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CED Ethical Dilemma: Skin cancer decision-making in dementia patients

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This is an ethical scenario around the decision-making process in skin cancer patients, who lack capacity. It explores how to assess capacity, legal rights of family members, GMC recommendations and how best to support and care for these patients.

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An 88-year-old man attends your clinic with his son, referred on the cancer pathway, with a three-year history of a bleeding lesion on the right ear. It is painful and causing distress. He has a background of Parkinson's disease, Parkinson's dementia, and atrial fibrillation. He is on apixaban and levodopa. He has a 1.5cm ulcerated nodule with shiny rolled edges and telangiectasia. You explain the diagnosis of a basal cell carcinoma (BCC) and the natural prognosis, alongside treatment options. His son has read about a treatment called Mohs surgery and wants his father to have the best chance of cure; he states he has a lasting power of attorney (LPA).

What is your next course of action?

- A. Refer the patient to the Mohs surgeons as the son has an LPA
 - B. Explore whether the patient has capacity
 - C. Refer the patient to the plastic surgeons
 - D. List the patient for MDT discussion
 - E. Request an opinion from the Court of Protection
-
- A. Incorrect. It is important to fully explore the LPA, because there are two types of LPA. In this case the son has a property and financial affairs LPA, rather than a health and welfare LPA. However, it is still relevant to consider the family's wishes.
 - B. Correct. We know the patient has dementia, but he may still have the capacity to decide what treatment he wishes to proceed with. The main pillars of capacity assessment will be understanding, retaining the information, reasoning and weighing up the information, and communication of their decision.
 - C. Incorrect. It is your responsibility to assess the patient's capacity and wishes as the reviewing clinician.
 - D. Incorrect. Whilst gaining the opinion of colleagues can be helpful, first and foremost we need to establish capacity.
 - E. Incorrect. The patient may have capacity to decide what treatment they want.

This case highlights several commonly encountered ethical issues. First and foremost, it is important to establish capacity. The GMC states that capacity assessments are a 'core clinical skill' and that capacity should be tested in accordance with local legislation. This starts with the presumption that every adult has capacity [1]. There has been a case where capacity was questioned by a medical team, caring for a patient who had refused life-saving treatment. The court highlighted that refusal of treatment albeit a choice resulting in harm, does not imply a lack of capacity [2]. All efforts should be made to support patients with capacity to make their own decision where possible, and to fully explain to them the potential consequences.

Next, if the patient does not have capacity, it is important to consider whether Mohs surgery is in his best interests. Increasingly, we are managing an aged population with skin cancers who may have comorbidities such as movement disorders, frailty, or capacity issues. Mohs can be a lengthy treatment requiring a patient to stay still, and potentially undergo multiple excision layers. In this case, it is important to explore how his Parkinson's and dementia affects him, as this is key to discussing appropriate treatment options.

The patient's son expressed a preference for a specific treatment and disclosed his LPA. In these circumstances, it is important to fully explore whether he understands the difference in types of LPA. Does he believe he has legal rights in deciding upon his father's care or is he aware but still pursuing a course of action? Often, careful, honest communication that this is a medical decision and explaining the treatment options can lead to resolution and result in an agreed course of action. If a consensus cannot be reached, then it would be important to involve an Independent Mental Capacity Advocate (IMCA), who acts to safeguard the rights of the patient. Support of an IMCA may also be useful when patients do not have a next of kin, or there are complex medical decisions where risk versus benefit is not clear cut. Failing this, then legal advice should be sought, and it may be necessary to involve the Court of Protection. However, as the treating doctor it is also your responsibility to explore whether the patient previously expressed decisions, for example through an advance statement, whether there is another appointed person who has the legal authority on health-related decisions [2] and whether there are any safeguarding concerns. Abuse of LPAs is an increasing concern in the UK [3] and might reflect wider issues in a vulnerable patient, awareness of which may provide an opportunity for intervention.

Mohs surgery is the gold standard for central facial BCC's, high-risk tumours and for recurrent tumours, and has been shown to be cost effective [4]. However careful patient assessment is crucial to establishing a holistic approach to management. In the correct patients, Mohs surgery avoids the need for repeat hospital visits for incompletely excised tumours, which pose a burden to patients and challenge to their dermatologists. However, in the increasingly common setting of frail patients with capacity issues, alternatives to Mohs including radiotherapy, double curettage and cautery, direct excision or monitoring ought to be fully explored.

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