Legal and Ethical Issues in Clinical practice.

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Principles of medical ethics
A physician shall be dedicated to providing competent medical care, with compassion and respect for human dignity and rights.
A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities.
A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.
A physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and
privacy within the constraints of the law. A physician shall continue to study, apply, and advance scientific knowledge, maintain a commitment to medical education, make relevant information available to patients, colleagues, and the public, obtain consultation, and use the talents of other health professionals when indicated. A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical care. A physician shall recognize a responsibility to participate in activities contributing to the improvement of the community and the betterment of public health. A physician shall, while caring for a patient, regard responsibility to the patient as paramount. A physician shall support access to medical care for all people.

Adopted by the AMA's House of Delegates June 17, 2001.
Case of Patient in a Vegetative State

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**Medical definition**

Any person with an illness that is not able to function properly without artificial help.

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**Legal/ethical definition**

As opposed to brain death and comatose, PVS is not recognized as death in any legal system. This ethical grey area has led to several court cases involving people in a PVS, those who believe that they should be allowed to die, and those who are equally determined that, if recovery is possible, care should continue. This ethical issue raises questions about autonomy, quality of life, appropriate use of resources, the wishes of family members, professional responsibilities, and many more.

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**History**

The syndrome was first described in 1940 by Ernst Kretschmer who called it *apallic Syndrome*. The term *persistent vegetative state* was coined in 1972 by Scottish spinal surgeon Bryan Jennett and American neurologist Fred Plum to describe a syndrome that seemed to have been made possible by medicine's increased capacities to keep patients' bodies alive.
Classification

Terminology in this area is somewhat confused. While the term persistent vegetative state is the most frequent in media usage and legal provisions, it is discouraged by neurologists, who favour the terminology of the Royal College of Physicians (RCP) which refers only to the vegetative state, the continuing vegetative state, and the permanent vegetative state.[4]

The vegetative state is a chronic or long-term condition. This condition differs from a persistent vegetative state (PVS, a state of coma that lacks both awareness and wakefulness) since patients have awakened from coma, but still have not regained awareness. In the vegetative state patients can open their eyelids occasionally and demonstrate sleep-wake cycles. They also completely lack cognitive function. The vegetative state is also called coma vigil. The continuing vegetative state describes a patient's diagnosis prior to confirmation of the permanence of the condition. The permanent vegetative state occurs when the vegetative state is deemed permanent; a prediction is being made that the patient will never recover awareness. This prediction cannot be made with absolute certainty. However, the chances of regaining awareness diminish considerably as the time spent in the vegetative state increases (Royal College of Physicians, 1996).

This typology distinguishes various stages of the condition rather than using one term for them all. In his most recent book The Vegetative State, Jennett himself adopts this usage, on the grounds that "the 'persistent' component of this term ... may seem to suggest irreversibility".[2] The Australian National Health and Medical Research Council has suggested "post coma unresponsiveness" as an alternative term.[5]

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Signs and symptoms

Most PVS patients are unresponsive to external stimuli and their conditions are associated with different levels of consciousness. Some level of
consciousness means a person can still respond, in varying degrees, to stimulation. A person in a coma, however, cannot. In addition, PVS patients often open their eyes, whereas patients in a coma subsist with their eyes closed (Emmett, 1989).

PVS patients' eyes might be in a relatively fixed position, or track moving objects, or move in a *disconjugate* (i.e. completely unsynchronized) manner. They may experience sleep-wake cycles, or be in a state of chronic wakefulness. They may exhibit some behaviors that can be construed as arising from partial consciousness, such as grinding their teeth, swallowing, smiling, shedding tears, grunting, moaning, or screaming without any apparent external stimulus.

Individuals in PVS are seldom on any life-sustaining equipment other than a feeding tube because the brainstem, the center of vegetative functions (such as heart rate and rhythm, respiration, gastrointestinal activity), is relatively intact (Emmett, 1989).

(Available on Wikipedia.org with essentially no copyright restrictions).

