

Legal and Ethical decision making in person-centered care

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Introduction

Today's world is deemed not to be safe for 'vulnerable populations', which are groups or categories of the population that are at a high risk of disease, despair, and abuse. Taylar Parker meets all the criteria required for consideration as a vulnerable population, which is described by Beauchamp and Childress (2009) as 'incapable of protecting their own interests due to their immaturity'. This is a group that may be unprotected by rights, exposed to potential harm and generally economically impoverished. There are various legal and ethical issues that arise when dealing with this category of population.

Summary of case study

Taylah Parker is 14 years old living with her mother and her (mother's) partner, John. She is estranged from her biological father due to family violence and has a difficult relationship with her mother, although she now close to John, and even views him as a stepfather. She is a known type 1 diabetic and is yet to come to terms with her condition due to the restrictions it has imposed on her life on issues such as diet, activity, body image and social life. She is seeing a diabetic educator although she doesn't like her. At her school, she has a small group of friends and has had challenges making friend since they moved to the new location and has also experienced bullying in the school. At 14, she is sexually active and dismissively refers to her escapades as 'a couple of randoms'. Her school nurse encouraged her to contact a sexual health professional to get advice on contraceptives and associated sexual health risks. Her mother is not aware of her sexual activity and Taylar has delayed the trip to see the sexual health nurse, which she has finally taken.

Legal issues

In the above case study, two legal issues are salient i.e. patient's right to consent to medical procedures and confidentiality. According to the Medical Board of Australia code of conduct for doctors section 3 subsections 3.5, (2014, March), informed consent refers to a person's voluntary decisions relating to medical care, that they make with the necessary knowledge and understanding of the benefits and risk that they assume through such consent. Under the same section, consent of children and young people presents additional responsibilities for medical professionals. This is because, good medical practice demands the placing of the well-being or interest of the child or young person first, and ensuring the young person has the capacity to consent or make a decision concerning their treatment. According to Harcourt & Conroy, (2005) medical professionals must also ensure that in their communication with such young people, they treat them with respect and keenly consider their views, encourage questions and answers and provide information that can be understood by such patients. Recognizing the role of parents and if appropriate, encouraging the minors to involve their parents in decision making is an important step towards a holistic medical evaluation.

In the above case study, Taylah is 14 years and according to the Consent to Medical and Dental Procedures Act'; she is legally allowed to give consent for her own treatment. Therefore, Pam, the sexual health nurse is within her legal rights to proceed with the evaluation and treatment of her patient without necessarily seeking additional consent from her parents or guardians or even the school where she learns. However, as stated above, Pam will need to observe additional guidelines when attending to Taylah, such as placing the well-being of the patient first and also being keener to identify other intervening issues that may affect the patient.

Confidentiality

According to Lopez (2009), the confidentiality of personal information should be considered in relation to the guidelines of the National Privacy Principles 2001 in conjunction with the privacy act 1988. Various jurisdictions in Australia however also have various legislations and policies that relate to the privacy and confidentiality of personal health information, including health records. Nurses and other healthcare professionals have both an ethical and legal obligation to safeguard the privacy and confidentiality of the people that are requiring or receiving care. This comprises the treatment as confidential; any information that is gained through the course of the engagement between the patient and the nurses and ensuring that such information is gathered and restricted only for the professional purpose for which it's intended.

Where relevant, nursing and other healthcare professionals must inform the patient that for them to be able to provide competent care, they may need to disclose some information that may be necessary for clinical diagnosis and decision-making by other members of the healthcare team, in this case, the school nurse. The code of conduct for nurses in Australia regarding confidentiality states that consent must be sought from the person receiving or requiring care before they can disclose any information pertaining to the patient (Nursing and Midwifery Board of Australia, 2013, June). In exceptional cases, in the event that no such consent is available, nurses must use professional judgment if they have to disclose such details. In making such decisions, nurses must consider the interests, health, and safety, well being of the patient, although nurses also recognize some legal requirements that they disclose some certain information for professional purposes.

