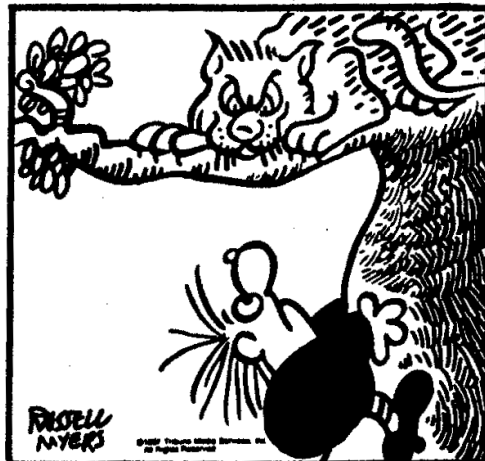
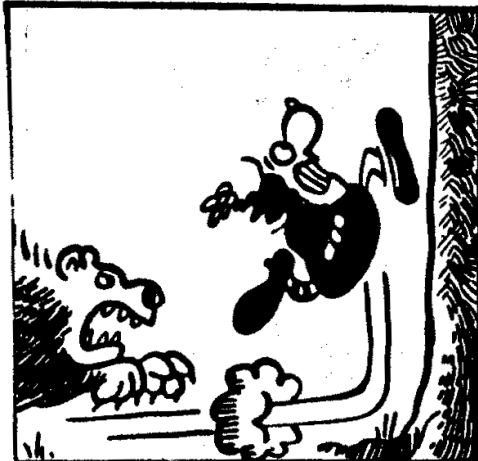


Key Health Care Decision Making Processes

Steven Levenson, MD, CMD

Always Tough Decisions

BROOM HILDA



RUSSELL MYERS





Key Steps: Challenges

- Time
- Complexity
- Staff
 - Availability
 - Knowledge
 - Skills
- Lawyers
- Surveyors
- Too many forms to complete



Key Steps: Why Bother

- Organizes a complex topic
- Helps optimize results for patients
- Needed to address rights effectively
- Efficient use of time
- Helps match tasks to appropriate skills
- Helps ensure legal, regulatory compliance
- Prevents expensive complications
- Helps teach important principles



Key Steps in Making Ethics Decisions

- 1-Identify
 - Individuals who wish to discuss LSTs
 - Situations where discussion of LSTs is indicated
- 2-Obtain existing care instructions
 - Clarify individual's values, goals, wishes
- 3-Clarify relevant medical issues
 - Including physical condition, prognosis, and decision-making capacity
- 4-Define decision-making capacity
 - Try to optimize capacity
- 5-Identify primary decision maker
- 6-Certify qualifying conditions



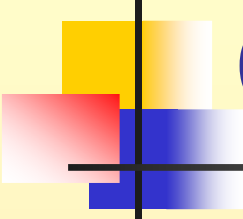
Key Steps in Making Ethics Decisions (continued)

- 7-Define and discuss treatment options with patient or authorized decision maker
 - Match medical findings with individual's values, goals, wishes
- 8-Implement treatment options
 - Document medical orders (MOLST form) about life-sustaining treatments
- 9-Review situation periodically and continue or modify approaches, as appropriate



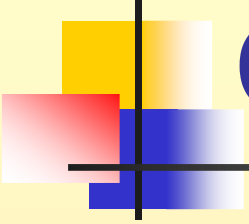
1-Identify Need For Discussion

- Individuals who want to discuss or review further
- Situations where life-sustaining treatment options are, or are likely to be, pertinent in the short-term
 - During the individual's stay
 - Within the next 4-6 months
- CPR



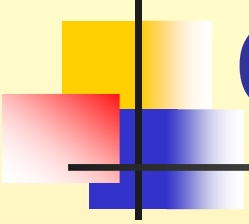
2-Identify and Obtain Existing Care Instructions

- Some individuals have already participated in advance care planning
- Some decisions already made and documented
- A key step to help identify values and wishes (explicit and implicit)
- Federal and state laws/regulations identify individual rights to
 - Advance care planning
 - Input into medical treatment decisions



