

Physician's perceptions for including living will in medical practice

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Abstract

The living will is a relevant theme to be discussed from the sanitary and legal points of view and is also an important instrument to drive the assistance to terminally ill patients according to their final wills. We performed this exploratory and qualitative research to study the opinion of 36 resident doctors in Brazil public hospitals, regarding to the inclusion of the living will in medical practice. Data were collected in August, 2013. Our results stressed the relevance of living will for the autonomy of the terminally ill patient, providing the humanization of his treatment. This article shows the need of a law to rule the formal use of this directory in Brazil. It is also important to point out the necessity to broaden the discussions about the theme in Brazilian reality, in order to promote a larger comprehension of those physicians' point of view when dealing with the last moments of their patients' lives.

Keywords: Medical care. Living wills. Right to die.

Resumo

Testamento vital na prática médica: compreensão dos profissionais

O testamento vital é tema discutido no âmbito da saúde e do direito, e importante instrumento para direcionar a assistência prestada ao paciente terminal de acordo com suas aspirações. Esta pesquisa exploratória com abordagem qualitativa estuda a opinião de 36 médicos, residentes em hospital público, acerca da inserção das diretivas antecipadas da vontade do paciente ou testamento vital na prática médica. A coleta de dados ocorreu em agosto de 2013. Evidenciou-se a relevância do testamento vital no respeito à autonomia do paciente terminal, propiciando humanização do seu atendimento. Este artigo demonstra igualmente a necessidade de criação de dispositivo legal que regulamente sua utilização formal no Brasil, além de ampliar discussões acerca da temática, com ênfase na realidade brasileira, a fim de promover maior compreensão sobre o posicionamento de médicos quanto aos últimos momentos da vida dos pacientes.

Palavras-chave: Cuidados médicos. Testamento vital. Direito a morrer.

Resumen

Testamento vital en la práctica médica: la comprensión de los profesionales

El testamento vital es un tema debatido en el contexto de la salud y del derecho y es, también, un instrumento importante para guiar la asistencia prestada al paciente terminal de acuerdo con sus aspiraciones. Esta investigación exploratoria, con enfoque cualitativo, estudia la opinión de 36 médicos residentes en hospitales públicos sobre la inserción de las instrucciones anticipadas de la voluntad del paciente o testamento vital en la práctica médica. La recolección de los datos fue en agosto de 2013. Se puso en evidencia la importancia del testamento vital respecto a la autonomía del paciente terminal, favoreciendo la humanización de su atención. Este artículo también demuestra la necesidad de crear un dispositivo legal que regularice su uso formal en Brasil, además de ampliar el debate sobre el tema, con énfasis en la realidad brasileña, a fin de promover una mayor comprensión sobre la posición de los médicos ante los últimos momentos de vida de los pacientes.

Palabras clave: Atención médica. Voluntad en vida. Derecho a morir.

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Declaram não haver conflito de interesse.

The end of life is a conflicted, polemic and a complex period, in which the main figure – the individual in the process of death - and the others persons involved experience so intense feelings and emotions, that must be discussed and questioned based on ethical principles shared between the patient, relatives and healthcare professionals^{1,2}.

Advances in healthcare management of terminally patients reached in the last times extended life of many people. However, it's complex to increase longevity without extending suffer. The euphoria with a higher life expectation conflicts with concomitant problems that appear over the years, especially in health scope^{3,4}. Facing this scenario, the dignity and autonomy of the individual in terminal stage rise as nothing elements, crucial in making decisions.

The human dignity deserves to be respected in all of the moments, especially in the ending of existence. In this period, the patient must be respected and fully involved in the decision process, so it can exercise it's autonomy⁵. Considering these aspects, the advance directives of the patient's will appear. The document that express the kind of treatments that patient wants to receive from healthcare professionals and caregivers, during terminal stage of life, that is registered with mental lucidity and complete autonomy for deliberating over himself and also with preserved quality of life, is known as living will (LW)^{4,6}. It's still worth noticing the existence of needing a better designation in our country for the purpose of analysis. In this study, it was decided to use the term "living will" as an equivalent terminology of the advance directives of the patient's will.

