

Structure and function of the oncologic boards in Greece. Description of the institutional and scientific frame; objective problems and difficulties

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Summary

Purpose: Oncology boards should constitute a routine in all hospitals that are dealing with the care of cancer patients. Unfortunately the procedure which should be followed to deal with this health problem has some deficiencies.

Methods: A literature review has recently been attempted, searching Internet databases by using key words such as oncologic board, medical legislation and medical ethics.

Results: Current mentality suggests that hiding the truth from the patient is wrong and unethical. However, in the Greek society, this is not the case as it seems not right to adopt foreign practices, i.e. to disclose directly to the patient all information relevant to his health status, the intended therapy and possible outcome. Instead, ambiguous information pass onto relatives who in turn bear the burden of informing the patient.

Conclusions: The best solution would be the integration of the positive elements of the patient's awareness and the beneficial effects of the involvement of the Greek family in the general care of the cancer patient.

Key words: ethics, oncologic boards, regulatory affairs, social-medical study

Introduction

In Greece, malignancies constitute the second cause of mortality (23%) and the third of morbidity (9.4%) with apparently increasing trends. During their treatment, patients suffering from cancer seem to have a series of ethic and practical dilemmas, intermingled with the way the delivery of health resources is practiced. The function of an oncologic board is imposed for the above mentioned reasons before the application of any kind of treatment. The oncologic board must be composed by surgeons, medical oncologists, radiation oncologists and pathologists.

Methods, Results and Discussion

A literature review has recently been carried out. Internet databases were searched using key words such as oncologic board, medical legislation and medical ethics.

In Greece the institutional framework of an oncologic board is defined by the regulations of Medical Deontology 25/1955(A171), articles 27, 28, 29 and 30 (when and where it is convoked, its powers etc), the Declaration of Amsterdam (briefing, patients' rights), the law 3209 (24 -12-2003, page 5206, paragraph 2, over the formation and operation of the oncologic board of the Hospital) [1], and the Medical Code of Deontology /2005(briefing and patient's acceptance). Briefing is not a simple procedure, especially for those who suffer from cancer and constitute a social stigma. Moreover, the convocation of the board is not accompanied by a written binding deduction.

It is underlined that most of the time participants of an oncologic board discuss about patients without having seen them, while they have to take fundamental decisions about their health. It is thus understandable that quite often therapy has to be changed according to new data. That is to say that social factors and demographic data of each patient have to be taken into consideration.

It is clear that the physician is not legally obliged to heal the patient but to do his best to provide his services assiduously according to the scientific progress made up to that date.

Human life is protected by the Law in any form and under any circumstances. A fatal disease neither

negates nor restricts the staff's obligation to give the patient the proper care.

Generally speaking, physicians and nurses have an increased obligation to take care of patients and this is due not only to the possible danger which threatens human life and health but also to the relation based on the confidence between the patient and the doctor.

Consequently, doctors have to do their job according to the regulations and their knowledge of the technological advances in medicine (*lege artis*), otherwise compensation rights may be asked by the patients if health damage is proved or if doctors or health staff have not fulfilled their duties [2].

Furthermore, it is crucial to point out that patient's rights regarding legal matters and the relationship between physicians and patients are described in Law texts or in Declarations such as the one of Lisbon (Table 1).

According to the present legislation, life is the milestone of our civilization and therefore it is worth protecting it under any circumstances, even if the patient or his relatives think otherwise. According to the article 299 of the Penal Code, whoever takes human life is charged with homicide and he is sentenced to life imprisonment or he is put in jail for 5 to 20 years.

The first contemporary Greek Medical Deontology Code (Greek Government Gazette 171-A-16-7-55) [3] refers to the patients' rights in its articles 8

Table 1. Patients' human rights (Declaration of Lisbon)

The patient has the right to choose his physician freely.
The patient has the right to be cared for by a physician who is free to make clinical and ethical judgments without any outside interference.
The patient has the right to accept or to refuse treatment after receiving adequate information.
The patient has the right to expect that his physician will respect the confidential nature of all his medical and personal details.
The patient has the right to die in dignity.
The patient has the right to receive or to decline spiritual and moral comfort including the help of a minister of an appropriate religion.

and 9. The Penal Code points out that omissions or negligence during daily medical practice are considered to be 'punishable' (articles 300, 301 and 302) [4].

