Ethics

...the legal & ethical issues surrounding end-of-life care.

Forgoing Medical Therapy

Legal & ethical issues in withholding or withdrawing medical therapies.

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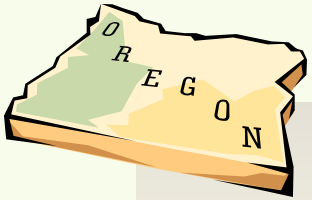
Introduction

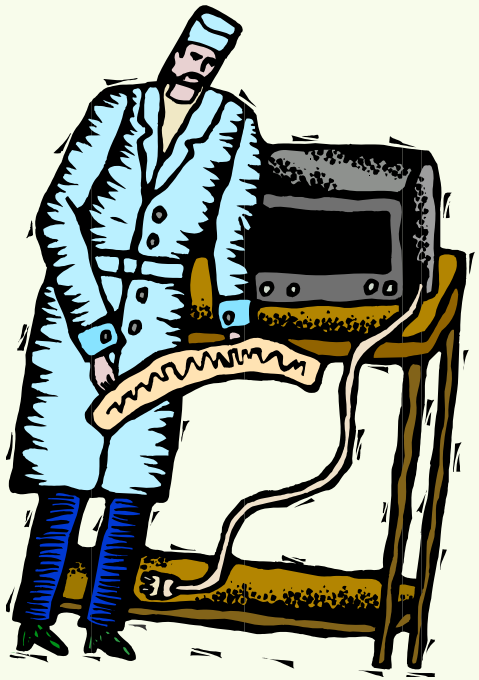
- Changes in the last half of the century.
  - At the turn of the century, most people died at home.
  - For the past 50 years or more, most Americans (80%) have died in institutional settings such as hospitals and nursing homes.



One exception is the state of Oregon where in 1999, about 1/3 of expected deaths occurred in a home setting.

Technological Developments

- Cardiopulmonary bypass became possible in 1953.
- Mechanical ventilation emerged in the 40s and 50s.
- Hemodialysis became possible in 1960.
- Defibrillation and cardiac pacing developed in the late 1950s and early 60s.
- ICP monitoring routinely available by the mid-1970s.
- CPR first reported in 1960



Current Research Findings

- Only 13% of acute care patients receive CPR at time of death.
- The majority of patients who die in the acute care setting have a no-code/DNR order in place at the time of death.
- In addition to CPR, most patients also have some other form of life-sustaining therapy withdrawn.
- On average, only 13% of patients complete an advance directive.

Background Summary I

- The rates of CPR at time of death suggest that few inappropriate codes are occurring in institutionalized settings.
- Most deaths are preceded by an active decision to stop or not start something.
- In at least half of all cases, the patient will be unable to participate in decision-making at the time that choices need to be made.
- In these cases, family members and other surrogates will be called upon to make these difficult choices.

Background Summary II

- Most of us will face making end-of-life decisions for a loved one at some point in our lives.
- Few proxy decision-makers will have written evidence of the patient's preferences for end-of-life care but many will have verbal evidence.
- Cultural and social mores are not adequate to guide surrogate decision-makers because the choices are relatively new.
- Family decision-makers often turn to nurses, doctors, and others for support and guidance.

Problematic Issues: Withholding versus Withdrawing

- Withdrawing therapy may feel "different" but emotionally, legally and ethically it is neither better nor less risky than withholding therapy.
- Many therapies require a short clinical trial to determine if therapy will be effective.
- Approach life-sustaining therapies with a timeline for when its effectiveness will be evaluated.

Medical therapies promoting comfort should be continued even as curative therapies are stopped.

Problematic Issues: Life Support

- Which therapies are considered “Life Support” and which are considered “Routine”?
- Traditional distinction between ordinary and extraordinary care has proved meaningless because each case has different circumstances.
- Currently, life support is considered to include many types of therapy depending on the situation. All therapies can legally and ethically be stopped or not started to allow death to occur.

Problematic Issues: Nutrition and Hydration I

- Are nutrition and hydration “Life Support”?
- Distinctions based around tube feedings versus oral ingestion of food are difficult for several reasons.
  - Food is not "medicine." Delivery may be medical.
  - Infants, disabled and some elderly are often given feeding assistance.
  - Culturally, food is viewed as caring and hospitality
  - We have empathy for feelings of hunger and thirst.

Problematic Issues: Nutrition and Hydration II

- Artificially provided nutrition and hydration is considered a medical therapy that ethically can be withdrawn.
- Policies restricting a patient's choice to waive tube feedings must be made clear at the time of admission to any care facility.
- Some states require prior written evidence of a patient's wishes before allowing tube feedings to be withheld.

Problematic Issues: "Killing" vs. "Allowing to Die" I

- Historical distinctions about euthanasia.
  - "Allowing to die" has been referred to as passive euthanasia.
  - "Killing" with intent to relieve pain and suffering has been termed active euthanasia.
- These distinctions have not been useful, since even "passive" euthanasia requires skillful action on the part of the health care provider to withdraw life support in the most humane way.

