Ethical Decision-Making in Critically Ill Patients

Rules of Thumb for Resolving Ethical Dilemmas:
1) Make sure of the facts
2) Clarify the values at stake
3) Clarify the values conflict
4) Think creatively about possible solutions
5) Determine who is the appropriate decision maker

The Hierarchy of Ethical Decision Making:
(Arnold P. Gass, M.D., FACP, Professor of Medicine, UCSD)

1) Medical Indications - goals, effects, benefits, (medical futility?)
   “To cure sometimes, to relieve often, to comfort always.”

2) Patient Autonomy:
   (a) capable (competent) patient
   (b) written or reliable oral statement of the patient
   (c) substituted judgement - what the patient would have wanted

3) Best Interests - benefits versus burdens; ordinary versus extraordinary (disproportionate) care.

4) External Factors - cost, social values, “rationing,” making “reasonable” accommodations

A Framework for Addressing Difficult Decisions:

1) Medical Indications: The Principles of Beneficence and Nonmaleficence
   (a) What is the patient’s medical problem? History? Diagnosis? Prognosis?
   (b) Is the problem acute? Chronic? Emergent? Reversible?
   (c) What are the goals of treatment?
   (d) What are the probabilities of success?
   (e) What are the plans in case of therapeutic failure?
   (f) In sum, how can this patient be benefited by medical and nursing care, and how can harm be avoided?

2) Quality of Life: The Principles of Beneficence and Nonmaleficence and Respect for Autonomy
   (a) What are the prospects, with or without treatment, for a return to normal life?
   (b) What physical, mental, or social deficits is the patient likely to experience if treatment succeeds?
   (c) Are there biases that might preclude the provider’s evaluation of the patient’s quality of life?
   (d) Is the patient’s present of future condition such that his or her continued life might be judged undesirable?
   (e) Is there any plan and rationale to forgo treatment?
   (f) Are there plans for comfort and palliative care?

3) Patient Preferences: The Principle of Respect for Autonomy
(a) Is the patient mentally capable and legally competent? Is there evidence of incapacity?
(b) If competent, what is the patient stating about preferences for treatment?
(c) Has the patient been informed of benefits and risks, understood the information, and given consent?
(d) If incapacitated, who is the appropriate surrogate? Is the surrogate using appropriate standards for decision making?
(e) Has the patient expressed prior preferences, e.g. Advance Directives?
(f) Is the patient unwilling or unable to cooperate with medical treatment? If so, why?
(g) In sum, is the patient’s right to choose being respected to the extent possible in ethics and law?

4) Contextual Features: The Principle of Loyalty and Fairness
(a) Are there family issues that might influence treatment decisions?
(b) Are there provider (physicians/nurses) issues that might influence treatment decisions?
(c) Are there financial and economic factors?
(d) Are there religious or cultural factors?
(e) Are there limits on confidentiality?
(f) Are there problems of allocation of resources?
(g) How does the law affect treatment decisions?
(h) Is clinical research or teaching involved?
(i) Is there any conflict of interest on the part of the providers or the institution?

**Advance Directives:**
Advance Directives are completed when a patient has decision-making capacity and become effective when that capacity is lost. There are two common types of AD:
(a) instructive, illustrated by a living will, and
(b) proxy, illustrated by a durable power of attorney for health care.
Physicians provided with a copy of a patient’s living will must make it a part of the medical record; verbal revocation of the will by the patient is possible at any time without regard to the patient’s physical or mental condition.

**Additional References:**
1) Appelbaum PS
Assessment of patient’s competence to consent to treatment
NEJM 2007; 357:1834-1840

2) Back AL
Dealing with conflict in caring for the seriously ill.
JAMA 2005; 293:1374-1381

3) Goold SD, Williams B, Arnold RM
Conflicts regarding decisions to limit treatment.
JAMA 2000; 283:909-914
4) Marco CA***
Ethical issues of resuscitation: an American perspective.

5) Shevell M.***
Ethical issues in pediatric critical care neurology.

6) Weissman DE.
Decision making at a time of crisis near the end of life.

7) Zenon M. Bodnaruk, Colin J. Wong, and Mervyn J. Thomas***
Meeting the Clinical Challenge of Care for Jehovah’s Witnesses.
Transfusion Medicine Reviews, Vol 18, 2004: pp 105-116

*** Please read before class!