

Refusal of treatment – selected problems

Odmowa leczenia – zagadnienia wybrane



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Abstract

A doctor may refrain from treatment unless there is direct threat to life or sudden health risk. In the event of withdrawal from treatment, the doctor is obliged to inform the patient, his/her legal representative or an actual guardian in advance and to indicate other possibilities of obtaining medical services from another physician or healthcare facility. If a physician offers his/her services based on employment contract, he/she may refrain from treatment only if there are serious reasons and after obtaining consent of his/her supervisor. In the event of withdrawal from treatment, the doctor is obliged to justify his/her decision and record it in medical documentation. Provision of the Patients' Rights Act states that the patient, their statutory representative or actual guardian have a right to obtain information regarding intention to withdraw treatment sufficiently early, as well as to obtain medical services from another physician or healthcare facility. The Code of Medical Ethics regulates these issues in a similar manner, stipulating that in particularly justified cases, the doctor may refrain from treatment, except for cases requiring urgent medical intervention. However he/she is obliged to denote different possibilities of obtaining medical help.

Key words: refusal of treatment, discontinuation of treatment, withdrawal from treatment

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Introduction

A physician may withdraw or withhold treatment unless a direct threat to life or health of the patient is present [1–4], when the obligation to save life and health overrides doctor's right to withhold treatment. In the event of withholding treatment, the physician is obliged to inform the patient, their legal or actual guardian of that fact sufficiently early and to present alternative possibilities of obtaining such services from another physician or healthcare institution [5–7]. If the physician offers his/her services under an employment contract, he/she may withdraw or withhold treatment, if there are serious reasons for doing so, after obtaining permission of his/her supervisor. In

such an event, the physician is obliged to justify and record this decision in medical documentation. The regulation in question is contained in the provision of article 38 of the Medical Profession Act. It provides the legal basis for doctor's decision to withhold treatment, which is a relatively rare phenomenon compared to cases of patient withdrawal from treatment.

Withholding or withdrawal of treatment

In cases regulated by in the above-discussed law, the patient, his/her legal representative or actual guardian, have a right to be informed of doctor's intent to withhold treatment sufficiently early and to be directed to another

physician or healthcare facility for appropriate treatment [4, 5]. This right is also substantiated by the Code of Medical Ethics, indicating in Article 7 that in justified cases, the physician may withhold or withdraw therapy except for situations when treatment must be implemented without delay. While withholding or withdrawing treatment, the doctor should inform the patient of other options for obtaining medical care.

There may be various reasons for withdrawal of health services. Common justifications for treatment refusal include patient noncompliance with doctor's orders or medication [8, 9]. Such a behavior prevents the physician from fulfilling his/her duties in accordance with his/her conscience, medical knowledge and medical standards. Doctor is free to use the means and methods he/she considers most effective under the circumstances. He/she should limit diagnostic, therapeutic and preventive measures to those required by the patient and in compliance with current medical standards. Lack of cooperation on the side of the patient reflects distrust toward the therapeutic method and the doctor himself. Through inadequate adherence to doctor's recommendations, the patient may provoke negative consequences to health or decrease treatment effectiveness. In fact, it leads to a change of roles, where the patient undermines doctor's medical decisions, which is legally unacceptable, questionable ethically and stands in contradiction to medical standards.

Aggression or reprehensible, demanding, insulting attitude toward the doctor is an equally common cause of treatment refusal [10, 11]. It is unacceptable to expect unlimited and unconditional empathy from the physician, which would rationalize bearing with reprehensible behaviors in the name of ethics or other reasons. Aside from rights, patients also have duties, including mutual respect toward medical personnel and abstaining from insults, slander, as well as other acts of physical or verbal violence. The doctor does not have to force treatment on the patient or to conduct it at all costs — each patient has a right to choose another physician. Patient's behavior may obstruct medical treatment, posing significant discomfort and hindrance to medical staff, or may be even considered a violation of the law and personal rights of the staff. It should be extensively documented in patient's medical records through regular entries in medical documentation confirming objective circumstances constituting the basis for application of relevant regulations. Reasons for withdrawing from treatment may be subject to control of appropriate authorities, including the Screener for Professional Liability, the court or the payer. Refusal of treatment should be legitimized by medical reasons, cannot be an arbitrary decision, must be based on important premises and requires detailed justification in medical documentation [8].

Outline of other reasons for treatment withdrawal

The physician is not obliged to undertake or conduct resuscitation, persistent (medically futile) therapy, or extraordinary measures in terminal states [12–14]. The decision to discontinue resuscitation belongs to the doctor and is related to evaluation of chances for therapeutic success. This extremely complex ethical dilemma constitutes a matter for a separate debate; however, in this place it is merely reported as one of deontologically justified cases of treatment withdrawal by the doctor. Contrary to the principle of saving life at all costs and no matter the price, the current ethical norm corresponds with the right of the patient to have a dignified death. Such a case may pose a serious problem to the physician in view of the paradigm of saving life and preservation of health [15–19]. Nevertheless, continuous progress and current advancements in medicine may sometimes lead to artificial support of vital functions somewhat against nature and it seems that the above-discussed laws may be applicable in such cases.

