

Autonomy, capacity and dignified death



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Summary: The Council of Europe protects the right of people in terminal phase or dying, to self-determination. But only if the patient is competent, you can make independent decisions about their health. The capacity will be assessed by doctors to consider as valid informed consent.

Keywords: Personal Autonomy; Mental Competency; Right to Die; Decision making; Bioethics; Informed consent; Validation Studies.

Manuscript

The doctor-patient relationship, nowadays, follows the clinical method “ focused on the patient” where the physician has a double task, understand the patient and understand the disease, in this context are key exploring the experience of illness, shared decision making and the search for agreements to which the patient is able to take responsibility for their own salud ¹ . In this manner, it could be considered the patient medical encounter as a meeting of experts, Doctors are experts in medical science and patients are experts in their lives. And this is because modern ethics has transformed the maximum standard Hippocratic “ aegroti salud suprema lex” in “ aegroti voluntas suprema lex”, that is, now is not the health of the sick the supreme law because it is his will (Sass) ² . The emergence of the value of personal autonomy has profoundly changed the values of the clinical setting, it must now adapt to the individuality of the sick person. In a democratic society, respect for the freedom and autonomy of the person must be kept during the illness and fully achieve the process of death ³ . Ten years ago, on October 19, 2005, the General Conference of UNESCO adopted the Universal Declaration on Bioethics and Human Rights ⁴ , which states, in Article 5, it <https://assignbuster.com/autonomy-capacity-and-dignified-death/>

must respect the autonomy of the individual in relation to the power to make decisions. The exercise of this right leads us to define and protect the ideal of a dignified death, and that is if all human beings aspire to live with dignity, die with dignity is also part of a dignified life. Among the fundamental contents of the ideal of “ death with dignity” that enjoy consensus, is the right of patients to receive comprehensive high-quality palliative care.

Recommendation 1418/1999 of the Parliamentary Assembly of the Council of Europe, 5 “ Protection of human rights and dignity of the terminally ill and dying” in Article 9, paragraph B, protects the right of the terminally ill or dying to self-determination, and also recommends taking steps to ensure that health decision, which elects the patient or their family may be respected, including the rejection of a specific treatment measures. It also recognizes that a death wish of a terminally ill or dying person cannot in itself constitute a legal justification for actions to end his life. In Spain is not authorized euthanasia or assisted suicide and other actions are considered good practice to record the living will to make decisions about the refusal of treatment, the limitation of life support and palliative sedation. With this in mind, we asked if a sick person is able to make a decision about their health, sick people are able to make that decision and at that particular moment? If we believe in informed consent as an ongoing process, communicative, dialogic (spoken), deliberative and conservative, we need a patient with capacity made (competition) to make decisions about the nature of his illness, the effects of it and the risks and benefits of diagnostic and therapeutic procedures, requesting approval to undergo any them ⁶ . Thus the purpose of informed consent is obtained; We talk about guaranteeing the rights of patients, empower, protect the patient from unwanted treatment

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and help you make the right decisions about health care, so that they are correlated with their personal values. The capacity to which we refer is the competence that the doctor can and should evaluate in the clinical practice and is what we call “ capacity of made or natural” ⁷ . It is a psychological and clinical concept, defining the psychological skills needed to take, here and now, a certain decision ⁸ . Only if the patient is competent, you can make independent decisions about their health ⁹ , therefore, assess the ability of the patient is in fact a fundamental requirement in the process of informed consent. Capacity is the ability of the person to understand the situation it faces, the values that are at stake, the possible courses of actions and expected consequences for, then take express and defend a decision that is consistent with their own values. It varies over time, if mental status changes, also capacity ¹⁰ . The Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the application of biology and medicine, the Council of Europe, commonly called the Oviedo Convention, in force since 1 January 2000 ¹¹ , in articles 6, 7, 17 and 20 deal with the problem of lack of capacity to consent freely. Thus, the most important ethical argument of the obligation to assess the competence or ability of a patient is the principle of nonmaleficence, for those actions that may cause physical or moral harm to persons should be avoided. And so maleficent will allow the patient natural inability to take decisions, which can cause health damage, such as preventing the patient able to exercise its autonomy to decide. There is also the obligation of beneficence, optimize the participation of the incompetent patient in decision-making, by all possible means, to reverse, if possible, your disability, or provide information so that

