DRAFT Minutes
MSSNY's Bio Ethics Committee Meeting
February 5, 2016
8:30 AM – 11:00 AM
Via Web conference and Teleconference

Present:

Teleconference

Jeffrey Berger, MD, Chair
Arthur Cooper, MD
Eli Einbinder, MD
Joel Potash, MD
Peter Rogatz, MD
Corinne Salanson-Lajos, MD
Renée Solomon, MD

Excused

Joseph Maldonado, Jr., MD, MSc., MBA, DipEBHC, MSSNY President
Wen Dombrowski, MD, Vice-Chair
Patricia Bomba, MD
Cheryl Steir, Alliance

Absent

Matthew Bonanno, MD
Gino Bottino, MD
Cornelius Foley, MD
Daniel Nicoll, MD
Risa Malka Ravitz, MD

Invited Guest

Robert Swidler, Esq., VP Legal Services, St. Peterôs Health Care

MSSNY Staff

Pat Clancy, VP Public Health & Education
Terri Holmes, Secretary

1) Welcome/Introduction: The meeting was called to order.

2) October 16, 2015 Minutes:

3) Family Health Care Decision Act Amendments:
Decisions about Hospice Care for Isolated Incapable Patients under the Family Health Care Decisions Act:

Empowers family member or close friend to make health care decisions, when patient

- lacks capacity
- did not previously decide
- did not appoint a health care agent

Includes:

- consent to treatment
- decision to w/d or w/h
  life-sustaining treatment
- .... Including resuscitation
- Creates a surrogate priority
  list and standards for
  surrogate decisions.
- Creates a decision-making
  process for ñAdult Patients
  Without Surrogatesò

Extension of FHCDA to Hospice (2011)

- Initially the FHCDA applied only to decisions in hospitals and nursing homes.
- In Nov. 2010, the NYS Task Force on Life and the Law recommended extending the FHCDA to decisions re hospice patients, wherever they were.
- In 2011, the FHCDA was extended to hospice pts.
- The significance was that surrogates could make decisions for incapable hospice patients.
- Isolated incapable patients were still governed by PHL 2994-g, which set standards for:
- Routine medical treatment
- Major medical treatment

- Withdrawal or withholding of life-sustaining treatment
- This left two separate questions re isolated incapable patients
- How to admit the patient into a hospice program
- How to approve a DNR order or other decision to
- Withhold life-sustaining treatment.

What has changed?

Å Admission of a patient into hospice

Å It is now unequivocally clear that an attending physician can authorize the admission of a hospice eligible iDNR order, withholding or withdrawal of other treatment

Å The attending physician can make ñdecisions regarding hospice careò which includes ñconsent to the hospice plan of care and modifications to that plan.ò

Å Such decisions must be made in accordance with the principles that govern surrogate decisions.

Å Attending Physician can therefore authorize DNR or other decision on same basis as surrogate.

ñThe physician may also include in the hospice plan of care provisions for the withdrawal or withholding of life-sustaining treatment (e.g., a DNR order), in accordance with the clinical and decision-making standards that would apply to a surrogate decision under the FHCDA. Such orders are often consistent with the hospice election.

4) Discussion of JAMA Articles on Physician Assisted Suicide: There are a series of essays in favor of this and also some in opposition.

5) Legislation 5814A-Patient Self-Determination Act – Legislative Update: There was discussion about this legislation. The bill authorizes the dispensation of lethal doses of medication to certain individuals. Both the Senate and Assembly bills are in the various health committees. It was agreed that Ms. Clancy will keep this committee informed on this legislation.

6) 2016 HOD Resolutions for Committee Consideration-Removing Physicians from the Assisted Suicide Debate: Dr. Eli Einbinder submitted a resolution on Physician Assisted Suicide. There was a very lengthy discussion on this issue. A vote was taken and it was agreed to bring forth an amended resolution to the HOD. The vote was 3-2.

Defiscalization of Medical Lobbying: It was stated that this issue is not in the prevue of the committee, however Dr. Einbinder left the meeting so no action was taken.

7) Resolutions 267 and 268 – Informational Item: The MSSNY Council agreed with the committeeôs recommendation to not adopt resolution 267- completed Genomic Sequencing and agreed with the committee and adopted a substitute Resolution 268 that reads as follows:

Resolution 268 Private Insurance Carriers Become Medicare Franchise Resolution

The MSSNY Bioethics Committee recommends that the *FOLLOWING SUBSTITUTE RESOLUTION 268 BE ADOPTED IN LIEU OF RESOLUTION 268:*

RESOLVED, that the Medical Society of the State of New York encourage further research into genomic sequencing, including its ethical implications, its clinical implications, and its financial implications; and be it further

RESOLVED, that the Medical Society of the State of New York also encourage efforts to increase the number qualified genetic counselors in anticipation of the increasing clinical need.

Title Change

The Bioethics Committee also recommends that the title of Resolution 268 be changed to read as follows:

<u>Genomic Medicine</u>

8) Agenda Items for April Meeting:

- **Ethical Implications of Genomic Sequencing**
- **Medical Futility Bill**
- **Availability of Medical Care in New York State (e.g. Undocumented Immigrants)**

9) Adjournment – Next Meeting April 1, 2016