

# Are you my person?

## Surrogate Decision Making in Patients with Use Disorders

Saturday, April 6th 2024



# Disclosure Information

- ◆ Presenter 1: Janet Ho, MD MPH
  - ◆ No Disclosures
- ◆ Presenter 2: Monika Holbein, MD
  - ◆ No Disclosures
- ◆ Presenter 3: Kyle Neale, DO
  - ◆ No Disclosures
- ◆ Presenter 4: Ben Thompson, MD
  - ◆ No Disclosures
- ◆ Author 5: Katrina Nickels, MD
  - ◆ No Disclosures

# Learning Objectives

- ◆ Recognize the importance of discussing surrogate decision makers in patients with use disorders
- ◆ Identify statutory decision makers and introduce HCPOA documentation
- ◆ Discover the added value of advanced care planning in PWID anticipating future complications of use disorders

# Why are we here?

- ◆ What brought you to this session?
- ◆ Is assessing surrogate decision makers part of your normal practice?

# Is injection drug use a life-limiting illness?

- ◆ Study of 5500 PWID in Baltimore from 1988-2018
- ◆ Almost 44% deceased by the end of the study
- ◆ 31% HIV/AIDS deaths
- ◆ 33% Chronic Disease deaths
- ◆ 24% drug-related death (overdose)

# Case Presentation

- ◆ John is a 36 year old man with opioid use disorder who presented to the ED two days ago after an opioid overdose.
- ◆ In the past 2 years, he has had approximately 6 trips to the ED and has received naloxone (Narcan) as many times at home without calling EMS
- ◆ The patient reports using 0.5-1g of heroin (fentanyl) intravenously daily
- ◆ In the ED, the thorough medical student on their acting internship noticed a heart murmur. Further evaluation reveals a 1cm mobile vegetation on his tricuspid valve

# Case Presentation

- ◆ Addiction medicine is consulted
- ◆ Patient amenable to buprenorphine, stabilized on 8mg BID
- ◆ Addiction social worker established safe discharge plan
- ◆ Connected to local peer recovery group
- ◆ Peer recovery coach visits him in the hospital

# Case Presentation

John opens up to the peer recovery coach that he has limited contact with his biological family as he has stolen things from them to buy and use opioids. He still talks to them around the holidays and on his birthday, but they don't have regular consistent contact



# Case Presentation

John will be in the hospital then to an inpatient residential addiction treatment program for the course of his antibiotics with expectation of eventual need for valve replacement surgery, per the CT surgeon.

With collaboration from the peer recovery coach, you recognize there are complicated family dynamics.

# Small Group Work

**Five minutes only.**

How would you approach John to identify a surrogate decision maker in case he becomes incapacitated?

# Large Group Debrief

How would you approach John to identify a surrogate decision maker in case he becomes incapacitated?

# Case Recap

36 year old hospitalized for a severe injection related infective endocarditis

Your conversation leads you to believe that there are some complicated family dynamics at play

You decide to bring up the idea of surrogate decision making in case he is unable to participate due to worsening of his condition

HEALTH AND SAFETY CODE

TITLE 4. HEALTH FACILITIES

SUBTITLE F. POWERS AND DUTIES OF HOSPITALS

CHAPTER 313. CONSENT TO MEDICAL TREATMENT ACT



# Order of Surrogate Decision Makers in Texas

1. Legal Guardian
2. Medical Power of Attorney
3. Spouse
4. Reasonably available adult children
5. Parents
6. Nearest living relative

# Selecting a HCPOA eliminates confusion

- ◆ This is patient-centric!
- ◆ Only invoked when patient loses decision-making capacity
- ◆ Know the limitations of the form in your state

# Capacity to appoint MPOA

- ◆ Does patient understand what it means to appoint POA?
- ◆ Do they have capacity to make this decision
- ◆ Are they making a reasonable choice?
- ◆ Evaluate underlying medical situation



# MEDICAL POWER OF ATTORNEY DESIGNATION OF HEALTH CARE AGENT

Advance Directives Act (see §166.164, Health and Safety Code)

I, \_\_\_\_\_ (insert your name) appoint:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_ Phone: \_\_\_\_\_

as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this document. This medical power of attorney takes effect if I become unable to make my own health care decisions and this fact is certified in writing by my physician.

