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Patients' Rights in Turkey

Received: August 5, 1997

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Abstract: Patient's rights primarily mean the practice of human rights and values in the field of health care services and include the rights which are considered as third generation rights. Recently, in many countries, especially in European countries, concept of health care services which give importance to patients' rights has been developed. Patients' rights in Turkey is one of the least known is-

ues and remembered only by physicians' malparactises causing death or disabilities some of which are speculative. Efforts are needed to strengthen the patients' rights should be accelerated in order to protect the patients and physicians from unnecessary speculations in Turkey.

Key Words: Patient's Rights Turkey

Patient's rights primarily mean the practice of human rights and values in the field of health care services and include the rights which are considered as third generation rights(1). Among these rights are being respectable as a human being, receiving optimal health care, being informed, informed consent for medical procedures, privacy and respect to private life, assurance of continuity of medical care and treatment. Recently, in many countries, especially in European countries, concept of health care services which give importance to patients' rights has been developed(2). International Declarations regarding patients' rights have been improved and some countries like Holland accepted laws for patients' rights in their legal systems(3). Currently, European Region of World Health Organization and World Medical Association (WMA) prepared new declarations on patients' rights and determined joint strategies in order to improve patient rights. (Current declaration on patients' rights is enclosed). Common feature of these declarations is to emphasize the right to be healthy by expressing "prevention of diseases, maintenance of health care and opportunity to achieve optimal health status". Patients' rights have been specified by these declarations and the importance of patients' rights to seek legal help is also stressed.

Increasing efforts on patients' rights in recent years are due to some common concerns regarding health care services. The major concern is letting health care services take place in liberal market dynamics which continuously aim to make a profit(4).

These dynamics outdate the values, which provide humanitarian health care services and require to be respectful to the patient as an individual, and at the same time eliminate all the controlling mechanism (including laws). By the end of this process, patients or people who seek health care are being alone, feel powerless and most importantly feel worthless against physicians and health institutions. In most cases this estrangement results in enger expositions and violence. Complexity of health care systems, increasing number of procedures using new technologies and tissue transplantations require new formulations to be made on patients' rights(1). More efforts are needed on strengthening and protection of patients' rights against health institutions, health care workers and especially physicians allowing patients participate in health services more actively and informing patients on how to benefit from health care services. And more importantly, it has been pointed out that patients' rights can not be protected by "ethic" regulations and instead, legal arrangements should be carried out(3).

Current Situation in Turkey and Recommendations

Patient's rights in Turkey is one of the least known issues and remembered only by physicians' malparactises causing death or disabilities some of which are speculative. In reality, thousands of patients' rights are being violated in our country. For instance, patient has the right to be fully informed about his/her condition, potential risks and benefits of recommended procedures, alternative treatments, diagnosis and the

course of treatment; physicians should spend enough time with their patients in order to provide information on these issues. Considering only 5 or 10 minutes being spent for a patients' examination in our country, patients' rights to be fully informed about his/her health status is being violated every day. Although physicians are being accused, it is actually the mentality of health care services, which obliges physicians to work in these conditions is violating patients' rights. Rights on privacy, respect to private life, assurance of continuity of care and treatment are also continuously being violated due to various factors. Beyond these violations, the most important issue is that patients do not have sufficient access to the mechanisms to seek help for their rights or to complain about practises. Complaints regarding health issues are addressed to the presidency, prime ministry and ministry of health and some times to medical association and usually results in without a conclusion. Not only unawareness of patients' rights and inadequate number of patients' organizations but also lack of ethics or legal texts which arrange patients' rights plays role in this situation. In our country, patients and their relatives are uninformed, powerless and unprotected against physicians and health institutions and they usually accept whatever they experience. Patients do not know where to apply to seek their rights and information. In our country, there no law which is designed especially for "Regulations of Medical Ethics" and by several articles spread out in various laws and regulations. As the purpose of these regulations is basically to arrange the relations between patients and physicians, they don't include patients' rights of what we understand today. In addition to this penalties regarding patients' rights are not sufficient for patients to benefit from justise.

Malpractising physicians are being judged according to the regulations of medical ethics or Turkish laws. In both cases, process of judgment is long and exhausting and most case, patients are unjustly treated. A malpractising physician who causes death of his/her patient is fined only 3750-37.500 TL and sentenced to 2-5 years in prison. Because of current legal regulations and prolonged process of judgments, outcome of legal applications regarding rights of patient is usually not satisfactory and not dissuasive for other applications.

Efforts to strengthen the patients' rights should be accelerated in order to protect the patients and physicians from unnecessary speculations. Recommendations regarding this issue are as follows:

1. A "National Patient' Rights Declarations" similar to Declarations of WMA and European Patients' Rights, should be prepared and provided to every patient, who applies in health institutins, along with a "Brochure on Rights of Patients" consisting of other recommendations.

2. A "Patient Rights Unit" consisting of independent individuals should be established in every hospital in order to inform patients about their rights and facilitate the access of patients.

3. A "Bill on Rights of Patients" which would combine the legal regulations and also would take into consideration of contemporary developments on patients' rights should be prepared.

4. "Regulations of medical ethics" should be updated and enriched regarding patients' rights.

