

Diabetes and the Stem Cell Promise

When researchers announced in 1998 that they had derived stem cells from human embryos, scientists hoped that it would lead to a cure for Type I, juvenile onset diabetes.

Years later, the promise remains, but success has been elusive

Researchers at ViaCyte Inc. of San Diego successfully nudged human embryonic stem cells to become precursors to beta cells for islet cells in the pancreas. Transplants of these cells into mice have yielded promising results. Once implanted into animals, the cells developed into beta cells and reversed the diabetes in animals. But fine tuning the cells to be safe and effective in humans will take time. Additional problems include dealing with autoimmunity. “There was too much hype for this type of technology,” said Dr. Camillo Ricordi, an islet cell transplant expert from the University of Miami Diabetes Research Institute, “Next century when you look at it, two decades won’t seem like much. But for those affected right now, every month is too long.” (Eryn Brown, *Los Angeles Times*, Nov. 7, 2011)

Study Finds Signs of Awareness in 3 ‘Vegetative’ Patients

Three severely brain-injured people thought to be in an irreversible “vegetative” state showed signs of full consciousness when tested with a relatively inexpensive and commonly

used method of measuring brain waves, according to a report published in Nov. 2011 in the journal *The Lancet*. Experts said the findings, if replicated, would change standards of treating these patients.

Scientists have seen meaningful brain activity in such patients before, using a high-tech magnetic resonance imaging scanner, and in at least two cases, using an electroencephalogram machine, or EEG. But the new study is the first to test the innovative EEG strategy in a larger group of patients. An estimated 25,000 Americans with brain injuries are living in an unresponsive vegetative state. If the new approach holds up, an EEG could help family members see if there is any life behind the empty mask in their loved one’s eyes, and perhaps even a way to communicate.

“My personal view is that you don’t introduce anything like this into routine clinical practice until larger trials at multiple clinics confirm its value,” said Joseph t. Giacino, director of rehabilitation neurophysiology at Spaulding Rehabilitation Hospital, who was not involved in the research. “But is sure looks like there was a lot of consciousness in patients who had been deemed unresponsive.” (Benedict Carey, *New York Times*, Nov. 9, 2011)

Doctors Support Policy Once Derided as 'Death Panels'

Doctors overwhelmingly support the type of end-of-life care characterized as “death panels” in the health reform bill, according to a survey conducted by the Regence Foundation for the *National Journal*. Ninety-six percent of doctors who responded believe it’s more important to improve the dying patient’s quality of life than to prolong life as long as possible. Ninety-five percent said private insurance plans should cover palliative care, and 94 percent said Medicare should cover the services. (Sam Baker, *Healthwatch Blog*, Nov. 15, 2011)

Many Boomers Avoid Living Wills, Say They’re Too Young

An Associated Press Life-Goes-Strong.com poll found that 64 percent of boomers born between the 1946 and 1964 do not have a health care proxy or living will. These documents guide medical decisions if patients become unable to communicate with doctors. Respondents said they were too young or very healthy for their age. Kathy Brandt, senior vice president at the National Hospice and Palliative Care Organization, said a health care proxy and living will can spare families a painful fight and ensure that patients receive – or don’t receive – the medical treatment they wish should they end up in a situation where they can’t speak for themselves. (AP Polling Director Trevor Thompson, Deputy Polling Director Jennifer Agiesta and News Survey Specialist Dennis Junius contributed to this

report, <http://family.lifegoesstrong.com/most-midlifers-do-not-have-living-will>).

Disparities Cloud Health Improvements in Last Decade, Report Finds

Minority and low income groups are less likely to have a regular source of health care when compared to the general population, despite efforts over the past decade to remedy the situation. This and other health disparities persist across race, ethnicity, income level and education, according to the final review of Healthy People 2010, released in Oct. 2011. Progress has been made on some counts: Life expectancy increased a year from 76.8 years in 2000 to 77.8 years in 2007. Rates of death from coronary heart disease, stroke, and other illness decreased over the course of the decade. Nonetheless, health disparities remain a major problem. “It’s a source of ongoing frustration,” said Howard Koh, assistant secretary at the Department of Health and Human Services, which manages the Healthy People initiative. Much of the movement on disparity-related objectives “is certainly not in the right direction” or just stagnant, Koh added. (Christian Torres, *Kaiser Health News*, Oct. 6, 2011)

Students from the Center for Health Law Studies at Saint Louis University School of Law contributed the following items to this column. Amy N. Sanders, Assistant Director, Center for Health Law Studies, supervised the contributions of health law students Ann Schunicht (JD anticipated '12) and Lindsey Weinberg (JD anticipated '13).

Chief Justice Supports Decision Against Recusal in Health Law Case

In his annual report on the state of the federal judiciary, Chief Justice John Roberts defended Justices Thomas and Kagan's decision not to recuse themselves from the upcoming hearing on the health care case. Both justices have been accused of too much involvement with the new health care law and both have refused to recuse themselves from the hearing. Calls for Justice Thomas' recusal are based on his wife's involvement in opposition to the new health care law. Justice Kagan has been accused of being too heavily involved in the new law during her role as solicitor general in the Obama administration. The majority of the calls for recusal have come from partisan groups, but legal ethics experts say there is no evidence of any ethical violations. Stephen Gillers, an authority on legal ethics at New York University says, "It's not even close." (Adam Liptak, *The New York Times*, Dec. 31, 2011)