**Conflict with Surrogate Decision-Maker**

2) In Re Wanglie, No. PX-91-283 (Minn.D.Ct. June 28, 1991)

(Hospital sought order to replace Husband as the surrogate decision-maker. Court did not address the substance of the decisions made by the Husband finding that the only materially relevant question was whether the Husband was in the best position
to know what the patient would want done if she was able to speak for herself).


4) “Time to Move Advance Care Planning Beyond Advance Directives” Chest 2000

May a Physician Sedate a Terminally ill Patient to the Point of Unconsciousness?

5) Vacco v. Quill, 117 S. CT. 22293 (US 1997)


7) See CEJA Report 5-A-08 Referred to Reference Committee on Amendments to Constitution and Bylaws (Available at www.ama-assn.org)
Privacy and Confidentiality

45 CFR 164.506(a) Healthcare entities (Hospitals, Doctors etc.) May share otherwise protected information on patient if purpose is to facilitate care.

45 CFR 164.510(b) May share information with family or close friend if this facilitates care and patient does not object.

For a good summary of HIPPA go to: www.hhs.gov/ocr/privacysummary.pdf

Treatment of Minors

“Informed Consent to the Treatment of Minors” Schlam and Wood, Journal of Law-Medicine Vol. 10 Number 2, Summer 2000 (Case Western Reserve University School of Law)

Healthcare Provider’s Right to Follow Their Conscience.

Sec. 2. Findings and policy. The General Assembly finds and declares that people and organizations hold different beliefs about whether certain health care services are morally acceptable. It is the public policy of the State of Illinois to respect and protect the right of conscience of all persons who refuse to obtain, receive or accept, or who are engaged in, the delivery of, arrangement for, or payment of health care services and medical care whether acting individually, corporately, or in association with other persons; and to prohibit all forms of discrimination, disqualification, coercion, disability or imposition of liability upon such persons or entities by reason of their refusing to act contrary to their conscience or conscientious convictions in refusing to obtain, receive, accept, deliver, pay for, or arrange for the payment of health care services and medical care.
(Source: P.A. 90-246, eff. 1-1-98.)

Sec. 6. Duty of physicians and other health care personnel. Nothing in this Act shall relieve a physician from any duty, which may exist under any laws concerning current standards, of normal medical practices and procedures, to inform his or her patient of the patient's condition, prognosis and risks, provided, however, that such physician shall be under no duty to perform, assist, counsel, suggest, recommend, refer or participate in any way in any form of medical practice or health care service that is contrary to his or her conscience.
Nothing in this Act shall be construed so as to relieve a physician or other health care personnel from obligations under the law of providing emergency medical care.
(Source: P.A. 90-246, eff. 1-1-98.)
A Simpler Ethical Code:

Harry Truman was a different kind of President. He probably made as many important decisions regarding our nation's history as any of the other 42 Presidents. However, a measure of his greatness may rest on what he did after he left the White House.

The only asset he had when he died was the house he lived in, which was in Independence Missouri. His wife had inherited the house from her mother and other than their years in the White House, they lived their entire lives there.

When he retired from office in 1952, his income was a U.S. Army pension reported to have been $13,507.72 a year. Congress, noting that he was paying for his stamps and personally licking them, granted him an 'allowance' and, later, a retroactive pension of $25,000 per year.

After President Eisenhower was inaugurated, Harry and Bess drove home to Missouri by themselves. There was no Secret Service following them.

When offered corporate positions at large salaries, he declined, stating, "You don't want me. You want the office of the President, and that doesn't belong to me. It belongs to the American people and it's not for
sale."

Even later, on May 6, 1971, when Congress was preparing to award him the Medal of Honor on his 87th birthday, he refused to accept it, writing, "I don't consider that I have done anything which should be the reason for any award, Congressional or otherwise."

As president, he paid for all of his own travel expenses and food.

Modern politicians have found a new level of success in cashing in on the Presidency, resulting in untold wealth. Today, many in Congress also have found a way to become quite wealthy while enjoying the fruits of their offices. Political offices are now for sale.

Good old Harry Truman was correct when he observed, "My choices in life were either to be a piano player in a whorehouse or a politician. And to tell the truth, there's hardly any difference."