Comments about Advance directives, palliative care and clinical bioethics committees present on manuscript entitled: The 10th Brazilian Congress on Bioethics from Bruno Rodolfo Schlemper jr

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Physician perspectives and legal implications at the end of life

The topic of the Brazilian Congress on Bioethics, “Advance directives, palliative care, and clinical bioethics committees,” is one of the most important issues in the field.

Beyond the psychosocial, medical, and ethical aspects associated with making an end-of-life decision, juridical concerns need to be considered as well. The difficulty in determining the legitimate time for the suspension of medical procedures in patients with incurable diseases is one of the obstacles that physicians face while making decisions.

What is right and what is wrong? What about the laws in different countries?

The ethical grounding for discussing end of life with patients is rooted in the principles of respect for the four bioethical principles: autonomy, beneficence, nonmaleficence, and justice (1).

In countries that explicitly oversee the right to orthotanasia, the practice is carried out with extreme legal certainty, following designed protocols. Hence, the patient’s wishes are guaranteed, as well as the removal of any kind of liability for professional medical and health institutions that participate in the process (2).

This scenario does not exist in Brazil. Although a resolution by the Federal Council of Medicine in 2006 and the revised 2010 Brazilian Code of Medical Ethics determine end-of-life decisions for incompetent, terminally ill patients, as you stated in your article, there is no federal law regulating these matters (3, 4).

When should doctors stop trying to treat patients? Current biological knowledge and technological skills have served to make death more problematic and harder to address. These dilemmas are complicated and result in difficult choices (2). At present, health actions are ruled more than ever by an inclination toward critical care and high-tech medicine.

Once the occurrence of death is deemed irreversible, who is responsible to decide in the case of an unconscious patient? How would familial ties and economic realities influence this decision? How could such a medical decision be questioned? Each moment is unique, and people have different emotions, reactions, and expectations. Even with informed consent, other family members may have different perceptions, and they may argue after the fact that they did not participate in the decision. Approval depends on the personal acceptance of the end of life by each relative. Meanwhile, the patient has the right to not receive futile treatment. In turn, the physicians should respect the wishes of the patient, but not necessarily that of the patient’s family.

In 2012, the Brazilian Federal Council of Medicine recognized the concept of a “Living Will” as a clinical record that patients prepare as proof of their willingness to undergo invasive or painful procedures to prolong their lives in terminal states. The Living Will is currently acknowledged in countries such as Spain, Japan, United States, Portugal, and Uruguay (5). This document could help avoid several dilemmas.

The possibilities that medicine can offer to extend life raise the problem of determining the limits to such extension. Protocols for end-of-life issues should be developed and validated. Laws must be crafted and enacted regarding this issue. Without clear rules, decision making becomes more difficult and personal, and consequently suffers from cultural, psychosocial, and religious influences. Laws and protocols help make this decision less emotive and more technical, as such safeguards facilitate the identification of goals and establishment of procedures. Medicine should emphasize concern for the patients with diseases instead of focusing on diseases themselves. It should be oriented to relieving suffering. For this ideal to become the standard, legal support is needed.

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