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Diagnostic and treatment processes and the requirement of patient's agreement in doctors' opinions

The contemporary medicine, along with its increasingly invasive character with regard to the patient's body, has exerted extensive pressure upon state institutions and medical chambers aiming at the development of suitable regulations protecting against the excessive doctors' interference with the body and psyche of patients and also enabling the safeguarding of patient's full autonomy. It is becoming more discernible that doctors' behaviour has been evolving from the paternalistic approach towards partnership that entails both parties' collaboration in the decision-making process concerning the diagnosis and treatment methods. This process is best noticed when it comes to the issue of taking medical measures after obtaining patient's conscious agreement. The term 'conscious agreement' emerged in the legal language fairly late, in 1957, during the lawsuit *Salgo vs. Leland Stanford Junior University Board of Trustees* (6). Much later it found its place in legal regulations concerning everyday medical routines. The fundamental factor of the patient's autonomy and simultaneously a remedy to the risk of patients acting against their own good is the process of obtaining the sick person's conscious agreement prior to the anticipated medical measures, both therapeutic and diagnostic. When obtaining conscious consent, a doctor must know that it is firmly attached to the preservation of patient's autonomy; what follows, a decision must be taken when the following conditions are met (2,4): 1) patient's intentional action, 2) understanding information from a doctor, 3) lack of external factors influencing decision-making.

However, in practice, in everyday doctor/patient relationships, many dissimilar manners of leading conversations on the planned medical steps are adopted; likewise, there are many different opinions on this issue expressed in the open. There is also a many years' tradition in which the sole fact of a patient reporting at a doctor's was perceived as the conjectured agreement to examination, as well as treatment. This tradition, however, originated in the times when, firstly, the average medical invasiveness was limited, and secondly, the prevalent attitude to patient was that of paternalistic character. Meanwhile, not only have the accepted doctor/patient relationships changed, but also the so-called legal environment. That is why, we decided to ask doctors to share their opinion, in the form of an anonymous feedback form, on the issue of obtaining from patients their conscious agreement to diagnostic and therapeutic measures.

MATERIAL AND METHODS

The research was carried out between 1 February 2003 and 1 September 2003 in different healthcare institutions, in selected units of a clinic, provincial hospital, subprovincial hospital, spa hospital, orthopaedic outpatient clinic and at family doctor's practice located in the Lublin Province and Podkarpackie Province. An anonymous questionnaire was proposed to the doctors, employed in the aforementioned locations, who expressed their willingness to take part in the surveying.

The purpose of the survey was to assess the level of knowledge of patient's rights regulations, their practical application in everyday work and the expectations connected with the process of

obtaining conscious agreement. When developing the questionnaire, we used closed questions of single and multiple choice answers, as well as semi-open questions. The questionnaire was completed by 231 respondents, which corresponded to 58% of doctors invited to the examination. The results were analyzed statistically by means of the SPSS pack, version 6.0. Several copies of the questionnaire were not completed in full, that is, some questions remained unanswered. Thus, it is worth noting that the percentage figures always refer to the number of data completed for the particular variables.

RESULTS

Almost all respondents (97%) declared the knowledge of the regulations on the protection of patients' rights in Poland (with 31.2 % reporting good knowledge). However, only half of the surveyed persons (47%) expressed the opinion the regulations concerning patient's rights refer also to diagnostic examination. Some more (51%) declared a good acquaintance and comprehension of the regulations.

Likewise, less than a half (43%) doctors regarded their knowledge of informing patients and obtaining their conscious agreements as good, 55% as inadequate, and only 4 (2%) admitted absolute shortage of information on this subject. The basic source of information about patients' rights for almost 2/3 of doctors (62%) was a medical periodical, and for almost 1/4, television (23%). As a significant supplement of the sources of the knowledge under discussion, some persons regarded fellow-doctors and training held by medical chambers, and additionally materials available in the place of work. Thirty-seven percent found the aforementioned regulations as entirely understandable, and just 7% as unequivocally defining the manner of reacting in every circumstance. The prevailing answers were those of partial comprehension of the regulations (60%) and their limited application (72%). Moreover, among the persons declaring good knowledge and understanding of the regulations, only 1/5 (20%) found them sufficiently regulating the doctor's behaviour towards the sick. Doctors clearly differed with regard to the meaning of the notion of 'giving conscious consent by the patient'. Merely a little more than 1/3 (35.5%) recognized as one its prerequisites both giving and understanding the information by the patient; the similar number of respondents (36.4%) stated that the sole informing was enough; 17.7% associated it with a written form, and 7.8% with an oral form.

Interesting as it may be to a researcher, only 6 doctors (2.6%) allowed for the possibility of expressing conscious agreement by patients endowed with suitable intellectual abilities necessary to comprehend the doctor's message. A strong majority of doctors (87%) regarded the written consent as the most reliable form of its expressing, but almost 9% still demanded additional legal verification, and only 4% noted that the oral form of consent should suffice. Sixty-five percent of doctors stressed the risk to patient's life as the most frequent cause of taking medical measures without patient's agreement.

