To Resuscitate or Not: An Ethical Analysis of Do Not Resuscitate Orders

Submitted to Rick Van Noy

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Submitted on January 7, 2017

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Abstract

In this paper, DNR orders and the ethical and legal implications that are attached to DNR orders are discussed. The purpose of this paper is to inform the reader what exactly a DNR is and inform them of the ethical issues, legal issues, and options they have when it comes time to make that decision for either themselves or a family member. A scenario is laid out to help the reader further understand how a DNR order works and why the decision is so hard for many people. In it a daughter must decide if she wants to get a DNR for her mother, against her brother's wishes. It then goes on to discuss in detail what a DNR order means and what exactly CPR is and when it is performed. Legal issues are discussed in detail, including the medical power of attorney actions as well as the legal obligations of all EMS and hospital staff. This will provide the reader with knowledge on why nurses or EMTs are making the decisions that they are making in the actual moment of the cardiac arresting patient. The paper then delves into the legal implications and perspectives, discussing the types of decisions that can be made and by whom they can be made. It also discusses the instances where hospital personnel might want to perform CPR in the presence of a DNR and the instance where a person with a DNR may be traveling out of the state. The paper also provides options and recommendations such as different types of DNR orders and the importance of educating oneself about them before a decision is made.

Introduction/Case Study:

"I'm fine, honey," coughed eighty-five year old Eleanor to her daughter Sam.

"I know mom. I just need to have a talk with the doctor to figure out what's going on with your respiratory infection," Sam sighed stroking her mom's gray head of hair.

Eleanor has revisited the hospital for the fourth time in four weeks. She has mid-stage Alzheimer's and rarely knows who her daughter is, let alone what day it is. Her daughter has gained full power-of-attorney powers over Eleanor and is now responsible for making all of her medical decisions. This is not to say that she does not take into consideration her mother's opinions, but she recognizes that her mother has an altered mental status and cannot always make logical decisions.

Sam watches as the nurse obtains her mom's vitals: blood pressure, pulse, and respirations. She watches her mom's peaceful expression as she smiles friendly at the nurse, who she will forget was even there five minutes later. Sam knows her mom's health is declining, and she knows that she and her brothers are heading towards the inevitable.

Last week Sam and her brothers came together to discuss the possibility of obtaining a DNR order for their mother. Of the siblings, only Riley, Sam's oldest brother, was opposed to getting a DNR. Sam knew why this was; Riley liked having full control in all situations, and deciding to stand by and do nothing while their mother died—possibly in front of their very eyes—was something he said he could not live with.

"The Dr. Reynolds will be in shortly Mrs. Talon," the smiling nurse, Kinsley, said to Sam.

"Thanks," Sam replied. She looked down at her hands and back up at her mom who let out a rough cough. She knew what the doctor would say, and she also knew what she had to

discuss with him. Sam and her other two brothers had been able to convince Riley that it was in the best interest of their mother if they had a DNR order placed on her. Sam figured today was as good as any day to make it happen. She heard a light knock on the door.

"Good morning, Mrs. Ruger," the young doctor, Dr. Reynolds, called into the room, "And hello Mrs. Talon. Very nice to see you again." He walked over and shook Sam's hand. "It is my understanding that you would like to discuss a few things with me. I'll start with your mom's bout of pneumonia. I'm afraid it is a strain called *Klebsiella pneumoniae* which is a hospital acquired infection. We are going to put her on an antibiotic which should help a lot. Her immune system is already suppressed though, and we've noted that she is having slight difficulty breathing. We feel as if keeping her in the hospital for a few days would be her best option," the doctor explained.

"I understand." Sam looked over and noticed her mother had nodded off. "I also wanted to discuss DNR orders with you," she added. The doctor shook his head knowingly.

"As her power of attorney, that decision falls on you. If you were to make that decision, you could fill out the required paperwork here. Are you familiar with how a situation would unfold if a DNR were in place, versus if one were not?"

"Yes sir. My family has been discussing this for several weeks. I have researched a lot about it, and I feel as if this is what my mother, in her normal state of mind, would have wanted," Sam answered confidently.