The principal objective of the LW is to ensure the individual control over health decisions in the final period of life. Through this instrument, desires can be expressed that, theoretically, allows application, establishment of certain limits or total reject of any possible intervention due terminal pathology. The LW has as its final scope the offer of "good death" to all of the individuals, because this concept can be distinct and unique to each one, being essential the individual pronouncement⁷. The living will is already recognized as a legal instrument in countries like United States, Spain, Portugal, Germany and Uruguay. In Brazil, it's still not regulated and it is a subject of intense debate.

The Federal Medicine Council (Conselho Federal de Medicina - CFM) is committed to regulate it in the medical ethic field through the CFM 1.995/2012 Resolution, which plays a relevant role because it's the only instrument that deals with the matter in the

country^{4,8}. Before the exposed and facing excessive divergence of opinions about the best way to experience human death, the motivation of this research emerged, which had as leading thread the following question: what's the resident doctors' opinion about the advance directives of the patients' will insertion?

Method

To accomplish the proposed objective, an exploratory research was made with qualitative approach that precisely describes the phenomena in the scenarios where they usually happen^{9,10}. The research was performed in a federal autarky school Hospital located in the city of João Pessoa, Paraíba, Brazil. 36 doctors who provide care to inpatients in the institution were interviewed. This number can be considered to be satisfactory because in qualitative research is valued qualitative deepening of the studied phenomenon, and not the number of participants involved¹¹.

The sample was non-probabilistic of the intentional type. The participants' inclusion criteria in the sample demanded that the candidate was an active resident physician in the institution at the moment of the data collection. From 87 resident physicians at the hospital chosen for the study, 36 participated in the survey. The survey took place in August, 2013 and it used a two-part form: the first one presented questions that defined the professionals' profile, and the second one dealt with the advanced directives of the patients' will. The instrument was applied individually and filled by the participants during the hospital residence program's scientific event. The time to conclude the instrument was approximately 15 minutes.

After due clarification, the volunteers signed a free consent term and clarified as specified in 466/2012 Resolution¹². After completing the forms, the data were analyzed and interpreted according to the technique of content analysis described in Bardin¹³. The analysis was structured in three phases: pre-analysis, material exploration and treatment of results (inference and interpretation). The purpose of pre-analysis is to organize the collected data: it proceeds to the reading of the entire material to facilitate an understanding of the phenomenon investigated and reorganize the collected data. During a second phase (material exploration) multiple readings of the same material are performed to find common elements among the participants^{13,14}.

Thus, the answers to the question "What is your opinion about the insertion of advance directives of patient's will or living will in medical practice?" allowed to construct three thematic categories: "advance directives are important to promote the patient's autonomy"; "advance directives contribute to humanize medical care in terminal illness"; "advance directives of the patient's will: ethical and legal aspects". In the final analysis, the results' treatment phase, the answers were articulated with the bibliographical research on the subject, aiming to contextualize and compare the data from the reports of professionals inserted in research, as well as to conjecture new possibilities about the proposed survey.

Presentation of the research participants

This research was performed with 36 medical hospital residents, 20 men and 16 women graduated between 2006 and 2013, mostly from the Federal University of Paraíba. The age of the participants ranged from 23 to 35 years old. The sample was constituted by young doctors in specialization that experienced important modifications in the ethic/bioethics teaching in the country's medical schools.

The deontological vision, prevalent a few years ago, is no longer meeting the current professional training needs. The search for answers to new challenges of the contemporary world passes not only through the restructuring of the training apparatus, but, above all, it must privilege respect for the autonomy of the sick human being, in its complex biopsychosocial and spiritual reality. So, the sample could translate the routing of referred transformations in medical teaching context. The interviewees came from several specialties, being anesthesiology, medical clinic and pediatrics the most frequent. However, there were also resident doctors of family and community medicine, ophthalmology, general surgery, psychiatry, rheumatology, dermatology and infectology.