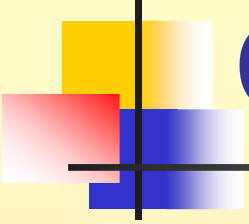
2-Identify and Obtain Existing Care Instructions

- Identify and obtain existing information and documents
 - Regarding health care decisions and other evidence of patient values and wishes
- Explain rights to advance care planning and to have input into medical treatment decisions
- Transfer copies of documents to those needing them, place in medical record



2-Identify and Obtain Existing Care Instructions

- Review and clarify existing documents
 - People may not know what their documents say or what they don't cover
 - Written documents may be general, vague, or place conditions on implementation of specific choices
- MOLST form will need review
 - On admission
 - Under other circumstances



2-Identify and Obtain Existing Care Instructions

- Offer general guidance/support about MOLST and advance care planning
 - Laws and regulations require this
 - Many individuals need information and assistance
- General advice and help is not the same as discussing and choosing specific treatment options
 - Beware of mixing the two

3-Clarify Relevant Medical Issues



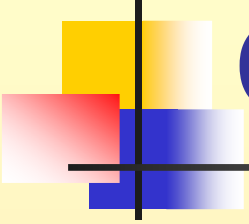
- Clarify the individual's current medical situation (what are active illnesses, problems, conditions?)
 - Understanding problems and prospects is a key starting point for identifying benefits, risks, and pertinence of potential interventions
 - Vital participants: physicians and others

3-Clarify Relevant Medical Issues



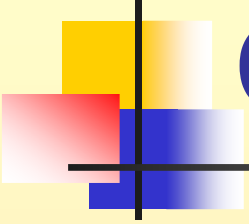
- Establish prognosis
 - How likely is the individual to stabilize, improve, decline, die, etc.?)
 - Often possible to establish a most likely course or outcome
 - Helps clarify relevance of potential treatments
 - Prognosis is based on likelihood, not on certainty
 - Evidence about factors that predict poorer outcomes

4-Define Decision Making Capacity



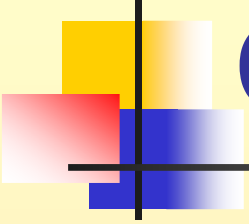
- Define or confirm an individual's decision-making capacity
 - Essential to optimize patient participation in health care decisions
 - Decision making capacity is not the same as legal competence or mental status
 - Adjudication of incompetence is not routinely necessary and is harder to reverse if condition changes

4-Define Decision Making Capacity



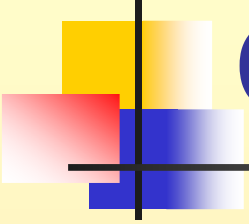
- As appropriate, inquire about prior decision making capacity
 - Decision making capacity is three dimensional, and should be evaluated across time, not just at one moment
 - Factors that have affected decision making capacity may still be pertinent
 - Delirium, recent illness, medication effects

4-Define Decision Making Capacity



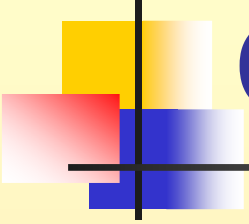
- Assess or confirm decision making capacity initially (for example, upon admission) and periodically thereafter
- Decision making capacity
 - Can fluctuate
 - May change with time or as new factors or conditions arise

4-Define Decision Making Capacity



- Reconcile diverse opinions about decision making capacity
 - It is important to have one single operating perspective about decision making capacity
- Certify decision making capacity or incapacity
 - HCDA requires physicians to certify lack of decision making capacity
 - This information will be relevant to many situations, not just end-of-life

4-Define Decision Making Capacity



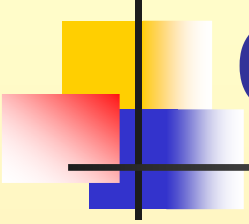
- Document basis for conclusions about decision making capacity
 - Various individuals will need to refer to this information to understand how these conclusions were reached
- Reassess or confirm periodically, as needed
 - Decision making capacity may change with time



4-Optimizing Decision-Making Capacity

- Identify and address factors affecting decision making capacity
 - Underlying causes of lethargy, confusion, delirium, etc. often affect decision making capacity; some can be addressed
 - Medications, medications, medications
 - Medical conditions such as hypothyroidism and fluid and electrolyte imbalance

