Effect of a supplement clarifying patients' intentions on doctors' willingness to follow the wishes of an agent with medical enduring power of attorney

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ABSTRACT

Objective: Doctors have concerns about withholding medical treatment at the request of a legally appointed surrogate. We examined whether the addition of statements to a medical enduring power of attorney to clarify the intent of the person appointing the surrogate helped doctors accept the surrogate's treatment choice.

Design: Survey of all doctors employed in acute clinical medicine at Barwon Heath, Geelong, VIC.

Results: 94 of 436 doctors (22%) returned the survey. Of the 41 respondents who initially indicated they would decline the surrogate's request to reject life-sustaining treatment for a hypothetical patient, 22 (53%) accepted the surrogate's decision after reading the additional statements.

Conclusions: These results suggest that additional statements clarifying the intent of the person appointing a surrogate would encourage doctors to comply with the surrogate's choice to decline life-prolonging treatment for that person.

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There is clear evidence that doctors are reluctant to respect the wishes of individuals who have been appointed with medical enduring power of attorney (MEPA) when these wishes conflict with those of the doctor.[1,2] We have previously identified reasons that doctors are unwilling (or uncomfortable) about accepting the request of a properly appointed MEPA agent to palliate.[3] These included the perception that the medical condition may be treatable (or potentially reversible), that the MEPA agent may not fully understand the medical situation, that the agent may not understand the wishes of the person they represent, that the agent may have a conflict of interest, and that the decision of the agent might not be the "best" decision (which doctors generally interpret as the decision they would make).

Table 1. Proposed supplement to a medical enduring power of attorney (MEPA) to clarify the patient's intentions

Supplementary statement	Rationale for statement
a) I do not require my agent to consult everyone before making treatment decisions for me.	Statement (a) is intended to give power to the MEPA agent to make the decision without having to consult every known family member or every possible medical specialist (to require this is patently impractical and would prevent an agent ever being able to make a decision).
b) In coming to decisions, I do not wish my agent to be bound by any one thing, but trust them to use their judgement to make decisions for me after considering the available facts and opinions.	Statement (b) is intended to provide flexibility to the agent to enable them to reach a decision in the face of multiple sources of information, some of which may be contradictory.
c) I recognise that treatment decisions towards the end of life are often difficult, and that, in any situation, people can have very different opinions about what is "right" or "best".	Statement (c) is intended to recognise that others (including doctors) have their own ideas about what is right treatment, but that the person appointing the MEPA agent is giving this decision to the agent.
d) I recognise that when individuals make treatment decisions for themselves, they often change their mind. I wish my agent to understand this and just to try to make a reasonable decision on my behalf.	Statement (d) reinforces statement (c) by acknowledging that the process of appointing an agent does not necessarily mandate predetermined medical treatment decisions, because wishes are not "fixed" in people who are able to make their own choices but often change (back and forth) as death approaches.
e) I wish my agent to know that I have selected them to make decisions for me because I respect their decision-making, and that I will respect any decision(s) they make on my behalf.	Statement (e) highlights the fact that the MEPA agent has been selected because they are perceived to be a good decision-maker, and the person appointing them supports any decision that they make. The person appointing them is thus reinforcing the validity of the agent's decision.
f) I ask that medical staff caring for me understand that it is my wish that they accept and respect the treatment decision(s) which my agent chooses.	The final statement (f) is a clear statement to doctors that the person appointing the MEPA agent does not wish the doctor to veto the treatment decision that the agent makes on their behalf.

Table 2. Clinical scenario presented in the survey

Mr Grace is a 71-year-old man who lives alone and successfully cares for himself.

He had a cystectomy and ileal conduit 5 years ago for cancer. Recurrent ureteric obstruction over the past 2 years has required reinsertion of stents about 6-monthly. The referral letter from his GP states that he is fiercely independent but has become progressively more debilitated over the past year.

He presents with a further episode of urosepsis that is almost certainly related to recurrent ureteric obstruction. On his arrival in the emergency department it is evident that he has also suffered an acute anterior myocardial infarction and has florid pulmonary oedema. He is semiconscious and hypoxic. He has a temperature of 39.5° C and hypotension (blood pressure, 80/50 mmHg) with poor peripheral perfusion. His urine output is negligible and heavily blood-stained.

Mr Grace's daughter, Trudi, is present. She has been appointed Medical Enduring Power of Attorney under the *Medical Treatment Act (Vic 1988)*, and the appropriate paperwork is in Mr Grace's notes.

