Withdrawing & Withholding – Are the Ethical Issues Similar?

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A Case

Mr. Paul is a 72 year-old man admitted with pneumonia. He develops sepsis, MSOF and is intubated, ventilated and given pressors in addition to antibiotics. After 3 days in the ICU, he now has ARDS, remains hypotensive and is anuric. Given his worsening in the face of aggressive treatment, the ICU team and family decide to withdraw MV and focus on palliative treatment.

The ID consultant overhears and says it would have been acceptable not to begin MV, but once initiated it is unethical to stop it- “It’s like killing the patient.”

Is it ethically acceptable to withdraw ventilation?
A. Yes
B. No
Withdrawing and Withholding Treatment

- Withholding: never starting a treatment
- Withdrawing: stopping a treatment
Clinicians’ Concerns about WD Life Sustaining Treatment

- Only 34% agreed that "there is no ethical difference between foregoing (not starting) a life support measure and stopping it once it has been started."

- Semi-structured interviews:
  - Uncertainty about legal, ethical, professional standards
  - Psychological discomfort with actively stopping a life-sustaining intervention
  - Legal liability: discomfort with the public nature of the act.

Solomon M. Am J Public Health 1993
Legal Perspective on Foregoing Treatment

“To impose medical treatment on one who refuses constitutes battery, and our common law has recognized the right to demand that medical treatment which would extend life be withheld or withdrawn.”

Supreme Court of Canada, 1993; Rodriguez v British Columbia; 3 SCR 519.

“It is legally and ethically permissible to withhold or withdraw any medical intervention, including nutrition and hydration.”

U.S. Supreme Court 1990, Cruzan decision
“...both philosophical and legal analyses have emphasized that clinicians should make no distinction between decisions to withhold or to withdraw.”

“...whether any therapy is initiated or continued should be based solely on an assessment of its benefits vs. burdens and the preferences of the patient.”

Truog R. Crit Care Med. 2008
Existing Guidelines: No Ethical Distinction between WH and WD Treatment at the EOL


What If You Could Withhold But Not Withdraw Treatment?

Facts

- Many patients willing to accept short term ICU care; few willing to accept prolonged dependence on invasive life support.
- In many cases the value of an intervention can only be determined after a trial of therapy.

Consequences

- Trials of therapies could not be stopped once initiated.
- Patients who lives could be saved may forego treatment to risk of prolonged dependence on invasive life support.
What If You Could Withhold But Not Withdraw Treatment?

- The unconscious patient with respiratory failure, intubated in the ED, who later is found to have an advance directive stating ‘DNI’.

- The patient with chronic lung disease and acute pneumonia with respiratory failure who would accept a time limited trial of MV, but not prolonged MV.

**Likely consequence:** More deaths in patients who could have been rescued by short term therapy.
Omission vs Comission

Claim: less problematic to withhold than withdraw a treatment.

Although in everyday life people are held more responsible for their actions than their omissions, this is untenable in clinical medicine.
Error of Omission: Failing to Reintubate

Example:

- 27 yo previously healthy woman with ARDS from Staph pneumonia. In ICU, slowly improving, but still requiring high PEEP/Fi02. Patient wants to receive treatments highly likely to help her.
- She is accidentally disconnected from vent.
- Physician present at bedside decides to not re-attach vent circuit & patient dies. (error of omission).
- The physician’s failure to act is a violation of his ethical obligation to act in the patient’s best interests.

The distinction between WH and WD is not decisive; acting on patients’/surrogates’ valid refusals is.
If a physician withholds an available, effective, requested, life saving technology and the patient “died of their underlying disease”:

- The physician would be negligent in his moral (and legal) obligations to the patient.

The validity of the authorization, not a claim about causality, determine the morality of the action.
### Major Religions’ Views on WH & WD

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<th>Withdraw artificial nutrition</th>
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“The bioethics committee of the Church of Greece has stated: “There is always the possibility of an erroneous medical appraisal or of an unforeseen outcome of the disease, or even a miracle” [27]. Therefore, as a principle the withholding and withdrawing of therapy is not allowed.”
Orthodox Judaism

- **Jewish law** differentiates between active and passive actions and between WH and WD life-sustaining therapies.

- WH permitted if treatment judged to prolong pain and suffering of a dying patient.

- WD of **continuous** therapies is not permitted by Jewish (or Israeli) law.
  - **Rationale:** the act will shorten life.
  - However, may cause unwanted and prolonged suffering.
  - Ventilator workaround: vents on timers = intermittent therapy that can be withheld when timer expires.
  - “the death of the patient… is morally acceptable because the aim is achieved by omission rather than commission.”

  Hans-Henrik. Intens Care Med. 2008