you can participate in the decision the extent possible⁹. Evaluating and determining the ability to make a medical decision a patient is a task that involves an enormous ethical and legal responsibility. Codes of ethics widely collected an ethical obligation to professionals for consider the patient's competence. Historically, the doctors has enjoyed considerable social recognition, for determine the capacity. However, the use of standardized tools for assessment of competence is vital, given that informal evaluations by doctors depend on the idiosyncrasies of each and therefore would be little fiables¹². This is the same problem that arose in the United States in the late seventies, when American physicians began systematically applied in clinical practice informed consent. After more than thirty years in this line, it is considered what the best tool available, in health care, for the assessment of the ability to make medical decisions is the Aid to capacity evaluation (ACE)¹³. Its literal translation would help to assess capacity. Understood the term capacity, from the perspective of bioethics, as a synonym for competence in decision-making. For this, the ACE evaluates the understanding of information, and the ability of the patient to say and communicate a particular medical decision. The ACE is validated in the initial work of Etchells et al, in adult patients who needed to make an informed consent treatments or diagnostic procedures, such as endoscopies performing, transfusion, etc. The ACE evaluates recognition the disorder of convivence and the understanding of informed consent (Etchells at al., 1999)¹⁴. It was developed in Ontario, Canada, where these two standards are relevant to the current legislation. Recently, it has been adapted and validated to Spanish (Moraleda et al¹⁵), both diagnostic and treatment

processes to make decisions about their disease. The ACE is a semi-structured interview assessment that addresses seven facets of the capacity for real and concrete medical decision assesses the ability to understand (1) the medical condition, (2) treatment, (3) and treatment alternatives (4) the option of refusing treatment; the ability to perceive the consequences of (5) to accept treatment and (6) deny treatment; and (7) the possibility that the patient is in a context of hallucinations, delusions or depression, which can significantly interfere in their decision making. The questions in the first four areas assessed the capacity of understanding. Questions 5 and 6 explore the reasoning. And in the seventh area of mental pathology situations which clearly affect the ability clarified. See Table 1. This tool is considered highly reliable and has a sensitivity of 81% and a specificity of 90%, comparing the judgment of expert medical interview conducted with ACE. Some of the advantages of ACE are its realization in a short time and that is adapted to the clinical case and the specific treatment of each patient.

The health professional provides all the information as possible to the patient, and values its ability asking open-ended questions about the decision to take, alternatives, possible consequences, and the possibility of rejecting the offer option. Scores are not added together, to interview the patient about his decision, aspects of understanding of information and the ability of the patient to decide and communicate a particular medical decision are evaluated. This type of semi-structured interview requires a basic training by the professional and helps to classify the patient into one of the following four categories: capable, probably capable, probably incapable or incompetent. And in turn, these four results are divided into two: the

incapable of making that decision would be unable and the others are capable. The cut is made according to the criteria of patient autonomy. The principle of respect for persons, of Kantian origin, is based on the dignity of the person, is its moral autonomy, and therefore freedom. It requires that every human being are regarded autonomous and free, imposing respect for their dignity and self determination. Therefore they must be respected their decisions if a person is able, competent and adequately informed. And likewise, this principle requires the development of legal mechanisms for the protection of individuals where these attributes were limited, as in the case of patients classified as permanently incapable. Traditionally, the principle of autonomy is expressed in all its value, it must be considered that an autonomous action must meet three conditions: intent, knowledge and absence of external control. Diego Gracia ¹⁶ added a fourth condition: authenticity. If an act is intentional, if it has been made with full understanding and without control or external undue influence, but is not consistent with the value system and attitude toward life, typical of who performs it, is not an authentic act, and therefore, it is not truly autonomous. The interview with the ACE is a very useful tool, but to doubtful cases or more complex decisions are recommended to complete the interview with other evaluation measures that will help us reduce uncertainty in determining the ability of a patient to a medical decision. In case of incapacity consent is granted of representation. It is considered that an individual is unable if it is not able to make a particular decision at a particular time, at the discretion of the physician responsible for the care, or physical or mental condition and does not allow him to take charge of their situation. Moreover, it is considered that a patient is disabled when a judge

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has determined this, as stated in Article 199 of the Civil Code, in Spain. And in the case of minors, the consent of the representation will be required when the minor patient (over 12 or 16 years, depending on the decision and under 18 years of age), it is not intellectually or emotionally capable of understand the scope. With minors, the mission is to demonstrate the maturity, unlike what happens with adults. With the adults is necessary evaluate the clinical disability as it is supposed to be able. Diego Gracia ¹⁷ recommended that the assessment of mental capacity must be reasonable and reasoned, assessing the circumstances, previous medical history, current psychopathological assessment, family and social support, patient values, and the foreseeable consequences of the decision to take. In certain cases it may be useful the use of a semi-structured interview (ACE) to review the decision-making skills. In case of failure, the use of deliberative method can be helpful to assess each case.

Determining the ability of fact (capacity), before taking a decision, in the processes of decision making, it is a habit that all doctor should include in their daily work, is an improvement in the organization and management of resources because it means improving the principles of bioethics with our most fragile patients.