

Ethical dilemma regarding more than one biopsy reimbursement



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“One for the money. Two for the show. Three to make ready. And four to go.”
—The Highwaymen, “One for the Money”¹

CASE SCENARIO

Dr Wily, a busy dermatologist, annually examines Mrs Rose, an 85-year-old white woman with a history of nonmelanoma skin cancers. Because of her age and difficulty ambulating, her son or daughter takes off work to drive her to her appointment. During the physical examination, Dr Wily finds 4 lesions that are clinically concerning for basal cell carcinoma. Mrs Rose has Medicare. Dr Wily photographs and documents all 4 lesions.

Dr Wily should:

- A. Obtain only 1 biopsy specimen today and reschedule the patient to return multiple times in the next few weeks to obtain additional biopsy specimens so that he receives full payment for each procedure.
- B. Obtain all 4 biopsy specimens today because it is difficult for the patient to travel to his office given her age, distance from his office, and dependence on other family members. She is otherwise healthy and can tolerate this number of procedures.
- C. Obtain 2 biopsy specimens today and reschedule to obtain the additional 2 specimens. This would allow him to at least get paid the full amount for 2 of the 4 biopsy specimens and seems like a fair compromise.
- D. Obtain no biopsy specimens at today’s visit and reschedule the patient for at least 2 biopsy visits. In this way, he does not traumatize the patient with 4 procedures on the same day as a full body skin examination.

DISCUSSION

Private practice is essentially a small business. The owner physicians have to cover the ever-increasing overhead, make a profit for themselves, and provide the best care possible to their patients. As a result, ethical conundrums often present themselves as exemplified in this case scenario.

Reimbursements for procedures vary depending on the type of procedure and number of procedures performed in 1 visit.² According to the Multiple Surgical Procedures Rule, physicians get paid 100% reimbursement for the highest level submitted procedure, 50% for the second same-day procedure, and 25% from the third through fifth procedure

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performed on the same day.^{2,3} In 2015, the Medicare payment reimbursement for obtaining any additional skin biopsy specimen was 31.7% of the amount reimbursed for the first procedure; this was reduced to 31.5% in 2016.⁴ Although the same surgical tray is usually used for multiple biopsy specimens, the amount of physician work and skill required for each procedure is the same.

Is it ethical for a dermatologist to schedule multiple appointments to ensure full or at least better reimbursement for their work? The businessman/dermatologist may believe that the sound fiscal approach would be to have patients return for as many procedure visits as needed to maximize reimbursement for his or her work. Although this would be the correct answer for a routine business model, dermatoethics principles suggest that this is a far more complex and nuanced scenario.

While assessing the ethical nature of the situation, the patient's perspective must also be considered. By making the decision regarding the biopsies without consultation with Mrs Rose, Dr Wily may be compromising Mrs Rose's autonomy or right to refuse or choose treatment. To respect patient autonomy, Dr Wily should offer Mrs Rose her options and allow her to choose when her biopsy specimens should be obtained.

Declining the option of performing procedures on the same day of the visit could be argued as maleficence. There may be many impediments for a patient to return for multiple visits, especially those who are elderly and dependent. Committing the patient to multiple return visits may cause emotional and financial harm to the patient and her family. A large proportion of patients who are at risk of cutaneous carcinomas are >65 years of age,⁵ and therefore transportation and travel to and from the office may not be feasible. In some parts of the country, patients travel long distances, upwards of 1 hour each way, to see a dermatologist. Additional office visits for the patient often involve requesting time off from work for the patient or family member who assists the patient, which complicates an already potentially stressful situation. In addition,

paying for transportation for a patient with a fixed and limited income could be tantamount to emotional and financial maleficence. These factors may contribute to an additional risk of the patient not showing at all for the subsequent visit and becoming lost to follow-up. Delay of care for a potentially serious and highly morbid condition, especially if the lesion of concern is worrisome as for an invasive squamous cell carcinoma or melanoma, might result in patient morbidity and even mortality as well as a future potential malpractice case. Alternatively, obtaining more biopsy specimens than the patient can physically or emotionally handle needs to be considered in this algorithm of how to deliver the best medical and ethical care.

Justice for this patient comes into question if a similarly comparable patient with other insurance or self-pay were treated differently. If a patient with private insurance that reimburses better for the same procedures were in this situation, a dermatologist may not feel the need to bring the patient back for multiple visits. In addition, if Dr Wily chooses to have Mrs Rose come back for multiple visits, the bond of truthfulness between the patient and physician may be compromised if he does not share with the patient all of his motives for asking her to return for subsequent visits. Lack of transparency between the patient and physician can lead to mistrust and may have detrimental effects on their relationship.

Beneficence is another consideration relevant to this scenario. Choosing what is best for the dermatologist's practice may not coincide with what is best for the patient. The American Medical Association code of ethics explains that in a patient–physician relationship, it is a physician's ethical duty to put the patient's "welfare above the physician's own self-interest."⁶ While physicians would be better reimbursed by having patients return each time a biopsy specimen was obtained, a physician is expected to act only in the best interest of the patient. The practice of medicine, although a business, is unique as physicians are obligated to practice in concordance with the Hippocratic oath.⁶

ANALYSIS OF CASE SCENARIO

Options A and D are likely the most appealing and lucrative options for Dr Wily. However, these choices, without discussion with the patient regarding their preferences, ignore the patient's right to autonomy. While a delay in scheduling the biopsy procedure may be acceptable for some lesions, such as basal

cell carcinomas, this would be completely inappropriate for other more worrisome lesions, such as lesions concerning for melanoma. Despite the type of lesion, the practitioner always runs the risk of the patient not returning for the follow-up visit, which may delay care and increase risk of morbidity for the patient. In addition, having the patient

return for a subsequent visit will likely mean that Mrs Rose's son or daughter has to again take time off from work so that she can be accompanied to the office visit. If Dr Wily discusses with Mrs Rose and her family the risks versus benefits of waiting and obtaining the biopsy specimen at subsequent visits, or if Mrs Rose verbalizes that she'd rather return at a later date for these procedures, option D would be acceptable.

Option C requires the patient to return for only 1 other subsequent visit. However, this alternative still subjects Mrs Rose and her family to the potential inconvenience of having to return and does not address notifying the patient and her family of the rationale behind this plan.

In our opinion, option B is the most ethically correct answer. It is clearly difficult for the patient to travel to Dr Wily's office. The patient and one of her children need to accommodate these appointments. With the patient's permission and cooperation, obtaining all 4 biopsy specimens on the same day as the office visit eliminates the need for Mrs Rose having to return to the office unless additional definitive therapy is required. With this option, Dr Wily does not have to worry about the patient being lost to follow-up if she has difficulty returning again for a subsequent visit. This option may be the least cost-effective for Dr Wily, but it is the most appropriate for the patient and her family, and it avoids a delay in the diagnosis and treatment of potential skin cancers.

BOTTOM LINE

It is unethical for physicians to have a patient return for a later visit to perform a procedure that could have been accomplished in 1 visit to be reimbursed more for their work. While our medical practices aim to be patient-centric, the business and bureaucratic reimbursement games enforced upon us have morphed medical practice into a more business-centric model. Unlike those who have obtained other professional degrees, when we graduated medical school we all raised our hands and swore to uphold the Hippocratic oath. Despite what insurance companies and the government have imposed upon us, our primary commitment is to be physicians first, rather than entrepreneurs, and the decisions we make regarding patient care should always be made based upon what is in the best interest of our patients.

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