

Imaging Scenario: Student Competency

Scenario # 2: The Case of Jacob and the Diseased Leg

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Summary

Jacob, a talented high school quarterback, suffered a compound fracture of his lower leg during football practice the summer before his senior year. He underwent a surgical realignment to set the bone and close the skin. At his follow up appointment, Jacob's cast was removed and the area around his stitches showed signs of infection. During this same appointment, Jacob and his parents noticed that the surgeon examined another patient who had been diagnosed with osteomyelitis without using proper hand hygiene techniques before returning to treat Jacob. While examining the other patient, the surgeon was overheard speaking to the patient and her name and diagnoses were revealed to Jacob and his parents. At his subsequent follow up appointment one week later, Jacob was officially diagnosed with osteomyelitis and had to undergo an additional surgical procedure to address the infection. This additional surgery and complications from his infection ultimately cost Jacob his opportunity at a scholarship to play football in college.

Ethical Analysis

Multiple ethical dilemmas occurred within this scenario. One dilemma was the surgeon's lack of proper hand hygiene when moving from one patient to another. One dilemma involved a breach of confidentiality for both Jacob and the female patient, Sarah K., who was examined by the surgeon during Jacob's appointment. Another dilemma involved Jacob and his parents' decision not to point out that the surgeon had not followed the same hand hygiene procedure he used when he left Jacob in order to treat Sarah K. before he resumed his examination of Jacob's leg.

The primary responsibility of the surgeon as a health care provider is to do no harm. Nonmaleficence is a passive process that requires weighing out the good and evil aspects of the ethical dilemma (Towsley-Cook and Young, 2007, p. 31). By not using a consistent approach when moving from patient to patient, the surgeon caused harm to Jacob by not changing his gloves and performing hand hygiene. Although Jacob was showing signs of possible infection already, the diagnosis of osteomyelitis had not been confirmed and the surgeon could have transferred that microorganism from patient Sarah K. to Jacob due to not changing his gloves.

According to the American Registry of Radiologic Technologists (ARRT) Code of Ethics, the Radiologic Technologist assesses situations, exercises care and judgement, and assumes responsibility for professional decisions while acting in the best interest of the patient (Towsley-Cook and Young, 2007, pg. 263). These aspects of the Code of Ethics were particularly relevant to this scenario and reflect the ways in which the surgeon failed his patients through his willful disregard for their safety. Comparing the surgeons' actions to the Code of Ethics, the surgeon demonstrated carelessness while treating both of his patients and actual harm did result from his actions. An additional consideration of the harm caused by the surgeon would be that he failed to maintain patient Sarah K.'s confidentiality, potentially revealing a diagnosis she would have preferred to be kept as a secret.

The confidentiality for both Jacob and Sarah K. was breached through the revelation of protected health information between the two patients the day of their appointments. Because of this breach of confidentiality, Jacob did not receive privacy while in his examination room and he and his family were made aware of Sarah K.'s name and medical diagnosis, which is protected health information. These actions were highly inappropriate and violated both patients' right to confidentiality by sharing knowledge that as a medical professional, the surgeon was

obligated to conceal (Towsley-Cook and Young, 2007, p. 99). Protected health information must be kept confidential as it involves a professional secret, which is maintained to protect the patient in this case. Sarah K. may not have been comfortable with her diagnosis being shared with others and this could have negatively affected her life in many ways. This could impact her future use of the health care system, as well as damage the reputation of the surgeon's practice if she shared her experience with the public.

From an alternative perspective, the ethical Paternal/Priestly ethical model could be applied to Jacob and his parents in this scenario. They could have refused the examination until the surgeon performed hand hygiene and donned new gloves. Depending on their views of physicians, this hesitancy to speak out against the surgeon's decision could have contributed to Jacob's diagnosis of osteomyelitis. They may have felt that the surgeon is the ultimate source of knowledge as far as providing patient care. The surgeon did not necessarily make a decision for the patient in this scenario, but the patient and his family could have felt as though they were not in a position to voice their concern and question his practices due to their view of him as an omniscient caregiver (Towsley-Cook and Young, 2007, p. 10-11). When applying social contract theory to this scenario, the surgeon owed a duty to his patients and his patients held certain inherent expectations of him to maintain their health and safety (Coakes and Ehrlich, 2021, p. 73). His status as a physician obligates him to prevent knowingly causing an infection in a patient or harming them by sharing protected health information.

Legal Considerations

Legal considerations tie closely into the ethical dilemmas of this scenario. The surgeon did not use the care employed by a reasonable professional practicing in the same field, although he is obligated as a health care professional to do no harm and provide reasonable patient care

(Towsley-Cook and Young, 2007. p. 35). The surgeon committed a clear violation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) by failing to protect Sarah and Jacob's right to privacy and confidentiality as patients of his medical practice. HIPAA enforces specific mandates that apply to medical providers and the protected health information they release to others (Towsley-Cook and Young, 2007. p. 102). It is evident that the surgeon disclosed information without Sarah K.'s explicit permission and the information that he shared did not fall under a special circumstance in which there is a statutory duty to disclose, such as a duty to warn or certain conditions which require reporting based on state and federal regulations (Towsley-Cook and Young, 2007. p. 103).

