
UNIT 4 ETHICAL & LEGAL ISSUES IN GERIATRIC MEDICINE

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4.0 OBJECTIVES

After going through this unit, you should be able to:

- Apply a case-based approach to resolve the ethical dilemmas in geriatric care
- Describe the ethical decision-making process while dealing with ethical dilemmas
- Discuss the rationale of taking informed consent
- Take the informed consent from patients or their legal representatives
- Demonstrate the steps of effective doctor-patient communication
- Identify and assess the elderly facing abuse
- Apply the layered approach in making decisions regarding withdrawal of Life-support and Intervention

4.1 INTRODUCTION

You have already learned about clinical aspects associated with the care of elderly patients. While dealing with the patients you will come across situations in which you have to decide amongst two rights, i.e., the ethical dilemma and side by side, you also have to take care of the legal responsibilities which you should follow while providing care to elderly patients. This is critical for keeping medicine, ethics and law working in synchronicity for the betterment of society. After performing the activities of this unit, you should be able to identify ethical dilemmas in geriatric care and take appropriate action in resolving them by various approaches. The process of taking a proper informed consent has been well discussed and here you will practice to decide which information is to be disclosed while taking a proper informed consent. Communicating with the elderly is

very sensitive, especially when they are facing abuse and remain silent. You will also learn the ways of effective doctor patient communication. It will be interesting for you to learn about taking care of legal issues especially while dealing with end-of-life issues as well as withdrawal of life support. Doctors have to face ethical and legal dilemmas while providing end-of-life care. There is a felt need for the doctors to remain updated with the relevant legislation as well as to follow the best moral path in favour of the patient and the society at large. It requires to develop the skill to effectively manage such situations. Layered approach has been described which will make your life easy while dealing with such kind of situations.

It's interesting to learn the ethical and legal dilemmas while reading through the book, but it's difficult as well full of responsibilities while dealing with ethical and legal issues in real-life scenarios. Let's learn to face the real-life scenarios with best of the knowledge and skills.

4.2 APPROACH FOR ETHICAL DILEMMAS

Ethical dilemma occurs when a problem exists between two or more ethical principles and deciding in favor of one principle usually violates another. Even in the best circumstances, many clinicians will face ethical dilemmas that needs to be resolved for better patient care.

4.2.1 Case-based Approach for Ethical Dilemmas

One way of resolving ethical dilemmas is by using Case-based approach. It involves four major considerations

Check List for Case-based approach for Resolution of Ethical Dilemmas

Steps for Case based Approach	Case 1	Case 2	Case 3	Case 4	Case 5
Clinical Indications: <ul style="list-style-type: none"> How serious is the patient's illness? Is there a need for medical intervention? What is the optimal standard of care for this patient? 					
Patient Preferences: <ul style="list-style-type: none"> What preferences are expressed by the patient? Does the patient have decision-making capacity for this clinical decision? What factors may be impinging on the expressed preferences of the patient? Does the patient have advancedirective? Who is the appropriatesurrogate if the patient lacks decision-making capacity? 					

Steps for Case based Approach	Case 1	Case 2	Case 3	Case 4	Case 5
Quality of Life <ul style="list-style-type: none"> • What is the patient's quality of life, given his or her illness process? • What impact will clinical intervention have on the patient's quality of life? 					
<ul style="list-style-type: none"> • Is there any plan and rationale to forgo treatment? • Is there plans for palliative care? • Are there any biases that might prejudice the clinician's evaluation of the patient's quality of life? 					
External Considerations <ul style="list-style-type: none"> • What external factors exist that may affect the patient's care (e.g., legal issues, limited programs)? • Is there any conflict of interest on the part of clinicians or the institution? • Are there any family, religious or cultural, financial or confidentiality issues that might influence treatment decisions? 					

4.2.2 Ethical Decision-Making Process

The interests of the patient should be of primary importance. (Patients' interests = autonomy + beneficence + non-maleficence.) If harms and benefits (of a treatment course) are proportionate, non-maleficence outweighs beneficence. Justice may also clash with non-maleficence, and again, the latter should take precedence.

