

Module 2

Case 2.3 Surrogate Decision Making—Mrs. Douglas's Choice of Treatment for Her Husband

Case Presentation

Even after he was informed of his new diagnosis, Mr. Douglas was steadfast in his refusal of bypass surgery. A few weeks later, Dr. Kim was only half surprised to get a phone call from Mrs. Douglas informing him she was taking her husband to the ER. Dr. Kim arrived as Mrs. Douglas was describing what happened to the ER physician.

"I found Allan lying on the kitchen floor. He said his chest hurt and the pain wasn't going away like it usually did. I decided to take him to the hospital. I grabbed the aspirin and the nitroglycerine you gave him. He was wheezing and having trouble breathing. He actually threw up in the car. Then he swallowed the nitroglycerin and I don't think he threw up again. He passed out on the way here and only woke up when they helped him from the car."

Dr. Kim checked Mr. Douglas's pulse, which was weak, and noticed his sweat-soaked clothes. His systolic pressure was 65. Dr. Kim paged Dr. Carlson.

When Dr. Carlson arrived he received a synopsis of what had happened and then asked Mrs. Douglas a few questions.

He asked for BP measurements in both arms to check for aortic aneurysm. Ruling that out, he ordered tests on cardiac enzymes, CBC, and electrolytes and a coagulation profile. He also ordered an ECG, to get a current picture of the location and severity of the blockages.

"He's in cardiogenic shock," Dr. Carlson soon announced. "Get a cardiac surgeon down here."

Dr. Imenez arrived and was informed of the situation. After examining the previous angiogram and ECG, he and Dr. Carlson explained to Mrs. Douglas that, because of the location of the blockages and the number of them, Mr. Douglas's best chance for long-term survival was bypass surgery.

Mrs. Douglas gave Dr. Kim a concerned look. "I know he told you that he didn't want bypass surgery, and I guess if there's another option I want to pursue it."

Dr. Kim took a moment to respond, "Mrs. Douglas, I tried to convince Allan he needed bypass surgery, but he was really concerned about some business deal. He's not going to be able to do any business deals if he doesn't have this surgery."

Dr. Carlson added, "If any other treatment, like coronary angioplasty, had a reasonable chance at success, we might try it, but, given the location and severity of the blockages, his long-term survival is substantially diminished with any treatment other than surgery."

"If he didn't want the surgery, I don't think you should do it," Mrs. Douglas responded.

What should Drs Kim, Carlson, and Imenez do? (select an option)

- A. [Get a court-appointed guardian other than Mrs. Douglas.](#)
- B. [Continue recommending bypass surgery to Mrs. Douglas.](#)
- C. [Prep Mr. Douglas for bypass surgery.](#)
- D. [Treat Mr. Douglas without surgery \(ie, catheterization or pharmacological treatment\).](#)

The people and events in this case are fictional. Resemblance to real events or to names of people, living or dead, is entirely coincidental. The viewpoints expressed on this site are those of the authors and do not necessarily reflect the views and policies of the AMA.

© 2005 American Medical Association. All Rights Reserved.

Module 2

- [e-mail](#) |

Case 2.3 Surrogate Decision Making—Mrs. Douglas's Choice of Treatment for Her Husband

Option Assessment

- A. Getting a court appointed guardian is **acceptable** and may be supported by the *Code* in this case, but it is too early to tell. Given that his life is now threatened, Mr. Douglas would most likely agree to the surgery if he were conscious. Opinion 8.081, "Surrogate Decision-Making" states that "When a physician believes that a decision is clearly not what the patient would have decided or could not be reasonably judged to be within the patient's best interests, the dispute should be referred to an ethics committee before resorting to the courts." Because of the urgency of this situation, however, it may be difficult to call an ethics consultation in time, so the physicians might move for an emergency court appointment of another guardian for Mr. Douglas.
- B. Continuing to recommend bypass surgery to Mrs. Douglas is **preferable**; it is supported by the *Code* in Opinion 8.081, "Surrogate Decision-Making": "Physicians should provide [the surrogate with] advice, guidance and support; explain that decisions should be based on substituted judgment when possible and otherwise on the best interests principle; and offer relevant medical information as well as medical opinions in a timely manner." Mrs. Douglas does not appear to know why Mr. Douglas did not want the by-pass surgery and the only reason he gave Dr. Kim was the business deal. Accordingly, both substituted judgment and best interest standards would likely call for the surgery, but further conversation with Mrs. Douglas may confirm or refute this.
- C. Prepping Mr. Douglas for by-pass surgery should be **avoided** because it violates the *Code* in Opinion 8.081, "Surrogate Decision-Making": "Physicians should recognize the proxy or surrogate as an extension of the patient, entitled to the same respect as the competent patient." Without further discussion between Mrs. Douglas and Drs Kim, Carlson, and Iminez, prepping Mr. Douglas for surgery would deny her the respect due a legitimate surrogate decision maker.
- D. Treating Mr. Douglas without surgery (i.e., catheterization and/or pharmacological treatment) should be **avoided** because it is not supported by the *Code* and may violate the physician's responsibility to ensure decisions are made "on the basis of sound substituted judgment reasoning or the best interest standard" (from Opinion 8.081, "Surrogate Decision-Making").

