

1 **BIOETHICS RECORD OF CASE REVIEW**

2 **DATE: xxx**

3 Referred by Dr. C to assist in making medical decisions consistent with current ethical  
4 understanding regarding respect for patient autonomy and end-of-life care.

5 **CASE DESCRIPTION:** MM is a 72 year old female with history of diffused large B-cell  
6 lymphoma s/p 6 cycles of R-CHOP with partial response. She was most recently admitted to the  
7 hospital. During a palliative care consultation the palliative care physician, Dr. M, noted that MM  
8 recognized that she was dying and requested comfort care: "She expresses clearly that she  
9 hopes 'God will take her'. She states that she knows there is no cure, and that she will die  
10 soon." With this knowledge Dr. M arranged to have the patient discharged to Nursing Facility for  
11 comfort care. The Nursing Facility noted a few days after the patient's arrival that the family was  
12 becoming "increasingly confrontational." As a result, MM was transferred back to the hospital to  
13 better support the patient's and family's needs. The family was reported to be questioning the  
14 treatment plan.

15 A family meeting was held today to address the patient's treatment preferences and plan of  
16 care. Participants included myself, Dr. C, Case Manager, Assistant Department Administrator,  
17 Nursing Supervisor, and the patient's family members. After describing the health care team's  
18 understanding of the patient's treatment preferences, the family was asked to explain their  
19 contrary view. Mr. M, who reportedly was present at the patient's discussions with Dr. M, stated  
20 he did not recall his wife's statements. Daughter stated that her mother has told her that she  
21 wishes to live, wishes to be in the hospital, and is concerned about pain. We explained that the  
22 physicians believe they should try to honor the patient's request for comfort care. We then  
23 discussed the treatments the patient has been receiving (particularly antibiotics and TPN), and  
24 that those treatments have proven ineffective and may be more harmful than helpful. I explained  
25 that all interventions that were not supporting comfort care should be discontinued, consistent  
26 with the patient's wishes. However, despite this the daughter demanded the continuation of  
27 aggressive treatment including CPR if her heart stopped. MM's husband did not argue against  
28 his daughter's position.

29 We further discussed discharge options. The family objects to hospice care and does not want  
30 MM to return to the nursing facility. The daughter reiterated that the patient had stated that she  
31 wants to be in the hospital. She was told that the patient would remain in the hospital while  
32 medically indicated and then discharged.

33 **ETHICAL ISSUES:**

34 1) Given the patient's statements regarding her goals of care, may the family request different  
35 treatment?

36 **ETHICAL ANALYSIS:** Respect for patient autonomy requires respecting a patient's stated  
37 treatment preferences. Hospital policies on Informed Consent, Forgoing Life-Sustaining  
38 Treatment, and Patient Rights, affirm the patient's right to refuse medical treatment. Once  
39 documented by a physician, such treatment preferences, when medically appropriate, should  
40 guide the treatment plan. Physicians are obligated to respect a patient's stated treatment  
41 preferences, including the refusal of treatment.. However, after a patient loses decision-making  
42 capacity, the closest next-of-kin becomes the surrogate decision maker. Consequently, the  
43 health care providers should defer to the wishes of the family; they may have greater insight into  
44 her long-term preferences and wishes. During the hospitalization, it was agreed that efforts will  
45 be made to improve the patient's condition and try to achieve better pain control.

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47 **RECOMMENDATIONS:**

48 1) Focus medical treatment in alignment with the family's wishes as communicated in the family  
49 meeting. Continue discussing the treatment plan openly so that the family understands the  
50 course of treatment. If necessary, the palliative care team can assist with medication  
51 recommendations to maximize comfort and minimize suffering.

52 2) The family has expressed a commitment to their Catholic religion. Continue providing spiritual  
53 support as appropriate.

54 3) Maintain treatment in the hospital, as medically appropriate. Provide the family with resources  
55 to explore options, should transfer become necessary.

56 4) Provide social support as appropriate during this difficult time for the family.

57 **FOLLOW UP:** I will continue to follow this patient and remain available as needed. I provided  
58 my contact information to the family and encouraged them to contact me with questions or  
59 concerns.

60 Thank you for the opportunity to assist in the care of this patient.

61 Electronically signed,

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Evaluation

64 The ethics consultation documentation is scored a 1. An ethics consultation with a score of 1  
65 represents poor work. The consultation is significantly flawed to the degree that the conclusions  
66 and/or recommendations are not supportable.