Checklist for Ethical Decision-Making Process

Ethical Decision-Making Process	Case 1	Case 2	Case 3	Case 4	Case 5
• Describe the problem					
• Gather the facts					
• Clarify values					
• Note reactions					
• Identify ethical Principles					
• Clarify legal rules					

Ethical Decision-Making Process	Case 1	Case 2	Case 3	Case 4	Case 5
• Explore options and alternatives					
• Decide on a recommendation					
• Develop an action plan					
• Evaluate the plan					

4.3 INFORMED CONSENT PROCESS

The informed consent is a process of educating patient regarding the benefits, risks and alternatives to a given treatment. This process should be well documented. When potential participant lacks decision making capacity and the ability to consent, legally appointed representative (LAR) should be involved in decision making. Special care should be taken to ensure participants’ confidentiality and privacy.

4.3.1 Information to be Provided for Informed Consent

Purpose of taking informed consent

Clinicians have a duty to provide adequate/full disclosure to patients that would facilitate patients in making informed decisions. While learning the skill of taking informed consent, you must know information to be provided to the patient and rationale for the same. List of information to be provided while taking informed consent is mentioned below:

Information to be provided to the patient	
Diagnosis of the disease	What is the natural course of the disease and possible complications?
Nature of the intervention	What will be done and how it will be done?
Benefits/ Consequences	What are potential outcomes of the intervention and other alternatives?
Risks of the intervention	What are possible risks of treatment? Given opportunity to the patient to clarify all doubts.
Alternatives	what will be the possible consequences if the intervention is not undertaken or an alternative course of action is chosen?

Checklist for Informed Consent Process

Information to be provided to the patient	Case 1	Case 2	Case 3	Case 4	Case 5
Diagnosis of the disease					
Information to be provided to the patient	Case 1	Case 2	Case 3	Case 4	Case 5
Natural course of the disease and possible complications					
Examination/testing required and its necessity					
Available treatment options					
Potential risks and benefits of treatment options					
Potential outcomes					
Burden of different treatment options					
Follow-up, if required and for how long					
Implications of non-treatment					

4.3.2 Taking Informed Consent

Informed consent form is a **document with important information about a medical procedure or treatment**. It also includes information on possible risks and benefits. If a person chooses to take part in the treatment, procedure or testing, he or she signs the form to give official consent.

Fill consent forms from the patients after providing them with full disclosure.

Repeat Sample consent form 5 times for practice.

**Informed Consent for
Surgical / Medical Procedure**
Procedure _____ of _____

Patient Name: _____
DOB: _____
MRN: _____ (if available)

Attending Physician(s): _____

Name and purpose of procedure(s) (number multiples): _____

Potential risks of any procedure(s) include, but are not limited to, bleeding, infection, accidental injury to a nearby body part, incomplete repair, and death. Other reasonably common risks to this specific procedure(s) include: _____

Benefits and expected outcomes (list): _____

Alternatives, including, but not limited to, no treatment: _____

This procedure will be performed with: general and/or regional anesthesia, sedation, local anesthesia

I understand that the doctor(s) may find unexpected conditions during the procedure(s) named above. An unexpected condition may require a change in procedure. I give my permission for the doctor(s) identified on this form to either *extend* the planned procedure (do more) or do a *different* procedure, if she/he believes it is medically necessary for my health / health of the patient.

I understand that Cincinnati Children’s Hospital Medical Center is a teaching hospital. One of the activities of the hospital is training doctors, nurses, and other health care providers. Interns, residents, nurses, medical students and other health care workers may assist in the procedure under my doctor’s direct supervision. I give my permission for this assistance.

My questions about the procedure(s) have been answered to my satisfaction. **I also understand that if I have more questions at any time before the procedure(s), I can call my doctor’s office at _____** I have read and understand this consent form and all of the blanks were filled in before I signed it. By signing I confirm to the best of my knowledge that the law allows me to consent to the procedure(s) for this patient.