LIMITATIONS ON THE DECISION-MAKING AUTHORITY OF MY AGENT ARE AS FOLLOWS:

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## DESIGNATION OF AN ALTERNATE AGENT:

(You are not required to designate an alternate agent but you may do so. An alternate agent may make the same health care decisions as the designated agent if the designated agent is unable or unwilling to act as your agent. If the agent designated is your spouse, the designation is automatically revoked by law if your marriage is dissolved annulled, or declared void unless this document provides otherwise.)

If the person designated as my agent is unable or unwilling to make health care decisions for me, I designate the following person(s) to serve as my agent to make health care decisions for me as authorized by this document, who serve in the following order:

### First Alternate Agent

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

### Second Alternate Agent

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

The original of the document is kept at \_\_\_\_\_

The following individuals or institutions have signed copies:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

## DURATION

I understand that this power of attorney exists indefinitely from the date I execute this document unless I establish a shorter time or revoke the power of attorney. If I am unable to make health care decisions for myself when this power of attorney expires, the authority I have granted my agent continues to exist until the time I become able to make health care decisions for myself.

(IF APPLICABLE) This power of attorney ends on the following date: \_\_\_\_\_

## PRIOR DESIGNATIONS REVOKED

I revoke any prior medical power of attorney.

## DISCLOSURE STATEMENT

THIS MEDICAL POWER OF ATTORNEY IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS:

- Broad rights to act in your best interest
- May consent or decline interventions, may withdraw / withhold life-sustaining treatment
- Can't consent to voluntary inpt medical services, ECT, psychosurgery, or abortion
- Physician must comply with agent's instructions

**THIS POWER OF ATTORNEY IS NOT VALID UNLESS:**

- (1) YOU SIGN IT AND HAVE YOUR SIGNATURE ACKNOWLEDGED BEFORE A NOTARY PUBLIC; OR**
- (2) YOU SIGN IT IN THE PRESENCE OF TWO COMPETENT ADULT WITNESSES.**

**THE FOLLOWING PERSONS MAY NOT ACT AS ONE OF THE WITNESSES:**

- (1) the person you have designated as your agent;**
- (2) a person related to you by blood or marriage;**
- (3) a person entitled to any part of your estate after your death under a will or codicil executed by you or by operation of law;**
- (4) your attending physician;**
- (5) an employee of your attending physician;**
- (6) an employee of a health care facility in which you are a patient if the employee is providing direct patient care to you or is an officer, director, partner, or business office employee of the health care facility or of any parent organization of the health care facility; or**
- (7) a person who, at the time this medical power of attorney is executed, has a claim against any part of your estate after your death.**

**By signing below, I acknowledge that I have read and understand the information contained in the above disclosure statement.**

# When should we think about MPOAs?

Routinely!

- ◆ Not during an emergency / acute clinical change

Triggers

- ◆ Annual Visit, Repeat / severe hospitalization, change in functional status or living situation, disease progression,
- ◆ Consideration of major procedures, change in social support, limited prognosis



# Talking Tips

- ◆ If you are able to take a substance use history, you can talk about surrogate decision making!
- ◆ Normalize! “I talk to everyone about this”
- ◆ Make this patient centered - “who do you think would honor your wishes best”
- ◆ Talk about statutory SDM and see if they accept this
- ◆ This can be longitudinal, not a one-time conversation

# Small Group Work

1. Try discussing SDM/HCPOA with a partner using the handout and suggested phrases
2. After everyone tried, debrief with the rest of your table

# Large Group Debrief

What went well?

What felt artificial?

Any beneficial phrases that you use in these conversations?

# Special Circumstances

What happens if listed HCPOA isn't available?

What happens if HCPOA isn't willing to make decisions?

What happens if HCPOA is incarcerated?

# Final Takeaways/Summary

- ◆ Incorporate exploration of surrogate decision maker into your practice
- ◆ Look at your state's healthcare consent law. You should be able to identify statutory decision makers and introduce HCPOA documentation
- ◆ Advance Care Planning conversations can be an investment when anticipating future complications of use disorders

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