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PATIENT SAFETY NETWORK

No Blood, Please

May 1, 2004
Liang BA. No Blood, Please. PSNet [internet]. 2004.
https://psnet.ahrq.gov/web-mm/no-blood-please

The Case

A young woman, about 30 years of age, was injured in an automobile collision. She was brought to the emergency department (ED) via ambulance, where she was found to be suffering internal bleeding with life threatening blood loss. After examination, physicians advised her that without transfusion of one to two units of blood within a very short time, she would die. The patient refused the transfusion, stating that her religion forbids it and that she understood the consequences. The ED staff deemed her to be competent and was ready to comply with her wishes.

At about the same time that she was undergoing examination, both her parents and her minister arrived. The parents asserted that their daughter had recently converted to her new faith only weeks before and therefore did not fully understand why the religion forbids blood transfusion nor the consequences of her decision. The minister, on the other hand, stated that the woman converted to this religion with the full knowledge of its tenets and was well aware of the consequences of her decision. He stated that, at the time of her conversion, she swore an oath that she would live by the tenets of the faith; that oath contained language forbidding blood transfusions. As these discussions unfolded, the woman lost consciousness. The ED staff reversed their previous decision, and transfused two units of blood into the unconscious woman. She was then taken to surgery.

The woman recovered from her injuries. She and the minister of her church sued the hospital generally and ED staff specifically. The judgment ruled in her favor, saying that the hospital and ED staff violated her civil rights and interfered with her ability to make her own decisions.

The Commentary

This case illustrates how the law can interface with patient safety efforts, and highlights the need to pay close attention to patients' wishes, regardless of the potential clinical outcome.

As a primary matter, all patients have the constitutional right to determine what shall and shall not be done to them.(1) This right extends to any treatment that may save the patient's life. This includes blood

transfusions, which are particularly important in circumstances involving Jehovah's Witness patients.(1,2) Only in emergency circumstances where a patient lacks capacity to consent can a provider transfuse blood without patient consent; courts have allowed providers to perform such treatment on the basis of assumed consent and public policy rationales.(1,3,4) In circumstances involving children, courts have both allowed and disallowed blood transfusion treatment recommendations when parents object on religious grounds.(1)

In this case, the patient was in fact cogent and of majority age; hence, her providers must follow her directives regarding her care. Unfortunately, although providers here were acting in good faith, any patient's care decisions are constitutionally protected. Therefore, transfusion of blood to her was in direct violation of her legal rights. In this situation, the hospital, emergency room, and individual providers can be liable for such actions, including actions for informed consent violation and civil battery. This latter cause of action is extremely important, since battery claims are amenable to punitive damages.(1) In the eyes of the law, it is irrelevant that the care provided did in fact save the patient's life.

Patients' choices of allowing and refusing treatment may present significant safety challenges. If patient preferences conflict with provider knowledge of appropriate care, these choices create additional sources of failure. Indeed, in this case, the decision to transfuse was a medical error. Many providers, such as emergency department, laboratory medicine, and anesthesia staff, will likely encounter such circumstances. Clear policies and procedures along with communication regarding protocol requirements in these situations should be extant and part of continuous safety training. It is not clear whether these components existed, were available, or were known to providers involved in this case. As a safety matter, root causes should be assessed to create system improvement to reduce the likelihood or mitigate potential recurrence of such an error. As a legal matter, to avoid such lawsuits, protocols should expressly indicate that, when faced with conflict between patient and provider preferences for care, the specific objections of the patient, recommendations of the provider, and competency assessments should be documented clearly by the provider. If possible, it would be prudent to have the patient indicate in his or her own words that he or she objects to the proposed treatment and is refusing consent; the patient should then sign that document. Moreover, at least one witness other than the direct care provider should be present and sign the patient's statement. In the event that no policy or procedure is extant, providers should contact their general counsel to determine what action(s) to take.

Hence, in this case, providers should not have transfused the patient on both ethical and legal grounds. Policies, procedures, and provider education should be implemented so that occurrence of similar medical errors is minimized or potentially mitigated by medical staff. This approach is consistent with patient-centered care and respect for patient autonomy as well as reduces the risk of litigation and associated damages that could be associated with such actions.

Take-Home Points

- Patients have the constitutional right to accept or refuse care.
- In the eyes of the law, whether the care provided saved the patient's life is irrelevant.
- If patient preferences and provider recommendations conflict, the objections, recommendations, and competency assessment should be explicitly and clearly documented.

- Since patient preferences sometimes create safety challenges, clear policies and procedures should be in place regarding such situations, and related information should be included in patient safety education efforts.

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This project was funded under contract number 75Q80119C00004 from the Agency for Healthcare Research and Quality (AHRQ), U.S. Department of Health and Human Services. The authors are solely responsible for this report's contents, findings, and conclusions, which do not necessarily represent the views of AHRQ. Readers should not interpret any statement in this report as an official position of AHRQ or of the U.S. Department of Health and Human Services. None of the authors has any affiliation or financial involvement that conflicts with the material presented in this report. *View AHRQ Disclaimers*