Trudi states that when she met with her father 3 days ago, he was short of breath and in obvious discomfort — "having trouble with the water works again". He was obviously cognisant of the fact he was becoming very unwell but refused to go to hospital when she offered to take him.

According to Trudi, her father told her that he was "sick of the pain and discomfort of his water works problems and of all the doctors poking things in him with each hospital visit", and that he no longer wanted aggressive treatment but rather just wanted to be comfortable and allowed to die.

Trudi states that she believes it is in her father's best interest that his symptoms be relieved, and that treatment aimed to "cure" is no longer wanted (by her or her father).

What treatment will you advocate for this patient in the light of the information available to you:

- Full treatment
- Full treatment but only for a short trial
- Treatment limited to simple (but potentially curative) treatment
- Palliative treatment.

Table 3. Some comments about the MEPA from doctors who did not initially choose palliation

I suppose my chosen treatment (intravenous antibiotics) has a good prospect of treating the sepsis. I think the daughter could see the logic in that. If not, then I would be happy to withhold antibiotics and use analgesics only.

If the daughter requests absolutely no intervention, then change my choice to palliation only!

If, after discussion of the relevant issues, the daughter remains adamant, then I would respect those wishes.

We have to provide enough information to feel satisfied that she is making a "reasonable" choice on his behalf.

If the daughter was adamant that she did not want any treatment for this man, I wouldn't push it.

Subject to discussion with daughter, I need to explain to her that there may be a simple reversible cause.

When an individual (donor) legally appoints an agent with MEPA, they presumably believe that this person will be able to make medical treatment decisions on their behalf should they become unable to do so,[4,5] and this is the general intent of the legislation.

In an effort to address the concerns that prevent doctors following the preference of an MEPA agent to limit treatment, we created a series of supplementary statements that could be included in an MEPA to clarify the intent of the person appointing the agent. These statements are shown, along with their rationale, in Table 1.

We surveyed doctors at Barwon Health to test the hypothesis that, after reading the supplementary statements, doctors who initially rejected the choice of the legally appointed agent to decline life-prolonging treatment would change to accept the surrogate's choice.

Methods

All doctors employed in acute clinical medicine at Barwon Health, Geelong, Victoria, were contacted by email and invited to participate in a survey to examine their reaction to surrogate treatment decision-making. Participants were presented with a clinical scenario and asked which treatment they would advocate (Table 2).

Those who chose any treatment other than palliation in response to the initial scenario were presented with the supplementary statements (a) to (f) and asked to evaluate whether they felt these statements helped them accept the surrogate's decision. Doctors were also asked their opinions about the usefulness of the statements and their knowledge and opinions of the medical enduring power of attorney.

The survey was conducted using SurveyMonkey (https://www.surveymonkey.com). The significance of the effect of the supplementary statements on choice of treatment was tested with Fisher's exact test (two-tailed). The study was approved by the Barwon Health Human Research and Ethics Committee.

Results

Invitations were emailed to 436 doctors, and 94 (22%) completed the survey. Of those who responded 41 (44%) did not choose palliation after reading the initial history. However, 22 of these (53%) altered their treatment choice to palliation after reading the supplementary statements ($P < 0.001$).

Among those who did not choose palliation despite reading the supplementary statements, several suggested that they would ultimately respect the wish of the MEPA agent if she remained firm in her decision, but that they would want to ensure she understood the medical situation. Examples of these responses are shown in Table 3.

Table 4. Respondents' opinions about the supplementary statements to the medical enduring power of attorney (MEPA) (*n* = 27)

Supplementary statement	Very useful	Useful	Useless	Inappropriate/ wrong
a) I do not require my agent to consult everyone before making treatment decisions for me.	8 (30%)	13 (48%)	3 (11%)	3 (11%)
b) In coming to decisions, I do not wish my agent to be bound by any one thing, but trust them to use their judgement to make decisions for me after considering the available facts and opinions.	9 (33%)	17 (63%)	1 (4%)	0
c) I recognise that treatment decisions towards the end of life are often difficult, and that, in any situation, people can have very different opinions about what is "right" or "best".	10 (37%)	14 (52%)	3 (11%)	0
d) I recognise that when individuals make treatment decisions for themselves, they often change their mind. I wish my agent to understand this and just to try to make a reasonable decision on my behalf.	13 (48%)	10 (37%)	4 (15%)	0
e) I wish my agent to know that I have selected them to make decisions for me because I respect their decision-making, and that I will respect any decision(s) they make on my behalf.	13 (48%)	12 (44%)	2 (7%)	0
f) I ask that medical staff caring for me understand that it is my wish that they accept and respect the treatment decision(s) which my agent chooses.	15 (56%)	11 (41%)	1 (4%)	0

