Hidden Curriculum
Ethics

Policy

Law

McKneally, 2010
On Call

• Think back to your last night on call
  – Did you admit anyone for surgery?
  – Did you obtain consent?
  – Think about how you obtained that consent?
  – Contrast that to what you would consider an ideal informed consent?
Case 1

- 64 year old male
- Asymptomatic Abdominal Aortic Aneurysm
- >5.5 cm diameter
- He is in your clinic wanting to discuss surgery
- He is fit for surgery
Case 1

• What would the ideal informed consent discussion consist of?
Case 1

- After your discussion, he consents to the surgery
- You perform it flawlessly
- He awakes from surgery with loss of motor function and sensory function below L2
- He sues you for negligence

- Are you worried?
- How will the courts determine whether or not you were negligent?
IF I KILL YOU, YOU DON'T PAY

DR. NICK RIVIERA
Waking up the next morning: surgeons’ emotional reactions to adverse events

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Medical Education 2012: 46: 1179–1188
The kick

Upon first learning of the adverse event, surgeons described feeling a *kick*, or a visceral blow, to their ‘core’. This phase was often associated with a physiological response, most commonly described as anxiety or a stress reaction, and is most consistent with Scott *et al.’s*\(^3\) initial stage of *chaos and accident response*. 
The fall

‘[I feel] a pall over everything, like I couldn’t sleep without thinking about it... I grieve for how badly it makes me feel. I’m always saying I’ve got to get out of this business because it’s hard. It’s depressing...’
(I-001)
The recovery

Surgeons readily described the personal coping strategies they used to deal with the occurrence of complications, although they noted that ‘getting over it’ required the passage of time. They often recognised the onset of this phase:

‘Until the pall had lifted and [the patient] sorted, I couldn’t think about anything else.’ (I-001)
The long-term impact

A further stage outwith the description by Scott *et al.* was evident in our participants when they described the cumulative effect these complications had on their sense of self throughout their careers, although the impact of this varied among the participants:

‘I think we’re generally poor at estimating the cumulative impact that these stressful events have on life... Surgeons pride themselves on being able to tough things out and continue to function.’ (I-012)
Case 1

• After your discussion, he consents to the surgery
• You perform it flawlessly
• He awakes from surgery with loss of motor function and sensory function below L2
• He sues you for negligence

• Are you worried?
• How will the courts determine whether or not you were negligent?
Health Care Consent Act

• Obtaining informed consent is independent of the duty to take reasonable care in *providing* the treatment.
  – i.e. You can perform a textbook operation but still be found negligent for failure to disclose risks

• WAKE UP!
• This is exam gold
Steps to obtaining informed consent

1. Make sure patient is capable of giving informed consent
   – If not capable use a substitute decision maker
2. Discuss the nature of the treatment

– The expected benefits of the treatment
– The material risks of the treatment
– The material side effects of the treatment
– Alternative courses of action
– The likely consequences of not having the treatment
3. Be alert to and deal with each patient's concerns about the proposed treatment. It must be remembered that any patient's special circumstances might require disclosure of potential although uncommon hazards of the treatment when ordinarily these might not seem relevant.

4. Give the patient the opportunity to ask questions

5. Make sure the consent is voluntary
SDM Rank List

1. Guardian of the Person with authority for Health Decisions
2. Attorney for personal care with authority for Health Decisions
3. Representative appointed by the Consent and Capacity Board
4. Spouse or partner
5. Child or Parent or CAS (person with right of custody)
6. Parent with right of access
7. Brother or sister
8. Any other relative
9. Office of the Public Guardian and Trustee
Exceptions to Informed Consent: Case 2

18 year old female has just been rushed into the Emergency Department following a head-on collision in which her father was killed.
She is unconscious, cyanotic, hypotensive, and in severe respiratory distress. You have inserted an endotracheal tube, a chest tube, and intravenous lines. A large amount of blood drains from the chest. Her hypotension is unresponsive to fluids.
You are the surgical resident on call

What should be done, in your judgment, and what are your reasons?

