

The editors of the Revista del Hospital Italiano de Buenos Aires would like to offer our readers the opportunity to reflect on issues currently under debate within the scientific community. To this end, we have invited two distinguished experts with contrasting perspectives to discuss fluctuating decision-making capacity in an academic forum, using a clinical scenario as the basis for their analyses. Below, we present the reflections of Dr. Oscar Mazza and Dr. Fabiana Giber on the following hypothetical case:

A 78-year-old man with a recent diagnosis of mild cognitive impairment lives with his daughter in Buenos Aires. After several episodes of abdominal pain, he is advised to undergo an elective laparoscopic cholecystectomy. Although he appears to understand the medical explanation, he repeatedly asks the same questions, is intermittently confused, and expresses fear about the surgery. His daughter believes he is no longer capable of making decisions for himself and requests that the procedure proceed. The treating team is thus faced with a complex dilemma concerning the limits of the patient's autonomy, the role of family members, and the physician's recommendation.

When Autonomy Conflicts with Harm Prevention

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This scenario presents both clinical and ethical complexity, requiring us to balance the principle of beneficence—the need to treat biliary disease that, in a 78-year-old patient undergoing surgery at a hospital with surgeons experienced in this procedure, does not entail a high risk of serious complications—with respect for the autonomy of a patient whose decision-making capacity lies in a gray area.

From a surgical perspective, the indication for cholecystectomy in this patient is not merely preventive but therapeutic, as it addresses an inflammatory biliary condition that is becoming recurrent and that, in addition to impairing quality of life, may herald a more serious event requiring hospitalization and emergency surgery. In this sense, the procedure is preventive, but preventive of more serious harm.

Furthermore, laparoscopic cholecystectomy performed by experienced surgeons is highly effective, with a rate of major complications of less than 2 per 1,000 procedures. Recovery is generally favorable in older adults without physical frailty, and nearly all patients are discharged within 24 hours.

In a 78-year-old patient, acute cholecystitis, cholangitis, or biliary pancreatitis are associated with significantly higher morbidity and mortality than elective surgery. Elective surgery allows for optimization of the patient's clinical condition, a thorough preanesthetic evaluation, and a postoperative course with minimal complications. Performing the procedure electively is the best way to preserve the patient's remaining cognitive reserve. Hospitalization is planned and brief, thus reducing the risk of in-hospital delirium and other episodes of acute confusion in this population.

Obtaining informed consent from patients with cognitive impairment is one of the most delicate challenges in bioethics. It requires a careful balance between respect for the patient's residual autonomy and the healthcare team's duty to protect the patient from harm. In such cases, the caregiver or surrogate decision-maker plays a critical role.

The caregiver should strive to make the decision the patient would make if they were able to regain decision-making capacity, even momentarily. If the patient expresses persistent opposition, the healthcare team and

* Commentary by Dr. Fabiana Giber: "Autonomy and Decision-Making Capacity in Older Adults with Mild Cognitive Impairment" [link]

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the caregiver should reassess the proportionality of the proposed treatment, unless the situation constitutes an emergency with imminent risk.

In this scenario, the healthcare team extends beyond its technical role to serve as both an ethical and a clinical mediator. Its responsibility is to lead a shared decision-making process that protects the patient from therapeutic overuse while also alleviating the caregiver's emotional burden, thereby preventing the decision from becoming a source of guilt or conflict. Finally, the team must ensure the legal and ethical integrity of the medical decision through thorough documentation in the medical record.

The ethical imperative in this case is protection. If the patient is unable to ensure their own long-term safety because they cannot fully understand the risks associated with the progression of biliary disease, the healthcare team and the family must act in a coordinated manner.

A diagnosis of mild cognitive impairment does not automatically negate autonomy. However, in this case, the patient has difficulty processing and retaining the information necessary to provide valid informed consent. For informed consent to be valid, the patient must demonstrate four core abilities:

- **Understanding:** comprehending the relevant facts regarding the diagnosis and proposed treatment.
- **Appreciation:** recognizing how that information applies to their own situation.

