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Reflections from the Jury Box: Improving Evidence Based Practice through a Comparison with Our Legal System

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Abstract

***Background**: An experience serving jury duty prompted reflection on the parallels between evidenced based medicine and our legal system. **Findings**: The steps of the legal system can be tied to each step of the practice of evidenced based medicine. **Implications**: Patients should be included in evidence-based decisions. Pharmacists can act as resources for other providers practicing evidenced based medicine. Educators can use this analogy to teach evidence based medicine.*

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The Case

I had been looking forward to jury duty. I expected it to be a day of waiting around, as it had been in the past. I'd have nothing to keep me company but piles of work to catch up on and the awkward silence characteristic of a room full of strangers fulfilling this important civil service. For a busy pharmacy practice faculty member, it was a welcome change at that point in the semester.

I had no sooner settled in that my name was called. I was moved into another room for the jury selection process. Eventually, the judge called me up to the bench to answer the routine questions in order to elicit reasons why I should not serve. After those, he asked me, "Can you think of any other reasons why you should not serve in this case today?" I looked him in the eye and answered, "You know, I have been trying to think of one ever since I entered this room. But, no." He chuckled and sent me back to my seat.

The case opened and the trial began. My seat in the jury box provided an exciting perspective of an otherwise simple case of potential credit card fraud. What responsibility! What power! We listened to the charges, heard witness testimonies, and received access to an impressively thick stack of related documents. Before the judge sent us to deliberate, he stated, "In order to save some time, I've decided to appoint the foreperson instead of including that step in the deliberation process." My heart leapt. I felt like I was waiting to hear who was named captain the soccer team. "Juryperson Coppenrath, would you be willing to serve in this role?" Immediately I felt excitement, embarrassment, and an even greater sense of responsibility. He must have appreciated my thoughtful response earlier.

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I was the youngest juryperson in the deliberation room. My fellow jurors teased me lightheartedly about my appointment; I shared my story and background as a professor as a way to explain why he chose me. The room had a long table with 12 cushy swivel chairs, a large whiteboard with a colorful array of dry erase markers, and not a single window to the outside world. There was only a single point of entry, a door in one corner of the room. The case documents were stacked on the table. We had only about 45 minutes before the court would recess for the day. I took a quick "guilty/not guilty" poll and found that we were divided almost evenly. There would be no quick decision on this case. My inner professor couldn't resist using the dry erase markers to break up our decision into several smaller ones. The other jurors continued to tease me in a good-natured way. Then, we deliberated. I used my experience in the classroom to facilitate the discussion. I was surprised how passionate my fellow jurors were about the decision and the search for the truth.

We were called back in to the courtroom. After more pomp and circumstance, I stated that we had not yet reached a decision. I could sense that the judge was surprised, which in turn surprised me. It seemed that he had already made his decision. He wasn't letting on at all to us what his decision was. I was impressed; it wasn't his role to decide, only to enforce the rules of the decision-making process. He advised us against sharing the details of the case with anyone during the evening, and instructed us on how to return in the morning.

The next day was more of the same. The ceremony and seriousness of it all was infectious. Compared to what one reads about in the news, it was a simple charge for a relatively small amount of money. Regardless, we weighed the evidence carefully and with a sense of reverence for the justice system. Eventually, we came to a decision. My fellow jurors and I filed back out into the courtroom and, when prompted, I began to read the decision. I unintentionally paused before I read the actual outcome…or maybe it was intentional.

Parallels to EBP

As I walked from the courtroom to my office, I was struck at the parallels between the justice system and the practice of evidence-based medicine (EBM). EBM is the conscientious, explicit, and judicious use of current best evidence in making medical decisions.[1] They are both, in essence, a search for the truth. Both processes are intended to best serve the interests of individuals as well as society. Both work best when the process is followed. I considered each step of evidenced-based practice[2] (EBP) and how it relates to our justice system.

ASSESS/ASK: The first steps in EBP are to assess the patient, identify clinical problems, and construct a clinical question intended to guide a search of the medical literature. This reminds me of the actions taken when charges are filed. Clinical questions are usually worded in the PICO format (Population, Intervention, Comparator, Outcome). In our justice system, the population is the situation at hand. The intervention is the accused. The comparator is the possibility of alternative perpetrators. The outcome is the action of which the defendant is being accused. The situation is assessed and charges are filed.