"Very good. Very good. So you know that if she were to go into cardio-respiratory failure, we would withhold CPR? You also know that having a DNR does not mean we will not treat her, it only means that we will not perform CPR on her," the Dr. Reynolds explained. "Your mother also will have to have the DNR form with her at all times. If she codes, and we cannot

find the form, we have to resuscitate her. This is a major issue we are dealing with in the field right now, so do yourself a favor and make sure to keep up with it," he added.

"I know Dr. Reynolds. I could imagine that it is a major issue," Sam replied.

"It truly is. There is nothing worse than an elder patient going into cardiac arrest in front of the family and us having to perform CPR with them screaming at us because the patient had a DNR that they just couldn't find," Dr. Reynolds said shaking his head.

"That's terrible," Sam said, she too shaking her head. "I just really hope I make the right decision, and I hope it is something my mother would have truly, truly wanted."

Analysis

Having a DNR Order

A do not resuscitate (DNR) order is an agreement that states that the patient is not to receive cardiopulmonary resuscitation (CPR) if the patient were to go into cardiac arrest. It is a written document that is produced by a physician and is reviewed with either the patient or the power of attorney (Braddock & Clark, 2014). DNR orders are limited to affecting resuscitation only. A DNR order does not affect other treatments (Dugdale, 2012). What this means is other treatments used to prolong life, such as oxygen and other treatments, are not withheld from the patient; DNR does not mean do not treat. Many people are hesitant to get DNR orders because they think that they will not receive treatment; this, however, is a fallacious argument.

If a patient were to go into cardiac arrest without having a DNR, the nurses would be required to preform CPR even if the patient were going to die in a short time anyway. In brief, CPR consists of thirty chest compressions and two breaths of air per cycle. The cycle is repeated until the person regains a pulse or better treatment is available for them, such as an automated external defibrillator (AED). During these thirty chest compressions, the rescuer will press violently in the center of the patient's chest. These compressions could cause broken ribs or a collapsed lung. At the very least, they will definitely cause severe chest pain. The compressions could also cause the patient to need breathing tubes (Ackermann, 2010).

Assuming that CPR is successful and the patient lives, the patient has a very small chance of a full recovery or even living much longer at all. In fact, less than 10% of patients in the hospital that receive CPR and survive are able to function as normal, prior to their incident (Ackermann, 2010). Generally, most recipients of CPR live, but only for a few days; therefore, the painful process is prolonged. If the patient were to survive and leave the hospital, many are

on a breathing machine for the remainder of his or her life. Many who also survive suffer from brain damage (Ackermann, 2010).

Aside from all of the negatives of preforming CPR, there are some benefits. The patients that have a life-threatening illness prior to receiving CPR do not receive many benefits from the chest compressions other than a few more hours or days to say their goodbyes and make their last wishes. The benefits generally are for those who do not have a life-threatening illness (Ackermann, 2010). If the CPR is started within minutes of the heart stopping, the patient can usually return to normal without serious brain injuries. If CPR is not attempted, then the family will always ask "what if."

Educating patients and family members is an important step when the patient's health begins to decline. If the family waits too long to make their decision and feel comfortable with the decision they made, it may be too late when the time comes. If the family is comfortable with the decision they made, they will have no regrets about it when the time comes to say good-bye to their family member; they will know they had the patients best interest in mind while making their decision. The family should not only be informed on what a DNR order is, but also about the risks and consequences associated with CPR.

In order to make a DNR, the patient and/or their family member has to speak to a physician. The doctor discusses the risks and benefits of CPR with them; together they decide what would be best for the patient. Once the decision to have a DNR order is made, the patient keeps the order with them at all times. If they plan to leave the hospital, a bracelet or wallet ID card is ordered so it is easily accessible at all times. If the patient is not expected to leave the hospital, they keep the DNR in the medical records with all of the patient's medical history (Dugdale, 2012).

Legal Issues

Before a DNR order is signed, there are several legal issues that the patient and family should be made aware of; this will prevent potential problems and attempted lawsuits. A Power of Attorney also called "durable power of attorney for healthcare" can be assigned to a patient. Being the power of attorney gives another person, usually a close family member such as a husband, mother, father, sister, son, or daughter, the legal right to make medical decisions for the patient. Healthcare providers have to be careful before they assume that the power of attorney is in fact the patient's medical power of attorney, as there can be power of attorney's solely responsible for the patient's finances. This can create problems in the hospital and during pre-hospital care because the responders or hospital staff cannot delay care while this is figured out (Pollack, 2011, p. 85). The power of attorney should be chosen before the patient has the possibility to go into a comatose state or before they are non-verbal and are not able to state their wishes to medical personnel (Do not). Power of attorney's are typically decided for elderly patients or patients with the onset of dementia.

