Critical Thinking Part 1

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CRITICAL THINKING – PART 1
“SEX, DRUGS, ROCK AND ROLL”

• Vaccination vs. medication
• Protecting patients from sexual assault; allowing sex for those who want “conjugal” visits in the hospital
• Dealing with unintended consequences of new opioid laws
• Patients admitted from other facilities or settings with illicit drugs “on board”
• Patients without identities – strategies for finding surrogates
• Discrimination – when patients’ demands conflict with policy and the law
Vaccination vs. Medication

- Eliza was born with heart issues and is in the ICN
- Her mother’s Hep B status is unknown
- CDC and California rules require that Hep B vaccine be given within 12 hours of birth under these circumstances
- Mother does not want the baby vaccinated because “it will make her retarded”
- Nurse consulted with Infection Control, Physician
Vaccination vs. Medication (cont.)

- It was recommended that the baby instead be given HBIG, which provides, though slightly less, protection for the child.
- Under the Terms and Conditions of Admission, giving medications is part of the general consent.
- The mother wants to sign a “waiver of liability” form and refuse to allow the medication.
- Some people believe CPS should be called.
“Simple” vs. “Informed Consent”

- **Simple**: Conditions of Admissions
  - Applies to simple, common procedures with remote risks, e.g., blood screen

- **Informed**: Additional process required — malpractice implications (Cobbs v. Grant (1972) 8 Cal 3d 22)

- **No consent** = Battery (Intentional tort)
  - E.g., wrong surgery or exceeds scope of consent (Perry v Shaw (2001) 88 Cal App 4th 658)
Consent is Given on the TACO

Narrate your care but don’t create the belief that you need consent to do your basic work

2. MEDICAL CONSENT: I consent to medical treatments or procedures, X-ray examinations, drawing blood for tests, medications, injections, taking of treatment related photographs, videotaping, laboratory procedures, and hospital services rendered to me under the general and special instructions of the physicians or other health care professionals assisting in my care. To facilitate my care, I consent to evaluation and examination by a physician or other health team professionals who may be physically distant from me via telehealth technologies, including but not limited to two-way video, digital images, and other telehealth technologies as determined by my providers. I also consent to my admission to the UCSF Medical Center if this is necessary for my care.

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What About Liability Waivers?

• Eliza’s mother wants to sign a liability waiver in exchange for us not giving the drug. Will it work? It’s a problem because the patient can allege:
  • She felt pressured to sign
  • Her state of mind was fragile/compromised
  • The hospital and doctors have greater knowledge than she does (even though she professed to be all knowing)
  • Some waivers are against public policy – can’t waive away commission of gross negligence or recklessness
Protecting a Patient (and Your Hospital) from Accusations of Sexual Assault

- Lilly is an adult in your hospital for the treatment of pressure ulcers to her hip, sepsis and osteomyelitis.
- She is refusing all care, including refusal of wound care, dressing changes, changing linens, medications. She is extremely abusive to staff.
- BUT … she wants to have sex in her room — with different “visitors” and says that it is one of the most therapeutic things she could do.
- One of her physicians thinks it’s no big deal.
Protecting a Patient (and Your Hospital) from Accusations of Sexual Assault (cont.)

- Remember: Lilly is a “dependent” adult, and accordingly, we have a high level of duty to her.
- There are at least 20 e-mails swirling, behavior letters, visitor restrictions.
- In fact, after a sitter was in the room for two nights witnessing sexual activity by the patient and her friends, Risk was called – the sitter is now objecting as she morally objects to having to witness such activity – two nights!!!!!
• What do you think????
  • How do we screen visitors?
  • Physical and emotional injury? Right to be free from “sexual abuse”
  • What about sexually transmitted disease?
  • What about the need to do medical care – interruptions and the rights of your staff?
  • No expectation of privacy in a hospital room
  • Capacity or no capacity?
  • Unplanned pregnancies
Protecting a Patient (and Your Hospital) from Accusations of Sexual Assault (cont.)

- An acute care hospital is not someone’s home – different than long term care, assisted living – but they still have the same considerations
- Discussed frequently related to psych facilities
- Can we just say no?
- Or am I just being a prude?
Protecting a Patient (and Your Hospital) from Accusations of Sexual Assault (cont.)