DISCUSSION

The history of the issue of conscious agreement is relatively short. It was first mentioned at the beginning of the 20th century; however, those were merely deliberations of medical ethicists and philosophers. In 1957, after the lawsuit *Salgo v. Leland Stanford Junior University Board of Trustees* (6) the issue of conscious agreement was legalized, initially in the USA and next across Europe.

In Poland the notion of conscious agreement was introduced into the legal system not earlier than 1983 and incorporated into the Code of Medical Ethics. Conscious agreement was given its full meaning in the 1990's, under the pressure of widespread civil and penal actions brought by patients against doctors due to the lack of information before treatment and consequently the manner of obtaining the adequate consent to it, or alternatively to the extension of planned actions. After Polish accession to the EU in 2004, the European law became effective and expressly and

precisely defined the notion of conscious agreement. It requires Polish doctors to apply this law as it happens throughout Europe. At present, the whole legal and social background of the broadly understood medicine has undergone changes. Our teachers as doctors used to be the treatment sovereigns and we today became patients' partners. In the future, doctors are to take the role of advisors or alternatively the executors of patient's will (5). It appears that this role, also new to the patient, arouses serious doubts. The quantitative aspect of the introduction of co-deciding with patients as for the prophylactic examination of, say, breasts or prostate is well-known, yet there is a shortage of data concerning the level of their satisfaction after such a change of position within the therapeutic team (7). One of the most extensive definitions of conscious agreement was developed in the USA and adopted by the EU. It says that the patient has the right to be aware of and participate in all relevant decisions concerning their medical care; they are entitled to receive clear and concise explanation of all aspects of the proposed medical measures, providing for the reasonable alternatives of such measures, the assessment of death risk, serious obstacles resulting from particular treatment alternatives, the description of probable recuperation troubles and possibility of final success. When it comes to procedures which involve death or disability risk, all aspects related to the problem ought to be clarified in a written form and signed by the patient or an authorized person if the patient is incompetent to make such a decision (1) (legal guardian or actual carer). The agreement has three elements: revealing, understanding and freedom. 'Revealing' refers to giving appropriate information by a doctor in w manner comprehensible for the patient. 'Understanding' refers to patient's capacity of understanding the received data and the evaluation of the consequences of their decision that may be predicted by the doctor. 'Freedom' refers to the patient's right to make a free choice without being pressed, forced or manipulated (4). After analyzing the results of our research and the available literature, we put forward the following conclusions.

CONCLUSIONS

1. Most surveyed doctors proved to be lacking the knowledge of legal regulations on patients' rights; what is more, a large part did not realize their own ignorance.
2. Most doctors recognized the regulation on patients' rights as ambiguous and difficult to interpret and proposed alterations in order to make them more transparent and rational.
3. The majority of doctors trusted the written form of consent the most.
4. There is a need to run further research on the issue in the environment of patients, doctors and medical students in order to take measures with regard to legislation, health education and also modification of under- and post-graduate medical training.

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SUMMARY

The paper is focused on the broadly understood doctor/patient relationship. This relationship these days is undergoing a shift from a paternalistic model to partnership. This relationship is best exemplified by the so-called conscious agreement to treatment. It is a fairly novel term to denote patient's full and aware consent to any measures taken during the therapeutic process or diagnosis. The notion of conscious agreement concerns the broad sphere of medicine, ethics and law. In our paper we requested doctors to share their opinion on the purpose of obtaining such a conscious agreement to therapeutic and diagnostic procedures. The surveyed doctors completed an anonymous questionnaire composed of closed question of single and multiple choice, as well as semi-open questions.

Procesy diagnostyczno-lecznicze a potrzeba udzielenia zgody przez pacjenta w opinii lekarzy

Praca koncentruje się wokół szeroko rozumianej relacji pomiędzy lekarzem a pacjentem. Relacji, która w czasach obecnych zmienia swe stanowisko z modelu paternalistycznego na partnerski. Najlepszym przykładem tego typu relacji jest tzw. świadoma zgoda na leczenie. Jest to stosunkowo nowe określenie pełnej i zrozumiałej zgody pacjenta na działania podejmowane w procesie terapeutycznym czy diagnostycznym. Pojęcie świadomej zgody dotyczy szeroko pojętej płaszczyzny medycyny, etyki i prawa. Z prośbą o wyrażenie opinii na temat celu uzyskiwania przez lekarzy „świadomej" zgody pacjentów na działania diagnostyczne i terapeutyczne zwróciliśmy się do lekarzy w anonimowej ankiecie, skonstruowanej z pytań zamkniętych jednokrotnego i wielokrotnego wyboru oraz pytań półotwartych.