[Compare these options](#)

The people and events in this case are fictional. Resemblance to real events or to names of people, living or dead, is entirely coincidental. The viewpoints expressed on this site are those of the authors and do not necessarily reflect the views and policies of the AMA.

Module 2

- [e-mail](#) |

Case 2.3 Surrogate Decision Making—Mrs. Douglas's Choice of Treatment for Her Husband

Option Comparison

Mrs. Douglas has refused to consent to surgery for her husband. This decision is not based on the best interests standard, since it is in the interest of Mr. Douglas's survival to have cardiac surgery. Mrs. Douglas claims to be using the "substituted judgment" standard, offering the decision her husband reached earlier in the course of his illness when he did not believe he would have a heart attack and didn't want to take time out from his work for the surgery. This may not be the decision Mr. Douglas would make now because he cannot continue with his business unless he has surgery. Accordingly, the preferable course of action is option B—continuing to recommend surgery to Mrs. Douglas. Pursuing this option will likely uncover any other reasons Mrs. Douglas may have for making this decision.

If Mrs. Douglas continues to reject surgery because Mr. Douglas had previously refused and she does not provide further explanation, option A (getting a court-appointed guardian) is an acceptable option. Although involving the courts should be avoided if possible, if Mrs. Douglas makes her decisions without sound basis in substituted judgment or the best interests standard, the physicians have an obligation to try to find another surrogate.

Options C (prepping Mr. Douglas for surgery) and D (treating Mr. Douglas without surgery) should be avoided. So long as Mrs. Douglas refuses and the courts do not appoint an additional guardian, prepping Mr. Douglas for surgery fails to respect Mrs. Douglas as the legitimate surrogate decision maker. The poor prognosis of option D indicates that it too should be avoided. If Mrs. Douglas remains the legal decision maker and she requests a treatment, however, this treatment may offer Mr. Douglas some chance of survival.

Preferable: Option B

Acceptable: Option A

Avoid: Options C and D

[Additional discussion and information](#)

The people and events in this case are fictional. Resemblance to real events or to names of people, living or dead, is entirely coincidental. The viewpoints expressed on this site are those of the authors and do not necessarily reflect the views and policies of the AMA.

© 2005 American Medical Association. All Rights Reserved.

Module 2

- [e-mail](#) |

Case 2.3 Surrogate Decision Making—Mrs. Douglas's Choice of Treatment for Her Husband

Additional Information

Patients who cannot make their own medical decisions lack competence and/or decision-making capacity. Incompetent and incapacitated patients create distinct obstacles to respect for patient autonomy because it's not intuitively obvious how to respect the autonomy of an individual who is not capable of making a decision. Surrogate decision making is used to overcome or, at least, resolve this obstacle.

Opinion 8.081, "Surrogate Decision-Making" (Amended, December 2004)

If a patient lacks the capacity to make a health care decision, a reasonable effort should be made to identify a prior written expression of values such as a pertinent living will, or a health care proxy. When reasonable efforts have failed to uncover relevant documentation physicians should consult state law. Physicians should be aware that under special circumstances (for example, reproductive decisions for individuals who are incompetent), state laws may specify court intervention. In the absence of [applicable] state law...the patient's family, domestic partner, or close friend should become the surrogate decision maker.

When there is evidence of the patient's preferences and values, decisions concerning the patient's care should be made by substituted judgment. This entails considering the patient's advance directive (if any), the patient's views about life and how it should be lived, how the patient has constructed his or her identity or life story, and the patient's attitudes towards sickness, suffering, and certain medical procedures...