Shrinking Doughnut Hole for Older and Disabled People

New Medicare figures report that the "doughnut hole" will shrink about 40 percent for those who land in it. Before the enactment of the Affordable Care Act (ACA), the average Medicare beneficiary who fell in the doughnut hole paid \$1,504 a year on prescriptions. After the enactment of ACA, it fell to \$901. Two big changes led to the shrinking of the doughnut hole. First, a 50 percent discount was secured from pharmaceutical companies for brand name

drugs. Medicare also now pays a larger portion of the cost of generic drugs. (Ricardo Alonso-Zaldivar, *Bloomberg BusinessWeek*, Nov. 27, 2011)

Illinois Revives Doctor Data Bank

The Illinois Department of Financial and Professional Regulation created The Physician Profile which tracks malpractice judgments and settlements over the last five years. The site also allows consumers to see where the doctor attended school, whether he or she is taking new Medicare or Medicaid patients, board certifications, and the number of years in practice. The database includes 46,000 doctors and 4,500 chiropractors. The Illinois Supreme Court forced the closure of the website last year when it was deemed unconstitutional. The Patient Right to Know Act signed by Governor Pat Quinn in August 2011 revived the database. Doctors were given 60 days to review the information before it went live. (Carla Johnson, *Bloomberg BusinessWeek*, Oct. 19, 2011)

Work Insurance Often Offers Coverage for Programs to Stop Smoking

According to the Centers for Disease Control, 68.8 percent of current U.S. adult smokers report that they want to quit completely, and millions have attempted to quit smoking. Smoking cessation benefits individual health and helps reduce the cost of tobacco-related health-care spending which amounts to nearly \$100 billion annually. The Kaiser Family Foundation's annual survey of employer-sponsored health benefits indicates that in 2011, two-thirds of large-firm companies with

200 or more workers offered smoking cessation programs, while 31 percent of smaller companies did so as well. (Michelle Andrews, *Kaiser Health News*, Jan. 3, 2012

<http://www.kaiserhealthnews.org/Features/Insuring-Your-Health/2012/Michelle-Andrews-On-Stopping-Smoking>

Should Doctors Be ‘Parsimonious’ About Health Care?

The American College of Physicians published its most recent ethics manual on Jan. 2, 2012, as guidance for some 132,000 internists nationwide. As excess medical care contributes to skyrocketing cost of health care, the college urges physicians’ judgments to reflect “the best available evidence in biomedical literature, including data on the cost-effectiveness of different clinical approaches,” when treating patients. This approach takes into account protecting patients from costly and potentially dangerous tests and treatments they do not really need and conserving resources for the well-being of the overall community. Many health care policy experts are strong advocates of the idea that “efficient health care is good health care, economically and medically. However, the reference to “parsimonious care” in the manual alarms those who worry about the federal government rationing health care, and even some supporters of the overall concept. (Rob Stein, NPR News, Jan. 3, 2012 <http://capsules.kaiserhealthnews.org/index.php/2012/01/should-doctors-be-parsimonious-about-health-care/>)

In Treating Disabled, Potent Drugs and Few Rules

Taraneh Vargha’s sister came to America, the land of freedom, with hope. Like many of the developmentally disabled residing in group homes in New York, *The New York Times* discovered that Taraneh Vargha’s sister became victim to dangerous overtreatment using psychotropic drugs to control her behavior without a clear diagnosis of mental illness. A review by The Times found general practitioners with little expertise in the area sloppily dispensed these medications which alter the brain’s chemistry, without regular review, and the ultimate dosage of which could later be altered at the discretion of low-level workers without significant training. The annual review of New York’s nine large residential facilities for the developmentally disabled, conducted by the State Health Department, found repeated violations of basic protocol for drug treatment in all of them. Whereas State law says that “no medication shall be used for the convenience of staff” and “special attention shall be given to those individuals receiving psychotropic medication,” oversight is limited and reviews are seldom rigorous. A former psychologist who resigned from the Office for People with Developmental Disabilities in 2004 stated that she saw “people being medicated to control their behavior to such a degree that it was clearly affecting their health, their safety, their quality of life, [and] their ability to participate in the daily activities of the living.” This culture of using drugs to control disruptive behavior of the developmentally disabled, now increasingly discredited in the field of psychology, was common regarding people with conditions like autism, Down syndrome and cerebral palsy. As the Commission on Quality of Care is now

reviewing cases, state officials are searching for alternative approaches, especially those which follow policies banning “pharmacological restraints,” or the use of drugs for reasons beyond treating medical problems. (*In Treating Disabled, Potent Drugs and Few Rules*, Danny Hakim, *The New York Times*, December 22, 2011)

<http://www.nytimes.com/2011/12/23/nyregion/potent-pills-few-rules-in-states-treatment-of-the-disabled.html?hpw>

AHA Fears Tightening of Legal Restrictions Regarding ACOs

The Affordable Care Act established Accountable Care Organizations as a way for health care providers to team up with payers in an effort to eliminate incentives for inefficiencies. Officials of the Centers for

Medicare & Medicaid Services (CMS) and the Office of Inspector General unveiled specific rules in Oct. 2011 for how providers can participate in ACOs without violating the traditional rules against kickbacks, price-fixing, antitrust activity and physician self-referral. CMS loosened the initial rules after wide ranging criticism of their strictness. CMS subsequently announced that it planned to tighten some ACO fraud-and-abuse waivers by narrowing legal definitions after two years of experience with the program. In a letter of disappointment in a public request for comment, AHA expressed concern that the action would stifle innovation and undermine the certainty that these agencies purported to provide to ACOs. (Joe Carlson, *Modern Healthcare*, January 3, 2012 <http://www.modernhealthcare.com/article/20120103/NEWS/301039959>)