	DATE:	TIME:	
Signature of patient / parent / guardian			Print name of patient / parent / guardian and relationship
	DATE:	TIME:	
Signature of doctor			Print name of doctor
	DATE:	TIME:	
Signature of witness			Print name of witness

SITE MARKING REQUIRED: YES NO Telephone consent was obtained: YES (check, if necessary)

4.4 DOCTOR-PATIENT RELATIONSHIP AND COMMUNICATION

Effective physician-patient communication has been shown to positively influence health outcomes by increasing patient satisfaction, leading to greater patient understanding of health problems and treatments available, contributing to better adherence to treatment plans and is core to ethical principles of medicine. Following are simple steps for effective physician-patient communication

Checklist for Effective Physician-Patient Communication

Steps for Effective Communication	Case 1	Case 2	Case 3	Case 4	Case 5
Relationship building <ul style="list-style-type: none"> • Greets • Shows care and concern • Responds with respect 					
Information Collection <ul style="list-style-type: none"> • Asks open-ended questions • Listens actively • Try to elicit concerns of patient and family regarding treatment 					
Information Sharing <ul style="list-style-type: none"> • Explains in patient's language • Provide full disclosure on treatment and alternatives and outcomes • Asks for any more concerns or questions 					
Summarisation and Agreement <ul style="list-style-type: none"> • Agree on treatment plan, follow-up, if required and for how long • Checks for mutual understanding • Provides closure 					
Communication with Empathy <ul style="list-style-type: none"> • Appropriate behaviour • Accurately conveys the seriousness of patient's condition • Shows compassion and care • Helps in empowering decision-making capacity of patient 					

Elder Abuse:

we all have to work in the patient’s interest but at the same time, we also have to take care of the legal responsibilities which we are bound to follow while providing care to elderly patients. This is critical for keeping medicine and law working harmoniously for the betterment of society

How a physician should approach in case of elder abuse

Checklist for Approach to Elder Abuse

Step By Step Approach	Case 1	Case 2	Case 3	Case 4	Case 5
Step 1: Identify a. Address primary concerns of the patient b. Provide immediate attention to emergency medical issues c. Listen Carefully to the elderly, he may give hints of being abused d. Look for possible signs of abuse e. Reassure the Patient about Confidentiality f. Inform about the available protections to elderly.					
<ul style="list-style-type: none"> • Step 2: Assess a. Decision making capacity of the patient b. Status of Injuries if present: Are this life threatening? c. Status of any influence: Drugs/alcohol etc d. Identify the Protections available in the form of care-takers in family, friends or NGO’s etc. 					
<ul style="list-style-type: none"> • Step 3: Support and Referral a. Ensure immediate safety and steps to prevent further abuse b. Discuss the available legal and social protections to elderly for prevention against abuse c. Key Point is Consent of Patient to take any legal step. 					

Step By Step Approach	Case 1	Case 2	Case 3	Case 4	Case 5
<i>If the elderly refuses to take any step with having sound mind to make decisions, then his/her decision must be respected.</i>					
<ul style="list-style-type: none"> • Step 4: Document a. Maintain the records of evidence of elder abuse b. Maintain the records of intervention done to prevent the abuse. <p>Keep in mind that these records may be asked to be produced in the court of law.</p>					

4.5 WITHDRAWAL OF LIFE SUPPORT

Doctors have to face ethical and legal dilemmas while providing end-of-life care, making the doctors to be updated with the relevant legislation as well as to follow the best moral path in favour of patient and the society, for which they need to develop the skill to effectively manage such situations.

A layered approach to make decisions regarding withdrawal of Life-support & Intervention.

Layered Approach	Consideration	Issues	Case
Layer 1	Look for the boundations	Legal Boundations Professional Boundations Evidence & available Resources	
Layer 2	Condition of the Patient	Decision Making capacity Religious beliefs and preferences Disease Prognosis/likely progress/regress in condition Surrogate decision makers available Availability of Living Will	
Layer 3	Formulate the ethical dilemma and Legal Dilemma	Ensure the correct question(s) is being asked Check for the influence of our own perspective?	

Layer 4	Establish the available options	Look for the potential moral justifications? Look for the legal provisions? Available solutions to the problems Is there a need for Communication/explanation?	
Layer 5	Communication and coordination	Communicate the available options to the patient/care givers Coordinating and implementing the decision	

4.6 REFERENCES AND FURTHER READINGS

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