If there is no reasonable basis on which to interpret how a patient would have decided, the decision should be based on the best interests of the patient, or the outcome that would best promote the patient's well-being...

To protect the well-being and autonomy of the incompetent or incapacitated patient, three standards have been established in ethics and law to guide surrogate decisions: 1) the documented advance directive, 2) substituted judgment, and 3) the best interest standard.

An advance directive is a document that enables competent persons to exercise their rights to direct medical treatments in the event that they lose their decision-making capacity. There are two general categories of advance directives: 1) a living will, which indicates the types of treatment an individual wishes to receive or forgo under specified circumstances, and 2) a durable power of attorney for health care (or health care proxy appointment), which designates another person to make health care decisions on behalf of the patient.

When an incompetent or incapacitated patient does not have documented treatment preferences or goals and has not appointed a proxy, health care decisions should be determined by substituted judgment when possible, that is, attempting to decide as the patient would, if he or she had decision-making capacity.

Lacking a reasonable basis for interpreting how the patient would have decided, the "best interest" standard should be used. Making a decision based on another's best interests is less an act of respecting the patient's autonomy than it is an expression of beneficence. In the more difficult cases, the best interest standard for decision making is essentially a judgment about quality of life. One rough way to establish the patient's best interests is to ask if the decision is one that most reasonable persons would choose for themselves.

Surrogate decision makers are entitled to the same respect and professional obligations as the decisionally capable patient. Obviously, this will include the features of informed consent (i.e., disclosure and recommendations), and it will also include confidentiality.

If surrogates are in doubt about using either decision-making standard—substituted judgment or best interest—if there is disagreement between surrogates, or if a surrogate appears to be making a self-interested rather than patient-interest decision, an ethics consultation may help. This action is supported by the *Code* in Opinion 8.081, "Surrogate Decision-Making": "When a physician believes that a decision is clearly not what the patient would have decided or could not be reasonably judged to be within the patient's best interests, the dispute should be referred to an ethics committee before resorting to the courts." The urgency in the present case, however, precludes this possibility.

[Related topic: Advance directives](#)

The people and events in this case are fictional. Resemblance to real events or to names of people, living or dead, is entirely coincidental. The viewpoints expressed on this site are those of the authors and do not necessarily reflect the views and policies of the AMA.

© 2005 American Medical Association. All Rights Reserved.

Module 2

- [e-mail](#) |

Case 2.3 Surrogate Decision Making—Mrs. Douglas's Choice of Treatment for Her Husband

Related topic: Advance directives

Opinion 8.081, "Surrogate Decision-Making" also recommends that:

Physicians should encourage their patients to document their treatment preferences or to appoint a health care proxy with whom they can discuss their values regarding health care and treatment. Because documented advanced directives are often not available in emergency situations, physicians should emphasize to patients the importance of discussing treatment preferences with individuals who are likely to act as their surrogates.

Dr. Kim should have recommended either an advance directive or that Mr. Douglas discuss his preferences with Mrs. Douglas. He might also have raised the possibility of a DNR, should Mr. Douglas be incapacitated. This obligation is especially poignant in this case because Mr. Douglas had a substantial risk of presenting in an emergency situation in which he was incapacitated. Had Dr. Kim discussed the possibility of this kind of situation with Mr. Douglas during their first discussion, Mr. Douglas may have given clear indication about his preferences for treatment.

[Module 2 Feedback Questionnaire](#)

The people and events in this case are fictional. Resemblance to real events or to names of people, living or dead, is entirely coincidental. The viewpoints expressed on this site are those of the authors and do not necessarily reflect the views and policies of the AMA.

© 2005 American Medical Association. All Rights Reserved.

Module 2

- [e-mail](#) |

Module 2: Informed Consent

Feedback Questionnaire

In Module 2 on informed consent, how would you rate the relevance of the cases?

- Excellent
- Very good
- Good
- Fair
- Poor

How would you rate the explanation of courses of action?

- Excellent
- Very good
- Good
- Fair
- Poor

How would you rate the overall coverage of the topic?

- Excellent
- Very good
- Good
- Fair
- Poor

[Module 2 Table of Contents](#)

[Virtual Mentor January 2005 Table of Contents](#)

© 2005 American Medical Association. All Rights Reserved.