



Osteopathic EPEC

Education for Osteopathic Physicians on End-of-Life Care

Based on The EPEC Project, created by the American Medical Association and supported by the Robert Wood Johnson Foundation. Adapted by the American Osteopathic Association for educational use.



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Plenary 2

Legal Issues



AMERICAN OSTEOPATHIC ASSOCIATION

American Osteopathic Association
AOA: Treating Our Family and Yours

Objectives

- **Describe legal consensus points**
- **List common legal myths and potential pitfalls**



Law and ethics-United States

- **Federal vs. State**
- **Lawmakers**
 - **Legislatures, judges, executive agencies**
- **Enforcement**
 - **Criminal, civil, administrative**



Resolving difficult cases

- **Law**
- **Ethics committees / consultants**



Ethics of informed consent . . .

- **Information-giving standards**
 - **Standard professional**
 - **Reasonable person**
 - **Specific patient**



Ethics of informed consent . . .

- **Elements of information**
 - **Nature of procedure**
 - **Risks, common or severe**
 - **Benefits**
 - **Alternatives**



. . . Ethics of informed consent

- **Consent**
 - **Understanding**
 - **Voluntary**



Procedures of informed consent

- **Documentation**
- **Process of deliberation**
- **Shared decision making**
- **Communication of news**
- **Physicians have direct responsibility**



Treatment limitation at the end of life

- **Right to refuse any intervention**
- **All patients have rights, even incapacitated**
- **Withholding / withdrawing**
 - **Not homicide or suicide**
 - **Orders to do so are valid**
- **Courts need not be involved**



Determining incapacity

- **General incapacity**
- **Specific incapacity**
 - Is there a decision?
 - Is the information understood?
 - Is the reasoning logical and with appreciation for consequences?
 - Is the decision sensible?
- **Reassess for each decision**



Decisions for the incapacitated

- **Best interests**
- **Substituted judgment**
 - **Advance directives**
 - **Surrogacy laws**



Terminology of advance directives . . .

- **Advance care planning**
 - **Process of discussion, documentation, implementation**



Terminology of advance directives . . .

- **Advance directives**
 - **instructional statement**
 - living will
 - values history
 - personal letter
 - medical directive



. . . Terminology of advance directives

- **Statutory**
 - **Physician immunity**
- **Advisory**
 - **Patient wishes**
- **Proxy designation**
 - **Health care proxy**
 - **Durable power-of-attorney for health care**



Appropriate use of opioids in end-of-life care

- **Federal and state**
- **Principle of double effect**



Physician-assisted suicide

- **United States Supreme Court 1997**
- **States free to develop laws**



Futility

- **Futile for what goal**
- **Objective determinations of benefit**
- **Use ethics consultation / committees**
- **Transfer of care**



Legal counsel and risk

- **State-by-state variations**
- **Hospital counsel represents the institution**



Legal Issues Summary

