

# Medical Futility: Balancing Physician Authority and Patient Autonomy

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## Outline

- I. Context & Cases
- II. The Concept
- III. Application
- IV. Communicating about End of Life Care
- V. Conclusion

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## Context

- Shift of authority in decision-making
  - Traditional view of physician having authority to determine medical benefit
  - Overriding emphasis on the value of patient autonomy
  - Life is always worth preserving;
  - Unconscious life is never worth preserving

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## Context

- Consider two cases
  - Karen Ann Quinlan (1976)
  - Helga Wanglie (1990)
- Both cases involved
  - Permanent unconsciousness
  - Agreement re: effect of treatment
  - Disagreement re: value of effect

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## Context

- Quinlan
  - Surrogate had to petition court to withdraw treatment due to physician Judgment of benefit
- Wanglie
  - Phys. had to petition court based on judgment of futility due to surrogate's judgment of benefit.

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## Context

- Justification for unilateral tx decisions
- Disagreement between phys. & pt.
  - Physician wants to discontinue treatment
  - Patient/family want treatment continued
- No corresponding concept of "pt. futility"
- What constitutes medical futility?

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## The Concept

- Two prevailing definitions
  - Virtual certainty that a Rx will fail to achieve a specific physiologic effect (physiologic)
  - Virtual certainty that a Rx, though it will have a physiologic effect, will not result in a sufficient benefit to the patient (normative)
    - Immanent demise futility, lethal condition futility, qualitative futility

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## The Concept

- Formal Similarities
  - An identified goal
  - A particular tx aimed at that goal
  - Virtual certainty that the tx will not be successful in attaining that goal
- The difference is the nature of the goals & their corresponding forms of judgment

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## The Concept

- Physiologic Futility
  - Judgment=Probability of Effect
  - Medical Judgment
  - Clinical Expertise
- Normative Futility
  - Judgment=Value of Effect
  - Moral vs. Clinical Reasoning
  - No Generalization of Expertise

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## Application

### ➤ Implications

- A particular treatment can be futile only in reference to a particular goal
- “Care” is never futile, only particular Rx
- Futility cases are almost always about the value of a particular effect of Rx, but rarely because of a true value conflict
- Need to distinguish between & acknowledge normative & clinical realms of reasoning



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## Application

### ➤ Preferable Definition

Virtual certainty that the treatment in question

**either** will not be successful in attaining **the mutually agreed** upon goals of treatment

**or** will not be successful in achieving the treatment's **somatic effect**

**Normative**

**Physiologic**



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## Application

### ➤ Unilateral treatment decisions based on **medical** futility should be

- limited to the physiologic effectiveness of Rx
- supported by clinical experience & research
- communicated to pt/family early



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## Application

- Normative futility should not be used as a “trump” to end conversation
  - Not respectful of pt. autonomy
  - Eliminates the need to address root cause of phys.-pt. disagreement

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## Application

- Need to explore reason for phys-pt conflict
  - Misperception of what is being proposed
  - “Can’t bear responsibility”
  - Failure to accept reality of medical condition
  - The “Immovable Script” (waiting for a miracle)
  - True value disagreement

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## Communicating re: EoL Care

- Tips for Communicating
  - Begin communicating early
  - Focus on Goals of Treatment
  - Be consistent
  - Choose language carefully
  - Be sensitive to cultural differences
  - Be aware of and acknowledge own biases

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## Communicating re: EoL Care

### 1. Preparation

- Review diagnosis, prognosis & pt history
- Review goals of treatment
- Identify appropriate treatment options
- Ensure all MDs/RNs agree (pre-conference)
- Reflect on own feelings, attitude, biases, etc.
- Identify a particular individual to be primary communicator (for family & team)



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## Communicating re: EoL Care

### 2. Clearly state diagnosis & prognosis

- Use simple language family will understand
- Acknowledge any uncertainty/ambiguity
- Include what can be expected
- Provide time for pt/family to internalize
- Allow family to respond & listen to them
- Update family often & early



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## Communicating re: EoL Care

### 3. Identify and Emphasize Achievable Goals of Treatment

- To keep pt. comfortable
- To respect pt.'s wishes
- To allow death with dignity
- To allow pt. & family quality time
- To manage pain



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**Communicating re: EoL Care**

**4. Identify Treatments Not Aimed at Goal**

- Mechanical ventilation
- ACLS/CPR
- Dialysis
- Vassopressors
- Etc.



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**Communicating re: EoL Care**

**➤ What to Say**

- Because our goal is X, Y or Z, we are going to stop burdening [pt] with aggressive Rx
- We will do everything we can to keep [pt] comfortable, respect [pt's] wishes and allow you to be with [pt] at the time of death.
- Because it would be contrary to these goals, we will not do anything heroic if [pt] stops breathing or heart stops (Need DNR).



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**Communicating re: EoL Care**

**➤ What not to say**

- What do you want us to do?
- What do you want code status to be?
- Is it okay if . . . ?
- Do you want us to do everything?
- Do you want your loved one to live or die?



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## Conclusion

- Some interventions really are futile, but in most cases there are other reasons limiting treatment would be appropriate
  - Inappropriate use of resources
  - Not consistent with pt.'s own wishes
  - Causes more (objective) harm than good to patient
  - God doesn't need our help working Miracles

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## Conclusion

- In cases of conflict re value of goals
  - Ethics consultation may help clarify issues, raise alternatives/compromises, provide institutional perspective and support
  - Dr. has right to withdraw, if competent & willing substitute will accept transfer
  - If no substitute, appeal to society through appropriate legal means

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## Conclusion

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**Discussion?  
Questions?  
Challenges?**

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