Presentation of empirical material

Research participants were asked: "What is your opinion about the insertion of advance directives of patient's will or living will in medical practice?". The answers allowed the creation of the following categories: "advance directives are important to promote the autonomy of the patient";

"Humanization of health care in terminality"; and "ethical and legal aspects".

Anticipated directives of will are important to promote the patient's autonomy

The respect for the patient's autonomy is one of the main drivers of the health process, allowing an effective participation of the infirm and requiring the physician to be fully qualified to perform his activity in conjunction with the patient. At the same time, numerous new issues are introduced in the act of caring and treating, which directly modify the relationship between doctor and patient. The living will is exactly one of these new procedures, and can be identified with the caring essence that, however, eliminates any possibility of paternalism in relation to providing patients with adherence to treatments or procedures at the end of life. The LW is an instrument that allows guaranteeing the control of the individual in the decisions about his health, as evidenced in the following statements:

"Through this document, the patient can express and establish his desires so they can be respected and answered" (M2);

"The advance directives of the patient's will inserting in medical practice meets the important precepts of the Medical Ethics Code, especially what is about patient's autonomy" (M3);

"Important instrument (...) as procedures will be performed only from the patient's own will" (M4);

"Fundamental importance for the attendance be done in an ideal way, determining and knowing the wish of each patient." (M5);

"It represents the willingness of the patient to receive or not the given treatment (...) the possibility of the patient opting or not for a treatment should always exist" (M6);

"It confirms autonomy, the right of every human being, even in the time of dying." (M9);

"I believe that all patients have the right of choosing which treatments or medical procedures will be done over their conditions, especially those in the terminal phase". (M11);

"Indispensable factor to register the wish of how the patient wants the outcome of his life to be" (M17);

"The Medical ethics is ruled by some principles such as autonomy (...) Thus, what the individual wishes to do about his health is of extreme importance for the physician and all health staff" (M27);

"It takes into account the patients' wishes" (M28);

"It ensures that the patient's will is performed, as his autonomy, when he is unable to express himself" (M30);

"An important instrument to guarantee the right of his own body" (M34);

The excerpts from the reports emphasize that the interviewees recognize the advance directives as an instrument that promotes patients' broader participation in decision making regarding to their health. The patient's participation in health care process has been longed for the most ancient times, when Hippocrates proposed in his first "Epidemics" that patient should combat the disease together with his doctor. It's also exemplified in United States Supreme Court, in case Schloendorff from 1914, when judge Benjamin Cardozo emphasized that all human being has decision power over his own body¹⁶. Published books during 1970 decade also discuss about patient's participation in decision making process, pointing to autonomy principle¹⁷⁻¹⁹.

Since then, laws and documents that reflect the development of the idea of shared action between doctor and patient have been drawn up in several countries; a process that gives high consideration to the infirm's autonomy. Nowadays, it is assumed possibility of advance directives, allowing free and autonomous manifestation of individuals^{20,21}. The following part of a speech corroborates this precept: *it ensures that the patient's will is carried out, by his autonomy, when he is not able to express himself* (M30).

In this understanding, the LW certifies that the patient has the right to refuse of enduring futile or extraordinary treatments that do not provide effective benefit. Nevertheless, having death as inevitable, treatments should improve the quality of life and not only prolong survival. The living will is the document that will guarantee the autonomy and dignity of the terminally ill patient, protecting him from unnecessary suffering and unreasonable therapeutic obstinacy²².

In this context, Duarte²³ affirms that LW is intended to guard against invasive, useless, painful procedures and that prolong life without dignity, representing the will of the individual about the limits to be fulfilled in case of serious pathology that affects him and that produces unconsciousness. Therefore, the definition of autonomy refers to the perspective that each human being should be truly free to choose for himself, having access to the minimum conditions for self-realization.

