Suicide

ethical and legal considerations in managing risk

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Suicide

- The deliberate intentional taking of one’s own life
- Suicidal homologues / parasuicidal behavior
- Commonest psychiatric emergency
- Core skill is assessment of suicide risk
- Management based on estimated risk
  - Ranges from simple support/advice to drastic intervention
- Invariable ethical considerations
  - The moral status of suicide
  - The morality of intervening to prevent suicide
A Global Concern

• Global Public Health concern
• Suicide rates unaffected by efforts at reduction
• Role of the media
• Immense cost
  • Direct / Indirect
  • Individuals / Families
• Strong association with mental illness
• Universal moral imperative to reduce risk
• How to reconcile this with a right to die / ”rational suicide”
• Raging debates around PAS and euthanasia
• “The” issue in bioethics at present
The Local Position

- The local debate revolves around
  - Competing values / world-views
  - Culturally embedded attitudes around life / death
  - Religious / spiritual position vs libertarian secularism
  - Individualism vs Communitarianism
  - Constitution / Bill of Rights
  - The Biomedical position
- Issues seemingly imponderable
- Little evidence of imminent resolution
- Need to interrogate one’s own assumptions / moral stance
Case discussion

- 56 year-old businessman. Recently separated.
- Attempted suicide by carbon monoxide poisoning
- At casualty – medically stable
- Depressed mood, anxious, agitated
- Admits to auditory hallucinations over past month
- Deepening sense of hopelessness, no future
- Ongoing suicidal ideation and regret about failed attempt
- Past history of treatment for depression incl admission for in-patient psychotherapy
- Family history of depression and alcohol dependence
- Refuses admission or referral for psych assessment
How to negotiate the issues?

• Three main philosophical positions
• Provide moral judgments about the suicidal individual’s conduct and the appropriate moral response
  • Virtue ethics
  • Deontology
  • Utilitarianism
• Principle based ethics
  • Model for ethical deliberation
  • Contending principles are weighed to achieve balance
  • Guide appropriate action
Ethical Principles  Beauchamp and Childress (1979)

- Respect for Autonomy
  - the individual’s decision-making capacity regarding health options
  - Informed consent, truth telling, confidentiality
- Non-maleficence
  - Avoiding harm (“primum non nocere”)
- Beneficence
  - Providing benefits (in patient’s best interest)
- Justice
  - Rights of access to care and equitable distribution thereof
  - Treating patients fairly, non-discrimination
- (Fidelity)
  - The fiduciary relationship between doctor-patient based on trust and faithful commitment to care
• Central dilemma  Autonomy vs Beneficence/non-maleficence
• **Autonomy** : self-determination /choice
• Informed consent crucial
• Can be compromised  by mental illness
• **Beneficence** supports treatment aimed at restoring autonomy
• Confidentiality key to autonomy and strongly protected by law and ethical codes – problematic in suicidal situations
• **Non-maleficence** dictates action to avoid harm
• Prevention of suicide a clinical priority – legal protection even if intervention technically unlawful
• **Justice** demands fair and equitable treatment
  • Suicidality should be taken seriously
  • Clinicians should acknowledge personal prejudices

• **Fidelity** cultivates the kind of trusting relationship in which suicidality can be explored
  • Patients feel secure that suicidal thoughts taken seriously

• Ethics of suicide is complex

• Professional codes and Legal framework set minimal standard of conduct

• Areas of dissonance between legal requirements and the higher standard required by ethics
Legal Position

• Suicide / attempted suicide is not illegal
• Inciting, enabling or assisting suicide is liable to prosecution for murder
• So are PAS and Euthanasia
• SA Law Commission has submitted proposals for legalising PAS in circumscribed circumstances
• Mentally competent adults have right to refuse treatment even if such refusal proves fatal. Complying with such requests is legally permissible
• Lack of explicit guidelines / policies
• Rely on personal experience/ expertise / consultation
• Comply with relevant legal/regulatory constraints
• Local Health legislation
  • National Health Act 61 of 2003
  • Mental Health Care Act 17 of 2002
  • Children's Act 38 of 2005
• Statutes and ethical guidelines of HPCSA
• International ethical codes eg WMA
• Constitution, Bill of Rights and the Common Law
Medico-legal pitfalls

• Increasing rates of suicide-related litigation
• Suicidal patient should receive prudent and reasonable care
  • Judged by what a similarly qualified practitioner would do
  • Available services / resources
• Clinician bears responsibility for care
• Three key areas
  • Risk assessment
  • Informed consent
  • Management of risk
Failure in care usually revolves around:
- Failure in assessment (inadequate history, not asking about suicidality, not getting collateral)
- Failure to conduct adequate risk assessment
- Failure to ensure safety eg. Admission, seclusion, surveillance
- Failure to monitor risk and behavior
- Failure to medicate appropriately
- Early discharge

Impossible to guarantee successful management:
- Inherent unreliability in risk assessments
- Patient skills at deception/concealment
- Service constraints
Avoid liability by
- Prudent / attentive clinical assessment
- Prudent / attentive management
- Clear and detailed documentation
- Consultation
- Postvention after fatal event (NB confidentiality and stigma)

Liability arises in Professional Negligence / Malpractice
- Failure to meet appropriate standard of care by acts of omission or acts of commission

Negligent failure to prevent suicide generally severely sanctioned
- Clinician liable to both criminal prosecution (culpable homicide) and civil litigation for damages
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Questions

• What are the clinical issues?
• Is this an emergency?
• What is the suicide risk?
• What would be considered best clinical practice?
• Is there an ethical issue/dilemma?
• Is the patient competent to provide informed consent?
• Has he the right to refuse treatment?
• What about confidentiality?
• How are the legal/ethical/clinical issues resolved to inform management?
Conclusion

• Issues are complex – neat resolution of dilemmas rare
• Responsibility is reasonable/prudent care
• Realism – suicides cannot always be prevented
• When in doubt, consult
• Durable documentation
• Seek support when needed
• Need for clinical/ethical guidelines to address current grey-areas