EMTs and nurses alike have the legal responsibility to perform CPR on all patients unless a DNR is physically present in the room in the form of the actual DNR paper or a piece of jewelry that is recognized as official DNR jewelry (Pollack, 2011, p. 85). This includes times where family members may begin to become irate in the room because they cannot find the DNR of their loved one. If the nurse or EMT refuses to perform CPR and a DNR is not in place, they can be held accountable for negligence. "Negligence is the failure to provide the same care that a person with similar training would provide in the same or similar situation" (Pollack, 2011, p. 90). It would also be considered a breach of duty if a DNR was not in place and CPR was not performed: "There is a breach of duty when the EMT does not act within an expected and

reasonable standard of care" (Pollack, 2011, p. 90). CPR is continued on all patients that do not have a DNR form physically present until the doctor ceases CPR or the patient has been declared dead by the doctor (Pollack, 2011, p. 1243).

Ethical Perspectives and Implications

Ethics play an important role in the longevity of a Do Not Resuscitate (DNR) order. There are many cases in which ethics intervene with the decision of having a DNR order, but there are a few key circumstances that should be the focal points of these ethical decisions. These situations include inability of decision-making, controversy within a family over a DNR, obligations of the nurses/emergency medical team, and the effectiveness of the DNR if it is not present with the body.

For a person who becomes ill and suffers from the inability to make coherent decisions, two distinct plans of action should be considered: advanced care planning, and the use of surrogate decision makers. The four major steps involved with advanced care planning are keeping in mind the patient's values and wishes, talking to the patient's close family members and care team about the patient's wishes, officially documenting the wishes with an advanced directive, and reviewing them and updating them as needed (Pealrman et al., 2013). Unlike in advanced care planning, in surrogate decision-making there is no advanced planning and somebody has to become the sole decision maker for the person without them being present and often times having difficulty honoring their wishes. According to health experts Braddock and Clark, there is a six-step hierarchy in which this follows:

1. Legal guardian with health care decision-making authority
2. Individual given durable power of attorney for health care decisions

3. Spouse
4. Adult children of patient (all in agreement)
5. Parents of patient
6. Adult siblings of patient (all in agreement). (2014)

Advanced Care Planning may not be a controversial ethical issue, but surrogate decision-making has ethical implications. The biggest ethical issue is the individual with the power instituting their wants versus what the ill patient would have wanted. This can create dispute over what is best for the patient and what the individual personally believes to be best for the patient. In some cases, the best choice of action is not taken.

The controversy within a family over a DNR could induce ethical implications. For example, if there were two siblings with different opinions in which one sibling wanted their mother to have a DNR and the other sibling did not, which side should be honored? Some would say the decision is favored towards the oldest sibling, but either way it is going to make tension arise within the family. There is also the instance where one sibling has the power of attorney duty to act for the mother, while the other siblings do not. That sibling who is the patient's power of attorney has ethical decisions to make that will impact all of the siblings. For this reason it is recommended that siblings meet to discuss the DNR option with a physician so that all parties involved understand the process and what it means to have a DNR order.

Another ethical issue occurs because of the nurse's legal obligation to perform CPR. As aforementioned, if an elderly person does not have a DNR, then the nurse or emergency medical staff is obligated to perform CPR if the patient goes into cardiac arrest. This action has potentially hazardous effects. The patient will most likely receive broken ribs from CPR, especially in the case of an elderly patient; if no ribs are broken, CPR was most likely poorly

performed. Is this ethically right to perform CPR when the chance of the person dying is very high? Medical personnel must perform CPR without the presence of a DNR, even if it does more harm than good to the patient. With CPR there is also the risk of a broken rib causing even further damage. A traumatic pneumothorax can arise if a broken rib punctures a lung. This creates an entirely new problem, besides the obvious cardiac arrest, because now your ventilations are less effective because air is escaping the lungs (Pollack, 2011, p. 947).

