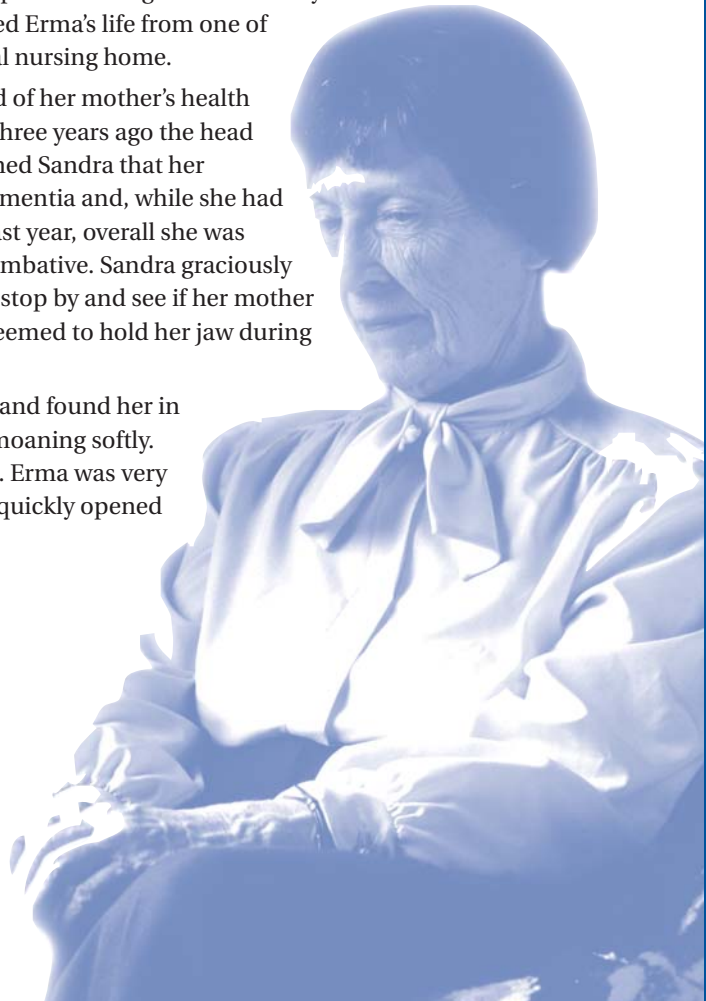


Who Cares for the Incompetent Patient?

Dr. Margaret Benson has been in solo general practice for 20 years in a suburb nearby a large city. She has enjoyed years of good experiences with many of the local residents. Erma Laskins was one of her favourite patients. For the 10 years she was in the practice, Dr. Benson and the staff looked forward to Erma's visits, her quick wit and gregarious personality. Erma's daughter, Sandra, also joined the practice along with her family. Six years ago serious illnesses changed Erma's life from one of independence to a move to a local nursing home.

Sandra kept Dr. Benson apprised of her mother's health changes during her recall visits. Three years ago the head nurse at the nursing home informed Sandra that her 85-year-old mother had senile dementia and, while she had experienced a few fair days this last year, overall she was deteriorating and occasionally combative. Sandra graciously asked if Dr. Benson would please stop by and see if her mother had a dental problem since she seemed to hold her jaw during her visits.

Dr. Benson decided to visit Erma and found her in bed, holding her right jaw while moaning softly. She did not recognize Dr. Benson. Erma was very co-operative and when asked to, quickly opened



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her mouth. Even in the poor room lighting, Dr. Benson observed food packed in the fractured distal of her lower left first bicuspid along with gingival and occlusal caries on the other remaining posterior teeth. It appeared to Dr. Benson that Erma had had no apparent preventive care as she had generalized acute gingivitis. Dr. Benson was concerned that she may have a possible acute or chronic apical periodontitis and left the room to talk to the head nurse.

Dr. Benson found the patient's daughter, Sandra, at the nurse's station and informed her that her mother needed a dental examination soon because she had several cavities and was holding her jaw as if she was in pain. The head nurse informed both of them that Erma had been holding her jaw now, off and on, for two months and, "there had been no swelling and the staff was monitoring her daily." The nurse told Sandra in the presence of Dr. Benson: "We will continue to monitor Erma and call you if there is swelling." Sandra agreed and said, "We don't want any unnecessary treatment for Mom at this time – with her dementia she can't even feel pain."

Dr. Benson is now facing an ethical dilemma. How should she handle this situation?

- ◆ *Dr. Benson should contact the nursing home administrator and inform her of Erma's possible pain and infection that may have been allowed to persist for two months.*
- ◆ *Dr. Benson should encourage Sandra to contact a dentist who has the equipment to treat patients in a nursing home.*
- ◆ *Dr. Benson should stay out of this discussion – she is not Erma's dentist now.*
- ◆ *Dr. Benson was Erma's dentist for 10 years and should provide the care if possible.*
- ◆ *Dr. Benson should again instruct Sandra and the nurse about the potential complications from the decay and oral infection, including pain and the need for a dental examination.*

Now turn to page 34 to find the discussion about this ethical dilemma.