On the other hand, a study about the current challenges for the doctor-patient relationship points out that autonomy in health can't be understood as absolute and unlimited power. In this relation, it is necessary to find compatibility between individual power and the other powers that involve this complex bond. The recognition of the patient's autonomy does not imply withdrawal of the physician's autonomy, since, in this context, there is no room for submission. Therefore, one should move towards ethical co-presence in the doctor-patient relationship.

It is worth mentioning that the exercise of ethical behavior appears in the medical practice in a singular way, when it refers to the interface between beneficence and autonomy of the patient. It is a topic of bioethical content that presents itself when the doctor takes into account his will and professional autonomy in order to offer what he considers best for the patient, respecting or not his autonomy. In this sense, the principle of beneficence and non-maleficence, pointed out in the Hippocratic aphorisms, stands out: *primum non nocere*, never harms.

During some situations, when the patient is under severe risk and paternalistic action can avoid damages, that is, when the benefits of the medical action overcome the inconveniences and the disregard of the autonomy of the patient, the physician's action may be autonomous. In other situations, the autonomy of the patient should always be placed in high deference²⁵.

In this sense, it's prescribed in CEM, Chapter V, article 31 that is prohibited to doctor *disrespecting patient's or legal representative's right of freely deciding about execution of diagnostic or therapeutic practices, except in case of imminent risk of death*²⁶. There are two positions that give support for patient respecting. For some authors, it's up to the doctor to raise necessary means to diagnosis and patient's treatment, however, without assuming an authoritarian position. For other ones, it's up to the doctor must share information with the patient, looking for his consent, besides keeping

secrecy and respecting privacy of sick person²⁷. However, it's important to point out how better is the doctor-patient relationship; much better will be the medical decision of not causing damage to patient, respecting his autonomy in all moments until the end of existence.

In this situation, patient must be inserted in whole decision process, in order to exercise his fully autonomy^{5,25}, as expressed by part of this report: "I believe that all patients (...) have the right of choosing which treatments or medical practices will be exercised over his condition, especially those in terminal stage" (M11). In this sense, LW must be elaborated by an individual with mental lucidity and complete autonomy, that is, it's document directed to the patient capable of deliberate over himself. The doctor's speeches show that LW is an instrument capable of materialize patient's autonomy, allowing the previous expression of desires and aspirations regarding to his health in order that they can be attended when the patient won't be capable of taking decisions anymore⁴.

Humanization of medical assistance in terminality

Although technical and scientific advances allow extending life, there are complex cases that provoke a debate between therapeutic obstination and palliative care²⁸. In these discussions concern arises with relief and suffers reduction of terminally patients. The LW, as expressing patient's will, humanizes assistance and minimize discomforts and suffers, as following statements make it clear:

"With therapeutic advancing the chronic degenerative diseases are in upward prevalence, support concepts to terminality and palliative care are in vogue. Thus, it's fundamental that patient's choices are respected" (M7);

"With great importance (...) for a more humanized conducting, deepening the doctor-patient relationship" (M13);

"A more humane and fair way of treating lives" (M16);

"It comes to help the medical practice in so far as procedures and treatments without necessity are avoided and the palliative care practice can be better used" (M18);

"It will contribute for better care of patient" (M21);

"I believe that instruments that make use of patient's expressed desire are fundamentals for offering an integral attendance, avoiding discomfort to patient and relatives" (M22);

"It contributes significantly in doctor-patient relationship, besides stimulating attention to patients in a holistic way" (M22);

"I understand as something extremely important to justify decisions concerning to orthoesthesia and treatments that aim the patient's quality of life" (M26);

"It contributes for humanization of practice" (M32).