Social instructions are based on this spirit in the Law 2071-92, articles 47, 61, and 62, as far as the patients' rights in hospitals are concerned.

The Law 2519-1997, Greek Government Gazette 165, about Regulations in the National Health System emphasizes in his first article the civilians' rights to benefit from health services. The legislator also recommends the creation of a special committee with specific responsibilities for the protection of patients. A committee will also be set to facilitate the communication between doctors and patients.

The independent management by an advocate of health and social solidarity is established with the Law 3293-2004. This one is incorporated to an independent authority managed by ombudsman who has already provided services to any civilian in need of public health services. His jurisdiction has to do with the rehabilitation and the protection of any civilian and the transmission of the case to the relevant Ministry. The advocate for health and welfare examines the legality of individual administrative acts or omissions which may occur by the Health sector and which is pointed out by affected citizens. His intervention may appear after the civilians have submitted their case to the implicated Health Service. Furthermore, this advocate has the right to mediate in cases which concern the Ministry of Health and Social Solidarity, the regional management, insurance organizations, and pension/health care funds, general or specialized hospitals, psychiatric hospitals, health centers, regional and rural clinics etc.

One essential criterion to characterize a medical act as correct is the compliance with obligations by physicians as far as patients are concerned, according to the Medical Deontology and the respect of human life as it has already been mentioned.

In medicine, a clear distinction is often done between technical errors and errors of judgment.

Both errors can be made either during the period of diagnosis or during the treatment period, which consequently could damage the patient's health or even threaten his life. In addition, other errors can be

identified:

- Unnecessary errors, i.e. the ones doctors or nurses are not responsible for as they have done their best to fulfill their mission.
- Liable errors, i.e. the ones doctors and nurses are responsible for as they have made mistakes by omitting asking for the appropriate medical tests or by not achieving what can be done to relieve patients.

An accident is characterized as being random and unpredictable and as one which can damage the patient while doctors and nurses are not responsible for.

The failure of a medical action is specifically defined according to its result. An unsuccessful medical action has as a consequence to hurt the patient either by the non accomplishment of the therapy or by the existence of side effects regardless of the patient's restoration from his initial health condition.

The civil medical liability is divided into two categories:

- 1) The conventional one, which is the agreement made by a patient and a physician about the services provided by the latter of the two. It's in fact a deal with a work contract if the doctor's services are remunerated for a short or a long period of time and with a project contract if the doctor's services are provided for a specific medical act. As a result, a refund can be asked if the agreement is not respected.
- 2) The tortious one. In this case, the conditions asked for a refund are not only foreseen in the article 914 AK but also in some specific regulations. Here are some of the conditions: a) the irresponsible attitude and the lack of consciousness shown by the physician as defined by the Law and the common sense; b) the lack of knowledge, skills and attention which could have provoked a disastrous result; c) the negligence which could cause death or damage; d) the connection between practice and result or omission of medical service and result.

It's up to the judge to decide whether there is malfeasance or if damage is caused by accident, estimating the facts which occur in each case.

It is sometimes possible the damage caused to the patient to concern only his fortune, for instance when the patient has to spend a lot of money for his medi-

cation etc. The physician's specialty is taken into account too as the expenses may be higher due to this fact.

From the above-mentioned, legal penalties or excessive compensation may constitute a serious handicap to medical science and may not boost the right practice of it. The so called 'defensive medicine' is then put forward, i.e. the doctor - in a effort to protect himself against possible charges for negligence - orders unnecessary medical exams which may produce evidence of his innocence but certainly not promot-

ing the patient's welfare. Finally it is needed to point out that, despite the amendments made in the Medical Law (Law 3418/ 2005) to protect patients, same proved inadequate due to the complexity, and inconsistency of Greek legislation [2].