67 Evaluation Summary: In scoring the consultation documentation, the entire consultation  
68 document served as a resource to provide information about the key elements (ethics question,  
69 consultation-specific information, ethical analysis and conclusions/recommendations). The  
70 ethics question is poorly framed as it asks whether a family may request treatment that differs  
71 from a patient. However, even if we presume that the ethics question is meant to address the  
72 ethically justifiable options for addressing a conflict between the patient and her family, the  
73 ethics question does not provide an important piece of information, the values that underlie the  
74 patient's and the daughter's wishes. The consultation-specific information does not address the  
75 decision-making capacity of the patient, which is a critical piece of information, and does not  
76 independently seek the husband's input about his wife's values (i.e., independently and not in  
77 the presence of the daughter). The ethical analysis hinges on having clarity about both the  
78 patient's decision-making capacity and the values motivating the patient and the daughter.  
79 Unfortunately, these are lacking. As a consequence, the primary conclusion/recommendation to  
80 support and align treatment with the wishes of the daughter is not supportable. For a more  
81 detailed account of opportunities for improvement by key element see below.

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84 **Ethics Question:**

85 Strengths:

- 86 • Provides information about a conflict between the patient's wishes (comfort care as  
87 expressed in goals of care) and the family's request for more aggressive treatment in the  
88 hospital

89 Opportunities for Improvements:

- 90 • Providing more information about the underlying values for the daughter's "demand" for  
91 aggressive treatment including CPR if the patient's heart stopped  
92 • Clarifying whether the question is really about whether the family **may** request different  
93 treatment, or whether the family's wishes trump the physician's understanding of the  
94 patient's wishes. As written, the ethics question is unclear.

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96 **Consultation-Specific Information:**

97 Strengths:

- 98 • Provides details about the patient's understanding and acceptance of her prognosis

99 Opportunities for Improvements:

- 100 • Specifying the patient's current status with regard to decision making capacity, and if the  
101 patient has capacity, what her current wishes were (this would also provide information  
102 about the durability of her preferences)  
103 • Including the patient in the family meeting (assuming s/he had capacity or could  
104 participate to some degree) or providing justification for her non-participation  
105 • Clarifying why the patient was receiving TPN and antibiotics at the nursing facility when  
106 the goal was comfort care  
107 • Providing information that medically justified the current hospitalization ("remain in the  
108 hospital while medically indicated and then discharged")  
109 • Clarifying whether the husband agreed with the daughter or was merely avoiding  
110 additional conflict  
111 • Clarifying (a) the context and timing of the patient's preferences expressed to the  
112 daughter, and (b) the basis for wanting to be back in the hospital

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114 **Ethical Analysis:**

115 Strengths:

- 116 • Articulates the principle of respect for patient autonomy and provides reference to policy  
117 that supports this  
118 • Articulates that physicians have an obligation to respect a patient's wishes  
119 • Identifies that the closest next-of-kin would become the surrogate decision maker (after  
120 the patient loses decision making capacity)

121 Opportunities for Improvements:

- 122 • Specifying that the ethical analysis hinges on the patient's decision-making capacity; if  
123 present, then decisions/goals should align with the patient's preferences.  
124 • Clarifying how desiring comfort care while dying is not incompatible with wishing to live  
125 (i.e., acceptance versus hope)

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- Addressing that the husband is higher in the hierarchy of surrogates to make decisions on behalf of the patient (assuming she no longer has decision-making capacity)
  - Erroneously suggesting that the health care providers should defer to the wishes of the family (without strong evidence that they were accurately representing the patient or that the patient's previous wishes were based on incomplete information)

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132 **Conclusions and/or Recommendations:**

133 Strengths:

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- Suggests ongoing spiritual support and social support for the family
  - Recommends providing the family with resources to assist them in disposition planning

136 Opportunities for Improvements:

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- Revisiting discussion(s) with the patient to elicit her preferences about goals of care (if she has capacity or during periods of capacity)
  - Recommending ongoing discussion with family until reaching consensus
  - Revising the conclusions/recommendations so they seem less "social work"; for example, a conclusion could be: Staff have a duty to continue to support the family despite the discord about the right decisions to be made.
  - Suggesting a time limited period of hospital treatment while discussions with the family are ongoing
  - Suggesting that if the conflict continues beyond a reasonable amount of time that the family can go to court to contest the hospital's pursuit of respecting the patient's wishes