The physician may refrain from providing medical treatments that are against his/her conscience unless there is direct threat to life or immediate danger to health, although he/she is obliged to provide the patient with information regarding realistic options of obtaining such a treatment with another physician or healthcare facility, and to justify and record his/her decision in medical documentation. Moreover, a doctor working under an employment contract is obliged to inform his/her superior in writing beforehand. Legitimate application of this law concerns situations where a legal norm requires the doctor to act against his/her conscience or religion. The “conscience clause” may only apply to individual doctors, not to healthcare entities, which must ensure implementation of patients' rights. The physician who refuses provision of medical services due to his/her values may be held accountable for any consequences occurring as a result of his/her failure to provide medical care if the patient required it urgently. The conscience clause only authorizes the physician to refrain from medical intervention, but not to undertake medical actions. Doctors' rights to exercise the full extent of employment privileges, including the right to associate in labor unions and, as a potential consequence, to go on strike, are restricted due to the axiom of patient's interest. The use of the argument of leaving patients' bedsides by the doctors stands in obvious contradiction to their duties. This results from both legal regulations of the medical profession, as well as from ethical principles, which are also supported by the law [20–24].

The obligation to provide medical care

The physician is obliged to provide medical care in any case when a delay would put the patient at risk of death, severe bodily harm or severe health deterioration, as well as in other urgent cases. This obligation to provide medical assistance to the patient is absolute and depends only on a patient's condition. The obligation to provide medical assistance imposed on doctors by article 30 of the Medical Profession Act is binding in all cases when a delay in medical care could result in outcomes described in that article, that is when the consequences could have been and should have been foreseen by the physician. In case of the occurrence of the outcomes defined in the article as a result of failure to provide medical care, the physician may be held criminally liable. Neither a healthcare facility nor an individual doctor may refuse medical services to a person who requires urgent medical care due to life-threatening or health-threatening conditions. In the Medical Profession Act it is defined somewhat more precisely as "threat of death, severe bodily harm or severe health deterioration" and "other urgent cases". However, urgent medical services do not include procedures that, even though life-saving, are used in chronically ill patients who require regular medical interventions.

Conclusions

The vocation of the physician is to protect human life and health, prevent diseases, treat the ill and relieve suffering. The physician cannot use medical knowledge and skills to act in contradiction to those ideas. However, while fulfilling the above-mentioned vocation, the doctor should freely perform his/her professional activities in accordance with his/her conscience and current state of knowledge. According to article 162 § 1 of the penal code, whoever does not render assistance to a person who is in a situation threatening an immediate danger of loss of life, serious bodily injury, or a serious impairment thereof, when he/she could do it without exposing himself/herself or another person to the danger of loss of life or serious harm to health, shall be subject to the penalty of deprivation of liberty [25]. For that reason, legal and ethical norms restrict doctor's rights to act on his/her beliefs and determine that in many cases the physician should favor patient's wellbeing over his/her own interests.

Conflict(s) of interest

The authors declare no conflict of interest.

Streszczenie

Prawodawca przypadek odstąpienia lekarza od leczenia reglamentuje ustawowo. Lekarz może nie podjąć lub odstąpić od leczenia pacjenta, o ile nie zachodzi stan bezpośredniego zagrożenia życia lub nagłego zagrożenia zdrowotnego. W przypadku odstąpienia od leczenia, lekarz ma obowiązek dostatecznie wcześniej uprzedzić o tym pacjenta lub jego przedstawiciela ustawowego bądź opiekuna faktycznego i wskazać realne możliwości uzyskania tego świadczenia u innego lekarza lub w podmiocie leczniczym. Jeżeli lekarz wykonuje swój zawód na podstawie stosunku pracy, może nie podjąć lub odstąpić od leczenia, jeżeli istnieją poważne ku temu powody, po uzyskaniu zgody swojego przełożonego. W przypadku odstąpienia od leczenia lekarz ma obowiązek uzasadnić i odnotować ten fakt w dokumentacji medycznej. Z przedmiotową regulacją koresponduje przepis ustawy o prawach pacjenta, zgodnie z którym pacjent, jego przedstawiciel ustawowy lub opiekun faktyczny mają prawo do dostatecznie wczesnej informacji o zamiarze odstąpienia przez lekarza od leczenia pacjenta i wskazania przez tego lekarza możliwości uzyskania świadczenia zdrowotnego u innego lekarza lub podmiotu udzielającego świadczeń zdrowotnych. Podobnie kwestie te reguluje Kodeks Etyki Lekarskiej, który stanowi, że w szczególnie uzasadnionych wypadkach lekarz może nie podjąć się lub odstąpić od leczenia chorego, z wyjątkiem przypadków niecierpiących zwłoki. Nie podejmując albo odstępując od leczenia, lekarz winien wskazać choremu inną możliwość uzyskania pomocy lekarskiej.

Słowa kluczowe: odmowa leczenia, zaniechanie leczenia, odstąpienie od leczenia

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