These statements show that physicians consider LW as an ally to offer better assistance to patient in terminal condition. Some studies point out that patient's autonomy withdrawal helps do determine the incompetence of the person decomposed and weakened by illness. The LW, when recognizing desires and aspirations of the patient, provides solidarity and human treatment^{24,29}.

In this approach, it can be deduced that LW can promote the "good death" through the assistance humanization as the respect to own aspirations of each patient. Corroborating this understanding an study showed that worthy death is established in sick's self-determination regarding to treatments recommended to him, even when he isn't capable of taking decisions³⁰.

Death humanization has been referred to orthoesthesia concept. Etymologically, orthoesthesia means correct death, from ancient Greek *orthos* (correct) and *thanatos* (death). It enunciates the death at the right time, without artificial extension of life, without causing unnecessary suffer coming from useless therapeutic techniques. Orthoesthesia doesn't delay death neither promote it, just avoid the use of procedures that damn human dignity in the last moments of life, aiming to humanize the assistance and quality of life².

In this context, it's forehead to point out the difference between the right of choosing death and the consent to worthy death, emerging euthanasia as a active and intentional behavior for life abbreviation of terminal sick's life through procedures that cause death³¹. However, dysthanasia or therapeutic obstination is the medical attitude of extending patient's life at any cost, opposing to orthoesthesia².

In this way the LW must be respected and considered in the presence of irreversible pathologies, to which therapeutic obstination would entail pain and suffer³²: *"I understand as something extremely important for basing concerning decisions to orthoesthesia and treatments which aim the quality of life for the patient"* (M26).

From the orthoesthesia perspective, that protects the dying act with humanization and dignity, palliative care are the adequate practices, accepting the death as a natural process, without establishing dysthanasia or executing euthanasia². By definition, palliative cares are approaches that enable a better quality of life to terminal patients and their families, through prevention and suffer relief. The used strategies are early identification, efficient evaluation and pain treatment, as others physical, psychosocial and spiritual problems^{33,34}. The essence of palliative care is the integral assistance of the patient and his family, symptoms effective control, emotional support and adequate communication^{35,36}.

So, if the patient can choose for palliative care instituting, he can experiment integral treatment, broad, involving physical, psychological, spirituals and socials aspects. It's evidenced by the following testimony: *"I believe that instruments that assert the expressed will by patient are fundamentals to be offered an integral attendance to patient and his family, avoiding discomfort to them"* (M22). In this train of thought, pain and human suffer in the health context go back to aspects that exceed physiological issues and direct us to reflections about integrity of human being and therefore for loss of quality of life. In this perspective, it's necessary to invest in care practice, translation of humanization and appreciation for human dignity.

Legal and ethical aspects

The end of life is something complex, demands questions, discussions and debates which consensus is hard and difficult to be achieved. The anticipated directives of patient's desire are inserted in this scenario of inquiries and polemics, as an instrument prepared in advance, but that plays its role in the terminality of patient's life, a hard moment that is a controversies developer in legal and ethical scope, as shown in the reports below:

"Since is confirmed patient's mental health and all written registration as a form and with testament power by law, the living will can be truly approved and practiced" (M1);

"It would be valid until a certain limit, since despite the treatment freedom be a right that assists the patient, the good assistance and human being protection can't be put at risk" (M8);

"I believe that patient must have the right of taking relevant decisions about his body, as long as they are expressed clearly and in normal conditions of his mental health< It's up to the doctor discussing with the patient, when is possible, if he thinks is needed a technical clarification or when doctor believes the patient isn't fully conscious of what he is doing." (M10);

"I believe that all patients with judgment capacity and previous knowledge about his morbidity have the right of choosing which treatments or medical practices will be exercised over his condition, especially those in terminal phase" (M11);

"I believe that the patient must have freedom and so demonstrate his will, being that freedom should not go beyond ethical and legal limits" (M12);

"Agreed. However, it might have guidelines for better understanding of physicians, patients and relatives" (M19);

"I consider his insertion important because it helps to substantiate medical acts facing terminal health situations, (...) since this issue is polemic" (M20);

"I believe that it will contribute for a better care of the patient when it's not incoherent to ethical code" (M21);

"It's valid because it can express, when in perfect mental conditions, the patient's will" (M29);

"It's something that needs a further discussion, about all possible repercussions in medical act and profession practice being used" (M31).

