

Screening for Social Determinants of Health in the Clinic: Ethical and Legal Considerations

Quianta Moore, M.D., J.D.
Fellow in Child Health Policy,
Baker Institute for Public Policy
Adjunct Assistant Professor in Pediatrics,
Baylor College of Medicine

Screening in Clinical Practice

- ▶ History of Screening*
 - ▶ In 1951 the United States Commission of Chronic Illness defined screening as :
 - ▶ The presumptive identification of unrecognized disease or defect by the application of tests, examinations, or other procedures which can be applied rapidly.
 - ▶ Screening tests sort out apparently well persons who probably have a disease from those who probably do not.
 - ▶ A screening test is not intended to be diagnostic.

*Postgrad Med J 2004;80:463–469.

Screening in Clinical Practice

- ▶ Beneficial: "Does earlier treatment improve the prognosis?" "How valid and repeatable is the screening test?" "What is the yield of the screening service?"
- ▶ Screening Procedures (Standardized)
 - ▶ WHO:
 - ▶ General population screening
 - ▶ Based on risk factors or other indicators
 - ▶ HOW:
 - ▶ Valid, reliable, low-cost screening tool
 - ▶ WHAT:
 - ▶ Additional testing
 - ▶ Treatments

Screening for Social Determinants of Health (SDOH)

- ▶ WHO:
 - ▶ General population?
 - ▶ Screen based on insurance status
- ▶ HOW:
 - ▶ 4 screening tools used in Houston
 - ▶ Over 30 in the U.S. and counting
 - ▶ USDA food insecurity sensitive and specific
- ▶ WHAT:
 - ▶ Referrals to social service organizations
 - ▶ Food prescriptions

Implications for social screening in clinical setting

- ▶ Does it change the fiduciary role of the physician?
 - ▶ New patient expectation
 - ▶ Patient perceptions
- ▶ Does it change standard of care?
 - ▶ Increased liability?
 - ▶ Licensed clinical social workers operate under physician license
- ▶ Ethical concerns
 - ▶ Available “treatments”
 - ▶ Increased risk of discrimination?

Fiduciary role of clinicians

- ▶ Fiduciary principles impose a special measure of loyalty and devotion on several classes of professionals by virtue of their control over an important subject matter, the vulnerability of their clients and the resulting potential for abuse.
 - ▶ Duty to protect the vulnerable patient's interests
 - ▶ Confidentiality
 - ▶ Informed Consent
 - ▶ Avoid harm
- ▶ What is the fiduciary role in the context of SDOH?

Standard of Care

- ▶ Standard of care– “What would a reasonably prudent physician do?”
 - ▶ Look at statements by professional organizations
 - ▶ Expert testimony
- ▶ Medical Malpractice:
 - ▶ Applicable standard of care
 - ▶ Breach of that standard of care
 - ▶ Injury
 - ▶ Proximate causation between alleged breach and injury



Analogous Examples

- ▶ In some states, there is a legal duty to warn about the risks of hereditary disease.
 - ▶ *Pate v. Threlkel* (FL)—plaintiff won suit against physician for not telling her mother that her thyroid cancer was heritable → duty to 3rd party
 - ▶ *Safer v. Pack* (NJ)—court ruled “reasonable steps” need to be taken to ensure appropriate family members warned of risk of hereditary disease

Pate v. Threlkel, 661 So.2d 278 (Fla. 1995). ; *Safer v. Estate of Pack*, 677 A.2d 1188 (N.J. App., appeal denied, 683 A2d 1163 (NJ 1996).

Ethical considerations

- ▶ Ethical principles: beneficence, non-maleficence, justice, & respect for persons
 - ▶ What is the treatment?
 - ▶ Access?
 - ▶ Follow-up?
 - ▶ Cost?
 - ▶ Potential harm
 - ▶ Deterrent from care?
 - ▶ Discrimination
 - ▶ Implicit bias can affect diagnosis, treatment decisions, and levels of care*

*BMC Med Ethics. 2017 Mar 1;18(1):19. doi: 10.1186/s12910-017-0179-8.

What's the Bottom Line?

- ▶ Patient engagement
 - ▶ Unlike clinical screening tools where condition is unrecognized, people know their social condition—just need connection to resources
- ▶ More research
 - ▶ Patient attitudes/perceptions
 - ▶ Criteria and standardization of tools
 - ▶ Burden on physicians
 - ▶ Cost-effectiveness

References

- ▶ Morabia A and Zhang F. History of medical screening: from concepts to action. *Postgrad Med J*. 2004;80:463–469.
- ▶ *Pate v. Threlkel*, 661 So.2d 278 (Fla. 1995).
- ▶ *Safer v. Estate of Pack*, 677 A.2d 1188 (N.J. App., appeal denied, 683 A2d 1163 (NJ 1996).
- ▶ FitzGerald C and Hurst S. Implicit bias in healthcare professionals: a systematic review. *BMC Med Ethics*. 2017 Mar 1;18(1):19. doi: 10.1186/s12910-017-0179-8.
- ▶ Garg A, Boynton-Jarrett R, Dworkin P. Avoiding the unintended consequences of screening for social determinants of health. *JAMA*. 2016 Aug;316(8):813-814.
- ▶ Gottlieb L, Wing H, Adler N. A systematic review of interventions on patients' social and emotional needs. *Am J Prev Med*. 2017;53(5):719-729.
- ▶ Moore Q, Majumder M, Rutherford L, McGuire A. Ethical and legal challenges associated with public molecular autopsies. *JLME*. 2016;44:309-318.