

SPECIAL ARTICLE

Legal, cultural and ethical considerations on the informing of the cancer patient: a perspective from Greece

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Summary

Purpose: To discuss the current official legal position of the Greek Council and the official international statement on the subject, as well as the emerging cultural and moral aspects on the issue of informing the cancer patient.

Methods: Perusal of national and international legal and ethics sources, under a multidisciplinary perspective.

Results: According to the Council of State of Greece the violation of informing the patient by the physician constitutes urban liability and disciplinary offence. The Greek Code of Medical Ethics declares that the physician is obliged to inform his patient about his health and respect the desire of the patient who decides not to be informed. The UNESCO declaration does not seem to clarify the subject. In Greece,

physicians have the tendency to tell the truth more often today than in the past, reflecting the global tendency, although the majority still discloses the truth to the next of kin. The difference in the tactics of informing in several nations reflects huge cultural, social, economic and religious differences in each society.

Conclusion: Well informed and knowledgeable health-care and legal professionals, alongside with patients and ethical directors, should sit at the same table in order to productively discuss the most sensitive matters of the contemporary medical practice.

Key words: doctor-patient relationship, Greece, medical ethics, medical law, participatory medicine

Introduction

Multifaceted dilemmas and ongoing debates still dominate the issue of informing the cancer patient. A variety of questions should be taken into consideration in order to address this sensitive matter and, therefore, more information and objective knowledge are needed in order to achieve a productive dialogue. Psychological, legal, ethical and cultural aspects play an important part when it comes to communicate with the terminally ill patient [1,2]. In this context, we herein discuss the current official legal position of the Greek Council and the official international statements on the subject, and put the issue under cultural and moral perspectives in order to reach some meaningful conclusions.

The legal background

The judicial decision 521/2006 of the Council of

State of Greece set the question on the obligation of the doctor to inform the patient and his relatives. In particular, the Council of State accepted that there is liability of the public or the legal person of the public Law when the physician breaks the particular arrangement or the special obligations and tasks determined by the lessons of common experience.

Notably, according to the combination of arrangements of two laws (1565/1939 and 2071/1992), the patient (or his representative for mentally disabled persons) has the right to be informed about the risks that may be brought about on his health as a result of any diagnostic or therapeutic practices and provide his consent, which can be withdrawn at any time [3].

In an attempt to clarify the particular obligations of the physician, we read the law 3418/2005, the *Code of Medical Ethics*, which declares that the physician is obliged to inform his patient about his health, the suggested practice and the risks on the

patient's health. Therefore, according to the legal position, the patient should be fully aware of the medical, social and financial consequences of his condition in order to make a decision on his own. On the other hand, the doctor must respect the desire of the patient who decides not to be informed. In this case, the patient has the right to demand for particular persons to be informed by the physician [4].

Resulting from the above, the violation of informing the patient by the physician constitutes urban liability and disciplinary offence.

Cultural and moral aspects

The issue of informing cancer patients is more complex than in the cases of other diseases, mostly because cancer remains one of the major reasons of patient mortality and the word of diagnosis itself has been implicated by various negative personal and social reactions. The questions of whether, how and how much to tell cancer patients concerning diagnosis is still approached in many different ways across variable countries and cultures.

Although the subject of the different patient personalities has been well studied [5-7], intriguing socio-cultural relationships continue to complicate this face of the patient-doctor communication. The reason why this matter is chosen to be described is the remark that in Greece there are some peculiarities in informing patients compared to the western standards.

In Greece, physicians have the tendency to tell the truth more often today than in the past, reflecting the global tendency [8], although the majority still discloses the truth to the next of kin [9]. The truth is traditionally hidden under a spirit of over-protectiveness from the part of both the physician and the family. However, as mentioned above, the current official text of the *Code of Medical Ethics* does not except the rule of informing the patient unless the latter is not able to provide a consent, and even then, he should be informed to the extent that is possible.

According to the most recent "*Universal Declaration On Bioethics and Human Rights*" of United Nations Educational, Scientific and Cultural Organization (UNESCO) [10], the main principles that are involved in the issue are:

- The principle of the patient's autonomy and his individual personality (the main argument in favor of the full disclosure of the truth).
- The consent (always necessary).
- The principle of the benefit or "no harm" (originating from the Hippocratic practice, it justifies the paternalistic approach and uses the argu-

ment of the therapeutic privilege).

- The human dignity and the human rights (a complicated point, since the right to the truth contradicts the right to hide the truth, with the concept of the *relevant truth* emerging).
- The respect of privacy and confidentiality (which is, from the legal point of view, overridden when the physician informs the relatives instead).
- The respect to people's vulnerability and integrity (as discussed in psychological perspective).
- The respect of cultural diversity and pluralism.

Therefore, the UNESCO declaration does not seem to clarify the subject. The difference in the tactics of informing in several nations reflects huge cultural, social, economic and religious differences in each society, including, but not limited to, the role of stigma of disease in the society, the kind and the role of the family, the traditional ways of the children's upbringing, the hierarchical role of people in social groups, superstitions, the meaning of lies, what medical ethics consist of, the political system of each country, the social and economic conditions, the way that elderly and death are dealt, and religion and spirituality. Analyzing all these factors, it seems that even though in all cultures lay the basic principles of benevolence, justice and autonomy, they have different meaning or are perceived in different ways. Consequently, the subject of cultural relativism is central, with relevance to the deal of bioethical issues related to informing the patient.

Discussion

Currently there exist two contradicting models of thought on the issue of disclosing the truth to the cancer patient and it is hard to phrase a definite conclusion.

On the one hand, the oncologic patient, on occasion terminally ill, is a vulnerable and distressed human being. It was recently uncovered that in the week immediately following a cancer diagnosis, the relative risks for both suicide and cardiovascular death are significantly increased, as compared with those without a cancer diagnosis [11]. Moreover, within this concept lies the argument that the relationship between the doctor and the patient is "contractive", in other words the patient authorizes the doctor to do his best using any means he believes to be the most appropriate.

On the other hand, it seems that Greek physicians overexercise their means of justification towards the non-disclosure. This practice remains erroneous according to the modern standards of respect of human rights, and is not permitted by the

legal authorities, while it also contradicts the modern, and much desired by many patients' organizations, concepts of participatory medicine.

Interestingly enough, medical and law students seem to present differences in their convictions about the benefit or harm to the patient caused by being given information [12]. Relevant training and accumulation of the necessary knowledge is needed in order to equip medical practitioners with the

essential background to be able to leverage the experience towards the most proper individualized approach [13,14].

The above further imply that well informed and knowledgeable health-care and legal professionals, alongside with patients and ethical directors, should sit around the same table in order to productively discuss the most sensitive matters of the contemporary medical practice.

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