Worcester Medicine publishes "The Uncooperative Patient and the Least-Restrictive Protection Approach"

BY PETER J. MARTIN • JULY 24, 2018

The Worcester District Medical Society published an article by Peter Martin in the July/August 2018 edition of its quarterly publication, Worcester Medicine. Below is an excerpt from the article.

> It is a dilemma inherent in caregiving: what to do when a patient disagrees with what appears to be the obviously correct treatment decision? Inpatient facilities can suffer significant financial losses when a patient refuses care but cannot legally be transferred to another facility. One Massachusetts hospital faced this issue in a case decided by the Massachusetts Supreme Judicial Court on May 11, 2018, *Guardianship of D.C.*, which offers helpful guidance on the scope of authority of both courts and guardians.
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> In January of 2016, the 79-year-old D.C. was admitted to the hospital with a hip fracture but refused to have corrective surgery or to take any medications. D.C. also presented with acute renal failure, pancreatitis and cardiac issues; she underwent a coronary bypass and a mechanical heart valve replacement. At the end of January 2016, the hospital petitioned the court for appointment of a guardian with specific authority to admit D.C. to a nursing facility. A temporary guardian was appointed in February and extended in March, but the guardianship lapsed in June. The hospital then went back into court in July with a new guardianship petition, stating that, in the SJC's words, "D.C. was an incapacitated person in need of guardianship based on her insistent refusal of medical care." A different judge held a trial at the hospital in September of 2016 and issued an opinion in November of 2016 that D.C. was not incapacitated. The judge wrote that D.C. was "demanding, difficult, obstreperous and plainly refused to assist or participate with various medical care personnel" but was not incapacitated, and therefore, a guardian could not be appointed for her. Nevertheless, the judge allowed the hospital's request that D.C. be transferred to a skilled nursing facility, finding that an acute setting was no longer required for her.

Continue reading the full article, "The Uncooperative Patient and the Least-Restrictive Protection Approach."

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