The speeches express the restlessness that permeates the insertion of LW in the medical attention. Although favorable to the instrument, the participants understand the need of observing some requirements in favor of health professionals, patients and relatives. In this train of thought, they consider as imperative that LW is elaborated by a capable person, in full enjoyment of his mental functions, as pointed out by M1 statement: *"As long*

as confirmed the patient's mental health (...) the living will can be truly approved and practiced". In this approach, a study clarify that this document must be written by a person with discernment and it will be considered only in life terminality situations, when the patient isn't capable of expressing his will. The meaning of finding "capable", at this moment, goes beyond simply filling of legal requirements, assuming the patient is in a special subjective condition of being capable to build a cleared judgment, without uncertainties regarding to his will^{21,31}.

In this regard, a study has a position that LW is written by an adult person that has his psychic and behavioral capacities preserved and not affected by physical illness or emotional changes. In order to ensure higher guarantee, it's still recommended that a perfect normality condition shall be attested by a document written by a psychiatrist or clinical psychologist. This decision is extremely important and it can't be taken in a emotionally difficult moment, as in along an incomplete process for loved person mourning, which death has occurred in a hard and traumatic way³⁷. As declared by physicians who participated of the research, it's fundamental that the doctor provides to the declaring person a complete and truly information about the situation on which he will decide, as refers participant M10: "It's up to the doctor to discuss with the patient, when (...) needs a technical clarification or when he thinks the patient isn't completely aware of what he's doing".

In this sense, a study indicates that in the scope of clinical relationship with the patient, every intervention needs an informed consent, free and clarified, considered a vital component of professional ethic. Consequently the physician and other health professionals have the duty to inform, in a accessible language, relevant facts so that the patient can take his decision in full conscience. It's still demanded caution to inform and, above all, clarify the patient, in a way that the information transmitted to him is seized with tranquility and softness³⁸. It appears that the patient is the most fragile part in the established relationship with the doctor, since he doesn't technical aspects of Medicine. The informed consent is an expression of his will; e so must have total conscience of proposed procedures and associated risks. From now on it's capable of issuing authorization, if wished, for the practice of medical act⁷.

In the absence of complete information, truly and understandable, the patient won't be capable of deciding about his consent or therapeutic proposal.

In the absence of total understanding about the information provided, patient's consent will become invalid. The anticipated statement is consent for medical act, which it's decided in the right moment about the situation that will be experienced in the future. Therefore it is decided about a theme of valuable importance, how is the process of dying, however, without being sure of opting for better choice or interest. So, it's pressing that during the writing of a document like this one, a competent doctor be present³⁷. When the patient knows the technical information regarding to the ways of treatment, is aware of the consequences that his acceptance or rejection can cause and, therefore, is conscious of the taken decisions, he will analyze the care with his health.

It's up to the doctor guiding the person about treatment and procedures that can be refused or not, ensuring that the instrument content represents real patient's will, respecting ethical limits recommended by CEM. Therefore the doctor's attitude must be participative, guiding and active^{7,22}. It's worth pointing out that LW is not absolute, because it is limited by contestation of physician's conscience, legal order dispositions, contraindications relevant to patient's pathology or for predicting outdated therapeutic in Medicine²². If the anticipated directives are in disagreement with his conscience, physician can refuse to institute them. For this issue, it's necessary other doctor is able to replace him. However, it's opportune to point out that professional physician can't act motivated by only for his conscience, should prevail the will expressed by the patient²¹.

