

Ethics & Pain

Effective pain management has been described as both a moral imperative and a fundamental human right. Chronic pain is not only a biological experience but a social, existential, and moral one where over time the “self” is eroded and subverted resulting in the longing for a past or “good” self.¹

In September 2010, the International Association for the Study of Pain (IASP) mobilized global pain care leaders to demand acknowledgement of pain care as a human right during the 13th World Congress on Pain in Montreal. The “Declaration of Montreal” was created to call attention to inadequate knowledge of pain management techniques by most medical workers and the lack of national policies in both the developed and developing world regarding the seriousness of pain as a global health problem.³

Medical advances, the acknowledgment of rights to pain care and patient advocacy efforts have influenced the way health care providers approach people with chronic pain. The ability to control pain has dramatically improved over the years. Millions of people suffering from cancer, HIV/AIDS, and other conditions have been able to find relief from debilitating chronic and acute pain.

“Effective pain management is a moral imperative, a professional responsibility, and the duty of people in the healing professions.”

IOM, “Relieving Pain in America: A Blueprint for Transforming Prevention, Care, Education and Research”²

However, despite medical developments, pain remains severely under-treated around the world, leaving many to suffer needlessly.³

Pain control with medication deals with health policy, regulation, law enforcement and standards of medical care. Each of these factors plays a role in shaping the environment for pain care and can either interfere with or contribute to efforts to strengthen pain management. From law and policy that govern health care professionals to personal responsibility and personal attitudes and beliefs about pain and suffering, ethical and legal considerations in decision-making are important parts of this complex picture.^{4,5}

Recognizing the intrinsic dignity of all persons and that withholding of pain treatment is profoundly wrong, leading to unnecessary suffering which is harmful; we declare that the following human rights must be recognized throughout the world:

- the right of all people to have access to pain management without discrimination
- the right of people in pain to acknowledgment of their pain and to be informed about how it can be assessed and managed
- the right of all people with pain to have access to appropriate assessment and treatment of the pain by adequately trained health care professionals

International Association for the Study of Pain, “Declaration of Montreal: Declaration that Access to Pain Management Is a Fundamental Human Right,” September 2010³

Views about pain and pain care, particularly at the end-of-life, can be overlaid with a lifetime of personal views and perceptions based on family, education level, cultural and religious beliefs. This may be complicated further by differing views among family members, communities and health care professionals' personal beliefs. Health care providers, regulators and law enforcement agencies play important roles in the safe use of pain medication, but those at the center of pain care remain the very people who experience pain and have a fundamental human right to have their pain assessed and treated. Ethicists also struggle with concerns about the possibility of inadvertently hastening death over treating pain at the end of life, an example of an ethical principle known as "double effect."⁶

Pain Care Ethics

When viewed as a human right, pain care intersects with ethics. Ethics have come to the forefront of many pain care discussions as individuals are increasingly demanding better care. This has led to an increase in legal action regarding the failure of health care providers to adequately treat their patients' pain.

A study by McGee and colleagues described a "landscape for chronic pain ethics" which included structural, policy, educational, and clinical issues culminating in a strong call for a so-called "chronic pain ethics" which is "focused upon and framed by the experiences of people living with chronic pain... whose (pain) experiences have been invalidated, who continue to encounter a culture of stigma and distrust, and find their dignity undermined by a system and a society that appears disinterested in taking a stand for the care and consideration to which they are entitled."^{1,7}

We know that while pain does not discriminate, its care does. Health care providers, families and people who live with pain also need to be aware of personal background and biases when approaching a pain care plan. Disparities in pain

care exist based on gender, age, race and income level. There is a great deal of unmet need for pain management and therapy among the elderly, institutionalized population, as well as children and other vulnerable people with mental disabilities or impairments who cannot effectively communicate about their pain. There are significant issues with chronic pain care in emergency room settings, because sufferers often have nowhere else to go.^{8,9}

It has perhaps become impossible to practice in our field with consideration of only the patient-practitioner dyad. Various special interests also bring additional perspectives for ethical consideration.

These include the insurance, pharmaceutical, implantable device, and hospital industries, as well as medical, local, state, and federal regulatory agencies that are trying to protect the well-being of pain sufferers, society as a whole, and, hopefully, pain practitioners.¹⁰

Pain Medicine Ethics Forum, 2013

Difficult ethical decisions about pain care are forcing health care providers to redefine how pain is viewed. For example, traditionally, the field of bioethics has focused on end-of-life pain management, with less attention being given to chronic pain issues, post-surgical pain, or suffering not related to dying. To address these pain problems and encourage ethical approaches to chronic pain conditions, it has become necessary for providers to become better educated about chronic pain, bias and myths regarding pain relief, and how substance disorders affect the pain experience.¹¹

Standards of Pain Care

The development of pain care standards is essential to providing guidance and oversight of the care of people with pain, particularly vulnerable populations who may not be able to advocate for themselves.

The Joint Commission accredits and certifies more than 19,000 health care organizations and programs in the United States. Current Joint Commission pain management standards require that patients be

Pain management as a human right is a moral imperative that will help medicine return to its humanist roots. Acknowledging this right is a crucial step in reversing the public health crisis of under-treated pain. However, simply recognizing pain relief as a human right without making the changes necessary to provide appropriate treatment for patients in pain will only foster an illusion of care that can fuel unrealistic expectations and discontent among physicians and patients.

