

PARTICULARITIES OF THE RIGHT TO CONFIDENTIALITY IN THE CASE OF UNDERAGE PATIENTS

CSANÁD ALBERT-LŐRINCZ¹

¹“Babeş-Bolyai” University of Cluj Napoca

Keywords: children, medical information, right to confidentiality

Abstract: The purpose of the right to confidentiality is to prevent divulging medical information. It is guaranteed for patients, with regard to the patient's health, results, diagnoses, prognoses, treatment and personal data. Legal background is objectionable, because there are no provisions adapted to the children's special needs. Referring to the implementation, quantitative data was collected by a number of 600 questionnaires and statistically processed. The results show that confidentiality is not perceived in practice as an absolute right, as it turns out from the answers of the queried persons. We have come upon a multidirectional information leak between physician, parents and patients, which however seems to be a necessity, since parents have a role of transmitting medical information. In the end, we may assert that all parties are satisfied with the application of the right to confidentiality. Confidentiality appears as a necessary condition for successfully involving the young in treatment activities.

Cuvinte cheie: copii, dreptul la confidențialitate, informație medicală

Rezumat: Dreptul la confidențialitate are ca scop împiedicarea divulgării informațiilor medicale către persoane neautorizate. Acesta este garantat pacienților cu privire la starea de sănătate, rezultatele investigațiilor, diagnosticul, prognosticul, tratamentul și datele personale. Prevederile legale sunt criticabile, deoarece nu conțin dispoziții adaptate la nevoile speciale ale copiilor. Referitor la implementarea acestui drept, au fost culese date cantitative printr-un număr de 600 chestionare, prelucrate statistic. Acest drept nu este perceput în practică ca fiind unul absolut, după cum rezultă din răspunsurile persoanelor întrebate. Am surprins o scurgere de informații multidirecțională între medic, părinți și pacient, care însă pare a fi o necesitate, deoarece părinții au un rol de transmitere a informațiilor medicale. La final se poate susține că toate părțile sunt în general mulțumite. Confidențialitatea apare ca o condiție necesară pentru angajarea cu succes a tinerilor în activitatea terapeutică.

INTRODUCTION

The study presents the contents of the right to confidentiality in the case of underage patients and some aspects referring to the practical implementation of these rights. The purposes include situations where the legal framework is unable to confer clear solutions for observing the right to confidentiality of the medical information. The presented research data were extracted from the authors' doctoral thesis, published here for the first time.

The right to confidentiality of the medical information is guaranteed for patients, with regard to the patient's health, the results of examinations, diagnoses, prognoses, treatment and personal data. The relevant provisions are represented in Article 21 and the following of the Romanian Law No. 46/2003 regarding patients' rights. According to this law, confidential information may be supplied only if the patient explicitly consents to it or in certain express cases provided for by other laws. The professional secret must also be kept from relatives. There are no special provisions for children.

The physician has the obligation to observe the professional secrecy that includes, according to the Medical Code of Deontology of the Romanian College of Physicians (published in the Official Journal of Romania, issue 418/18 May

2005), all information gained by the physician during his practice, either directly or indirectly, related to the intimate life of the patient, of their family, their relatives, as well as the problems of diagnosis, prognosis, treatment, and various circumstances concerning the illness. This obligation is indefinite in time, does not conclude with the cessation of treatment or the death of the patient.

With regards to minors, Article 43 Paragraph 3 from the Law No. 272/2004 concerning child protection provides for a general obligation whose responsibility shall lie on public or specialized private institutions and agencies with attributions in health services, ensuring the confidentiality of medical consultation asked by the child.

PURPOSE

The aim of the research was to identify the social problems concerning the children patients' rights to confidentiality.

METHODS

The data were collected at the end of 2011 and the beginning of 2012 by administering a total number of 600 questionnaires, out of which 200 to medical personnel, parents

¹Corresponding author: Csanád Albert-Lőrincz, Str. Bistriței, Nr. 4, Tîrgu-Mureș, Județul Mureș, România; E-mail: alcs@gmx.net, Tel: +40740 304981

Article received on 20.12.2012 and accepted for publication on 26.03.2013
ACTA MEDICA TRANSILVANICA June 2013;2(2):210-212

and children, randomized, and mainly in the counties of Cluj, Sălaj, Mureş and Harghita. The quantitative data were processed with the software SPSS using simple descriptive methods and other methods of statistical analysis. The category of medical personnel includes 57 physicians, 111 nurses and 32 lab technicians, anaesthesiologists, residents and others. The age of children ranged between 7 and 17 years old, with an average of 11.25 years, out of which 47% were boys and 53% were girls.

RESULTS

The purpose of the right to confidentiality is to prevent divulging medical information to unauthorized persons. This right is not perceived in practice as an absolute one, as it turns out from the answers of the persons queried. The idea of communicating confidential information with the physician alone is not widely accepted among the medical staff (n=197) and parents either (n=199), except when the child is sufficiently mature. The opinion that parents must know everything about the medical problems of the child dominates among 60.4 percent of the medical staff and 78.9 percent of parents.

We have tried to observe different concepts in parents, determined by the gender of the child. Taking into account the composition of the sample as well, with 47% boys and 53% girls, the data support the fact that there is an increased protective attitude towards girls, but at the same time the intimacy of teenage girls is respected more.