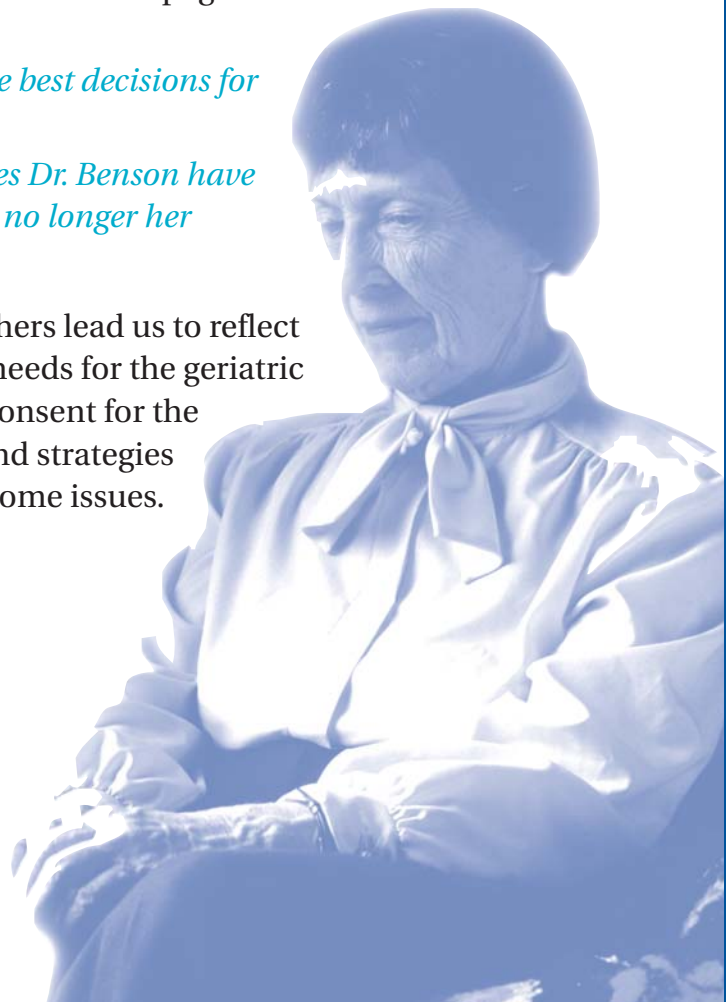
Who Cares for the Incompetent Patient?

The Dental Ethics 101 Ethical Dilemma Case Study appears on page 28.

The ethical dilemma presented on page 28 raises two key questions:

- 1. Is Sandra making the best decisions for her mother?*
- 2. What obligations does Dr. Benson have for Erma since she is no longer her patient?*

These questions and others lead us to reflect on the ethics of dental needs for the geriatric population, surrogate consent for the incompetent patient, and strategies for managing nursing home issues.



DENTAL NEEDS FOR THE GERIATRIC POPULATION

Statistics Canada's 2006 National Census Snapshot paints a dramatic national portrait of the new demographic reality in Canada. A record one in seven Canadians is 65 years or older with those aged 55 to 84 as the fastest growing demographic, now accounting for 3.7 million people – a 28 per cent rise from five years ago. The over-80 group is the second-fastest growing group, increasing by more than 25 per cent to 1.2 million over five years.

Clearly this population shift will have an impact on dentistry. Among many concerns is the question of whether dentistry will have the qualified providers to meet these needs, especially for residents in long-term care homes. There may not be enough clinicians who have the skills or interest to treat the geriatric population in settings that may require the use of portable/mobile dental equipment or the skills to deal with the administrative and regulatory requirements for facilities like nursing homes.

There are many other challenges too. In a PricewaterhouseCoopers study for the Ontario Association of Non-Profit Homes and Services for Seniors and the Ontario Long Term Care Association released in 2001, dementia and Alzheimer's Disease combined were the most prevalent of all diagnoses in the sampled long-term care facilities. Fifty-three per cent of residents in Ontario facilities have one of these disorders.

For Erma Laskins in this case study, Dr. Benson could not treat her in the nursing home, just because she is a dentist.

As a proponent of portable/mobile dental care writes, "It is a specialized area requiring awareness. An unaware provider contracting with an uninformed administration interested in only emergency response and paper compliance can be a prescription for frustration."

STANDARDS FOR SURROGATE CONSENT FOR THE INCOMPETENT PATIENT

One of the benefits of dentistry is watching our patients age gracefully over time. Of course, aging also can and eventually will create challenges for clinicians. Most general dentists have a favourite patient like Erma, who after years in a practice, has a stroke or an accident.

