excludes undocumented patients)
- 2012 American Journal of Bioethics (Medical Repatriation)
- 2013 The Hastings Center Undocumented Patients Project

Case: 71 year old woman

- A 71 year old Chinese woman (in Canada 7 years, visitors visa)
- She is extremely impaired with impacted gaze, speech, hemiplegia
- She requires 24 hour nursing care with little prospect for recovery
- She is nourished via NG feeds and is at risk for aspiration
- NG tube feeds are not sustainable long term or in the home setting
- The health care team recommends a PEG tube insertion
  - Her family requests expedited hospital discharge, wishing to care for her at home; informed, in part, by finances
  - The health care team feel that PEG tube insertion is in the patient's best interest; early d/c is unsafe and below standard of care
  - Family demands to take patient out of hospital AMA
  - The health care team requests an ethics consultation
What is the right thing to do?

- Tension between health care team and family positions.
- Family insists that patient would not want to burden her family.
- Health care team identifies a clear care pathway; best interests of patient.
- Discharge w/o PEG tube insertion would cause harm and fall below standard of care.
- Patient would likely require increased care due to aspiration / infections.
- SW communicating with federal immigration; hoping to obtain some coverage on a compassionate basis.
- Duty to foreign uninsured patients?
- Government responsibility regarding ensuring coverage for visitors?
- Role of Clinical Ethics?

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Outcome

Moral Duty to Buy Health Insurance

- Is it morally appropriate to require all individuals to purchase health insurance?
- Do individuals have a moral duty to reduce certain potential burdens posed upon others?
- Moral duty to rescue; required to provide acute and emergency care.
- Magnitude of rescue burden; financial burden.
- Argument: enforceable moral duty of individuals to buy enough health insurance to cover the costs of acute care and emergency care.
- 2010 Patient Protection and Affordable Care Act (ACA) designed to increase health insurance coverage in the United States.

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Case: 47 year old woman

- A 47 year old woman from West Africa suffers catastrophic stroke
- Prior stroke of unknown severity in home country
- In Canada on 6 months visitor's visa
- Purchased health care insurance prior to travel
- Health care team recommends PEG tube insertion and lifelong anti-coagulation; long term care and rehabilitation
- Guarded prognosis for recovery
- Patient not eligible for LTC or Home Care Rehabilitation services due to limited availability of such services in Alberta
- Hospital / health care team exploring transfer of care
- Family is unsure of what to do
- Health care team / hospital administration request an ethics consultation

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What is the right thing to do?

- Tension between health care team, hospital and family positions
- Tension between perceived duty of ongoing care and imperative to repatriate the (young) patient to her home country
- Family insists that patient would not want to burden her family and always intended to return to home country
- Asking for access to resources and supports
- Health care team identifies a clear care pathway; best interests of patient
- Scarcity of stroke rehabilitation resources even for Albertans
- Safe and medically appropriate repatriation
- Duty to foreign 'underinsured' patients?
- Government responsibility regarding ensuring coverage for visitors?
- Role of Clinical Ethics?

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Outcome

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Case: 8 year old girl

- Chandidas family in Canada on visitors visa 2007
- Application for refugee status May 2008; fear of persecution
- Rhea Chandidas diagnosed with Acute Lymphoblastic Leukemia (ALL) at age 2.5 years in India
- Rhea treated at SickKids in Toronto for four years
- Chandidas family applied to remain in Canada on humanitarian and compassionate grounds; s. 25(1) IRPA based on BIHC (best interests of child), establishment in Canada and fear of persecution in India
- Option for treatment in Mumbai
- Quality of care for Rhea in Canada unmatched in India
- Letter from treating oncologist; cancer outcomes (relapse), psychological stress and emotional suffering
- Application for judicial review; BIHC starting point for analysis

Lawyer Referral

- Law Society of Alberta
  - Lawyer Referral Service
  - Up to three lawyers practicing in specified area of law that best suits client needs
  - For Service referrals, first 30 minutes of conversation is free; time to discuss legal situation / explore options
  - 1-800-661-1095

- Calgary Legal Guidance (Alberta Law Foundation)
  - Dial-A-Law
  - Provides general information on a wide variety of legal issues including immigration / humanitarian and compassionate applications
  - 1-800-332-1091
  - http://www.albertalaw.ca/dial-alaw

Conclusions & Recommendations

- Hospitals should continue to accept all patients who present for emergency care regardless of immigration status or ability to pay
- Recognise tensions between professional ethics and organizational policies; duty of care to patients and fiscal responsibility
- Establish ethical best practice standards
- Adopt a consistent approach aligned with organizational mission and values
- Consider patient’s best interest aside from issue of reimbursement
- Discharge plans focused upon individual patient needs
- Due diligence regarding medical support available in home country
- Informed consent; respect for persons
- Encourage dialogue at level of member organizations
- Consider independent ethics consultation
- Inform policy review and revision

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Questions?

References


Chellides v. Canada (Citizenship and Immigration), 2013 FC 257 (CanLII).


