Ethical Dilemmas Surrounding Forensic Evaluations in Psychiatric Urgent Cares

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INTRODUCTION

There are numerous reasons a patient may present to a psychiatric urgent care. Psychiatric urgent care centers provide an alternative to emergency rooms and quick access to a psychiatrist. We have noticed an increase in lawyers and probation officers sending patients for a psychiatric evaluation for various legal reasons. These evaluations range from general psychiatric evaluations after parole, to specific questions asked by lawyers to be answered. Patients may also present for evaluations regarding noncriminal matters, such as an evaluation for fitness for military duty or parenthood. Psychiatrists are trained to make a recommendation on a patient's acute risk of harm to themselves or others, but a psychiatrist who has a limited history with a patient may not feel qualified to comment on matters beyond the foreseeable future. Just as there are no restrictions on conditions which can be seen in a general emergency department, there are no guidelines for types of evaluations which can be conducted in a psychiatric urgent care. This phenomenon leaves many questions to be addressed, which are further complicated by ethical dilemmas. Here we present the case of a patient presenting to an urgent care requesting an evaluation for fitness for parenthood. We will introduce ethical issues that may arise when patients requesting evaluations regarding forensic matters present to a psychiatric urgent care. We aim to discuss barriers that a general psychiatrist may encounter during these evaluations, and propose potential solutions which might mitigate stressors for the psychiatrist and help the patient achieve their goals.

Clinical Deliema

A 40 year old male presented to our psychiatric urgent care in regards to a custody battle for his 8 year old daughter. Mr. L specifically requested commentary on whether his medical history of Systemic Lupus Erythematosus (SLE) affects his fitness for parenthood. At the recommendation of his attorney, he has attempted to see many psychiatrists for an evaluation commenting on his fitness for parenthood but has been unable to get this evaluation completed. At the beginning of the interview he was informed that confidentiality would be limited if he presented this evaluation to a judge. In addition, the nature of commenting on fitness to be a parent or the nature of his medical illness affecting his fitness to be a parent, would be outside the purview of a psychiatrist in an urgent care setting. The client was informed that given this is an urgent care setting, the purpose of this evaluation would be a general risk assessment and recommendation on the appropriate level of care and setting of treatment. The client was agreeable.

He and the mother of his daughter divorced one year ago, and he spends three hours with his daughter twice per week. He was unable to provide a response as to why this minimum amount of custody was granted. He lives alone in a home, is unemployed, and collects disability for his diagnosis of SLE. He follows regularly with Rheumatology and is compliant with methotrexate. A few times per year he experiences lupus flares which include joint pain, myalgia, fever, and fatigue. He does not think that his condition affects his ability to parent his daughter, including making meals, helping with schoolwork, and maintaining her safety. He had no psychiatric history prior to six months ago when his primary care doctor initiated Zoloft 100mg daily for depression, which the patient states was related to this custody arrangement. He has no psychiatric hospitalizations or suicide attempts. He drinks about three 12oz beers per week and denies tobacco, marijuana, and other illicit drug use. Sleep, appetite, and energy are typically fair unless he is experiencing a Lupus flare. He denies feelings of hopelessness, worthlessness, or suicidal thoughts. There are no firearms in the home.

Assessment Strategy

This is a 40 year old Caucasian male presenting for a psychiatric evaluation in the context of a marital separation with a custody battle. His risk factors for self harm include low support system, depression, recent divorce, a custody battle, and chronic medical illness. He has remained resilient and derives meaning from a positive parent child relationship. He cares deeply for his daughter and wants to live for her, as well as himself. He has no ideation, plan, or intent for self harm. The results of his PHQ9 indicate moderate depression. However, this appears to be a normal response to a custody battle and chronic medical illness. The patient is forward thinking and future oriented as evidenced by his concern for his daughter and interest in court proceedings. He does not meet criteria for inpatient psychiatric care and is appropriate for outpatient follow up. He verbalized an interest in establishing care with an outpatient therapist. His overall chronic risk of harm to self is mild and there does not appear to be an imminent acute risk. This risk may be changed due to dynamic interactions with his environment or life circumstances. His risk of harm to others appears low. This is determined by not having guns, having no history of violence, and not having any legal history as evidenced by record review.

There are limitations to this evaluation in the aspect of a legal proceeding. The patient was informed that if he were to present this to a judge, confidentiality would be limited. Systemic lupus erythematosus, an autoimmune illness that may involve multiple organ systems, is unable to be commented on. The patient primarily requested an evaluation commenting on medical illness and this psychiatrist deferred to the patient's rheumatology specialist and primary care doctor. If the patient was not truthful in accurately describing these events, the evaluation will be affected. This risk assessment is also limited as it cannot accurately predict the patient's behavior in times of stress or significant life events.

