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Compliance of school doctors' practice with medical legislation

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Abstract: *School doctors' practice comprises specific aspects governed by legal rules. Knowledge and compliance with the applicable legislation are necessary in order to ensure respect of the patient's rights, to avoid claims of medical malpractice and to assure medical act's quality.*

The present study investigated compliance of school doctors' practice with the applicable legal requirements.

All respondent doctors violate the applicable legal requirements. Future quantitative research is necessary to measure the amplitude of the identified vulnerabilities.

INTRODUCTION

School doctors' assistance implies ensuring special conditions for children with chronic diseases, coordinating the optimal response during medical emergencies and managing school environment's health and safety.

Sports competitions for students represent another special feature in this field, given the school doctor's task of issuing a favourable notice for competition to students who participate in such competitions following a brief clinical examination, without always having the student's personal background checks or the possibility to send the student to a specialist for control, without having an appropriate emergency kit and under improper conditions for a medical act which can all generate problems related to malpractice.

Specific aspects of their activity expose them in case of ignorance and non-compliance of the applicable legal regulations.

RESEARCH OBJECTIVE

The assumption under which our research was initiated was that school doctors from Bucharest are not fully aware and do not fully comply with the legislation in force.

The research objective was to collect information regarding the compliance of school doctors' practice with the applicable legal requirements.

MATERIAL AND METHOD

The present research aimed to identity the existence of a phenomenon (the issue regarding compliance of school medical activities with the applicable legal provisions) and to establish the framework for possible future quantitative research addressed to the newly developed area of interest.

The target group included 25 general practitioners activating as school doctors in Bucharest. Sample was selected taking into account the qualitative objects of the research, in the sense that we aimed to identify possible specific tendencies among school doctors. The investigative techniques were represented by interviews, which led to structuring of a questionnaire comprising five closed questions destined to evaluate the risk of malpractice in the school doctors'

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activity. Developed models because of previous research in the field of knowledge and compliance with medical legislation by doctors were used when preparing the questionnaire.

The questionnaires were then circulated and filled in anonymously during a workshop organized by the Administration of Hospitals and Medical Services Bucharest (Administrația Spitalelor și Serviciilor Medicale București - ASSMB) and which took place in Bucharest, on 8.12.2017.

Participants were asked to answer the questions based on their daily practice and not on theoretical knowledge or personal opinions regarding the respective matters.

Moreover, respondents were informed that their answers would be used exclusively for scientific purposes, for performing an objective valuation of the malpractice risk resulting from non-compliance with the legal framework applicable to school doctors' practice.

Definition of the valuation criteria for answers to the questionnaire's inquiries

Thus, the interviews aimed to investigate if medical practice of respondent doctors respects the applicable legislation.

The doctors' answers were marked as "correct" if they indicated the fact that the practice of the respondent doctor respects the legal requirements involved by the question or "wrong" when the answer demonstrated non-compliance of the law by the respondent doctor during his daily medical activity.

In addition, the alternative answers selected by respondent doctors were analysed in detail with the purpose of identifying some models of practice and their justifications. Programme IBMSPSS Statistic, version 20 was used for processing the obtained data.

RESULTS AND DISCUSSION

General results

None of the respondent doctors chose the "correct" answer to all the questions. Therefore, we can consider that, in their current activity, respondent doctors do not fully respect the legal framework applicable to school doctors.

Specific results

Based on received answers we identified some domains of medical practice in which specific legal requirements are not fully respected: informed consent, confidentiality of medical data, patients' access to personal medical information, filming/photographing of patients and limiting the doctor's activity to one's own medical specialty.

Question no. 1

"*How do you proceed when a patient requires health care for an associated disorder beyond the scope of competence of your specialty?*"

Proposed alternatives to answer:
a) I do not provide health care, regardless the patient's status.
b) I provide health care after consulting a specialized doctor in the field of the respective disorder.
c) I provide health care in emergencies.

The correct answer (to be chosen between the proposed alternatives) is: c)

The general representation of answers to Question no. 1 is included in Table 1 and Chart 1.

Chart 1: Representation of answers to Question no. 1, according to valuation: correct/wrong.

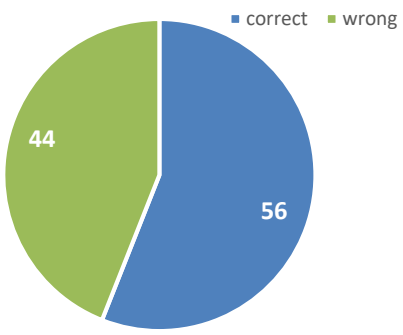

Table 1: Answers to Question no. 1

		Frequency	Percent	Valid percent	Cumulative percent
Valid	a	1	4.00	4.00	4.00
	b	4	16.00	16.00	20.00
	b, c	5	24.00	24.00	44.00
	c	14	56.00	56.00	100.00
	Total	25	100.00	100.00	

It may be noticed that 44% of answers were wrong. In order to identify the respondent doctors' attitude concerning limiting the medical practice to its own specialty we performed a detailed analysis of the received answers to each question, the results being included in Table 1 and Chart 1.

The correct action for the situation described by this question from the questionnaire is prescribed by legal texts: the medical practitioners are civilly liable for the damages caused during the exercise of their profession and when they exceed the limits of their competence. In case of some associated disorders', each of these conditions will have to

be supervised/diagnosed/treated by a doctor specialized in the respective area of expertise/competence. Therefore, the legislation includes an interdiction for doctors to perform medical acts that are not covered by their specialty.