Annex

Revised World Medical Association Declaration of Lisbon on the Rights of the Patients

Preamble

The relationship between physicians, their patients nad broader society has undergone significant changes in recent times. While physician should always act according to his/her conscience, and always in the best interest of the patient, equal effort must be guarantee patient autonomy and justice. The following Decleration represent some of the principal rights of the patient which medical profession endorses and promotes. Physicians and other persons or bodies involved in the provision of health care have a joint responbibility to recognise and uphold those rights. Whenever legislation, government action or any other administration or institution denies patients these rights, physicians should pursue appropriate means to assure or to restore them.

In the context of biomedical research involving human subjects-the subject is entitled to the same rights and consideration as any patient in a normal therapeutic situation.

PRINCIPLES

1. Right to medical care of good quality

a) Every person is entitled without discriminitaion to appropriate medical care

b) Every patient has the right to be cared for by a physician whom he/she knows to be free to make

clinical and ethical judgements without any outside interference.

c) The patient shall always be treated in accordance with his/her interests. The treatment applied shall be in accordance with generally approved medical principles

d) Quality assurance should always be part of health care. Physicians, in particular, should accept responsibility for being guardians of the quality of medical services.

e) In circumstances where a choice must be made between potential patients for a particular treatment which is in limited supply, all such patients are entitled to a fair selection procedure for the treatment. That choice must be based on medical criteria and made without discrimination.

f) The patient has a right of continuity of health care. The physician has an obligation to cooperate in the coordination of medically indicated care with other health care providers treating the patient. The physician may not discontinue treatment of a patient without reasonable assistance and sufficient opportunity to make alternative arrangements for care.

2. Right to freedom of choice

a) The patient has the right to choose freely and change his/her physician and hospital or health service institution, regardless of whether they are based private or public sector

b) The patient has the right to ask for the opinion of another physician at any stage.

3. Right to self-determination

a) The patient has the right to self-determination, to make free decisions regarding himself-herself. The physician will inform the patient of the consequences of his/her decisions.

b) A mentally competent adult patient has the right to give or withhold consent to any diagnostic procedure or therapy. The patient has the right to the information necessary to make his/her decisions. The patient should understand clearly what is the purpose of any test or treatment, what the results would imply, and what would be the implications of withholding consent.

c) The patient has the right to refuse to participate in research or the teaching of medicine.

4. The unconscious patient

a) If the patient is unconscious or otherwise unable to express his/her will, informed consent must be obtained whenever possible, from a legally entitled representative where legally relevant.

b) If a legally entitled representative is not available, but medical intervention is urgently needed, consent of the patient may be presumed, unless it is obvious and beyond any doubt on the basis of the patient's previous firm expression or conviction that he/she would refuse consent to the intervention in that situation.

c) However, physicians should always try to save the life of a patient unconscious due to a suicide attempt.

5. The legally incompetent patient

a) If patient is a minor or otherwise legally incompetent the consent of legally entitled representative, where legally relevant, is required. Nevertheless the patient must be involved in the decision making to the fullest extent allowed by his/her capacity.

b) If the legally incompetent patient can make rational decisions, his/her decisions must be respected, and he/she has the right to forbid the disclosure of information to his/her legally entitled representative.

c) If the patient's legally entitled representative, or a person authorized by the patient, forbids treatment which is, in the opinion of the physician, in the patient's best interest, the physician should challenge this decision in the relevant legal or other institution. In case of emergency, the physician will act in the patient's best interest.

6. Procedure against the patient's will

a) Diagnostic procedures or treatment against the patient's will can be carried out only in exceptional cases, if specifically permitted by law and conforming to the principles of medical ethics.

7. Right to information

a) The patient has the right to receive information about himself/herself recorded in any of his/her medical records, and to be fully informed about his/her health status including medical facts about his/her condition. However, confidential information in the patient's records about a third party should not be given to the patient without the consent of that third party.

b) Exceptionanlly, information may be withheld from the patient when there is good reason to believe that this information would create a serious hazard to his/her life or health.

c) Information must be given in a way appropriate to the local culture and in such a way that the patient can understand.

d) The patient has the right not to be informed on his/her explicit request, unless require for the protection of another person's life

e) The patient has th right to choose who, if anyone, should be informed on his/her behalf.

8. Right to confidentiality

a) All identifiable information about a patient's health status, medical condition, diagnosis and treatment and all other information of a personel kind, must be kept confidential, even after death. Exceptionally, descendants may have a right of access to information that would inform them of their health risks.

b) Confidential information can only be disclosed if the patient gives explicit consent or if expressly provided for in the law. Information can be disclosed to other health care providers only on a strictly "need to know" basis unless the patient has given explicit consent.

c) All identifiable patient data must be protected.

The protection oo the data must be appropriate to the manner of its storage. Human substance from which identfiable data can be derived must likewise be protected.

9. Right to health education

Every person has the right to health education that will assist him/her in making informed choices about personel health services. The education should include information about healty lifestyles detection of illnesses. The personel responsibility of everybody for his/her own health should be stressed. Physicians have an obligation to participate actively in educational efforts.

10. Right to dignity

a) The patient's dignity and right to privacy shall be respected at all times in medical care and teaching, as shall his/her culture and values.

b) The patient is entitled to relief of his/her sufferenf according to the current state of knowledge.

c) The patient is entitled to humane terminal care and to be provided with all available assistance in making dying as dignified and comfortable as possible.

11. Right to religious assistance

The patient has the right to receive or to decline spiritual and moral comfort including the help of a minister of his/her chosen religion

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