• When does sex become dependent adult abuse?
• Plaintiff’s websites are numerous
• Does common sense prevail?

Plaintiff’s attorney website
Jack’s Back – The Opioid Crisis and Unintended Consequences

• Jack and Jill went up the hill to fetch a bottle of moonshine; Jack stepped on a tack, broke his back, and took pain pills thereafter.

• Recently your clinic doctors have decided to refer all pain patients to the only pain clinic in town – it has a waiting list and does not prescribe opioids so Jack sought another solution. His friend H. Dumpty (who is no stranger to pain) hooked him up with some folks who know some folks …

• Jack’s now been in your ED twice in the last month after being found unconscious and overdosed on street Norco laced with fentanyl. And, he’s not the only one. Your clinic doctors are fed up with drug-seeking patients and being threatened, and your ED is tired of treating overdoses – maybe it was safer to prescribe known amounts of FDA approved drugs?
Opioid Crisis Responses

- California Strategic Plan
- Hospital Committees devoted to this
- MED score distribution
- Now – CURES lists for MD’s
- Medical Board is still looking at opioid deaths
Where did the Patient get the Drugs??

- Your hospital has affiliations with many long term care facilities and SNF’s
- You rely on them to take good care of your patients
- In January, some of your physicians report that they have two patients from the same facility and another patient from another facility with drugs in their system that were not prescribed by anyone
- They think it’s lucky that they caught the problem
- What do you do?
Where did the Patient get the Drugs?? (cont.)

- Due to their underlying condition, these patients would be incapable of diverting drugs themselves.
- They are the type of medications that keep patients calm.
- Is this a remake of *One Flew Over the Cuckoo’s Nest*?
Where did the Patient get the Drugs?? (cont.)

- What should you do? Consider
  - Could this be an isolated incident vs pervasive?
  - Is this a criminal investigation?
  - Call the police vs. the Ombudsman?
  - Adult Protective Services?
  - Test other patients who have been admitted from that facility?
Facility’s Response

• You decide to start with the Ombudsman; response
  • It couldn’t be us
  • It must be the patients sharing drugs
  • We don’t want to call the police – you should

  OR

• We are aware of the problem and are working on it
• We will let you know what we find
• We will change the way in which we monitor medications
• A very confused young woman is on your med surg unit being worked up for a neurological disorder that has left her nauseated, dizzy and agitated – she was found by a passerby in the nearby park, who walked her to your ED. She is dehydrated, delusional, and has no ID or idea who she is. She has a hard time keeping her balance, has no sense of time, and is disoriented; yet lab work has come back negative for drugs.

• Your staff is desperate to find out who she is and learn more about her medical history. Is it ok to send her picture to other hospitals in town to try to identify her? What about to the local mental health crisis team? To the police? If she was missing, now she is found, but who is she? Rather than call her Jane Doe, staff refers to her simply as Alice WonderWho?
Thinking “Outside the Box” to Identify Alice

- Alice has been with you for three weeks. She no longer needs medical care. She does seem to have a psych condition and she is on a hold. We still don’t know who she is. Consider:
  - Is she undocumented and fearful?
  - Is she a victim of human trafficking?
  - Is she someone who has a criminal record?
- The police do not have a missing person report that meets the description
- She has a bank receipt, we obtained her picture and showed it to the bank — no success — can we take her picture? Yes!!!
What are our Duties Toward Alice to Find a Surrogate?

- Within 24 hours of arrival in the ED, hospitals must make reasonable efforts to find a surrogate of some kind. Reasonable includes:
  - Examining belongings, records, police reports
  - Contacting potential surrogates
  - Contacting Secretary of State to see if patient has an AD
    - *Probate Code section 4717*

- Do we have to go with Next of Kin? No, you can choose from
  - Close family, friends, someone who has a close caring relationship, is aware of values and is willing to make decisions
The Patient Without Capacity or Unrepresented Patient

- Use Ethics Committee
- CMA-CHA policy on Unrepresented Patients
- Be guided by CMA-CHA Policy on Selection of Health Care Surrogates with the Assistance of Health Care Professionals (Consent Manual, Appendix 2-C)
  - Discusses suggested sources of information
  - Discusses characteristics of surrogate
  - Discusses duties of physician and other health care professionals
How Did We Identify Alice?

