ACLP How To Guide: Treatment Over Objection

How to Decide Whether to Treat Over Objection

Learning Objectives:

1. Appreciate the relationship between decision-making capacity and the decision to pursue medical treatment over a patient's objection
2. Apply a structured bioethical framework to decisions about pursuing treatment over a patient's objection
3. Recognize how social supports commonly facilitate decision-making around and execution of treatment over objection

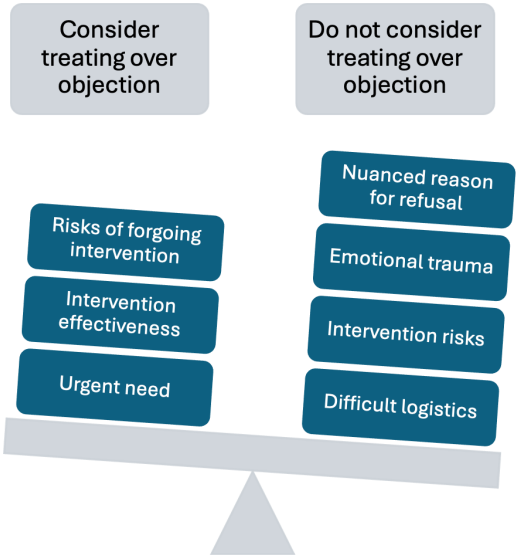
Step 1: Determine whether medical treatment over objection can be considered, per the following criteria:

1. Patient declines a recommended medical intervention
    - This guide focuses on medical interventions rather than psychotropic medications as there are distinct ethical considerations, and laws concerning psychotropic medication administration over objection vary by state
2. Patient lacks capacity to make that decision (See ACLP Capacity How-To Guide)
3. Primary service would consider pursuing treatment over objection

If these 3 criteria are met, proceed to step 2

Step 2: Use the following framework questions (1) collaboratively with the primary service, bioethics service, nursing, or other relevant services (Figure 1) to determine whether treatment over objection should be considered (2, 3)

Figure 1: Factors influencing the ethical justifiability of treating over objection



<u>Urgency of decision</u>

- How imminent is harm without the intervention?

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    - If the intervention is non-urgent and the reason for lack of capacity is suspected to be reversible over a reasonable time period, consider restoring the patient's capacity before considering treatment over objection

Risk-benefit assessment

- What are the logistics of treating over objection?
    - This can be a decisive factor
    - Will the patient require sedation? Restraints?
    - If the treatment requires long-term cooperation (e.g., dialysis, HIV treatment), it may be logistically impossible to treat over objection and thus ethically unjustifiable. However, if a patient's incapacity is thought to be reversible (e.g., in cases of delirium due to uremia), it may be ethically permissible to administer a limited number of treatments over objection with the goal of capacity restoration
- What is the likely severity of harm without the intervention?
- What are the risks of the intervention?
- What is the efficacy of the proposed intervention?
- Will the reason for incapacitation be addressed by the intervention? (e.g., pursuing dialysis in a patient with uremia)

Respect for persons

- What is the likely psychological effect of a coerced intervention?
    - Minoritized populations are more likely to have their capacity questioned by primary services and may have previously experienced racism/persecution, compounding the potential trauma of treatment over objection (4)
    - Disfiguring interventions are especially likely to be traumatic
    - Interventions causing pain or decreased quality of life are also likely to increase psychological suffering
- What is the patient's reason for refusal? (5)
    - Even if the patient is unable to demonstrate decisional capacity, patient preferences and values carry ethical weight, especially when known to the patient's family or treatment team
    - Even if a patient is unable to demonstrate decisional capacity, the patient may still demonstrate nuance or a degree of rationality in their decision making. This complex reasoning decreases the ethical justifiability of treating over objection

Step 3: Involve social supports whenever possible (Table 1) (2, 3). Social supports may:

- Assist in deciding whether to pursue treatment over objection as a surrogate decision-maker or a person who supports the decision-maker
    - When the patient lacks a guardian or durable healthcare power of attorney, the default surrogate decision-maker varies by state law but typically prioritizes close relatives
    - May draw from several decision-making models (6):
        - **Substituted judgment model:** what the patient would choose
        - **Best interest model:** what a reasonable person would choose
        - **Substituted interest model:** a real-time discussion between the surrogate decision-maker(s) and the physician to make a decision that aligns with the patient's underlying values

  - A primary service may opt to not treat over objection even if the family supports treating over objection (e.g., if the family supports amputating an extremity over the patient's objection, but the primary service believes that the surgery carries an unacceptably high risk)
  - Psychiatry consultants may assist in identifying and alleviating social supports' feelings of guilt related to opting for treatment over objection or declining lifesaving treatment by providing validation and psychoeducation (e.g., "you are making a decision that honors your loved one's autonomy/values/well-being")
- Facilitate communication of medical information to the patient
- Convince the patient to assent to treatment
- Decrease emotional trauma related to treatment over objection
- Provide information about the patient's historical preferences and inform the evaluation of the patient's reason for refusal

Table 1: Example case using Rubin-Prager framework

Clinical scenario	Older male with dementia declining below-knee amputation that is eventually needed for chronic, nonhealing diabetic ulcers. There is no acute infection	Older male with delirium declining below-knee amputation for severe osteomyelitis
Urgency	Non-urgent	Urgent
Severity of harm without intervention	Moderate: gangrene and infection risks	High: Sepsis and death
Risks of intervention	Usual surgical and general anesthesia risks (e.g., anesthesia complication, infection)	Usual surgical and general anesthesia risks (e.g., anesthesia complication, infection)
Logistics of treating over objection	Sedating patient for surgery against his will	Sedating patient for surgery against his will
Efficacy of intervention	Effective at removing source of potential infection/gangrene	Effective at removing source of active infection
Likely effect of coerced intervention	May cause emotional trauma due its disfiguring nature	May cause emotional trauma due its disfiguring nature
Reason for refusal	Thinks surgical team may inject poison into his wounds	"The dog"
Collateral information	Per patient's spouse, though he is confused currently, he has also stated previously that he wants to "die whole"	Per patient's spouse, he had previously stated he wanted life-saving measures if he had a good chance of recovery
Most ethically justifiable decision	Against treating over objection mainly due to the logistics of treating over objection, the disfiguring nature of the intervention in the context of the patient's previously stated wishes, and the lack of clinical urgency	In favor of treating over objection mainly due to the clinical urgency, the intervention addressing the likely reason for incapacity, and the patient's previously stated wishes

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