What if the patient has a DNR present, but the nurse decides she needs to try and resuscitate the patient anyway? This is technically illegal. If they successfully bring the patient back, ethical implications emerge, such as what if the person just wanted to die or would have been at peace with whatever happened, which is why they wanted a DNR in the first place. There is also the family, who will most likely be the most upset in this instance, and they have the right to press charges against that healthcare professional. In this case, the standing DNR orders have been violated, and ethics are strong at play (Rosenblatt, 2013).

The effectiveness of the DNR when it is not present with the patient is an additional ethical issue. If the DNR order is not on file at the hospital the patient is currently attending, it is not valid. If the DNR order is not with the patient when traveling to a hospital, it is equally invalid. This means that EMTs and receiving hospitals are legally responsible for performing CPR on this patient. This becomes an ethical issue because the patient might very well have a DNR that ensures that once they are gone they do not want to be revived, but because it is not on their person, they get revived creating a possibility of further damage or even eventual death, despite save efforts. Some elderly people have bracelets or necklaces that allow them to carry around the DNR or other emergency medical information reducing the confusion over whether they want to be resuscitated or not. There is also the problem of DNRs not being honored in

other states. For example, if a person who is from Virginia was on vacation in Ohio and went into cardiac arrest, their Virginia DNR would be invalid and CPR would be performed.

Recommendations

The decision to sign a do not resuscitate order or to allow CPR can be a long stressful process. People who are terminally ill, who are in hospice care, or who are elderly usually have to decide whether they want to have a DNR order. However, many people do not know that there are a plethora of options when it comes to signing a DNR order. There are two different types of DNR orders that can be signed. One option is Maximal Restorative Care before Arrest, then DNR; this is an option that allows for all restorative care before the heart stops or before a person stops breathing. Examples of this include intubation, cardiac monitoring, IV usage, and drug therapy while the heart is still beating and/or the patient is still breathing, but when the patient's heart stops and they completely stop breathing they will not be resuscitated by CPR, cardiac pacing, defibrillation, or drug therapy.

Another option is Limited (Palliative) Care Only before Arrest, then DNR, this allows for emergency medical personnel to open the airway of the patient by a non-invasive way, controlling any external bleeding, reposition the patient for comfort, splinting if needed, allowing passive oxygen, and transportation to any medical facility the doctor deems necessary. However, if the patient's heart or breathing stops then medical personnel will not provide CPR, cardiac pacing, defibrillation, or drug therapy. (2009, Do not).

An alternative option that can be chosen is not having a DNR order which means that medical personnel will do anything in their power to save a person. This means performing CPR, defibrillation, using drug therapy, and the opening of the airway in an invasive or non-invasive way. If a person does not want CPR performed on them and states it before the time their heart stops and breathing subsides, in the presence of a doctor, then the doctor can choose to honor this request, and he will cease CPR by his staff. Also a DNR order can be revoked at any time by

destroying the jewelry or DNR form, but it can also be re-instituted by simply filling out the form again and having it signed by a physician. No other family member or medical personnel can verbally revoke a DNR order; the only person who can do that is the patient or medical power of attorney (2009, Do not).

Most importantly a person and their family members should educate themselves on all options that are offered. Without educating a person on what each DNR order entails, the patient or family may not be emotionally or physically prepared for what could occur. The main reason as to why people have DNR orders is because they are extremely ill and CPR is painful and can cause a lot of injuries such as broken ribs. Also CPR can cause a person to be resuscitated only for them to go back into cardiac arrest and die at a later date. Many people believe that allowing natural death (AND) is the best option for the patient; this allow the patient to pass away naturally without the franticness of CPR and other life-sustaining mechanisms. (Braddock & Clark, 2014).

Overall the decision to pursue a DNR order is the responsibility of the patient or power of attorney that is signing it. This is potentially a life saving or life ending decision; therefore, education is essential and collaboration between the patient, doctors, and family members as to what is the best approach to the DNR is a must. If this is the ultimate decision of the patient and he or she is in a good state of mind, nobody can revoke that privilege. Under these circumstances, the health, well-being, and thoughts of the individual being taken care of need to be in full consideration. Choosing to have a DNR order is a decision that should not be taken likely; it is important that the patient and involved parties be aware of the CPR process, the legal aspects, and the potential ethical implications, to ensure that the best decision is made for the patient.

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