MIEC

Point of Exchange

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INSIDE

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Referrals and informed refusal: What are your responsibilities?

Your patient, Mrs. Delgado, exhibits signs of uncontrolled hypertension. You provide treatment, refer her to an allopathic doctor for additional evaluation and treatment, and schedule her for a follow-up visit. Mrs. Delgado returns to clinic as directed, but when you ask her how her referral went, she tells you she doesn't really like doctors and decided not to go, confident that you can care for her.

This scenario poses significant risk to the patient's health and, unless handled properly, is a significant liability risk to the practitioner. For their own and their patients' protection, acupuncturists should understand when to refer patients to western medical doctors and how to handle the situation if the patient refuses this advice. A good referral procedure includes identifying a potential need for a referral; communicating the level of urgency; following up to determine the results of the referral; and obtaining "informed refusal" as needed.

> ***"I tell patients: Get all the knowledge you can and then make decisions around the kind of therapies you want."***
>
> **— Jim Douglas L.Ac**

Identifying conditions that warrant referral

Identifying conditions that warrant referral is an integral part of an acupuncturist's training and, ideally, continuing education. We spoke with James Douglas, MS, L.Ac., who has practiced acupuncture for 29 years and is a member of MIEC's Acupuncture Peer Review Committee, to comment on some of the issues to watch out for:

- A patient presenting with calf pain and a recent history of a long airplane flight. Physical exam reveals a calf that

is hot and hard. This patient should be sent immediately to the Emergency Department for potential deep vein thrombosis.

- Fatigue, weight loss and bleeding from any orifice can be indications of cancer.
- A patient who has had cold symptoms for a while, is feeling badly and getting worse may have pneumonia.

"The major question is: are they getting better or are they getting worse?" says Mr. Douglas. "If they are in my care and they're getting worse, they have to be referred." Mr. Douglas tells patients who do not have an obvious, urgent problem, but seem to have medical issues that cannot be addressed directly by him: "If you do not feel significantly better in a few days I want you to see a doctor for another opinion. I will continue to treat you as long as it is helping you, but it is important to see other people to get the full range of possibilities."

Referrals

If you are acting as a primary healthcare provider, it is essential to have a referral panel in place for your patients. If a patient tells you that he or she is happy with a particular physician, keep that doctor in mind for future referrals. Here are some points to consider when making a referral:

- Educate the patient about the need for the referral. You do not want to scare a patient unnecessarily, but do impress upon them that it could be a serious issue and must be evaluated: "I will continue to see you, but this could be a more serious disease. Let's rule that out before I treat you exclusively."
- Write the specific reason for the referral and the timeframe in which the patient should be seen.
- Create a tickler system to follow up on referrals. If you have not received a consultation report after a pre-determined length of time, contact the consultant to request the report. You may learn that the patient never obtained the consultation as directed, at which point it is appropriate to contact the patient to reinforce the reason for the referral and, if necessary, obtain informed refusal.
- Documentation of the patient's care must show that you have "closed the loop" on a particular issue, either by verifying that the condition has resolved; the condition is being treated by a physician; or the patient has refused the recommended treatment. If the latter, documentation of informed refusal is required.

Informed Refusal

Patients may tell you outright that they refuse to follow your advice to obtain a consultation, or they may demonstrate refusal through noncompliance. Once you have identified that a patient has not followed your advice, you can have a discussion to make sure they understood the purpose of the referral and try to resolve any issues that may have prevented them from obtaining the consultation thus far. If the patient still refuses, obtain informed refusal and document that you have done so.

Informed refusal is the counterpoint to informed consent. Through the informed refusal process, you 1) educate the patient as to the "significant, material" risks of

failing to follow your advice; and 2) transfer responsibility to the patient for any clinical consequences that result from the patient's refusal to follow your advice. It is appropriate to obtain informed refusal when a patient refuses or is noncompliant with your treatment plan and there are risks associated with this refusal/noncompliance. This could include failure to obtain consultations or diagnostic tests as directed, failure to follow after-care instructions, take medications as directed, etc.

Adult patients who are mentally competent generally have the right to make decisions about their health, even if the decisions are not deemed by medical professionals to be in the patient's best interest. Your obligation is to educate patients about the risks of their decision. If you do not do so and the patient suffers an injury, the patient can allege that you, the professional with greater knowledge and expertise, failed in your duty to explain the dangers of their decision to them. "Significant and material" risks generally mean those risks that a reasonable person would want to know about in a similar situation, including the most common risks, regardless of severity, and the most serious risks, even if uncommon.

Once you obtain and document informed refusal, you may find yourself in the uncomfortable position of caring for a patient whom you believe strongly should be under the care of a physician. It is most likely permissible for a practitioner to withdraw from care from a patient in such situations (see Managing Your Practice No. 2, "How to discharge a patient from your medical practice.") Some practitioners elect to continue to see such patients, but continue to express their opinion that the patient should see a doctor. Others continue to care for the patient and do not revisit the issue once the patient has made a clear and informed choice. Decisions on how to proceed at this point are more ethical in nature than liability-related, so long as informed refusal has clearly been obtained and documented in the chart. Practitioners may wish to make their ethical and professional beliefs known in a straightforward, nonjudgmental way at the outset of the therapeutic relationship. Patients whose beliefs differ may opt to seek a practitioner more in line with their values.

There are a number of scenarios in which patients may arrive on your doorstep with potentially serious ailments that could benefit from allopathic medical intervention. Your care and treatment can be invaluable to these patients as you support them through a difficult diagnosis and continue to support their mental and emotional balance and well-being. Ultimately, patients will decide what treatments to pursue, but it is your responsibility and duty to educate them about the potential implications of their choices so they can make educated, informed decisions.

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