Case Study: Against Medical Advice

A physician was at the end of a grueling 10-hour ER shift. His last patient was a 63-year-old female with a history of smoking and previous coronary disease with diffuse abdominal pain. The vitals were normal and the abdomen was diffusely tender. A workup showed a CT that was unremarkable and the white blood cell count was 12,000. Pain had continued throughout the shift, unabated by medications. At the end of the shift, the physician discussed admitting the patient and she refused, citing the concern of having to care for her pets. After a long discussion, the patient signed an “against medical advice” form and left. At the start of the next shift the physician worked, he was told that the patient was admitted several days later at another hospital with an acute abdomen and ischemic colitis. The physician wonders if he is liable for the care or does the “against medical advice” form protect him.

Discussion

As many as 2% of all U.S. hospital discharges are “against medical advice-informed refusal,” meaning the patient chooses to leave the hospital or clinic even when the physician suggests against it. Physicians and providers feel distressed and powerless when the patient makes this type of decision. Readmission rates for patients in these situations are three-fold higher and the 30-day mortality rate is 10% higher. Patients who present with high-risk clinical conditions may pose the greatest safety risk; concerning complaints such as non-specific chest pain and abdominal pain are often presenting problems among patients who eventually leave against medical advice.

Against medical advice discharges often expose the patient to an undertreated or undiagnosed medical problem and the complications of that decision. This is a classic ethical dilemma. The physician wants to honor the patient’s wishes (autonomy) and also wants to do what is best for the patient (beneficence). Beyond the ethical dilemma, there are many other issues: communication problems, psychological issues and informed consent are all potential areas of concern.

The Medical Aspects to Consider

1. **Addressing underlying conditions that may not be known**—In this case, the patient’s real concern was fear of withdrawal as she had a significant alcohol problem. Recognition of the issue, skill at discussing the problem in a non-accusatory fashion, and an honest attempt to alleviate concern for withdrawal would be helpful.

2. **Psychiatric issues**—Patients may have significant underlying psychiatric issues. In addition, the patient may have fear and anxiety surrounding the loss of control that being a patient can represent. Increasing somatic complaints, anger, and sleeplessness may lead to erratic behavior and difficult interactions. Sick patients may make instinctual decisions that are not in their best interest, and empathic and nonjudgmental communication may help alleviate this issue.

3. **Motivational Interviewing**—Approaching patients with open questions and reflective responses helps to understand their behavior. Restating what you’ve heard may help patients understand their own ambivalence and the risk of their decision. Many patients leave the hospital for personal or financial reasons and the clearer these are to the physician, the better chance of a successful interaction.
The Legal Aspects to Consider

A signed informed consent or refusal is the cornerstone of a situation illustrated by this case. Informed consent means the patient arrived at their decision with a thorough discussion, no coercion, and full understanding of the risks and benefits. Important areas to address and document include:\(^1\):

1. Is the patient competent? Do they have capacity to make such a decision? Although courts have found that intoxication can impair a patient’s competence and ability to refuse medical treatment, a patient who is intoxicated does not automatically lack the competence or capacity to make medical decisions. Similarly, patients with psychiatric complaints do not necessarily lack capacity to make an informed decision.
2. Do they have the health literacy to understand their decision?
3. Does the patient understand the diagnosis and the reason for treatment?
4. Are they aware of alternatives?
5. Can they communicate their choices?
6. Is there an understanding of the effects of their refusal?

There are three significant ways that the use of a properly executed against medical advice/informed refusal form can create protection from future liability: 1) the termination of the legal duty to treat a patient; 2) creation of the affirmative defense of “assumption of risk”; and 3) the creation of record of evidence of the patient’s refusal of care. A properly executed and documented against medical advice/informed refusal form can provide significant protection from liability risk. If a patient is deemed to have capacity, is informed and understands the risks of leaving and still refuses care, physicians may be protected from potential liability from adverse outcomes.