ACQUIRE: Next, a search begins for relevant evidence. In EBP, this might mean a search of MEDLINE or a point of care database, discussion with colleagues, or consultation with a librarian or drug information specialist. In our justice system, subpoenas and summons are issued and all sorts of records are acquired. Testimonies are prepared and recorded.

APPRAISE: In this step, the evidence is appraised for quality. Different pieces of evidence are weighed against one another. Hopefully, the best available and most relevant evidence is identified and used to make a decision. This is similar to the deliberation step in our justice system.

APPLY: The highest quality and most relevant evidence is considered in the context of the clinical problem at hand. Cost and coverage, availability of treatments, and patient preferences are considered. A decision is made. Similarly, a decision about the case is made. The decision is specific to the case at hand, and may be different under a different set of circumstances. The same charge on another individual may result in a different decision.

ACT: Finally, the decision is implemented. The patient is prescribed treatment (or perhaps treatment is withheld), or some other intervention is made (or not made). In a comparable way, the accused may pay a fine or serve time in jail, or is found not guilty and has no further obligations.

However, a striking difference between EBP and our justice system is the WHO – who is serving each of these roles and completing each step? In the legal system, there is a whole team of legal counsel. Paralegals gather data. Attorneys build cases and strategize. Witnesses provide testimony or expertise. Further, juries deliberate and make decisions, and judges oversee and enforce processes. There are even transcriptionists that record the entire process so it may be filed and possibly used in the future!

All too often, a single overwhelmed clinician is responsible for all steps of EBP. There is seldom any support in the form of personnel at the point of prescribing. This clinician likely works in a silo as legal counsel for both sides, judge, and jury. Historically, the most common other party involved in the process was the drug rep. This individual would serve as "legal counsel" for the newest, marketable drugs. The evidence might be overstated in an effort place the new drug in the best possible light, and these actions would not be countered by another individual representing the older, generic drugs.

While the idea of an entire system of individuals working together to follow the EBP process sounds attractive, we must also acknowledge the stark differences in timeline. It may take weeks, months, or years for justice to be served. Some evidence-based decisions can be thoughtfully considered over days or weeks, and sometimes longer. But most often, a decision needs to be made during a patient encounter.

Implications

So what to do? At the very least, practice patient-centered care and include the patient in the jury box.[3] Provide him or her with the best available and most relevant evidence in patient-friendly language, state your opinions, and ask for a decision. When provided the risks and benefits of potential interventions in this way, patients can either make an informed decision and may even have improved health outcomes.[4-5]

If you are the clinician encountering patients, remember the role of the judge. Follow the steps of EBP as best you can with the resources you have available. Stay objective until you reach the mental "deliberation room." Instead of "innocent until proven guilty," tell yourself that the risks of potential treatments (especially new ones) outweigh the benefits until high quality, patient-oriented evidence is available that proves otherwise.

If you are a pharmacist without direct patient care responsibilities, consider how you can serve as a resource for the practitioners of evidenced-based medicine around you. Be a "paralegal" and bring them new evidence in the form of monthly journal clubs, journal rounds, or some other educational activity. Bring them the right evidence at the right time, at the point of prescribing. Provide "expert testimony" to help the clinician develop a strategy. Serve as judge by enforcing the process of EBP. Sit in the "deliberation room" as

clinicians weigh the evidence for a particular patient. Some practice models may include a pharmacist "attending" alongside a medical attending as medical residents round or complete patient visits. If you are not already doing this, could you begin? Discuss with your administrators and try to begin with a few hours each week. Collect outcomes and track your progress. Can you help the clinicians save time during patient encounters or rounding? If you are already serving this role, consider how you can be more effective. Request new or upgraded point of care clinical information databases. Include doctor of pharmacy students in this process so interprofessional education can occur. Physicians who train alongside pharmacists might champion the need for pharmacists in these roles after residency. Seek the best available evidence to make decisions, regardless of your setting. Pharmacists in managed care, public health, and administration practice EBP even without direct patient contact. Pharmacists teaching pharmacy students and medical trainees can use this analogy to teach EBP.

Some resources cite a final step of EBP – Evaluate your process. I'll never know the truth of the case I served, and I'll never encounter the accused again to ask him how I did. However, after we filed back into the deliberation room, the judge addressed us. He was an older gentleman, with many years of experience in the legal system. He thanked us for our service, and enthusiastically communicated his agreement with our decision. In his eyes, justice had been served.

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