Involuntary Treatment of the Mentally Ill
Learning Objectives

Obtain knowledge regarding the code of ethics of specific healthcare providers

Understand the Four Principles of Bioethics

Understand the arguments for & against Involuntary Treatment

Analyze three case presentations in order to develop an approach to ethical dilemmas surrounding involuntary treatment.

Discuss common laws to reduce harm to patient and third parties

Discuss common tools used to help the clinician with ethical justification.
Education Framework of this Conference

Brief introduction

Cases

1. Presentation
   2. Participation Survey Question based on Case
   3. Discussion of pertinent topics & ethical dilemmas
   4. Review the answer

5. Questions

Summary
Introduction
A Brief History

• Hippocratic Oath

• Formula Comitis Archiatrorum (5th century)

• Thomas Percival crafted the first code of "medical ethics" in 1794

• The Apothecaries Act of 1815 by the Parliament of the United Kingdom

• The American Medical Association adopted its first code of ethics in 1847.

• "Bioethics" formed during the 1960s - 1970s.
Hippocratic Oath (Modern Version)

"...I WILL FOLLOW that method of treatment which according to my ability and judgment, I consider for the benefit of my patient and abstain from whatever is harmful or mischievous"...

...Except for the prudent correction of an imminent danger, I will neither treat any patient nor carry out any research on any human being without the valid informed consent of the subject or the appropriate legal protector thereof..."
The Nightingale Pledge of 1893

"I shall abstain from whatever is deleterious and mischievous, and shall not take or knowingly administer any harmful drug"...
1996 NASW Code of Ethics

...primary responsibility is to promote the well-being of clients.

...respect and promote the right of clients to self-determination and assist clients in their efforts to identify and clarify their goals.

...should provide services to clients only in the context of a professional relationship based, when appropriate, on valid informed consent.
Four Principles of Bioethics

1. Non-maleficence
2. Autonomy
3. Beneficence
4. Justice
Four Arguments Against Involuntary Treatment

1. "Problems with Living"

2. Commitment is so horrendous that it should never be imposed.

3. Treatment requires patient's cooperation & that coercion is ineffective and ethically unjustifiable.

4. Available treatment in attractive clinics & hospitals accessible 24 hours a day would result in the end involuntary treatment.
Four Arguments for Involuntary Treatment

• Successful coercion which commonly takes place in the treatment of children & adolescents

• Effectiveness of treatment when people are given a choice between prison or treatment

• The effectiveness of a threat to a person's job if he does not accept treatment

• Follow-up studies of patients who are grateful for having been compelled to receive treatment
The 3 Facets to Examine

The Clinical

The Legal

The Ethical
Cases
Case 1: "Doctor! I can put the medication in his Soup!"

25 yo male named Y with h/o paranoid schizophrenia with target sxs of persecutory delusions, abusive auditory hallucinations and subsequent violence towards his mother.

Despite good response to antipsychotics his insight remained poor. Follow-up and medication compliance were satisfactory due to his mother's active support

One day, mother came in alone stating that Y had thrown away all his medications 3 weeks ago and has a recurrence of his target symptoms.
Due to concern for the safety of his family and that his mother was very supportive, Dr W gave the mother his prescription of antipsychotic.

Dr W went on maternity leave and when she returned Y's mother returned to clinic again alone stating that Y would not be convinced to take medications.

Because of the mothers desperation she had begun to conceal his medication in food. He was doing better.

When Dr W reviewed the med records it only stated "medication administered by mother"
What does the psychiatrist do?
Tools: Decisional Capacity

• The person's capacity to understand that he has a choice
• The person's understanding of his condition
  The person's capacity to reason
• The person's capacity to appreciate his condition, also termed "insight"
Tools: Violence Risk Assessment

Difficult to predict. In one study 53% of psychiatric patients whom physicians predicted would be violent actually were so. Also, 36% of psychiatric patients where the physician had no concerns actually committed violent acts.

First step in evaluating violence is ascertaining the cause. Best predictors of violent behavior are:

1. Excessive alcohol intake
2. History of violent acts with arrests and criminality
3. History of childhood abuse
Medicating Without Consent

• Autonomy & beneficence: Medication as an autonomy restoring agent.

• Autonomy & Justice: Balancing family safety & individual autonomy.
Answer

• There is no clear cut clinical or ethical answer.

• However, there is a very clear cut legal answer.
Medico-Legal Concerns

1. Battery against patient
2. Malpractice potential
Case 2: "I Have Brain Cancer!"

- **Mr Brown** is a 48 yo bank manager was brought in by wife for burning pains in his face and head and had been taking ibuprofen without relief.

- Over the previous 3 weeks he had been gloomy, preoccupied & had lost weight.

- He's suffered periods of depression in the past & during the last one (with similar current complaints) had made a near fatal suicide attempt.
When seen by doctor we was morose. He gave a consistent description of the pain. Mrs Brown confirmed mood changes and said he was behaving as he had in the past when he was depressed.

