Futility and the Ethics of Saying ‘No’

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Saying ‘no’ to surgery

• Situations where shared decision-making has not produced consensus

• Disagreement is about whether the likelihood of achieving the aims of surgery is high enough to justify the risks/burdens

• We might (like to) say that the surgery is futile or not in the patient’s best interests
Refusal as paternalism

- Refusing surgery is then *paternalistic*
  - Intended to be for the patient’s good, but without regard to their (or their surrogate’s) wishes

- Paternalism is not always unjustified
  - If the person does not understand the nature of their choice
  - If the person is not competent to make the choice

- The patient (or their surrogate) does not, or cannot, understand that surgery is not in their best interests
Lack of understanding or different value judgement?

- Disagreement may not be due to failure to understand the low probability of benefit.
- Value judgement inherent in claims that likelihood of benefit is not worth the risks.
- Respect for autonomy requires allowing competent and informed patients to decide for themselves what is worthwhile.

Implications of different value judgements

• Is it more likely that the disagreement is due to different value judgements, or lack of understanding of the choice?
• Surgeons and patients/surrogates may also disagree about the aims of surgery
Appropriate use of resources

- Request for surgery is a request for use of scarce resources
- Thus it is not only the patient’s judgements that should be considered
- Doctors should consider the distributional implications of decisions to offer treatment
- Society as a whole also needs to confront these questions
Conclusion

• What is the patient (or their decision-maker) trying to achieve?
• Do they truly understand the situation?
• Should we as a society agree that patients should not be refused surgery no matter what the probability of success, as long as the patient believes the chance is worth it?