4-Define Decision Making Capacity



- Define the individual's role in making health care decisions, based in part on decision making capacity determinations
 - The patient will play a more or less substantial role, depending on the scope of decision making capacity and extent and causes of incapacity

5-Identify Primary Decision Maker



- Identify appropriate primary decision maker
 - The patient or someone else
 - Patient may still participate despite not being primary decision maker
- Beware of claims to be authorized decision maker despite lack of documents or of legally valid succession

5-Identify Primary Decision Maker

- Guide substitute decision makers regarding roles and responsibilities
 - The primary decision maker will need to communicate with other family members
 - Substitute decision maker should
 - Take into account
 - Patient's explicit and implicit wishes and best interest
 - Discuss and consider relevant medical information
 - Not impose personal values or choices

5-Identify Primary Decision Maker

- Follow succession identified in HCDA
- Document primary decision maker and basis for his/her designation
 - When decision making succession is unclear, it is important to be able to show (now and subsequently) that someone was chosen by making best effort to follow a legally valid sequence
- Prepare for challenges in doing this



5-Identify Primary Decision Maker: Challenges

- Unavailable, unwilling, or unable
- Conflicts within a category
- Conflicts among different categories
- Multiple claims to be authorized decision maker
- No authorized decision maker
- Attempted bypass of explicit patient wishes



6-Certify Qualifying Conditions

- Identify terminal, end-stage, or persistent vegetative state (PVS)
 - Important to follow HCDA definitions
 - Terminal or end-stage relate to individual's overall condition, aggregate of their burdens of age and illness
 - Not necessary to have specific fatal condition in order to be terminal or end-stage



6-Certify Qualifying Conditions

- Purposes
 - To provide overview of patient condition and prognosis
 - Some advance directives only triggered by presence of qualifying condition
 - To permit certain decisions about life-sustaining treatments
 - For example, surrogate decisions to withhold or withdraw treatment



6-Certify Qualifying Conditions

- HCDA requires certain physician certifications
 - Practitioners should be guided by HCDA definitions
 - May confuse meanings of these terms or apply personal interpretations
 - Relates to medical information about condition and prognosis



6-Certify Qualifying Conditions

- Based on probability, not certainty
 - That is true of all ethics decision making
- Document basis for conclusions about qualifying conditions
 - Others may need to understand the basis for such determinations

7-Define and Present Health Care Issues & Options

- Convergence of

Patient values, wishes, goals →

+

Medical considerations →

- Condition and prognosis
- Treatment indications, availability, effectiveness

**TREATMENT
OPTIONS**



7-Define and Present Relevant Health Care Issues

- Identify the pertinence of various treatment options
- Should be done in context of
 - medical condition
 - prognosis
 - available treatment options
 - qualifying conditions
 - patient goals, wishes, and values



7-Define and Present Health Care Issues & Options

- Offer support for current treatment orders and advance care planning
 - Should be more than just presenting treatment options
 - People often need time and support from various sources to make decisions
 - Support from staff, practitioners, family, friends, clergy, etc.
- Clarify the individual's goals, wishes, and values as much as possible



7-Define and Present Relevant Health Care Issues

- Define relevant issues needing discussion or decisions; for example
 - Scope of individual's decision-making capacity
 - Options to address inadequate food intake
 - Potential benefits and limits of CPR
 - Capacity to consent to procedures
- Important to define problem concisely and accurately



7-Define and Present Relevant Health Care Issues

- Present information to patient or authorized decision maker
 - Review relevance of various treatment options
 - Literature identifies more and less successful ways to do so
 - How information is presented may influence how primary decision maker understands issues and makes decisions



7-Define and Present Relevant Health Care Issues

- For many individuals, potential treatments will not change the course or materially improve the outcome
- Health care practitioner not obliged to provide a treatment that he/she considers medically ineffective or not in patient's best interest
 - Should explain basis for conclusions
 - Must follow procedures identified in HCDA



