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

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

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

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

Legal Perspective

- Patient’s autonomy
- Physical integrity
- Personal freedom
  → Protected by criminal legal provisions
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 / 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

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!