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Prevalence of Advance Directives and Guardianship in Nursing Home Patients

Jeffrey S. Janofsky, MD; Barry W. Rovner, MD

Abstract

The Patient Self-Determination Act (PSDA) now requires federally funded nursing homes to inform newly admitted patients of their right to determine their future medical care. Many nursing home patients may not be able to understand these rights, given the high prevalence of mental disorders, particularly dementia, in this population, and will need family members for assistance.

Prior to the onset of the PSDA we surveyed the families of all residents of a large, proprietary nursing home to determine whether family members understood the concept of advance directives and guardianship. We also ascertained the rate of use of these instruments in the population studied.

We found that the majority of family member respondents understood these concepts, but that substantial proportions of both competent and incompetent patients lacked surrogate decision-making authority, either in the form of a court-appointed guardian or a written advance-directive instrument.

Informing newly admitted patients and their families about advance directives is warranted because many lack these plans. However, the high proportion of incompetent patients among nursing home patients indicates the need to encourage currently competent patients to formulate advance directives prior to nursing home placement. (*J Geriatr Psychiatry Neurol* 1993;6:214–216).

The recently enacted Patient Self-Determination Act (PSDA) requires federally funded nursing facilities to inform patients of their rights under state law (1) to make decisions to accept or refuse medical or surgical treatment and (2) to formulate advance directives.¹

Advance directives are documents that allow currently competent patients to record the nature and kind of medical procedures they desire if they become incompetent in the future. These directives decrease the probability that a guardianship hearing will be necessary. Most states allow two types of advance directives, the living will and the durable

power of attorney. La Puma et al, in a literature review before the PSDA went into effect, noted that between 4% and 17.5% of adults had completed an advance directive.²

Recent research has demonstrated the high prevalence of dementia, and other psychiatric disorders in nursing home patients. Among new admissions to nursing homes, Rovner et al found that 80% had a diagnosable psychiatric disorder according to *DSM-III-R* criteria.³ The most commonly diagnosed disorders were dementia syndromes in 67% and affective disorders in 10% of patients. Most demented patients had moderate to severe cognitive impairment. These data suggest that many nursing home patients may not be competent at the time of admission to nursing homes to properly execute advance directives or to give consent to medical procedures.

Cohen-Mansfield et al found that only 26% of 550 nursing residents were competent to provide informed consent to participate in a research study.⁴ Diamond et al assessed 39 nursing home residents' decision-making capability regarding advance direc-

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tives and found that many were not able to weigh the risks and benefits of various treatments nor comprehend other health care issues.⁵

These studies suggest that, while the Patient Self-Determination Act may improve autonomy in decision making for some nursing home residents, a large proportion may not understand this right. To obtain preliminary data regarding this issue we determined (1) the current prevalence of advance directives in all residents of a large nursing home and (2) respondents' opinions about whether nursing home patients are capable of making their own health care decisions.

Methods

Prior to the onset of the PSDA, the family member or other person identified in the nursing home record "to be notified in an emergency" for all residents of a 250-bed proprietary intermediate-care nursing home in Baltimore were sent a questionnaire. Respondents were asked whether they were familiar with the terms "guardian," "living will," and "durable power of attorney." (Maryland does not have a specific durable power of attorney statute for health care. Health care issues are subsumed under the general durable power of attorney statute.) The questionnaire we used was specifically designed at a sixth-grade reading level to maximize comprehension and improve completion rates. Respondents were also asked if the nursing home resident had a legally valid durable power of attorney or living will, and whether the resident had a court-appointed guardian to make medical decisions. Additionally, the respondents were asked whether, in their opinion, the nursing home resident was "mentally capable of making decisions regarding his/her health care."

Results

At the time of the survey, there were 233 residents in the nursing home. Eighty percent were female, 84% were white, and 82% were older than 75 years of age, with an average age of 81 years. These demographic characteristics are similar to other US nursing home populations.⁶

Of the 233 residents, 191 persons (82.0%) responded to the survey; 155 (81.6%) of them were familiar with the term "durable power of attorney," 165 (86.8%) with the term "living will," and 180 (94.2%) with the term "guardianship." Furthermore, respondents indicated that in their opinion only 29 (15.2%) nursing home residents were capable of making independent decisions regarding their own health care.

Use of advance directive instruments and guardianship were examined. A living will had been executed by 34 residents (17.8%), 92 (48.2%) had executed a durable power of attorney, and 100 (52.4%) had executed either document. Forty-five (23.6%) of all patients had a court-appointed guardian. These were not exclusive groups, because a person with a court-appointed guardian may also have had an advance directive instrument. Table 1 compares the use of surrogate decision-making authority by respondent's assessment of resident's competency or incompetency status. The table shows that substantial proportions of patients lacked either the appointment of a guardian or the presence of a valid advance directive instrument.

Discussion

The demographic and medical characteristics of the sample we studied are comparable to national data, suggesting that our patients may be representative of other nursing home patients. We sampled the

TABLE 1
Presence of Surrogate Decision-Making Authority by Respondents' Judgment of Mental Capacity

Surrogate Authority	"Mentally Capable," n (%)	"Not Mentally Capable," n (%)	"Don't Know," n (%)
Guardian	1(0.5)	44(23.0)	0(0.0)
Durable power of attorney or living will, no guardian	14(7.3)	61(31.9)	1(0.5)
No durable power of attorney, living will, or guardian	13(6.8)	46(24.1)	4(2.2)
Don't know	1(0.5)	6 (3.2)	0(0.0)
Total	29	157	5

family members of a large community nursing home and received a high response rate, supporting the study's generalizability to this population. All the data collected relied on respondents' opinions rather than a direct examination of the patients. We do not know whether data collected directly from the patient would be more or less accurate than data provided by the respondents. However, the proportion of patients assessed by respondents to be incompetent to make medical decisions corresponds to the previously reported high prevalence of dementia syndromes³ and low rates of competency in nursing home patients.^{4,5,7} Although the presence of a mental disorder does not necessarily imply that a patient is incompetent to make medical decisions, the presence of a mental disorder such as dementia substantially increases the likelihood that this may be the case.

The primary finding of this study is that although the majority of those surveyed had some knowledge of advance directives, substantial numbers of nursing home residents lacked either a guardian or an advance directive. This is particularly troubling for currently competent patients who are at high risk of becoming incompetent as time passes.

It is critically important for all health care providers, particularly those who work with the elderly, to identify as early as possible currently competent patients at high risk of becoming incapable of making their own health care decisions in the future. These patients need to be thoroughly informed about their right to formulate an advance directive. Although the PSDA requires patients to be informed

of their right to formulate advance directives on admission to a nursing home, for those already incompetent, it is too late. Patients who become incompetent before executing an advance directive lose the ability to inform their physicians and the world in general of their preferences if or when they are unable to speak knowingly for themselves.

Acknowledgments

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