He went to see a psychiatrist. Mr Brown believed he had 'advance brain cancer'. When the psychiatrist suggested he be admitted Mr Brown became angry saying all he needed was 'something for pain'.
What does the mental health professional do?
Tools: Suicide Risk Assessment

Present Episode

Past Episodes

Future

Assessment

Demographic Risk Factors
Criteria for Involuntary Treatment

Diagnosis of a mental disorder

Need for treatment AND/OR

presence of risk of dangerousness either to self or others.
Involuntary Hospitalization

Autonomy vs. Beneficence

The ethical justification for suicide intervention is to prevent serious, irreversible harm to persons who lack decision-making capacity.

Their actions do not result from autonomous choices but from the causal mental illness.

Even strong proponents of autonomy recognize the need for intervention to prevent non-autonomous individuals from killing themselves.

In contrast, it is ethically problematical to restrict the liberty of persons who have decisional capacity. Mental health professionals do not have the power to prevent patients who are determined to kill themselves and can find the means to do so.
Patient was admitted to psychiatric hospital on "Involuntary" status.

Demographics: white american married heterosexual male age 48.

Mental State: preoccupied, weight loss, morose, agitated and angry, delusions and somatization

Suicidal Ideation: patient never states feeling suicidal, however, he is requesting "something for the pain" because ibuprofen wasn't strong enough.

Past Suicidal Acts: near fatal attempt
Case 3: "Doctor, I think Anderson Blvd and her last name mean something."

Mr Z is a 20 yo WM with h/o cannabis dependence and prior diagnosis of psychosis NOS and mood disorder NOS. He has h/o conduct disorder and past history of abuse from father.

Mr Z has a h/o 3 hospitalizations, last admission was 6 months ago, with acute symptoms of psychosis, mania & violent behavior towards his mother. Urine drug screens were intermittently positive for marijuana.

After each hospital discharge Mr Z stopped taking his medications and resumed using marijuana.
He became attracted to a female student due to her last name being connected to a neighborhood street.

During a date, he began acting bizarre and driving erratically through red lights when the lady requested to go home after he began making sexual comments.

His date escaped and ran home. Mr Z arrived at her house with a gun and began banging on the door.

Unfortunately when the neighbor went over to help, he and Mr Z ended in a stand-off, which was eventually de-escalated with show of force from local police.
He was involuntarily committed to a mental hospital for assessment & treatment. He voluntarily took medication but confided in staff that once he was discharged he would stop taking the medication.

He was also observed telling other patients in the unit that hurting people was exciting.

The hospital team discussed what the next appropriate step should be prior to discharge since he no longer met inpatient criteria.
What did the team decide to do?
Outpatient Involuntary Treatment

What are the principles in conflict?

What tools do we use?

1. Decisional capacity

2. Violence risk assessment

3. Suicide risk assessment

Outpatient Involuntary Treatment
Tarasoff

• Autonomy vs. Justice & Nonmaleficence

• Patients with serious psychiatric illnesses might disclose to mental health providers plans to kill or injure third parties and social norms and criminal sanctions may not be enough to deter patients who lack control over their violent impulses.

• Many believe that preventing harm has more moral force than doing good. It is important to notify the patient of your overriding their confidentiality and to explain the reasons why.

• Some patients have deep ambivalence about their hostile feelings and welcome help in finding alternative ways to manage themselves.
Outpatient Involuntary Treatment

Guardianship

Conditional release from a correctional institution or hospital

Court-mandated treatment in lieu of incarceration

Outpatient Commitment (Assisted Outpatient Treatment)
Kendra's Law (Laura's Law)

the patient is **eighteen years** of age or older; and

the patient is **suffering from a mental illness**; and

the patient is **unlikely to survive safely** in the community without supervision, based on a clinical determination; and

the patient has a **history of lack of compliance** with treatment for mental illness that has:
1. at least **twice within the last thirty-six months** been a significant factor in necessitating hospitalization in a hospital, or receipt of services in a forensic or other mental health unit of a correctional facility or a local correctional facility, not including any period during which the person was hospitalized or incarcerated immediately preceding the filing of the petition or;

2. resulted in **one or more acts of serious violent behavior** toward self or others or threats of, or attempts at, serious physical harm to self or others within the last forty-eight months, not including any period in which the person was hospitalized or incarcerated immediately preceding the filing of the petition; and,
the patient is, as a result of his or her mental illness, unlikely to voluntarily participate in the recommended treatment pursuant to the treatment plan; and

in view of the patient's treatment history and current behavior, the patient is in need of assisted outpatient treatment in order to prevent a relapse or deterioration which would be likely to result in serious harm to the patient or others; and

it is likely that the patient will benefit from assisted outpatient treatment.
He was ordered to undergo involuntary outpatient commitment in order to have his legal case dismissed for "assault with a deadly weapon".
Summary

We discussed the Four Bioethical Principles

We discussed 3 cases using the four bioethical principles in the context of 3 facets.

We discussed the common tools used for ethical justification

1. Decisional Capacity
2. Suicidal risk assessment
3. Violence risk assessment

We discussed the common ethical and legal requirements regarding Involuntary Hospitalization, Tarasoff's Law, and Kendra's Law.
References