Table 5. Respondents' opinions about the role of a medical enduring power of attorney (MEPA) (*n* = 27)

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Don't know
An MEPA has the right to refuse treatment	10 (37%)	16 (59%)	0	0	1 (4%)	0
I frequently feel that the treatment choice made by an MEPA is misguided	0	4 (15%)	8 (30%)	11 (47%)	2 (7%)	2 (7%)
If the patient appoints an MEPA they want me to do what this person says	4 (15%)	17 (63%)	5 (19%)	1 (4%)	0	0
If I think that an MEPA is not making the best decisions about treatment, I believe I have a duty to overrule that decision	2 (7%)	9 (33%)	8 (30%)	5 (19%)	3 (11%)	0
I believe that the supplement to the MEPA (as in the case above) makes the intention of the patient much clearer	10 (37%)	11 (41%)	5 (19%)	1 (4%)	0	0

Among respondents, 19% of specialists, 40% of registrars and 30% of residents stated they had little idea about, or had never heard of, the MEPA.

The opinions of doctors about the usefulness of the individual supplementary statements are shown in Table 4. Most believed they were useful or very useful. The general opinions of respondents about the role of an MEPA agent are shown in Table 5. There was general acceptance of the MEPA concept but a range of specific views. Regarding the supplementary statements, 78% agreed or strongly agreed they make the patient's intention much clearer.

Discussion

It is of concern that many doctors feel they need to question the intentions of individuals who appoint an MEPA agent. However, legal appointment does not ensure that either the patient or the selected agent understands the responsibility of an MEPA. Most doctors who responded to the survey considered the supplementary statements to be either very helpful or helpful, and more than half of those who initially rejected the MEPA agent's request for palliation indicated they would agree with the request after reading the supplementary statements.

Over three-quarters of respondents reported that they considered the supplementary statements made the intention of the patient's appointment of an agent much clearer. It is possible that the 11% of doctors who felt that statement (a) was inappropriate interpreted it as absolving the MEPA agent from the obligation of listening to the opinion of the treating doctor. This suggests that the statement could be improved. Should it be replaced by a

requirement for the MEPA agent "to listen to the treating doctor", then this might be better understood and accepted by doctors.

The supplementary statements clarify the expected role of an MEPA agent and seek to make these expectations realistic. If these (or similar) supplementary statements were included in the MEPA appointment process, then they might clarify for the patient what powers they are granting, and make the expectations of the agent clearer and more achievable. They might also reduce subsequent stress and potential guilt for the MEPA agent and, most importantly, might encourage doctors to accept the treatment decision of the agent.

It is also of concern that doctors practising in Victoria remain unaware of the legal role of the appointed agent as the MEPA legislation has been in place in Victoria since 1988.

This study has the common limitation of surveys of a low response rate (22%). However, responses varied widely, and we believe were representative. The survey was conducted in a single hospital that has an active program to encourage patients to appoint an MEPA agent and to complete a statement of choices, and thus may not be generally representative of all other hospitals.

Nevertheless, the results suggest that a clarifying supplement to the MEPA document might be valuable.

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References

1 Hardin S, Yusufaly Y. Difficult end-of-life treatment decisions: do other factors trump advance directives? *Arch Intern Med* 2004; 164: 1531-3.
2 Roter DL, Larson S, Fischer G, et al. Experts practice what they preach: a descriptive study of best and normative practice in end-of-life discussions. *Arch Intern Med* 2000; 160: 3477-85.
3 Corke C, Milnes S, Orford N, et al. The influence of medical enduring power of attorney and advance directives on decision-making by Australian intensive care doctors. *Crit Care Resusc* 2009; 11: 122-8.
4 Singer PA, Martin DK, Lavery JV, et al. Reconceptualising advance care planning from the patient's perspective. *Arch Intern Med* 1998; 158: 879-84.
5 Hammes BJ, Rooney BL. Death and end-of-life planning in one midwestern community. *Arch Intern Med* 1998; 158: 383-90. ❑