

Ethics Scenario No. 2 The Case of Jacob and the Diseased Leg

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Imagine being at the prime of your life, a star high school quarterback with college offers waiting for you, only to have your dream cut short by the ignorance of a physician. That's exactly what happened to Jacob, who came into Dr. M's office for a nasty compound fracture he obtained in summer training for the upcoming season. Because the fracture broke through his skin, Jacob underwent a routine surgery to set the bones back into place and close the skin. At Jacob's sixth-weekly check-up, his stitches were slightly infected. During his exam, Jacob's surgeon went to visit another patient across the hall who had contracted osteomyelitis, a serious bone infection. Dr. M returned without washing his hands and putting on new, clean gloves. Jacob and his parents witnessed this action because Dr. M regretfully didn't close the doors between the two patients so Jacob's parents could hear the surgeon talking about the other patients' infection and witnessed his lack of hand hygiene before re-entering the room. The surgeon ended up giving Jacob osteomyelitis as well, ruining his chance of playing the upcoming season and costing him his scholarship offers. Jacobs parents then sued the doctor for negligence.

Because of the professional standard of care, physicians take a vow to do no harm and provide reasonable patient care, both of which Doctor M. failed to do. He owed Jacob a safe medical experience and considering the ethical principles in medicine; it was unjust for the physician to attend to Jacob's leg at all without wearing gloves, regardless of if he had any other patients in that moment or not. His actions, whether out of carelessness or laziness, directly caused harm to his patient. There exists negligence of action and public duty as a doctor that is stipulated in the moral and ethical norms of healthcare practices.

At any given moment, a Radiographer may be faced with challenges that they will have to apply professional standards and exercise personal integrity in order to respond appropriately. The American Society of Radiologic Technologists, for example, uphold all of their employees

to the highest standards and the following of their Code of Ethics. Because of this, medical workers follow a set of rules of biomedical ethics to serve as a guideline as to how conduct yourself in the medical profession. In Jacob's case, his surgeon was faulty in the principles of beneficence; performance of good acts, confidentiality; duty to protect the privacy of the patient, justice; moral rightness, and nonmaleficence; avoidance of evil.

Beneficence was breached in this situation because the doctor obviously did not perform acts of good, but tragically, caused unnecessary and avoidable harm to his patient that entrusted in him to follow his training for the prevention of spreading infection. When the doctor neglected to do his job, he breached the most recognized and standard obligation of any medical professional; to do no harm.

Confidentiality issues also arose in this scenario because the doctor failed to cut off the line of communication between Jacob and his parents with the other patient who had osteomyelitis. The other patient has a right to privacy just like any other patient and healthcare providers have a duty to protect this privacy. The doctor broke the Patient Confidentiality Guidelines when he didn't close the doors between patients. This resulted in Jacob's parents learning about not only her condition, breaching patient confidentiality, but also ultimately realizing her infection was spread to their son with the only same point of contact being the doctor.

Justice was an issue in this scenario because we are taught how to prevent the spread of germs since most of us can remember. The doctor's pure laziness, although knowing how infections are spread, shows that his morals were lacking at this certain time.

Lastly, the principle of non-maleficence was broken because the doctor neglected to do no harm. This harm could have easily been avoided, but the doctor knew what he was doing when he by-passed simple healthcare obligations. Within nonmaleficence is the idea that the good must outweigh the bad. However, even in Jacob's case, whatever the potential good the doctor thought he would gain from skipping this crucial step, whether it be less wait times, for increased patient satisfaction was outweighed by the severity of harm done.

All of these principles that were disregarded when the doctor made his mistake should cause a domino effect of legal issues. If physicians commit civil wrongs, or unintentional torts, they must be held accountable by way of damages to the person wronged. An unintentional tort is the unintended harm that stems from incorrect action only if a duty exists. In this case, there was a duty to be done, a breach of this duty, and harm was ultimately caused. Therefore, Jacob should be compensated for the damages caused by the negligent act. Every medical professional has a duty in acting with a high degree of skill and care for the patients to evade the tort of the negligence of care. By keeping such a high standard of our doctors, the likelihood of repeat offences to multiple patients is decreased. This is why in court, cases regarding the competency of an action are evaluated using Reasonable Care ideology. This is where a professional in the same field is put theoretically in the same situation and asked how they would have responded. This establishes a floor for comparison for the actions under question.

Avoiding legal litigation and medical malpractice suits starts with the physician – patient relationship. A good example of this is acknowledging patients using an ethical model. The type of model varies from patient-to-patient but ultimately, the pursuit of a common goal is involved. The use of an ethical problem-solving aid model, such as the covenantal model, provides a good basis for interactions between the patient and the health care worker. This model provides an

appropriate interaction balancing a business-like relationship with traditional values, goals, and trust between parties. This blend of the collegial and contractual model is a perfect balance for what should have been expected in Jacob's case.

Another way for avoiding any future unintentional tort actions is maintaining a persistent and fluid knowledge of professionalism. Professionalism, as defined in the Ethics and Law book, is "An awareness of the conduct, aims, and qualities defining a given profession," and are good ways to "prepare professionals to address future ethical dilemmas." (Page 8). This thought process should be applied to everyday occurrences at work.

When it comes to a legal battle because of a medical issue, many different aspects are evaluated. It is clearly obvious that Doctor M. disregarded his obligation of standard care to his patient, along with other issues discussed above, when he neglected to wash his hands and don gloves. Jacob and his parents have a solid case that could hold up in court. A tort action is filed to repair damages of personal injury that occurred from the negligent behavior. In most cases, doctors are very well insured personally and by the hospital system for which they work and can sometimes settle before a lawsuit or out of court.

Patients have a role when it comes to their care as well and knowing what those are is very important when issues of malpractice come to question. In this scenario, Jacob's parents clearly heard the Doctor conversing with his other patient while evaluating her infection, and then witnessed him neglect to wash his hands or don gloves, yet they said nothing until it was an issue. Any doubts the parents had should have been addressed at the time of the fault and not only when it was determined that the infection had been passed on by their doctor. Patient autonomy rights should have been executed the moment that malpractice was witnessed.

If the doctor was to be found guilty by the court, he would most likely be found guilty of negligence because of the error of his actions. The defense's only saving grace might be to lessen the ultimate sentence by arguing that the negligence was witnessed but yet unreported until it was a problem. Statute of limitations here does not apply because even though it was reported after the negligence occurred, it was still within the maximum 10 year time period allowed to report.

Analyzing this scenario in conclusion, there was definite fault by both parties but in the end, negligence falls on the physician. As discussed above, the physician clearly should closed the door to respect the infected patients' privacy and should have washed his hands and re-applied gloves before interacting with Jacob. While Jacob and his parents should have immediately questioned and/or reported their experience and not just waited until it was too late. This scenario proves how even the smallest of mistakes can have the largest impacts and shows how not speaking up can ultimately be detrimental.