According to the District European Bureau of World Health Organization the content of the patients' briefing should include:

- The procedures concerning the diagnosis.
- The diagnosis itself.
- The various options of treatment, their advantages

Table 2. Greek Medical Code of Deontology 2005; Patient's briefing

Article 1 (meanings, definitions and applications) paragraph 48:

With the word 'intimate' we mean relatives by blood or marriage, foster parents and foster children, husband and wife, the long term companions, siblings, siblings' long term companions or spouses, commissioners and all those who are under judicial support.

Article 9 (doctor's obligations towards his patient), paragraph 1:

Priority is given to the protection of the patient' s health.

Article 11 (briefing obligations):

1. Physicians' duty is to tell the truth. Patients must be fully informed about their real condition, the application and the results of the suggested medical services, the consequences, the risks and complications of its applications, the alternative options and the rehabilitation time which may be needed. Taking then everything into consideration, patients can make up their mind and decide what the best is for them.
2. Physicians respect people's desire not to be informed. In this case, patients have the right to designate a person of their choice so as to be informed about their condition, the results of the suggested medical acts, the consequences and the possible dangers of them.
3. Special attention must be paid when patients are informed about surgical operations such as transplants, assisted reproduction interferences, gender change or rehabilitation and cosmetic surgeries.
4. If patients have not the ability to consent on a medical act, physicians should inform them as much as it is feasible. Other persons who have the authority to take decisions according to the next article must be informed too.

Article 12 (patient's consent):

1. The physician has not the right to act without prior patient's consent. For the rest of the cases, when a person has not the ability to take any decision, it is for the judge to decide or for the designated person what could be done. In each case, the physician must try to ensure the voluntary participation and cooperation of the patient and especially of the one who can comprehend his condition, the dangers and consequences of the medical intervention.
2. Not only the addition of all the positive elements of the autonomy of other societies but also the beneficial influence of the Greek family will lead to face the problem of patients' briefing suffering from malignancies more effectively according to the Greek mentality and not according to the adoption of other informative ways of other societies.
3. Briefing, informed consent and the respect of the patients' autonomy constitute fundamental ethical issues of the relation between doctor and patient. Patients' autonomy has been characterizes as the most common practice in medical ethics [7]. In hospitals, patients' briefing is not an easy matter, especially for the ones who suffer from a fatal disease or connected with a social stigma. Hiding a painful truth is common practice. A clear change has only been noticed in Western societies the last 30 years [8, 9]. The reason of hiding the truth is to give people hope which is crucial for their psychology [9-11].