- Alice initially refused to be fingerprinted — first three weeks
- In a visit to bedside, Risk explained to the patient how we needed to help her and that we needed to take her fingerprints — she consented
- Police obtained fingerprints and checked state and federal systems — no hits
- Alice said she could take a bus to her home
- So after we confirmed that she did not medical care, we had a social worker and police take her on a field trip
- She took us to her sister’s house, got her ID
- Her sister said “she does this all the time” — Just wanders off
• Mr. Sprat is in your hospital again, now with complications from his recent gall bladder surgery. Opinionated and set in his ways, he is much worse without the neutralizing benefit of Mrs. Sprat’s mollifying presence – his boorish behavior and name-calling finally got to her, and she fled their home two years ago to travel with Wynken, Blynken, and Nod.

• After angrily yelling about his “inedible” lunch earlier in the day, it occurred to the CNA that perhaps one of the new vegan meal options would please him. But when he saw what she had brought for his dinner, he threw it to the floor in a rage and directed a stream of vile epithets her way, followed by a personal attack on her looks, and some nasty racial slurs that brought her to tears. She’s in your office now, and is refusing to return to the floor. What should/can you do?
Patients Who Discriminate

Sample letter language:

• On May 16, 2017, during your pre-operative anesthesia evaluation, you made discriminatory and racially based statements to an Asian physician. Additionally, your behavior was extremely confrontational and verbally abusive to our staff to the point that another physician had to be summoned to assist with the situation. The provider also contacted this office for assistance.
Patients Who Discriminate (cont.)

Letter cont’d:

- While we recognize that receiving medical care can be stressful, racially-based and discriminatory comments can never be justified.

- One of the values ______ Medical Center aspires to as an organization is diversity. We live and work in a highly diverse community and we are proud that our workforce is representative of that larger community. Our diverse workforce is one of our greatest strengths because it helps us provide care that’s respectful of every patient’s needs and values, no matter what their background or circumstances. As an organization, we expect the same degree of mutual respect from our patients with regard to their behavior towards our staff.
• Please be advised that you may not be disrespectful of our ____ staff and verbally abuse them. You must refrain from using any racially charged language when referring to, or communicating with, any ____ personnel. I must warn you that any further such behavior exhibited at ____ Medical Center will be grounds for review of your appropriateness as a _____Medical Center patient in terms of your ability to meet your obligations as a patient. We understand that you are scheduled for surgery on May 24, 2017. We are writing this warning letter to request that you conduct yourself in a non-discriminatory manner.
What Can You do to Help Your Staff

• Encourage reporting
• Have leadership support for setting limits
• We have a duty to protect staff from harassment and discrimination – document it
• The warning letter to the patient should be detailed and include the offending language
• Is it appropriate to remove staff from the care of these patients?
Key Tools

- EHR Alerts
- Visitation Restriction
- Staff Meetings

Set limits
Know your policies
No Visitors

Warning Letters
To: Violent Patient
From: Medical Team, UCSF Medical Center Risk Management and Security
Re: Expectations during hospitalization
Date: March 2, 2019

Improve your skills

Class: “Managing Challenging Patient Behaviors”
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• BEHAVIOR: Medical Center has adopted a zero tolerance policy for violence in our facilities. As such, is committed to maintaining a safe workplace that is free from threats and acts of intimidation and violence. For the safety and security of our patients, visitors and staff, weapons, knives, alcohol, illegal drugs and other dangerous materials are not allowed in our facilities. It is the expectation of the Medical Center that you and your visitors conduct yourselves in a respectful, non-violent, non-discriminatory and non-abusive manner and that you do not leave the hospital at any time during your stay. It is against hospital policy for you to leave your assigned unit with property belonging to the hospital (example: gowns, IV machines, oxygen tanks, etc.). You may be discharged if you leave the hospital without informing your clinical team or if you repeatedly violate the hospital’s smoking policy.
CAN WE SPEAK ABOUT DISCRIMINATION BY PATIENTS WITHOUT SPEAKING ABOUT DISCRIMINATORY CONDUCT OR UNCONSCIOUS BIAS EXHIBITED BY OUR STAFF AND HEALTH CARE PROVIDERS?
Thank You

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