Withholding and Withdrawing Life-prolonging Medical Treatment

Guidance for decision making

THIRD EDITION

British Medical Association

Blackwell Publishing

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Introduction

In medicine, decisions are made on a daily basis about the provision, withholding or withdrawing of treatments, some of which could prolong life. Treatments which might provide a therapeutic benefit are not inevitably given but are weighed according to a number of factors, such as the patient's wishes, the treatment's invasiveness, side-effects, limits of efficacy and the resources available. The Intensive Care Society has estimated that approximately 50,000 patients are admitted to intensive care units in England and Wales each year. Of these, 30% (15,000 patients) die without leaving hospital, most as a result of active treatment being withdrawn [1].

Although not uncommon, few issues in medicine are more complex and difficult than those addressed by patients, their relatives and their doctors concerning the decision to withhold or withdraw potentially life-prolonging treatment. Technological developments continually extend the range of treatment options available to prolong life when organ or system failure would naturally result in death. Cardiopulmonary resuscitation, renal dialysis, artificial nutrition, hydration and ventilation prolong life and, in some cases, allow time for recovery but these techniques cannot, in themselves, reverse a patient's disease. Patients with progressive conditions such as motor neurone disease can have their lives prolonged by the application of technology, but their underlying illness cannot be cured and deterioration in their condition is unavoidable. The condition of other patients, for example those with very severe brain damage, may remain stable for many years if life-prolonging treatment is provided but they may have no hope of recovering more than very minimal levels of awareness of their surroundings. They may lack the ability to interact with others or capacity for self-awareness or self-directed action. In such severely damaged patients, interventions to prolong life by artificial means may fail to provide sufficient benefit to justify the burdens of intervention (see Section 9) and the proper course of action may be to withhold or withdraw further treatment.

Most people accept that treatment should not be prolonged indefinitely when it has ceased to provide a benefit for the patient. But patients and their families, doctors and other members of the clinical team and society as a whole need reassurance that individual decisions are carefully thought through, based on the best quality information available and follow a widely

agreed procedure. Decisions need to be made on an individual basis, assessing the particular circumstances, wishes and values of the patient to ensure that treatment is neither withdrawn too quickly nor unnecessarily prolonged. It is essential that there are clear, robust and transparent procedures for making these decisions. The BMA is very pleased to note that, over recent years, comprehensive guidance has been developed outlining the criteria and steps to be followed in making these decisions, particularly where difficult assessments are required about the best interests of incapacitated patients. In addition to the BMA's guidance, first published in 1999, there is now also detailed advice from the General Medical Council [2] and from the Royal College of Paediatrics and Child Health [3]. There is also statutory guidance for those providing treatment for adults who lack capacity, in the form of Codes of Practice under the Adults with Incapacity (Scotland) Act 2000 [4] and the Mental Capacity Act 2005 [5]. Nevertheless, there is only benefit in having guidance if it is available to, and used by, those responsible for making these decisions. Occasional media reporting has served to remind us that best practice is not yet universal and that we all have a responsibility to ensure that good communication and decision-making procedures are followed in all cases. In this document, the BMA seeks to provide a coherent and comprehensive set of principles which apply to all decisions to withhold or withdraw life-prolonging treatment. It is hoped that this general guidance will stimulate the development of accessible local policies and guidelines as part of a wider network of safeguards for doctors and patients.

The need for guidance in this area became clear from a wide-ranging consultation exercise undertaken by the BMA in 1998. This led to the first edition of this guidance being published in 1999. A second edition was published in 2001 to incorporate specific guidance on the impact of the Human Rights Act. This third edition includes subsequent developments in legislation – specifically the Mental Capacity Act (which at the time of writing was due to come into force in 2007) – and the common law. Although these changes have clarified some aspects of the law, some legal uncertainties remain and judicial review will still be required in particular cases. Part of the aim of this guidance is to identify the type of cases where decisions may be made by the patient, the health care team and/or those close to the patient and those where a declaration from a court is required. This guidance does not set out to give definitive legal advice but to explain the legal and ethical principles that underpin decision making in this area and to help health professionals to recognise when further advice is needed. Of course, the law will not remain static and information about any major developments following publication will be posted on the BMA's website at www.bma.org.uk/ethics.