

Emergency Treatment of Drug-Dependent Patients between Law and Ethics

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“Medical Activities at the Interface between Patient's Autonomy and Treatment Mandate”

- Drug-dependent patients
- Acute intoxication
- Emergency and intensive care units

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Case: Patient Y (I)

- Female, overdose of pills
- Heavily decreased consciousness
- Delayed reaction
- Oriented in time and space
- No information about sort of drugs, amount of drugs and point of ingestion
- Treatment refusal

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Case: Patient Y (II)

- Decision on hospital treatment because of
 - Supposed high amount of drugs taken
 - Y's general condition
- Blood sample
- Activated charcoal
 - State-of-the-art method
 - Binds toxicants before they can pass into the bloodstream

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Case: Patient Y (III)

- Y once more emphasises unwillingness for treatment
- Feeding tube is set
 - Supported by physical restraints
 - Results: Panic, respiratory distress
- Physical restraints are used

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Legal Perspective

- Patient's autonomy
 - Physical integrity
 - Personal freedom
- Protected by criminal legal provisions

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Legal Challenges

- Medical treatment without consent
- Physical restraints

Medical Treatment without Consent - “Unauthorised Curative Treatment”

- Treatment
 - Medical indication
 - Information
 - Consent
 - Most challenging precondition

Austrian Law (I) - Consent

- Patient's will = centre of decision making process
- Unauthorised curative treatment
 - Treatment without adequate information and consent
 - Prohibited by criminal law (§ 110 Austrian Criminal Code)
 - ≠ bodily injury

Treatment Refusal

- Has to be adhered to
- Case: Patient Y's treatment refusal
 - Expression of will?
 - Side-effect of intoxication?

Competence & Consent

- Precondition for consenting
- Autonomous decision concerning treatment
- Common problem when dealing with intoxicated patients
 - Unclear situation
- Competence / lack of competence
 - Established on an individual basis
 - By attending physician

Incompetence & Consent

- Patient cannot consent to / refuse treatment
- Case: Patient Y – competent or incompetent?

Austrian Law (II) – Emergency Treatment

- Treatment in case of emergency
 - Patient incompetent and will is not known otherwise
 - Life-threatening situation
 - Obligation to treat

Competence & Emergency Treatment

- Problems when dealing with intoxicated patients
 - Unpredictable peak and intensity of drug-effect
 - Fluctuating purity of substances, uncertain disclosures, unverified time of consumption
 - Life-threatening condition?
 - Necessity for treatment?

Problems of Medical Treatment without Consent

- 1) Patient's competence to consent to / refuse treatment
- 2) Life-threatening Situation
 - in Case of Incompetence

Ethical Approach

- Principles of Beneficence and Autonomy
 - Beneficence
 - Wellbeing of patient is central
 - Autonomy
 - Possibility to make own decisions
 - In conflict with each other
 - Autonomy can be restricted for the patients' own good
 - Precondition: Harm of not-treating is higher than harm caused by treating

Physical Restraints

- Aggressive / agitated behaviour directed at others / themselves
- Non-compliance
 - Side-effect of intoxication?
- Case: Patient Y
 - Physical restraints enable medical treatment

Austrian Law (III) – Physical Restraints

- Personal freedom
 - Protected by civil and criminal law
 - Restraining without consent = culpable as deprivation of liberty (§ 99 Austrian Criminal Code)
- Limitations of personal freedom in order to enable medical treatment
 - Hospitalisation Act & Nursing Home Residence Act
 - Not applicable for treatment of drug-dependent patients on emergency / intensive care units
 - Justification within limits set by criminal legal provisions
 - Self-defence
 - Presumed consent or justified emergency

Austrian Law (IV) – Physical Restraints, Justification by Criminal Law

- Aggressive / agitated behaviour against others
 - Patient is in need of emergency treatment
 - Self-defence
 - Patient does not need emergency treatment
 - No justification by law
 - Patient should be let go

Austrian Law (V) – Physical Restraints, Justification by Criminal Law

- Self-harm
 - Also: treatment refusal
 - In case of emergency
 - Justification by presumed will or justified emergency
 - Without emergency
 - Physical restraints cannot be enforced legally

Margin of Decision-making

- Decision about competence and life-threatening-situation
 - In individual case
 - By the attending physician

How to Improve the Situation?

- Interdisciplinary teams
 - Involvement of psychologists, psychotherapists, psychiatrists might
 - Help avoid escalation
 - Improve a better doctor-patient-relationship
 - Lead to a better cooperation with the endangered intoxicated patient and possible future cooperation
- Guidelines
- Further education for practitioners

Thank you for your attention!