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Dementia and the Law in Frontline Radiography: The Practical Experiences of Junior Clinicians in the UK

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Background

It is estimated that 850,000 people currently live with dementia in the UK, with the majority being aged over 65⁽¹⁾. It is this age group that is most likely to attend for radiographic procedures⁽²⁾ and approximately 30% of these will have dementia⁽³⁾. Nonetheless, the Society and College of Radiographers⁽²⁾ highlight the lack of published research pertaining to the care of patients with Dementia in radiography, particularly how legal and ethical issues are negotiated by radiography practitioners. For example, for any imaging procedure to take place, consent from the patient is both an ethical and legal requirement⁽⁴⁾, however for consent to be valid the patient must be competent, that is, they must have the capacity to understand the information given to them, be able to retain that information and finally be able to communicate their decision⁽⁵⁾. Given that Dementia is characterised by numerous symptoms, including problems with memory, language, understanding and judgement⁽⁶⁾, Dementia raises issues around capacity to consent⁽⁷⁾.

Method

Interpretative Phenomenological Analysis (IPA) was used to explore how junior radiographers (mean clinical experience = 3-5 years) manage the ethical and legal issues surrounding capacity to consent when dealing with patients who have Dementia. A sample of 6 imaging professionals took part in a single open ended, semi-structured individual interview. Data were analysed using standard IPA techniques⁽⁸⁾.

Findings

I. Assessment of capacity

- R1:** "I've always felt unsure how to assess capacity in dementia patients"
- R3:** "I wouldn't say I definitely know how to assess them"
- R4:** "I would see if they can identify themselves...date of birth/address"
- R5:** "I wouldn't say I know a lot about consent...with Dementia patients"

II. Understanding the examination

- R1:** "Sometimes you can just tell they're not understanding a word I just said"
- R1:** "How can we really be sure they understand"
- R2:** "They've been changed gone in the room and had ID checks"
- R3:** "I'd speak to them and if they reply they might understand"

III. Undertaking the examination

- R2:** "She attended, showing she'd consented, but I don't think she had capacity"
- R4:** "I presume consent because it is in their best interests to have it done"
- R5:** "If the patients seems happy to go ahead"
- R6:** "When the Doctor ordered the image...they took consent...justifying it"

Discussion

The radiographers interviewed showed a lack of understanding as to how capacity can be assessed. There was a presumption that patients who have Dementia would not be able to consent for examinations, despite this contravening Principle 1 of the Mental capacity Act (MCA)⁽⁵⁾. In this cohort the radiographer's stated that they were unaware of how to assess capacity, or relied on methods such as ID checks to determine capacity. ID checks, due to their reliance on long term, rather than short term memory, are not reliable methods for assessing capacity. Nonetheless a lack of capacity does not preclude the radiographers from undertaking examinations, and some recognised that it was possible to do so if it was in the patient's best interests. However a best interest decision can only be made, and supported legally, if the practitioner can demonstrate that they took all reasonable steps to assess capacity. Given that radiographers are not adequately assessing capacity, this can lead them open to accusations of trespass.

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