

## Physician–patient relationship

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Breach of the physician–patient relationship is the main cause of complaints and lawsuits against physicians. The famous Dr. Gregory House from the television series would quite probably not have a long professional career in real life.

In this article we aim to discuss this topic, basing ourselves primarily on the content of Chapter V of the Brazilian Code of Medical Ethics (CME), titled “Relationship with Patients and Relatives.”

Patients or their legal representatives have the right to decide the diagnostic and therapeutic procedures they wish to undergo, with the exception of life-threatening cases, after being informed regarding the diagnostic hypothesis and associated risks, prognosis, and treatment options, as well as of the risks and benefits of the proposed examinations and treatments, as is clearly stated in article 31: “The physician shall not disregard the right of the patient or his/her legal representative to freely decide on the performance of diagnostic or therapeutic practices, except in cases of imminent threat to life.”

The physician has the obligation to use, for the benefit of the patient all that is within his/her reach and is scientifically recognized as stated in article 32: “The physician shall not fail to use all the available scientifically recognized means of diagnosis and treatment in favor of the patient.” What is available to the physician in a specific situation and context must be clarified. For example, if the patient needs an examination that is not available in that healthcare facility, is also not available in any other facility, or is available in another facility but the patient is not in a medical condition to be safely transferred, there is no case for medical malpractice, provided the physician reports the fact in the medical record.

The physician cannot neglect a patient in an urgency or emergency case if there is no one else on site capable of providing the care as stated in article 33: “The physician shall not neglect a patient who seeks his/her professional care in cases of urgency or emergency when there are no other physicians or medical services available that could provide that care.”

The physician has the obligation to inform the patient about his/her disease and the proposed treatment provided that this attitude does not pose a risk to the patient, as can happen when someone with suicidal tendencies is informed that he/she has a serious or terminal disease, as stated in article 34: “The physician shall not fail to inform the patient about the diagnosis, prognosis, risks, and objectives of the treatment, except when direct communication may cause harm to the patient, in which case the physician must communicate with the patient’s legal representative.”

In the same way that a physician has the obligation to disclose the patient’s real medical situation to him/her, he/she cannot complicate the patient’s diagnosis, prognosis, and treatment. The aim of this conduct may be to “protect” the physician from a potential lawsuit, bring professional recognition, or increase his/her fees, which are all unacceptable, as is made clear in article 35: “The physician shall not exaggerate the seriousness of the diagnosis or prognosis, complicate treatment, or increase the number of visits, consultations, or any other medical procedures.”

The physician cannot abandon a patient under his/her care as stated in article 36: “The physician shall not abandon a patient who is under his/her care.” However, in cases wherein there is breakdown of the relationship or wherein facts occur that hinder the physician’s ability to practice, he/she can choose to

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stop treating the patient but with due precautions, as stated in paragraph 1 of this article: "When there are facts that according to his/her own judgment hinder the good relationship with the patient or the full performance of his/her professional duties, the physician has the right to renounce treatment provided he/she gives the patient or the legal representative previous notice, ensures the continuity of care, and gives all the information needed by the physician that will replace him/her." However, in the same article, paragraph 2 states the following: "Unless there is a justifiable reason, which must be communicated to the patient or his/her family members, the physician shall not abandon the patient because the latter has a chronic or incurable disease, and shall continue to assist the patient even if this only consists of palliative care."

Unless there is an exceptional situation, which should be reversed as soon as possible, the physician should not prescribe without a direct examination of the patient, as stated in article 37: "The physician shall not prescribe treatment or other procedures without a direct examination of the patient, except in cases of emergency and of proven impossibility of performing the examination, wherein he/she should perform it immediately after the impediment has ceased." When the physician prescribes without a direct examination of the patient, he/she assumes the responsibility for the result.

The physician cannot disregard the patient's modesty as stated in article 38: "The physician shall not disrespect the modesty of any individual under his/her professional care." For his/her own protection, the physician needs to explain each step of the physical examination and ask permission to perform it. In addition, the physician should avoid performing the physical examination without the presence of a witness in the room, who may be an accompanying person, a nurse, a secretary, or even someone who is waiting for a consultation.

The physician cannot disregard the right of the patient to be assessed by a medical committee or to have a second opinion as stated in article 39: "The physician shall not be opposed to an assessment by a medical committee or to a second opinion requested by the patient or his/her legal representative."

It is unacceptable for a physician to seek benefits or advantages of any sort by using his/her professional position as stated in article 40: "The physician shall not take advantage of situations resulting from the physician-patient relationship

to obtain physical, emotional, financial, or any other type of advantage."

The physician cannot shorten the patient's life, even if requested by the him/her, except in cases wherein the patient has an incurable and/or terminal disease as stated in the single paragraph of article 41: "The physician shall not shorten the life of a patient, even if requested by the him/her or his/her legal representative. Single paragraph: In cases of an incurable and terminal disease, the physician should provide all the available palliative care without taking futile or obstinate diagnostic or therapeutic actions, always taking into account the expressed wish of the patient or of his/her legal representative."

Finally, the physician should accept the will of the patient after informing him/her regarding contraceptive methods as stated in article 42: "The physician shall not disrespect the right of the patient to decide freely on a contraceptive method, and should always explain to him/her the indication, safety, reversibility, and risk of each method." This also applies to adolescent patients, in which case their maturity and judgment capacity must be respected.

To maintain a good relationship with the patient and his/her family members, the physician should take some precautions. The following are some that I find particularly important: seek good professional training and be updated through continuing medical education; respect the ethical principles by being knowledgeable of CME; respect the patient and his/her rights, acknowledge that there is no longer room for a priestly physician-patient relationship, wherein the physician plays a dominant role and the patient is submissive, and understand that the establishment of a relationship of equality and negotiation should be sought, while maintaining his/her authority whenever the situation calls for it; provide adequate care by listening to the patient and dedicating the necessary time to find a solution to his/her problem; prepare a medical record as detailed and complete as possible; and obtain free and informed consent.

To prevent and minimize the risk of professional lawsuits to the maximum extent, physicians should establish a relationship of trust and mutual respect with his/her patients and, especially in the case of pediatricians, with the patients' family members.

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