The cases in which the minor enters alone the physician's cabinet are relatively rare, but physicians as well as parents are willing to respect the wishes of the child to be alone during the medical consultation. Conversely, the presence of the parents does not make the children feel uncomfortable. Minors start to be more and more autonomous with age, but it is to be noted that in this research, some age groups were not representative in number. Children prefer to communicate with parents about the medical problems, a trait mentioned in the literature as well, as we shall see. Children do not wish to conceal any medical problems they might have from their parents, and consequently are satisfied with respecting confidentiality. 80.9% of the children (n=199) state that there is nothing they would only share with their physician without the knowledge of their parents.

As a positive result, we can say that parents (n=197), as well as children (n=199) are of the opinion that the right to the confidentiality of conversations between physician and patient is generally observed. 76.6% of the parents and 83.9% of the children state that they have never had their confidential information divulged.

Although, by respecting confidentiality does not raise uncommon problems in practice, we may say that the legislation in force does not offer a sufficiently detailed framework for the right to confidentiality with regard to minors, since the situations in which parents must be informed simultaneously or when certain information is to be communicated only to the child are not defined.

DISCUSSIONS

Respecting the right to confidentiality raises several problems in the course of its application. The physician must earn the trust of the child from the position of an unknown person, which assumes certain personality traits, but also high professional standards. Efficient communication between the physician and the patient can only come about if a therapeutic relationship is created, ensuring an environment in which the client may manifest themselves safely. In this context, one must resort to using a code of relationship other than the everyday rules. Thus, the physician is required to be uninvolved

emotionally, "the relation with the patient must be objective and unemotional. The physician has access to the patient's physiological and psychological privacy, which is vulnerable because of their state of illness and the discomfort produced by it. During the relationship with the physician, the patient "confesses", revealing his/her fears, pain, fright and anxiety caused by the illness. This relationship may involve a great degree of confession, but it differs from intimate relationships because it is not mutual".(1)

With children and young persons, respecting confidentiality is extremely important in order to involve them in therapy.(2) Usually, children and the young are honest with their physician and do not conceal medical information as long as they trust their physician. In the case of teenagers over 15 years of age, physicians are recommended to have direct contact with the underage patient without the participation of parents, while the results of the examination must be communicated to both child and parent.(3) But when it comes to a certain category of medical problems, the young are more reserved. In these cases, physicians must place great emphasis on the need for security evinced by teenagers and must show great tact. A survey carried out in the United Kingdom shows that even though 86% of teenagers would normally approach their family physician for health care, their number drops to 57% if the problem were related to pregnancy, HIV or substance abuse, and 25% more would eschew health care if they had fears related to confidentiality.(4) Ensuring confidentiality for underage patients has a distinctly utilitarian value in improving the rates of access to health care services.(2)

Not respecting confidentiality or the lack of necessary conditions – neglecting the establishment of the therapeutic relationship – presents a series of dangers as well as the risk of concealing medical problems from parents and physicians by teenagers between 14-18 years of age. The underage patient might attempt self-medication based on information supplied by the Internet. A study (2009) from the United Kingdom calls our attention to the fact that this information gleaned from the Internet is often erroneous. The purpose of this research was to evaluate physician's advice on different websites. 39% of the 500 sites checked gave correct information; 11% were incorrect and 49% failed to answer the question.(5) Here is a major risk in health care that the Internet represents to teenagers, next to all its beneficial aspects. This possible risk might be limited by ensuring the confidentiality of medical services for teenagers. The physician should continue to remain the main source of information to patients.

CONCLUSIONS

"Confidentiality is considered in general to be extremely important for the development of an efficient treatment, but at the same time it presents certain problems and challenges in working with children and teenagers. Confidentiality appears as a necessary condition for successfully involving the young in treatment activities".(2)

The right to confidentiality of the medical information does not raise uncommon problems in practice, even though the legislation does not offer a framework adapted to minors as well. We have come upon a multidirectional information leak between physician, parents and patient, which however seems to be a necessity, since parents have a role of transmitting medical information. Children prefer to communicate with their parents about medical problems and do not wish to retain medical information from their parents.

Physicians, as well as parents are willing to allow their child to enter medical consultations by themselves. In the end, we may assert that all parties are, in general, satisfied with the

application of the right to confidentiality of the medical information in the case of children.

Acknowledgement:

The research was financed by POSDRU Programme, EU.

REFERENCES

1. Miu N. Științele comportamentului, Ed. Medicală Universitară „Iuliu Hațieganu”, Cluj-Napoca; 2004. p. 21.
2. Jenkins P. Having confidence in therapeutic work with young people: constraints and challenges to confidentiality, *British Journal of Guidance & Counselling*. 2010;38(3):263-274. Disponibil la: <http://web.ebscohost.com/ehost/pdfviewer/pdfviewer?sid=45a3f988-62fd-4510-8a50-90f38b0073e1%40sessionmgr4&vid=2&hid=112> accesat la 03.10.2011.
3. Waterston T. A general paediatrician's practice in children's rights, *Archives of Disease in Childhood*. 2005. Disponibil la: <http://adc.bmj.com/content/90/2/178.extract>, accesat la 14.03.2011.
4. Carlisle J, Shickle D, Cork M, MacDonagh A. Concerns over confidentiality may deter adolescents from consulting their doctors: A qualitative exploration, *Journal of Medical Ethics* 32; 2006. p. 133-137.
5. Scullard P, Peacock C, Davies P. Googling children's health: reliability of medical advice on the internet, *Archives of Disease in Childhood*. 2010. Disponibil la: <http://adc.bmj.com/content/early/2010/02/22/adc.2009.168856.full> accesat la 14.03.2010.