Concerning to limitation motivated by legal order dispositions, when is declared that a patient can't take decisions against legal order, the legality principle is reaffirmed. The euthanasia practice is proscribed and anticipated directives are admitted only in orthoesthesia cases. To meet those, it's necessary to observe the distinction between palliative care and unnecessary/disproportionate treatments, because only the second one can be object of the statement²¹.

Directives that represent contraindications pertinent to patient's pathology or talk about outdated therapeutics in Medicine due to progress in medical therapeutics are considered null, in order to avoid that LW put in risk patient's interests. This limit intends to protect, above all, the best patient's interest, extolling the charity principle.

It's necessary to point out that mentioned situations will be considered only as far as the

treatment will be considered extraordinary or disproportionate, when the patient can decide. If therapeutic is necessary or proportional, the physician should proceed with it²¹. In accordance with this train of thought, a study proposes that the content of anticipated directives document will be only considered pertinent by physician if it won't be against laws, that won't be procedures in opposite way to good clinical practice or won't be charges to anyone. It confirms M12 statement: *"I believe that patient must have freedom and so demonstrates his will, but this freedom must not exceed ethical and legal limits"*.

The research participants also highlight that living will supports and protects the physician in his decisions; playing role of extreme relevance in terminal health situations in order to justify medical actions, even when there is a disagreement between patient's will and his relatives' desire, as we can see in statements below:

"It has a great importance even for patient's will achievement, as a rational human being, (...) deepening the physician-patient relationship and also for protection of the professional in judicial and social circumstances" (M13);

"It's fair, because patient's desire must prevail above any familiar's one" (M14);

"I consider this insertion very important, because it helps to justify medical actions towards situations of terminal health, (...) because the question is polemic" (M20);

"It has fundamental importance (...) to protect physician who respects the patient's will" (M23);

"An important instrument that helps and supports the physician in his decisions. I believe it's an aiding instrument for medical attention to the patient" (M33);

"It's important for ethical conflicts resolution" (M36);

"They are important for decision-making and care management by part of health staff" (M37);

Reports denote the understanding that is indispensable the physician needs to be protected in ethical and legal point of view, in order he can

respect and consider the patient's will anticipated directives. However, a study highlights that both parties involved in a physician-patient relationship, in terminality circumstances, need protection and warranties. Patient must have met his desires and aspirations, as well a manifestation of respect to his autonomy and dignity when he is not capable of expressing them clearly and sensibly. In the other hand, should be guaranteed to doctor that, when attending expressly patient's will, he won't be able to suffer sanctions in legal framework or by his professional entity³². Patient's right of expressing and having satisfied his desires must be linked to immunity warranty to medical staff as agreeing in suspending disproportional or futile therapeutic measures intended for terminally ill patients without recovering perspectives, so following expressly patient's will.

So, the criminal imputability guarantee must be clearly and formally discriminated even in medical profession code or in any other laws referring to this subject³². Regarding to this matter, another study suggests the adoption of actions to offer a death worthy to patient: respect to his will, criminal immunity to medical staff, decriminalization of any aid for dying and punishment for therapeutic obstination. In fact, the death worthy concept can be subjective; however, when a patient is dying and also is being submitted to a treatment against his will can be considered as an affront to legal principles that represent historical achievements³⁰.

Anticipated directives generally connect physicians and relatives to patient's will. The referred document must be immune from physicians' external interferences, from relatives' ones or from any other person or Institution that want to establish its own will, because patient's will is a fundamental *right* to freedom in a legitimate way: place where a person can take his own decisions.

It's unacceptable in plural and democratic societies the imposition of individual wills, because the Govern duty is making possible the coexistence of several life individual projects. The CFM Resolution number 1995/2012⁸ gives legitimacy to medical attitude about patients' will anticipated directives. This Resolution gives permission to physician to respect the will previously documented by patient in that moment he won't be able to express it, as long as these last desires be in accordance to CFM directives and to the law. It's important to point out that the will expressed by patient must surpass any other non-medical advice, or even any relatives' desire³⁹.