Erma was once a competent person, able to decide for herself what was in her best interest. Now she is incompetent and unable to speak for herself. Who should speak on behalf of Erma and by what standard should that person make decisions about Erma's care?

This case brings into focus two relevant standards for surrogate decision-making: substituted judgment and best interest.

Under the substituted judgment standard, a surrogate decision-maker makes decisions that respect and are consistent with the patient's previous autonomous judgments. Essentially, her daughter Sandra would make decisions in accordance with what she believes Erma would have chosen for herself.

Under the best interest standard, the decisions made for the patient reflect what other reasonable people would do under similar circumstances. Thus the values are not those of the patient but of others facing the same situation.



Who Cares for the Incompetent Patient?

➤ But the fact that society and the courts assume that a surrogate is acting in the best interest of a patient doesn't mean that anything the surrogate chooses will be accepted. While we assume that parents will act in the best interests of their children, we also know that parents may place their children at harm, knowingly or unknowingly, so that the courts feel compelled to intervene to protect the best interest of the child.

The same is true for patients: If a surrogate demonstrates neglect or very poor decisions, medical professionals or the courts may step in and take control.

The Ontario Dental Association, the Royal College of Dental Surgeons of Ontario and the Ontario Dental Hygienists' Association believe it is now critical to develop viable solutions to the complex problems continuing to impede access to dental care in the long-term care sector in our province. That is why a one-day summit to address this issue is planned for April 9, 2008. Future issues of Dispatch will report on the summit's achievements.

Not all surrogate decision-making processes are created equal. Medical professionals and the courts tend to put more weight on some over others. For example, it is best if the authorities know what the patient, if competent, would have chosen. Thus, an autonomously executed advanced directive says to caregivers, "This is what I want; please follow my wishes."

Absent such a declaration, substituted judgment is

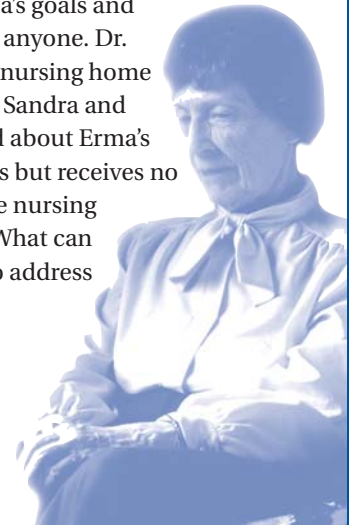
the best approach, especially if a patient has relayed to the surrogate what he or she would want to do if the time should arise.

The other relevant standard for surrogate decision-making is best interests. Under this scenario, those who know the patient best, assuming there was no specific directive or designated surrogate, make a judgment call consistent with what they think the patient would have wanted. But the farther away decision-makers get from specific guidance, the less force the decision has.

In this case, there did not appear to be an advanced directive. The next standard is substituted judgment, and this is where we would expect Sandra, as the surrogate, to make decisions according to Erma's values and goals.

It is possible, however, that Sandra may have misconceptions about her mother's goals and values and may not understand the importance of her medical and dental needs. She may believe that poor oral health and chronic dental disease go together with aging and nothing can be done.

While Dr. Benson is not recognized as a surrogate, she does have a 10-year history of providing oral health care for Erma and may understand Erma's goals and values as well as anyone. Dr. Benson is at the nursing home at the request of Sandra and she is concerned about Erma's oral health needs but receives no support from the nursing staff or Sandra. What can Dr. Benson do to address Erma's needs?



STRATEGIES FOR MANAGING NURSING HOME ISSUES

Here are possible ways for managing these issues:

1. Immediate – Stay involved.

The clinician can keep in contact with the staff and the surrogate and remain apprised of the patient's condition.

2. Immediate – Advocate for the patient.

Contact the nursing home administrator and express your concerns. Make contacts with interest groups and advocacy groups.

3. Immediate – Educate the nursing home staff and surrogate decision-maker.

Help them make the medical and dental connection. Medical authorities say oral diseases and disorders impact health and well-being. Dental authorities too state that the separation between oral health and general health is artificial because the mouth is an integral part of the human body.

4. Immediate – Consolidate resources.

Contact the physician and dentist, if any, for the nursing home and review your concerns. One of the principles for geriatric medical and dental care systems is that overall health care for the older adult is best provided when a dental provider is an integral part of the health-care team.

5. Immediate – Contact providers in the area who are trained in geriatric patient care, such as other dentists, dental hygienists, and denturists, and have portable or mobile dental equipment.

These patients have special needs and may require special equipment to be treated effectively. Conventional equipment may not be sufficient.

6. Long term – If there are no providers in the area, additional training should be considered.

CONCLUSION

While Dr. Benson has not had the opportunity to see Erma on a regular basis for a few years, she is ethically justified in monitoring her condition, advocating for palliative treatment from the nursing home administration, encouraging support from the physician for the nursing home, educating the staff, and even choosing to become competent in the treatment of the nursing home patient through special courses and training.

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