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ETHICOLEGAL ANALYSIS OF CHEMICAL DEPENDENCY COMMITMENTS

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VARIABILITY IN CD COMMITMENTS IN THE UNITED STATES

- 38 states currently have some provision for CD commitment
- Variability of use
 - Petitioner: HCP, family, friends, anyone in the community, work, legal authorities
 - Setting: Inpatient CD, Outpatient CD
 - Application: few cases annually to thousands
 - Duration of treatment: 30 days to >1 year
 - Basis for commitment: Dangerousness in most; but in many places there is a wider basis



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BEST INTEREST STANDARD MARKEDLY DIFFERENT IN CD VS MI COMMITMENTS

- Dangerous to self, others or failure to care (similar to MI commitments)
- Lacking decision making capacity (similar to MI commitments)
- Dangerous to property
- Pregnant
- Intoxication
- Could benefit from substance use

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‘Coerced treatment should be supported to the extent that it demonstrates positive effects on client outcomes in methodologically rigorous research’

– (Wild 1999)

UTILITARIAN P.O.V.

- 2005 Review of 30 years of data on legal coercion in addiction: Mixed, inconsistent, inconclusive results on any substantial benefit
- More recent data specific to opiate use
 - Short-term reduction in overdoses
 - Long-term increase risk of death once patient is discharged from treatment, especially if there is not adequate MAT

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DEONTOLOGICAL IMPERATIVE - FOCUS ON MORALITY OF HUMAN ACTIONS

- Human beings have innate dignity and should be regarded with utmost respect and empathy
 - Admitting patient to locked treatment for SUD (e.g. CARE) or incarceration makes implication that they should no belong in the 'public'
 - Stigmatization
 - Criminalization

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BALANCE THE PILLARS OF MEDICAL ETHICS: BENEFICENCE VS AUTONOMY

'How is someone who is drinking himself to death in his right mind?'

- Decision making capacity
 - Acute intoxication
 - Florid withdrawal
 - ?Individuals with chronic and severe addiction
 - Are intense cravings for substances diminishing ability to make life affirming choices
 - Is addiction a moral flaw, a learned behavior, or a disease?
 - 'Brain disease model' – chronic, heavy substance use will result in lack of control, lack of rationality and lack of capacity. Justification for CD commitment in setting of beneficence
 - Those that feel addiction is choice or habitual behavior may value individual's autonomy (e.g. 'people have the right to make bad choices')

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LEAST RESTRICTIVE MEANS

- Restrict individual freedom to least extent after all other measures have been exhausted
 - Involuntarily treat patients who cannot access evidence-based treatment for addiction due to
 - Lack of funding
 - Availability
 - Other social determinants of health
 - Evidence based addiction treatment, treatment for co-occurring MI and required follow-up for chronic disease is NOT required in many state's commitment

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WILL YOU PETITION FOR CD COMMITMENT?

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| <ul style="list-style-type: none"> • 58 y/o M admitted on IP for COPD exacerbation requiring intubation <ul style="list-style-type: none"> ➤ 40-pack year smoking history ➤ Diagnosed with COPD 5 years ago ➤ Continues to smoke despite counseling & education, support from family, refuses to engage in therapeutic interventions (therapy, MAT with NRT, varenline, bupropion, nortriptyline, NAC or rTMS) ➤ Data suggests: <ul style="list-style-type: none"> ➤ 85-90% of COPD is caused by smoking ➤ Smoking cessation markedly slows the course of illness and reduces mortality by 50% | <ul style="list-style-type: none"> • 58 y/o M admitted on IP for hepatic encephalopathy 2/2 SBP requiring intubation <ul style="list-style-type: none"> ➤ 40-year alcohol use history with minimal experience with sobriety ➤ Diagnosed with OH cirrhosis 5 years ago, now requiring transplant ➤ Continues to use OH despite counseling & education, support from family, refuses to engage in therapeutic interventions (therapy, MAT with naltrexone, disulfiram, acamprosate) ➤ Data suggests: <ul style="list-style-type: none"> ➤ Continued use of alcohol at this stage will prevent transplant eligibility, and portends less than 50% survival rate for next 5 years |
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