A thorough risk assessment concluded that he did not meet criteria for psychiatric admission and should initiate treatment in the outpatient setting. He was provided resources to establish outpatient mental health care. He declined a crisis stabilization visit which would involve a social worker visiting his home, but he was agreeable to a phone call by a social worker. He was informed that should he desire a formal evaluation for fitness of parenting, he should pursue a forensic psychiatrist or psychologist. He was able to request our urgent care evaluation from medical records two days after this visit.

DISCUSSION

The case above is an example of a patient visiting a psychiatric urgent care for a reason other than an emergency. When patients seek some kind of legal determination, ethical dilemmas may result. On an individual level, can the psychiatrist refuse an evaluation if they are uncomfortable or do not deem it appropriate, similar to the outpatient setting? The American Academy of Psychiatry and the Law stresses that those who do forensic evaluations should not be considered the patient's "doctor."[1] Because a physician is unlikely to refuse to care for a patient, especially in an urgent setting, the evaluation performed may leave the patient unsatisfied and their question unanswered. As in the example above, a general risk assessment was performed, but there was no comment regarding that patient's fitness for parenthood as he requested. The question of duty to the patient arises in this context. Psychiatric evaluations performed at the request of lawyers and parole officers limit confidentiality and contribute to a legal determination which make a physician not versed in such evaluations less objective and unbiased on giving a patient appropriate care. The principle of justice arises. Patients who visit urgent cares for nonurgent issues potentially shift resources away from emergent cases.

More thorough discussion and clarification are necessary to address this phenomenon. Substance Abuse and Mental Health Services Administration (SAMSA) guidelines for crisis services at urgent care or emergency settings justify acquiring the causes of the crisis evaluation, safety issues, an explicit assessment of suicide risk, medical and psychiatric histories, medication regimen, and medication compliance. SAMSA also recommends accepting all who present to the door. [2] The obligation a psychiatrist has in an urgent care setting aligns with these recommendations. Prior to an evaluation a patient presenting with a specific medico legal request should have these guidelines explained to them as the type of evaluation offered. If they do not wish to go through the assessment, they make their own choice. Emergency departments are unlikely to experience these types of patients asking for a medicolegal evaluation due to the nature of psychiatry being a consult service compared to the primary service in a hospital.

An important aspect that comes with medicolegal and forensic evaluations is noted by the "Practice Guidelines: The Forensic Assessment" as the element of truth and ability to pave an objective narrative.[3] Patients who present to an urgent care setting do not bring necessary documentation of medical or legal paperwork and often the assessment is based solely on their word of mouth. Given the lack of "emergency," a psychiatrist would only be able to obtain collateral information if permission was granted. This can increase the risk of patients coming for secondary gain.

If patients agree to a typical crisis center evaluation it is still important to discuss the limits of confidentiality if they decide to present the medical record to their attorney or parole office. It presents a quagmire because the evaluation is being used for treatment while typical forensic evaluations are not. Forensic evaluation confidentiality is governed by the requirements of the legal system compared to medical confidentiality governed by HIPAA. The record should always be requested by the patient through medical records of the institution and not given to the patient by the evaluating psychiatrist.

CONCLUSION

The case described above illustrates an increasing trend we have seen while working in a psychiatric urgent care. Patients have been presenting for nonurgent evaluations that aim to answer a specific legal question. A general psychiatrist may not feel qualified to make recommendations that may greatly affect a patient's life circumstances, such as custody or their legal standing. This discomfort may be exacerbated by factors such as urgent care time constraints and limited resources like collateral information. The psychiatrist may wonder about consequential liability issues. Lack of confidentiality and hindered patient rapport may deter non forensic psychiatrists from such evaluations. The general psychiatrist should be prepared to refer the patient to a forensic psychiatrist if he or she deems it necessary. However, given that the state of Michigan is struggling with forensic evaluations for patients incompetent to stand trial, the average individual will be left struggling as well. Forensic evaluations are expensive, ranging from hundreds to thousands of dollars. Magnified by the fact that there is a shortage of general psychiatrists, patients are led to follow the path of least resistance so they arrive to a psychiatric urgent care with a specific question. [4] There are many issues that arise when patients present to psychiatric urgent care with specific legal questions, and further discussion is warranted regarding clarification of these unique clinical scenarios.

REFERENCES

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