7-Define and Present Relevant Health Care Issues

- Medical literature contains considerable evidence about interventions that are more or less likely to affect outcomes in various situations; for example
 - CPR not effective in people where cardiopulmonary arrest is
 - Limited impact on function and quality of life of tube feedings in end-stage dementia
 - Related to end of life
 - Caused by advanced, irreversible medical conditions



7-Define and Present Relevant Health Care Issues

- Patients or authorized decision makers may need repeated efforts to make relevant decisions
- Document relevant information that clarifies basis for various decisions
 - Important risk management measure
 - Minimal risk of legal complications when proper process is followed

8-Implement Treatment Decisions



- Write specific orders regarding withholding or withdrawing life-sustaining treatments
- Use MOLST form or give verbal orders
- Orders should cover CPR and other relevant situations where choices have been made

MOLST Orders Represent Convergence

- Convergence of

What the patient/ADM authorizes



+

The medical issues



- Patient condition and prognosis
- Treatment indications, availability, pertinence, and potential effectiveness

**MOLST
ORDERS**

8-Implement Treatment Decisions

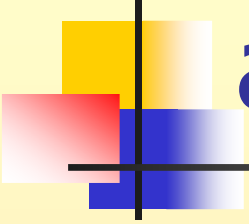


- Don't confuse CPR status with treatment prior to arrest
 - Wanting other interventions prior to arrest does not automatically mean someone wants CPR
 - "Code status" does not automatically equate with scope of treatment warranted prior to arrest, or the need to hospitalize for illness

9-Review Periodically / Update as Indicated



- Individuals have right to change or revoke choices about treatment
 - Current orders or advance directives
- Review/confirm decision making capacity prior to accepting changes or revocation
- Sometimes, new or revised care instructions are needed in order to implement treatment choices



9-Review Periodically / Update as Indicated

- Reevaluate situation periodically
 - Including medical condition and prognosis
 - Reaffirm patient goals, wishes, and values
- Revisit the process outlined herein
 - To greatest possible extent, given the various challenges
- Follow legally required procedures for making changes



Implementation Challenges

- Obtain consultative support
 - For example, PCAC
 - PCACs advise and support, but don't make or impose decisions on behalf of practitioners, facilities, or patients
- Various individuals (clergy, patient advocates, etc.) may be able to help explain situations and obtain effective decisions



Implementation Challenges

- Facilities and programs (hospitals, nursing homes, dialysis centers, etc.) or residential care settings can establish organizational policies and procedures
 - Effective if policies are promoted and performance overseen and improved over time



Implementation Challenges

- Other settings
 - Attaining systematic approach is more challenging, but still feasible
 - Some details that are relevant to institutional settings (for example, PCAC) may not apply in community settings
- In any setting
 - Assign responsibilities such as obtaining copies of advance directives or documenting decision making capacity



Implementation Challenges

- Helpful to establish a performance improvement activity related to the entire process and its components
 - Are legal requirements followed?
 - Are decision-making capacity determinations done properly?
 - Are specific individuals fulfilling their roles consistently?
 - Is MOLST being used correctly?

Implementation Challenges: References



- Levenson SA, Feinsod FM. Ethical issues: Procedures for managing ethical issues and medical decision making. Ann of LTC 1998;6(2):63-65.
- Clarifying the medical situation. Ann of LTC 1998; 6(5):192-196.
- Obtaining instructions for care. Ann of LTC 1998; 6(9):295-300.
- Determining decision-making capacity and selecting a primary decision maker. Ann of LTC 1998; 6(11):370-374.
- Presenting treatment options. Ann of LTC 1998; 6(13):442-450.
- Considering specific treatment options. Ann of LTC 1999; 7(2):74-83.
- Optimizing physician and medical director roles. Ann of LTC 1999;7(4):158-166.
- Implementing effective ethics decision-making programs. Ann of LTC 1999; 7(6):232-237.

Implementation Challenges: References



- Levenson SA, Feinsod F. Ethics Issues: Using basic management techniques to improve end-of-life care (Parts 1-3). J Am Med Dir Assoc 2000;1:182-186; 228-231; 284-288.
- Levenson SA. The Health Care Decision Making Process. Maryland Medicine. Winter 2010;11(1):13-16.