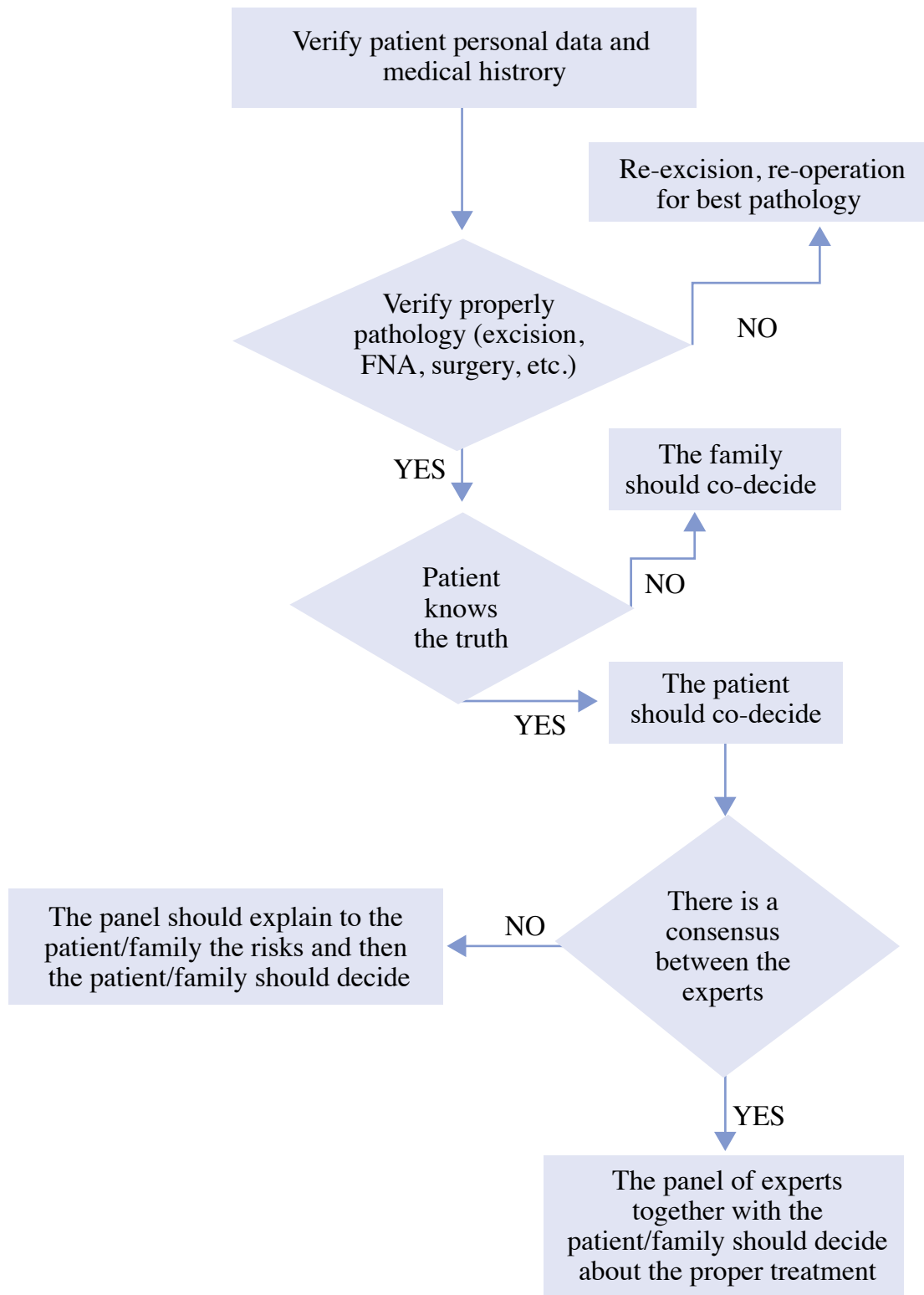


Figure 1. Flow chart with the suggested procedure involving the patient/family.

and disadvantages and their possible consequences.

- The eminent dangers or not of the therapy or the denial of it.
- The procedure of the treatment, its duration and the patients' suffering because of it.
- The prognosis.
- The results and the side-effects of the medication and their interaction with other drugs.
- The status of health and the way of life after treatment.

The Declaration of Amsterdam [5] about patients' rights in Europe in 1994 states that patients should be fully aware of:

- Their health condition and the medical data concerning their disease.
- The suggested medical procedures along with their benefits and drawbacks.
- The alternative options with their results on the diagnosis, the precognition and the course of treatment.

The Code of Medical Deontology, voted in the Greek Parliament, sets rules in our country for the first time which deal with the physician's obligations to inform his patients (Table 2) [6-10].

However, this regulation is not fully compatible to the Greek mentality [11].

In the last 30 years, the way of informing patients has radically changed from a protective concealing to fully revealing the truth condition to the patient. This change results to the human's respect and autonomy and is more intense in North America and North-West Europe. Hiding the truth from cancer patients is still in use in many countries including Greece. A great number of factors contribute to the different policies of information. Kallergis G. reported the methodology by which the information can be disclosed to the patient about his status. The method depends upon the character of each patient [12-15]. The communication among family members should be the determining factor for choosing the appropriate approach for informing them [16, 17].

In societies, such as the Greek one, where the family bonds are still strong, there is a tendency to overprotect sick people from the bad news as the whole family faces the problems and not only one of its members. Consequently, the relation between pa-

tient and doctor is transformed to a relation between family and doctor. This is a Greek reality and it has not been taken into account by the Code of Medical Deontology.