The surgeon also demonstrated extreme carelessness for patient safety when he performed an examination on Jacob after treating Sarah K. who has osteomyelitis, and then not washing his hands or changing gloves. These actions from the surgeon more than likely exposed Jacob to this type of infection and also drew suspicion of how patient Sarah K. acquired her infection. The fact that Sarah K. was diagnosed with osteomyelitis and Jacob was already beginning to show signs of infection at his follow up appointment could indicate the surgeon has a pattern of disregard for infection control precautions and surgical asepsis protocols.

There are various torts the surgeon may face in this scenario. The intentional misconduct of invasion of privacy is rooted in a breach of contract between the patient and surgeon. The surgeon and his practice are bound by the laws of HIPAA and the Code of Federal Regulations, which apply to oral communication of protected health information (Towsley-Cook and Young, 2007. p. 109). This misconduct falls under tort or civil law and could result in a lawsuit, monetary damages, loss of license and/or unemployment for the surgeon (Coakes and Ehrlich,

2021, p.81). Violation of HIPAA could result in severe financial penalties based on the severity of the breach.

Another tort that could be applied to the surgeon's actions is the intentional misconduct of battery. Even though Jacob and his parents allowed the surgeon to proceed with the exam, they most likely would not provide consent for the examination if they knew the risks involved and likelihood that Jacob could contract osteomyelitis. The surgeon may also have had no intent to harm Jacob by exposing him to the bacteria that causes osteomyelitis, however this misconduct is considered to be done with malicious intent (Coakes and Ehrlich, 2021, p.81). Jacob, himself, may have felt uncomfortable with proceeding, but as a juvenile his ability to provide consent is impacted by his age and his parents may have elected to continue with the exam, despite his hesitation.

An unintentional tort in this scenario involves medical negligence and malpractice by the surgeon. The surgeon owed Jacob a duty of reasonable care as his physician (Towsley-Cook and Young, 2007. p. 38). Injury to resulted Jacob from this failure to use reasonable care or standard precautions for infection control. Based on the inconsistency in the surgeon's hygiene practices, patient Sarah K. may also have been injured by the surgeon's lack of reasonable care based on her diagnosis of osteomyelitis. The surgeon was neglectful when he did not perform hand hygiene or remove his soiled gloves. This is an action that a reasonable person in the same profession would do before examining a new patient.

These torts apply to this scenario because the act of negligence occurred in the context of a relationship between a medical professional and a patient, and there was neglect of reasonable care or caution in the prevention of the spread of disease (Coakes and Ehrlich, 2021, p. 80). The

penalties for unintentional torts are comparable to those of intentional torts. With regard to intentional torts, the hospital associated with the surgeon may be ordered to pay fines, as well.

Professional Issues

Based on the Code of Ethics, the Radiologic Technologist conducts himself or herself in a professional manner (Towsley-Cook and Young, 2007. p. 263). Specific ARRT Rules of Ethics that are applicable to the surgeon's level of professionalism is the failure to practice his profession with reasonable skill and safety and revealing of privileged communication (Coakes and Ehrlich, 2021, p. 72). The surgeon demonstrated behaviors in the scenario that call his professionalism into question. Professionalism pertains to specialized knowledge that is used to benefit others, and a high value is placed on a professional's service to both patients and the community (Coakes and Ehrlich, 2021, p. 57). Based on his actions, the surgeon not only affected Jacob on an individual level, he affected the community by ultimately contributing to his infection and costing him his opportunity at a football scholarship (Coakes and Ehrlich, 2021, p. 57). Jacob's success on the football field was a positive contribution to the community, however the care he received while injured by the surgeon causes harm to all involved. The lack of professional behavior demonstrated by the surgeon reflects poorly on the health care providers in the community and could create a sense of distrust between patients and caregivers.

At face value in this scenario, the surgeon did act professionally when treating Jacob and Sarah K. He was courteous, attentive, and responsive to Jacob's emerging signs of infection. It could also be argued the surgeon did demonstrate competence when administering IV antibiotics to Jacob during his hospital stay, as well as when he expressed concern over Jacob's condition and prescribed him antibiotics as an outpatient. Ultimately, while Jacob and Sarah K. may have had an overall pleasant experience with the surgeon at the time of their appointments, the

surgeon's lack of professionalism in this scenario resulted in a poor outcome that was harmful to his patients.

Discussion

The egregiousness of the surgeon's actions calls both his professional status and personal morality into question. Alternative and effective solutions would be for the surgeon to follow standard precautions, utilize hand hygiene and other medical aseptic/antiseptic techniques consistently with each patient he treats, as well as maintain patient confidentiality and protect patient health information by discussing his patient's diagnoses with them privately. Another solution to help monitor the rate of infections associated with this surgeon's procedures would be the completion of incident reports to help aggregate the data over a period of time. If followed, these solutions would reduce the transmission of infection and also safeguard the patient's right to privacy. Jacob and his family also assume some responsibility by not voicing their concern to the physician about his hygiene practices and allowing the examination to continue. Jacob and Sarah K. both could make a case against the surgeon for invasion of privacy, medical malpractice, and negligence. Malpractice prevention the surgeon could have applied in this scenario is compliance with patient safety requirements and policies regarding patient confidentiality. The surgeon did not exercise caution when treating his patients and his competence is called into question based on his patients' infection rate.

References

1. Ehrlich, R. A., & Coakes, D. M. (2021). Patient care in radiography: With an introduction to medical imaging. Elsevier.
2. Towsley-Cook, D. M., & Young, T. A. (2013). Ethical and Legal Issues for Imaging Professionals. Elsevier.