Problematic Issues: "Killing" vs. "Allowing to Die" II

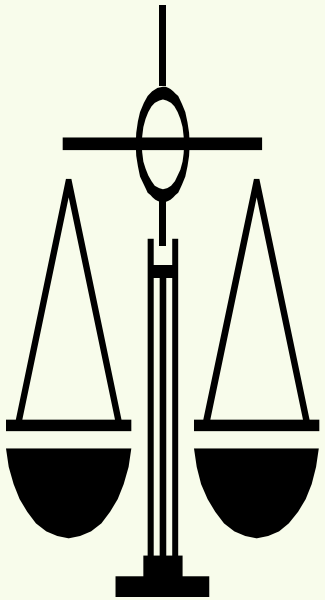
- Difficult distinctions about "Cause of death."
  - Is the withdrawal of life-support measures considered the cause of death, or rather the underlying illness or condition?
- The withdrawal of life-supporting measures is generally considered to be the "proximal act."
- The knowledge that withdrawing life-support measures has lead to the patient's death can be difficult for health care professionals.

Problematic Issues: "Killing" vs. "Allowing to Die" III

- Distinctions of intent are sometimes made:
  - A murderer intends to bring about a person's death.
  - A clinician withdrawing life support intends only to remove medical therapies to allow the person to live or die without "artificial" support.
- Distinctions like this are problematic. Strictly speaking, the intent may be simply to remove life support, but the hope may be for a speedy, comfortable death and an end to the patient and family's suffering.

Problematic Issues: Legal & Ethical Considerations

- Legally and ethically, withholding life support is not better or worse than withdrawing life support.
- Clinicians report finding it more emotionally difficult to withdraw than withhold life support often because withdrawing life support requires an action but withholding does not.
- Despite feeling "different" emotionally, from a legal and ethical standpoint, neither is better or less risky than the other.



Problematic Issues: Clinical Considerations

- For many therapies, a short clinical trial is useful or even necessary to determine whether it will be effective or achieve the desired benefits.
  - i.e. it is more appropriate clinically to treat a patient aggressively for several days following a successful resuscitation attempt until neurological function can be assessed than to assume that significant damage may have occurred and withdraw therapy immediately.
- It's important to approach life-sustaining therapies with a timeline for when the therapy will be evaluated for effectiveness and benefit to the patient.

Problematic Issues: Terminal vs. Non-Terminal

- A common misperception is that a person must be considered "terminal" before they (or their family) have the right to withdraw life support.
- This distinction is not accurate legally, and is not useful clinically, because the definition of "terminal" is not clear.
  - i.e. A patient with diabetes, who is insulin-dependent, would die in a short time if he or she chose to stop taking their insulin but would not be considered terminal.

Problematic Issues: Assisting in Suicide

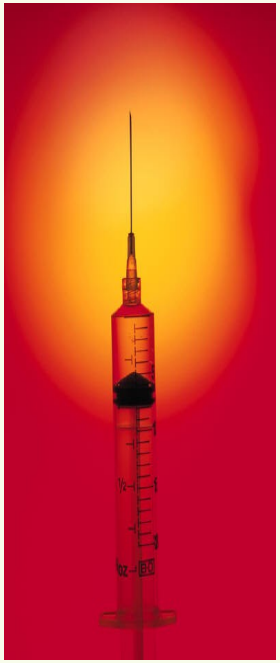
- A distinction is sometimes drawn between providing relief from suffering vs. killing or assisting suicide.
- The patient wishes to achieve death sooner and hopes that stopping the therapy will facilitate that goal.
- Some would argue that the true intent of the patient is not death but rather to alleviate suffering.
- This distinction is blurry and doesn't help to distinguish when withholding or withdrawing is justified and when it is not.

Problematic Issues: Summary I

- Distinctions such as terminal vs. nonterminal, withholding vs. withdrawing, killing vs. allowing to die blur when subjected to the clinical realities for dying persons.
- The right to forego medical therapy – even if it means death will result and even if the patient is not clearly "terminal" – is now an accepted legal and ethical right.

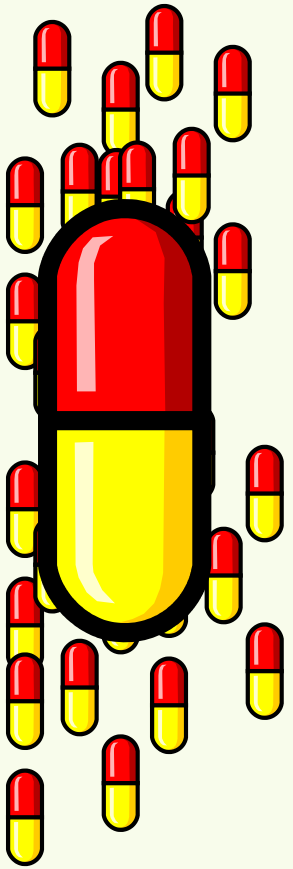
Problematic Issues: Summary II

- Goals for health care professionals:
  - Make certain that these difficult choices are fully informed.
  - Make certain that the choices are not motivated by suffering or distress that could be ameliorated if identified.
  - Make sure that the patient, (or family), continues to receive support and palliative care even after decisions are made to forego aggressive therapy.



Ethical Issues in Medical Therapy

- Withholding/withdrawing life-sustaining therapy
- Assisted suicide
- Voluntary active euthanasia
- Mercy killing
- Terminal sedation



Ethical Issues in Medical Therapy

- Voluntary stopping eating and drinking
- Pain management
- Medical futility
- Compassionate responses to patient or family requests to hasten death