The Code of Medical Deontology which was voted unanimously by the members of the Parliament on 8 November 2005 deals with matters of briefing and patient's consent for the first time. The Code requires the patient's full briefing of his condition apart from the cases where the patient does not choose to be informed or he is not capable of being so [18]. On the other hand, it is well known that the patient is not aware of his condition, particularly after the diagnosis, and only his close relatives are informed. There is then a contradiction between the new Medical Code of Deontology and the traditional practice in our country [19, 20].

In a study made at the 'Aretaieion' University Hospital, only 23% of the patients' relatives suffering from cancer considered that they must be informed of their condition, while 73% of the health staff believed that they should be aware of their disease [21]. Moreover, 89% of the health staff considered that the relatives must be informed too. When health care providers communicate with their patients, they avoid using the word 'cancer' even if they know it and 62 % have difficulties in having a clear conversation with the patients when forecast issues have to be put forward. Forty one percent believed that briefing may lead to the patient's disappointment and isolation.

On the other hand, 71% of the health care providers were convinced that a basic element for the healing process is revealing the truth. Finally, most of the health staff considered telling the truth is the doctor's responsibility [22, 23]. A review of related studies from 1971 to 1987 showed that Greek doctors insist on hiding the diagnosis from their patients and hardly speak of their forthcoming death. On the contrary, more and more patients demanded a full briefing [24]. In a recent Greek poll among 1500 doctors in oncology or general hospitals, 22% revealed the truth and 76% preferred to inform the patient relatives. It is obvious that things tend to change step by step [19, 25, 26].

The change in the briefing procedure is related

with the change of social structures. This change of attitude has begun in the Western societies and demands the person's respect and autonomy even when it comes to medical decisions [27]. This attitude results in a change of series of social-financial character, such as the dense urbanization, the consumers' movement and the criminalization of the medical profession which is reinforced by the involvement of insurance companies. Progress made in healing cancer and therefore a decrease of the fear of diagnosis may be convincing factors of this change of attitude in briefing [28]. Finally, another essential factor seems to be the alteration of the family from the extended traditional type to a more nuclear one.

Conclusions

Oncology boards should be part of the routine function in all hospitals treating cancer patients. Unfortunately the procedure which should be followed to deal with this health problem has some deficiencies.

The Greek Ministry of Health and Social Solidarity (Ministerial decree 141758/12.11.2010) for the structure of the cancer centers dealing with cancer diagnosis and treatment, refers also to submitted proposals with respect to the restructure of oncologic boards [29].

Furthermore, the above amendments make reference to the control / assessment and records keeping in the oncology departments.

In addition, the responsibility of the function the oncology department is given to the Hospital's oncology committee, aiming to provide better services [29].

As far as cancer patients are concerned, the physician is obliged to conform to the patients' rights according to the directive of the European Union, the Hague Declaration and the article 47 of the Greek Law 2071/92 [30].

With the current mentality, hiding the truth from the patient is wrong and unethical. However, in the Greek society this is not the case as it seems not right to adopt foreign practices. On one hand, informing relatives is ambiguous but on the other hand the continuation of this informational policy is wrong.

So the best solution would be the integration of

the positive elements of the patient's awareness and the beneficial effects of the involvement of the Greek family upon one of its members. Thus, the best process for an oncological council should be a flow chart with the alternatives of one or more treatment options, whereas the main aspect should be the inclusion of the patient himself in the procedure of treatment decision. In other words the patient should be aware of his treatment effectiveness as well as of its toxic potential, and the oncological board should co-decide with the patient for the treatment options. This is in accordance with the good medical practice [31], aiming also to the patients' consent, which, no doubt, will lead to the reduction of malpractice (Figure 1) [21]. Further research on the impact of patient decision would improve the structure and the functionality of oncologic boards. In the future, the research should focus on the development of certain guidelines for the integration of expert's opinion and patient's decision.

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