When are surgical interventions justified without informed consent?

What is the justification for your position?
Case 2

Her mother arrives and informs you that her daughter is a Jehovah’s Witnesses.

How do you proceed?
Watchtower Blood Policy 1961

NO BLOOD TRANSFUSION!

As a God-fearing Christian and a believer of Jehovah’s word, the Bible, I hereby demand that blood, in any way, shape or form, is NOT to be fed into my body; however, blood substitutes may be used in case of extreme loss of blood.

“YOU MUST NOT EAT THE BLOOD OF ANY SORT OF FLESH.”
LEVITICUS 17:14, NW

Signature

Witness

(Over)
Watchtower Blood Policy

**Allowed**

- Fractions:
  - Albumen
  - AHG
  - Gamma globulins
  - Fibrinogen

**Forbidden**

- Whole blood
- Major components:
  - Plasma
  - RBC
  - WBC
  - Platelets
How should the substitute decision maker arrive at a decision?

Substitutes should try to determine how the patient would decide the issue if capable.

1. Written expressed wishes about treatment
2. Spoken wishes
3. Values & beliefs known to be held by the patient when capable
4. Best interests – what a reasonable person would consider most helpful & appropriate
No treatment contrary to wishes

• A health practitioner shall not administer a treatment if the health practitioner has reasonable grounds to believe that the person, while capable and after attaining 16 years of age, expressed a wish applicable to the circumstances to refuse consent to the treatment.

• Malette v Shulman et al (1990), 72 O.R. (2d) 417 (ON CA)
Case 3

11 year girl has just been rushed into the Emergency Department following a head-on collision in which her father was killed.
She is unconscious, cyanotic, hypotensive, and in severe respiratory distress. You have inserted an endotracheal tube, a chest tube, and intravenous lines. A large amount of blood drains from the chest. Her hypotension is unresponsive to fluids. You would like to start a blood transfusion.
Case 3

Her mother arrives and informs you that her daughter is a Jehovah’s Witnesses.

How do you proceed?
“Parents ... are not free to make martyrs of their children”

*U.S. Supreme Court, Prince vs Massachusetts, 1944*
Sextuplet parents lose court battle over B.C. baby seizures

JUNE 13, 2008

A child's right to life trumps a parent's charter right to guide their medical treatment in the case of four sextuplets taken from their Jehovah's Witness parents, according to a B.C. Supreme Court judgment released Friday.
Alberta parents David and Collet Stephan found not guilty in their toddler's death after retrial

SEPTEMBER 19, 2019

David and Collet Stephan, an Alberta couple who treated their son's illness with natural remedies rather than taking him to a doctor, have been found not guilty in the toddler's death after a retrial.
Age of Majority: Case 4

• 14 year old girl. Newly diagnosed with osteosarcoma of the left distal femur with no evidence of metastasis.

• The tumour does not shrink with neoadjuvant chemotherapy and has enveloped the neurovascular bundle.
Case 4

• To ensure wide margins and have an 80% 5-year survival you recommend an above knee amputation followed by chemotherapy. Her parents are happy with this treatment plan.
• She however, refuses to consider an amputation as an option. She would prefer the marginal resection and take her chances with a much lower 5-year survival.
Teen’s choice: no heart transplant

Originally published November 12, 2008 at 12:00 am

Hannah Jones, 13, with her mother, Kirsty, explains on television that she would rather spend her remaining days at home.
• How would you proceed?
BEST CASE/WORST CASE

BREAK BAD NEWS

STORYTELLING

INCLUDE OTHER MEDICAL PROBLEMS

MAKE A RECOMMENDATION

TREATMENT A  TREATMENT B

WHAT IS IMPORTANT TO YOU NOW?
KEEP CALM and BLAME ANESTHESIA