- **Reasoning:** comparing available options and anticipating their consequences.

- **Expressing a choice:** communicating and maintaining a consistent decision over time.

When a patient is determined to lack sufficient decision-making capacity to provide informed consent, surrogate decision-making is initiated. The order of priority is generally established by local legislation (in Argentina, Law No. 26,529 and the Civil and Commercial Code):

1. Advance Directives: if available, these take absolute precedence.

2. Legally Authorized Representative / Healthcare Proxy: a person previously designated by the patient.

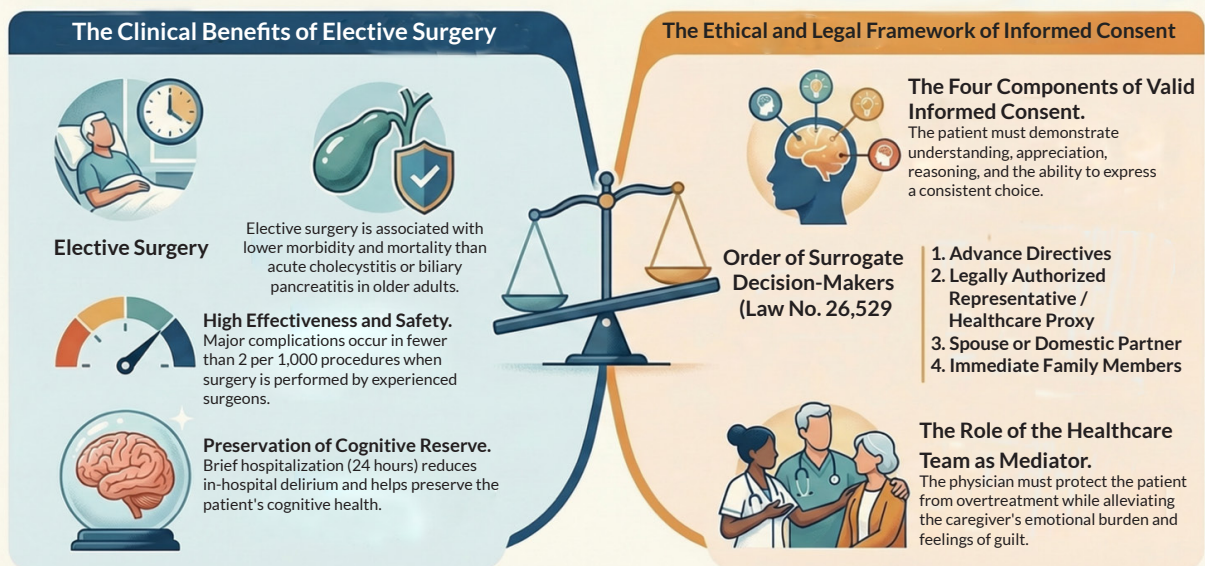
3. Spouse or domestic partner.

4. Immediate family members (children, parents, or siblings).

Advance Directives (ADs) are highly valuable tools for preventing situations such as this. They are essential for preserving the patient's autonomy over time by ensuring that their values and preferences regarding healthcare continue to guide decision-making even after they lose decision-making capacity. Their principal advantage is that they eliminate uncertainty for the healthcare team by replacing subjective interpretation with the patient's clearly documented wishes. They also substantially reduce the emotional and moral burden on family members, thereby helping to prevent ethical conflicts and subsequent feelings of guilt.

The Dilemma in Cholecystectomy: Ethical and Clinical Considerations in the Older Patient

The management of biliary disease in older adults with cognitive impairment presents a conflict between medical beneficence and patient autonomy. The goal is to prevent emergency complications through elective surgery while activating ethical and legal mechanisms when the patient's decision-making capacity is compromised.



Summary of the ethical dilemma in surgical decision-making for a patient with mild cognitive impairment:

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