Ethics Vignette

Ethical Challenges: Oncologists' Role in Immigrant Health Care

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Vignette

Ms. Aguilar is a 53-year-old woman from Mexico currently living in Texas. She has been in the United States for the past 15 years but does not have legal immigration status. Ms. Aguilar has been working as a nanny in an informal employment relationship that does not provide health insurance. After seeing a flyer for free breast cancer screenings she visits a county clinic for a mammogram. The mammogram reveals a mass in her breast. The county clinic is able to offer screening through the National Breast and Cervical Cancer Early Detection Program, but is unable to provide treatment to Ms. Aguilar. Ms. Aguilar has saved enough money to pay out of pocket for a biopsy, which shows that the mass is malignant. With the help of her family, she is able to pay for surgery and staging, which reveals that she has metastatic breast cancer. After surgery, Ms. Aguilar's surgeon recommends that she consult with a medical oncologist and a radiation oncologist about follow-up treatment. At her appointment with a local oncology practice, Ms. Aguilar explains that she and her family do not have insurance and cannot afford to pay for any additional treatment. She asks whether the practice would be willing to treat her for free or at a significantly reduced cost, and whether there are any resources she can turn to for additional funds.

Discussion

It is not surprising that many physicians feel an ethical obligation to provide medical care for patients who do not have health insurance or the resources to pay for treatment. These feelings may be heightened in the field of oncology, in which there are often clear treatment steps and the consequences of foregoing treatment are grave. Patients without legal immigration status (commonly named undocumented immigrants or illegal aliens) face—and present their oncologists with—additional challenges. Public and private resources to support patient care frequently exclude undocumented immigrants from eligibility.¹ The purposes of this vignette are to explore ethical and practical considerations associated with treating patients without legal immigration status who cannot pay for treatment, to raise awareness of resources that may be available to patients regardless of their immigration status, and to recognize that there is often no immediate solution to this issue.

The American Medical Association Code of Medical Ethics encourages physicians to volunteer some portion of their time to help those who cannot afford to pay for medical care.² Although most physicians can donate their time, few can afford to

subsidize the cost of drug therapy. As the costs of treatments have escalated, so too has the complexity of their delivery. Hence, providing services beyond the physician's time is infeasible for most practices. Each year adverse economic factors, such as the high overhead costs associated with owning and running a practice, costs associated with participation in clinical trials, lean reimbursement rates, and low collection rates for uninsured patients challenge the ability of any oncology practice to provide comprehensive cancer care. In this context, providing care for patients without insurance or the ability to pay for treatment may threaten the sustainability of the entire practice.

If an oncologist is unable to provide free care, he or she might still be able to help patients such as Ms. Aguilar by turning to public hospitals and clinics, private foundations, and drug or device manufacturers. For example, an oncologist in a private practice might focus her efforts on working with pharmaceutical companies to secure chemotherapy, antiemetic, and supportive care medicines at little or no cost to the patient. An oncologist practicing in a hospital setting may be able to tap into the hospital's charity care program or seek funding through private foundations associated with the hospital. If none of these is a viable option, the physician may have to refer the patient to a public or subsidized health care provider outside the oncologist's practice. Telling a patient that the practice is unable to provide treatment because of economic constraints is a difficult discussion for many oncologists, but ultimately if resources are not available or if undocumented immigrants are not eligible for programs, there may be nothing an oncologist can do to provide care for patients who lack legal immigration status and insurance.

Although undocumented immigrants are generally not eligible for Medicaid, some states and counties fund cancer screening and/or treatment programs for which undocumented immigrants are eligible.^{3,4} In order to be eligible for these programs, participants are usually required to be a resident of the county or state that sponsors the program. These programs vary widely as to eligibility, including whether legal or illegal immigrants are eligible. In addition, state and county economic pressures may limit the resources available to such programs.

Texas currently has no state and few county resources allocated to provide health care for undocumented immigrants like Ms. Aguilar. If Ms. Aguilar and her oncologist are unable to secure resources or treatment for Ms. Aguilar, her oncologist may ultimately have to direct Ms. Aguilar to seek treatment at a

local emergency department. Although few, there have been court decisions saying that Emergency Medical Treatment and Labor Act (EMTALA) protections apply to undocumented immigrants who receive treatment for cancer as a result of symptoms so severe that the absence of immediate medical attention could reasonably be expected to place the patient's health in serious jeopardy.^{3,5,6}

Sending patients who cannot afford treatment to the emergency room is controversial. Moreover, definitions of a Medicare-eligible emergency medical condition vary by state and are not necessarily allied with the definition under EMTALA. However, as the only true safety net for patients who lack insurance and legal immigration status, the emergency department may be the last available option. Unfortunately, because many patients do not seek emergency treatment until symptoms are severe, EMTALA protections fail to provide for those patients with the best chance of cure.

At present, as much as an individual oncologist may wish to help a patient who does not have legal immigration status, at times there may be nothing a single practice can do. The issue of health care for uninsured, undocumented immigrants is one that requires larger societal changes, but to date has largely been left to health care providers and the patients they encounter. The harsh reality is that physicians often must tell patients, "We do not have the resources to help you" and recognize that the patient must search for resources and treatment. Although the Patient Protection and Affordable Care Act addressed some barriers to health care, it did not specifically address the needs of undocumented immigrants.⁷ State legislation and program eligibility requirements can vary widely by state. Because of the variation in state and federal regulations, broad changes in societal attitudes and political action are needed to help physicians and patients who experience the challenges of oncology care for undocumented immigrants.

Summary

As the landscape of health care and immigration policies evolves, oncologists may be increasingly faced with challenges regarding care for patients who are undocumented immigrants.

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Oncologists will need to stay abreast of changes in federal and state legal statutes as well as medical ethics guidelines. Discussion among practitioners, patients, and resource providers will be necessary to determine appropriate and feasible cancer treatment options. There is no doubt that finding practical solutions that comply with legal regulations and economic constraints is a difficult task, one that oncologists continue to face when determining how to provide care for each patient. At its core, this issue creates tension between what many oncologists wish they could do to help patients with cancer, and what they can do on the basis of legal or economic constraints. As oncologists, we can add our collective voice to those calling for broad societal changes that would allow us to focus on treatment of cancer in all patients.

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This vignette is intended as a discussion piece. It is not legal or billing advice. Laws and programs vary by state and locality. Seek legal counsel if questions arise.

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