Taylah does not want her mother to know about her sexual activity, or her visit to the sexual health nurse because as stated, she doesn't like her mother's meddling in her affairs and they already have a strained relationship. Since she has gone to see the sexual health nurse in confidence, the nurse is bound by the legal requirements as well as professional code of conduct to keep all information regarding Taylah's consultation confidential since disclosing such information would not only be illegal and unethical but would also likely lead to further strain to Taylah's relationship with her mother, and will therefore not be in the best interest of the patient (Swartling, et al., 2008)

Ethical Principles

The concept of autonomous choice is central to the above case study. The ethical question that needs to be answered is: Can Taylah give an informed consent for her own care? According to Lo (2009), 'minors are not autonomous' and should, therefore, be allowed to participate in decision-making only when they can be deemed to be developmentally ready. Informed consent, in this case, is a concept whose origin is law, and demands that healthcare professionals must clearly inform patients of the benefits and risks involved in various medical decisions or procedures. Beauchamp & Childress, (2009) note that informed consent is a matter of a patient's choice of care and not necessarily as a way of preventing a liability for the healthcare professionals. Joffe (2003) identifies a child's assent as acceptance in terms of a 'sure, why not' kind of statement and not an informed 'I understand the concepts' kind of risks and benefits scenario. In other scenarios, and as noted by Levy, Larcher, & Kurz (2003), a child may object to treatment and it, therefore, becomes the duty of the healthcare giver to act in the minor's best interest to act in the

ways that present the greatest benefit to the patient at minimum risk. Beauchamp and Childress (2009), therefore requires decision makers and healthcare givers to be people of good judgment, emotional stability, adequately knowledgeable and be people that are committed to a patient's best interests. He identifies four ethical principles autonomy, justice, Nonmaleficence, and Beneficence that guide personal and professional dealings. These are discussed herein under in relation to the above case study.

Autonomy/ Respect for persons

Beauchamp and Childress (2009) identifies autonomy as the acknowledgment of a person's right to make choices that they deem fit, and personal determination based on their beliefs and personal value systems. Individuals should be allowed to hold views and also take actions that they deem fit. In this scenario, Taylah should be allowed to make her own decision as to what she deems right in the circumstances. While she is still a minor, her wishes not to have her personal health and sexual information divulged to her mother should be respected, and the nursing professional should ensure that she protects this right to privacy.

Justice

The principle of justice demands that people should be treated fairly and equitably and that benefits and burdens should be distributed fairly. Taylah is a child that is already experiencing a lot of challenges in her life, from a battle with type 1 diabetes, her strained relationship with her mother and biological father as well as bullying in school. It would, therefore, be unjust to burden her with the issues of her sexual activity by disclosing them to her mother or anyone else. Her strained relationship with her mother and the above-mentioned challenges make her a

vulnerable child and therefore professional help would be much welcome, without the attendant burdens.

Nonmaleficence

This is a guiding principle of 'do no harm'. In medical ethics, a physician's guiding principle is always 'first, do no harm'. Even if there is no help that a patient is able to receive, at least no harm should be intentionally inflicted on them. Harm, in the above scenario, would manifest itself in the sexual nurses' disclosure of Taylah's confidential information, or by not providing the necessary sexual health advice/services. The principle of nonmaleficence should, therefore, guide Pam in ensuring that she acts in the best interests of Taylah by ensuring that she receives the necessary help to prevent pregnancy and sexually transmitted infections, and if necessary, advise her to abstain from sexual activity or always practice safe sex. She should also ensure that patient's confidentiality is safeguarded.

Beneficence

Finally, Beauchamp and Childress (2009) provide the last ethics principle, 'always do good'. Under this universal principle, everyone involved in the above case study including Taylah's mother, school administration, school nurse and sexual health nurse must ensure that they 'always do good'. For instance, Taylah's mother must get more involved, in a positive way, in the life of her daughter so as to ensure good upbringing. The school's administration should address issues of student bullying as well. On realizing that Taylah is sexually active, the school nurse advised her to visit a sexual health nurse to get advice on the necessary sexual health services, which is very commendable. Pam, on the other hand, must ensure that she must ensure that

she offers the best sexual health services to Taylah so that she can continue to make informed decisions regarding her sexual life.

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