

Free and informed consent of pediatric patients

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Free and informed consent is based on the decision of an individual to whether or not undergo a diagnostic and/or therapeutic procedure after being informed of all the risks and benefits involved. The individual must be capable of discernment and capable of autonomously and voluntarily making such decisions.

Pediatric patients, like any other, should have the right to decide on the diagnostic and/or therapeutic practices to which they want to be submitted, within their capability of discernment, thus ensuring their right to autonomy.

The discernment degree in children and adolescents and, consequently, their autonomy, is always limited by their capacity to understand, which varies with age and degree of maturity.

The assessment CFM no 25 of 2013 states that “regarding adolescent patients, there is an international consensus recognized by Brazilian law that, between 12 and 18 years of age, they already have their privacy guaranteed, especially if over 14 years and 11 months, and if considered mature in terms of comprehension and compliance with the guidelines received... nevertheless, the concept of a mature adolescent may not be restricted to the age group only, according to the professional’s assessment, given that, within the dynamism that characterizes this developmental phase, maturity may suffer variation due to socio-environmental and personal influences.”

The Code of Medical Ethics shows great concern for the bioethical principles, including patient autonomy, to the extent that its Chapter V, Relationship With Patients And Family Members, states in Article 34 that “it is prohibited for the physician to not inform the patient about his/her diagnosis, prognosis, risks and treatment goals, unless when direct communication may cause harm, in which case, the communication must be made to the patient’s legal representative”. In the same chapter, Article 42,

the code, states that “it is prohibited for the physician to disrespect the right of the patient to freely decide on contraception methods, and the physician must always elucidate the patient on indication, safety, reversibility and risks of each method.”

Regarding pediatric patients, the Code of Medical Ethics also shows concern about their right to autonomy. In Chapter IX, Professional Secrecy, Article 74 states “it is prohibited for the physician to reveal professional secrecy related to the under age patient, including to parents or legal representatives, provided that the minor has capacity of discernment and except in cases that the non-disclosure may cause harm to the patient.”

Article 101, in Chapter VII, Teaching and Medical Research, states “it is prohibited for the physician to fail to obtain free and informed consent term from the patient or his/her legal representative for conducting research involving human beings, after explaining the nature and consequences of the research. Single paragraph: in the case of the research subject being a minor, in addition to the consent from their legal representative, their free and informed assent is required, to the extent of their understanding.”

Consent is the act or effect of consenting, the statement that authorizes something. Assent is the act or effect of assenting, of agreeing. It is to allow, to admit, to approve.

Children and adolescents assent, as well as the adults consent, should be equally free and informed.

According to Article 21 of the Child and Adolescent Statute, “the family power will be exercised on equal terms by the father and mother, in the manner determined by civil legislation and, in case of disagreement, the right to appeal to the competent judicial authority to resolve the dispute shall be assured”.

Informed consent should be requested from the father and from the mother, unless one or both lost that right. If the

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consent is not obtained through numerous forms from the existing patient's familiar members, or even in the absence of this structure, it is necessary to appeal to judiciary procedures.

We must understand that it is necessary to respect children and adolescents right to autonomy. As Paulo Freire affirmed in his book "Pedagogy of Autonomy", "The respect for the autonomy and dignity is an ethical imperative and not a favor that may or may not be granted to others". Parents/legal guardians, educators, and physicians like us should always have this in mind when dealing with individuals in this age group.

Autonomy, which derives from the Greek word *autonomos* (*autos*: "self" and *nomos*: "law"), is the individual's ability to manage their own life, using their own means, wills and principles. Perhaps the greatest difficulty for greater children and adolescent autonomy is the comprehension by parents that they do not "own" their children, but they are those responsible for ensuring and protecting their children legitimate interests.

We need to see children and adolescents as human beings with rights and duties, always respecting their level of discernment and degree of maturity.

In 2014, we were faced with a Facebook post by an English 11-year-old child, Reece Puddington. He warned his more than 24,000 followers that he would abandon his cancer treatment, in a text entitled "The Beginning Of The End". In the text he said that

'My mum had always hoped over the last five to six years that she would have the courage to know when enough was enough. After careful consideration, my mum thought that if she was doing it for herself she would keep sending me for treatment as she wouldn't want to let me go, but if she was doing it for me she'd let me go. Well, she's letting me go...'

Finally, I conclude with a point for reflection: The Dutch newspaper, the *Het Nieuwsblad*, published that on September 17, 2016, euthanasia was practiced for the first time for an underage patient in Belgium, under a 2014 law. The patient's name and age were not disclosed. Belgium is the only country in the world that authorizes, without age limit, minors with "power of judgement" who are suffering from an incurable disease to choose to end the suffering, given that the patient is in "constant and unbearable physical suffering that cannot be mitigated and that results from a severe accidental or pathological incurable disease". The child or adolescent needs to take the initiative of the request, which is studied by independent medical and psychiatric or psychological teams. Parental consent is also required.

REFERENCES

1. FREIRE, Paulo. *Pedagogia da autonomia: Saberes necessários à prática educativa*. 40. ed. São Paulo: Paz e Terra, 2009.