Scott M. Fishman, MD. "Recognizing Pain Management as a Human Right: A First Step."¹²

asked about pain, depending on the service the organization is providing. This attention to pain had practice implications for physicians, nurses, pharmacists and other health care providers. According to the American Pain Society, there is little question the standards have increased visibility and accountability for pain management in settings across the United States since they went into effect in 2001.¹³

In 2010, the Pain Management Task Force of the Office of the Army Surgeon General published the report: "Providing a Standardized Department of Defense and Veterans Health Administration Vision and Approach to Pain Management to Optimize the Care for Warriors and their Families." The task force calls for a "comprehensive pain management strategy that was holistic, multidisciplinary, and multimodal in its approach, utilizes state of the art/science modalities and technologies, and provides optimal quality of life for soldiers and other patients with acute and chronic pain."¹⁴ This comprehensive approach to pain care should be available to all people suffering from pain.

Separately, in 2009, the Centers for Medicare & Medicaid Services (CMS) issued guidance to state nursing home agency directors stressing the importance of assessment and treatment of pain.

The guidance acknowledges the imperative for timely and appropriate assessment and treatment of pain: "Effective pain recognition and management requires an ongoing facilitywide commitment to resident comfort, to identifying and

addressing barriers to managing pain, and to addressing any misconceptions that residents, families, and staff may have about managing pain. Because pain can significantly affect a person's well-being, it is important that the facility recognize and address pain promptly."¹⁵

Pain Care and the Law

Treating people who live with pain presents legal, as well as ethical, concerns. From the undertreatment of pain through criminal negligence and elder abuse to concerns about health care providers contributing to prescription drug abuse by providing access to medication to people without legitimate medical need, state law often defines the boundaries of what is acceptable. Because of the potential for abuse of pain medication, health care providers who treat pain are faced with regulatory considerations unlike any other area of medicine.

The fundamental human right to be free of suffering can be complicated by religious and moral attitudes toward pain and suffering, legal and regulatory concerns among health care providers and concerns about prescription drug abuse on a community level. However, people with pain and their loved ones should not lose sight of their right to timely and appropriate pain care.

Patient-provider agreements and drug testing are other areas of pain care that present legal and ethical considerations. A commentary published in *The American Journal of Bioethics* describes this dilemma:

"The confluence of undertreatment, the drastic shortage of pain doctors, the power disparity between doctor and patient, and the desperation and vulnerability of suffering patients may make it impossible for people with pain to provide voluntary consent to the agreement and all of its stipulations, including random drug tests. Patients may sign contracts and submit to drug screens because if they refuse, their pain goes untreated. 'Consent or suffer worse, what's your choice?' A patient's consent on an agreement may be coerced by the threat of greater pain. This raises both ethical and legal questions."¹⁶

Additional Resources

American Bar Association

321 N. Clark Street
Chicago, IL 60654-7598
Phone: (312) 988-5000
E-mail: Via website
Twitter: @ABAesq
www.americanbar.org

American Medical Association

AMA Plaza
330 North Wabash Avenue
Chicago, IL 60611-5885
Phone: (800) 621-8335
E-mail: Via website
Twitter: @AmerMedicalAssn
www.ama-assn.org

American Society for Law, Medicine & Ethics

765 Commonwealth Avenue
Suite 1634
Boston, MA 02215
Phone: (617) 262-4990
Fax: (617) 437-7596
E-mail: Via website
Twitter: @ASLMENews
www.aslme.org

Center for Practical Bioethics

Harzfeld Building
1111 Main Street
Suite 500
Kansas City, MO 64105-2116
Phone: (800) 344-3829
Phone: (816) 221-1100
Fax: (816) 221-2002
E-mail: Via website
Twitter: @PracBioethics
www.practicalbioethics.org

Department of Veterans Affairs

810 Vermont Avenue, NW
Washington, DC 20420
Phone: (800) 827-1000
E-mail: Via website
Twitter: @DeptVetAffairs
www.va.gov

Foundation for Ethics in Pain Care

E-mail: Via website
www.painethics.org

Hastings Center for Bioethics

21 Malcolm Gordon Road
Garrison, NY 10524-4125
Phone: (845) 424-4040
Fax: (845) 424-4545
E-mail:
mail@thehastingscenter.org
Twitter: @hastingscenter
www.thehastingscenter.org

Human Rights Watch

350 Fifth Avenue
34th floor
New York, NY 10118-3299
Phone: (212) 290-4700
E-mail: Via website
Twitter: @hrw
www.hrw.org

International Association for the Study of Pain

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Washington, DC 20005-1020
Phone: (202) 524-5300
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E-mail: IASPdesk@iasp-pain.org
Twitter: @IASPPAIN
www.iasp-pain.org

The Joint Commission

One Renaissance Boulevard
Oakbrook Terrace, IL 60181
Phone: (630) 792-5800
E-mail: Via website
Twitter: @TJCommission
www.jointcommission.org

Open Societies Foundation

International Palliative Care
Initiative
224 West 57th Street
New York, NY 10019
Phone: (212) 548-0600
E-mail: Via website
Twitter: @OpenSociety
www.opensocietyfoundations.org

Resources verified March 2014.

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