Implementing SDM into Clinical Practice: Law & Policy Update
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ISDM 2019 - Quebec City

I have **nothing**
to declare

Australia  
Canada  
Denmark  
Germany  
Netherlands  
Norway  
Taiwan  
UK  
USA

“**More work** has been
done on SDM in
**the US** than in any
other country.”

BUT
“not incorporated in mainstream care”

Few clinicians use PDAs
BUT

How law can push change

“comprehensive strategy . . . to promote wider uptake of SDM”

Coulter - World Psych 16:2 - June 2017

law

Medicine

Law
Roadmap

4 parts

4 Legal tools to promote PDA use

1

Liability tools

2
Liability **protection** for using PDA

Liability **risk** for **not** using PDA
Safe harbor
legal immunity for using PDA

Mandate Tools

Not just incentive - a requirement

AUSTRALIAN COMMISSION ON SAFETY AND QUALITY IN HEALTH CARE
SDM in accreditation measures starting 2019
DOH develop SDM tool for *maternity care* hospitals
"Mandated standardized written information"

Replace MSWI with PDAs

Liability tools

Mandate tools

Payment Tools
Agency in charge is CMS

Other insurers Medicare

Require PDA as COP

No PDA

5 examples

2015
1\textsuperscript{st} time Medicare required SDM

Screening for Lung Cancer with Low Dose Computed Tomography

30 pack year smoking history

Before CT scan

“must receive . . . SDM visit”
“include . . .
one or more
decision aids”

Coding
& billing

G0296
SDM

G0297
CT scan

Why
require PDA?

Doubt

Accurate
Unbiased
Balanced

from the
clinician
Agency in charge is CMS

Your discussion with patient is not good enough

Patient must also get informed with PDA

2016

Percutaneous Left Atrial Appendage Closure Therapy

LAA = source for blood clots that can cause strokes
Before implantation

"formal SDM interaction"
evidence-based decision tool”

Implantable Cardioverter Defibrillator

Before implantation

“formal SDM encounter must occur”
“evidence-based decision tool”

Transcatheter Aortic Valve Replacement

“CMS recognizes the importance of SDM.”
“strongly encourage standardized decision aids & tools that meet NQF standards”

BUT

“not a fully developed tool available.”

Federal

State

LDCT
Medicaid cover
advance care planning

“ACP shall consist...
...decision aids”

Recap

Link PDA use to
Liability
Mandates
Payment
**Type of Legal Tool** | **Number in Force**
---|---
Payment | 4
Liability | 1
Mandate | 2

**Obstacle**

**PDAs widely varying quality**

**LDCT**
“gratuitously inaccurate”

“miserable failure”

“not ready for prime time”

Ought not attach legal consequences

Assure PDA quality

Certification
Spine & joint replacement
7

Cardiac care
3

End of life
24

BUT

No national certification

Not yet
Conclusion

Certify PDAs
More legal tools

More legal tools
More PDA use
Better quality

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