In this perspective, Silva e Gomes⁴⁰ states that will anticipated directives consider the patient as the central person of health process in detriment of medical technology and therapeutic obstinacy. The physician also requires that his autonomy, religion and respect to deontological and professional rules be considered. So, it appears that medical decisions should give priority to patient and not to his family or to his own doctor. Consensus about health decisions should be sought, being expressly discussed with mutual persuasion eventually. Decision-making should be shared, giving worth to the link between doctor and patient. In case of conflict, higher worth should be given to patient's preferences, even if not in an absolute way, because legal restrictions must be respected.

Following this train of thought, this study suggests that Physician must recommend to his patient to share his positions about desired or inconsiderate procedures with his relatives and truly friends. This information can be useful to guide future decisions. The disclosure of patient's desire and especially what he doesn't want to disclosure ensures that other people besides the doctor have knowledge of his preferences. This communication is fundamental as a factor of convincement regarding to his relatives²⁰. It's important to emphasize that generally the terminality consists in a hard acceptance situation from his family, evidencing all efforts to make the patient living. This wish for the presence of a beloved person can imprison the patient, in his suffer and pain, making his life longer but provoking the sick individual degradation⁴¹.

When there is no consensus between doctor and patient's relatives regarding to conduction of make-decision process, a conflict of opinions and interests is established²⁰. Due to this context full of controversies, one of the research participants recognizes the need of approving a specific law for this matter, as related: "*with testimony power by the law, the living will can truly be approved and practiced.*" (M1). Dadalto²² also states the pressing need of formulating legal dispositive regarding to this matter in Brazil, even recognizing actual advance established by publication of CFM Resolution number 1.995/2012⁸.

The lack of legal regulation provokes insecurity for persons that intend to leave their will expressed and for physicians that, in real cases, are in front of a conflict between different interested parties,

specially the patient and his relatives. The embracing regulation about living will application can make easier its insertion in medical practice in a objective and efficient way. So physicians, patients and their families can be privileged with an instrument that respects patient's autonomy and dignity, as well respects the physician and helps to solve ethical and legal conflicts between all parties involved in terminality matter⁴².

Final considerations

Considering the analysis of testimonies from the physicians who took part of the research, the living will can be highlighted as an instrument capable of ensuring a dignified death to terminally ill patient. A first thematic category that was identified in this research pointed out the anticipated directives worth to ensure the patient will without therapeutic possibilities of cure. The second one has pointed out its contribution to humanize the medical assistance in the illness terminality. On the other hand, the third category has pointed out some ethics and legal aspects involved in discussion about anticipated directives of will. This study gave conditions of evidencing the relevance of living will regarding to terminally ill patient autonomy, in order to humanize his treatment, as pointed out the need of formulating a legal dispositive that rules its formal use in Brazil.

In this perspective, the thematic with emphasis in Brazilian reality requires relevant discussions about terminality. It is important to consider that this study opens new perspectives in scientific investigations about living will, as we know that few studies were aimed to this thematic in Brazilian literature. The expectation is that research can give basis to new patient terminality investigations, in order to broaden the comprehension about physicians' position regarding to the last moments of their patients. It is also important, as a final comment, that living will is connected with terminality, but the second one is just a clinical step when he'll have efficiency. The gap of this study is concentrated in sample limitation, so different opinions about this subject are allowed.

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Participation of the Authors'

Maria Adriana Dias Meirelles took part of all process steps. Solange Fátima Geraldo da Costa guided the project design and all achievement steps, as well the result analysis, contributing intellectually for the dissertation and final article. Monica Lorena Dias Meirelles da Cunha took part of collecting and data analysis, as well as the revision of this article for submission. Melissa Negro-Dellacqua took part of result analysis, writing, revision and article formatting for the submission. Fernando Dutra was the master graduation advisor from the main author and has actively contributed in all process steps.

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