There is an exception to this rule in case of emergencies when there is an imminent danger/irreversible deterioration of patient's health state and when a medical practitioner with the necessary competence is not available. [3]

It may be noticed that 24% from respondents included the correct alternative c), but they also added alternative b) (which is wrong), while 16% from respondents mentioned only alternative b) as being correct.

The attitude of respondent doctors is to provide health care beyond their specialty in every situation after they ask a medical practitioner having the necessary area of expertise. These attitudes do not comply with the abovementioned legal requirements.

In situation when all 3 conditions are cumulatively met (urgency, imminent danger for patient's life/irreversible deterioration of patient's health state, lack of specialized medical practitioners) medical activities beyond one's area of expertise can be performed without the need to consult another medical practitioner.

Question no. 2

"*Can information regarding the treatment prescribed to a patient be communicated to third parties?*"

Proposed answers:
a) Yes, to non-governmental organizations which support the patients.
b) Yes, to patient's family members.
c) No.

The correct answer (to be chosen from the proposed alternatives) is: c).

According to the law, the doctor cannot disclose to any other person than the patient data regarding its health state. Information concerning patient's status, results of medical investigations, diagnosis, prognosis, treatment and personal data are confidential, even after the patient's death.

General representation of answers to Question no. 2 is included in Table 2 and Chart 2.

Wrong answers were generated by the doctors' attitude to communicate medical data to patient's family members. It may be supposed that doctors chose this answer given the fact that patients' majority (with the exception of students) are minors.

Chart 2: Representation of answers to Question no. 2, according to valuation: correct/wrong

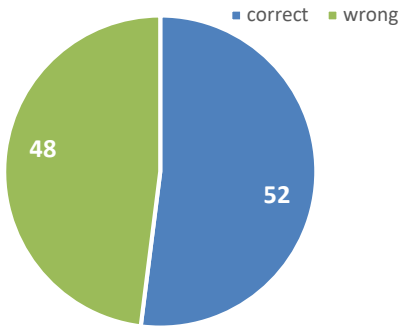

Table 2: Answers to Question no. 2

		Frequency	Percent	Valid percent	Cumulative percent
Valid	b	12	48.00	48.00	48.00
	c	13	52.00	52.00	52.00
	Total	25	100.00	100.00	

However, the question did not refer to minor patients. Even if we referred to minor patients, not every family member is a legal representative (there are various circumstances prescribed by law in which parents, relatives, other people can be legal representatives for a minor patient). Therefore, not even under this scenario, the alternative b) would have been correct. This represents more a vulnerability of respondent doctors' practice with respect to compliance of medical practice with the abovementioned legal requirements.

Question no. 3

"*The informed consent of the patient may be obtained*:"

Proposed answers were the following:
a) From the patient attaining the age of 18.
b) From a minor patient under some circumstances.
c) From one of the minor patient's parents.

Correct answer to this question: a), b), c).

According to law, the statutory age for giving an informed consent is 18.

Minor patients may give their consent in absence of parents or legal representative, in medical situations related to the diagnosis and/or treatment of sexual and reproductive problems, when specifically requested by a minor patient who is over 16 years old.

The important amount of wrong answers (96%) requires an in-depth analysis of answers to this question.

Chart 3: Representation of answers to Question no. 3, according to valuation correct/wrong

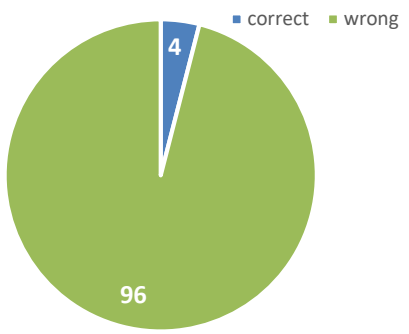

Table 3: Answers to Question no. 3

		Frequency	Percent	Valid percent	Cumulative percent
Valid		1	4.00	4.00	4.00
	a	3	12.00	12.00	16.00
	a, b, c	1	4.00	4.00	20.00
	a, c	20	80.00	80.00	100.00
	Total	25	100.00	100.00	

80% from respondent doctors only selected two of the three correct answers. Therefore, the legal prescription, which allows obtaining an informed consent from minor patients, which are at least 16 years old for sexual and reproductive problems, is not known and respected. Surprisingly, 12% of respondents did not identify the answers as being applicable to medical practice given the fact that these people consider that it is mandatory to obtain the informed consent from both parents of a minor patient.

Question no. 4

"*Should medical data concerning undertaken investigations, established diagnosis and recommended treatment be made available to the patient?*"

The proposed alternatives to answer:
a) It is not necessary; when discharging the patient from hospital, the treatment scheme and the necessity to come back for control should be explained to the patient.
b) Yes, always, in a complete manner.
c) Information related to diagnosis and established treatment should be made available to the patient"

The correct answer (to be chosen from the proposed alternatives) is b).

According to law no. 46/2003, the patient has unlimited access to all personal medical information and the doctor has to make it available to the patient and, in writing, if the patient requests it.

Almost half of respondent school doctors (44%) do not ensure unlimited access to personal medical information for patients/legal representatives.

Chart 4: Representation of answers to Question no. 4, according to valuation correct/wrong

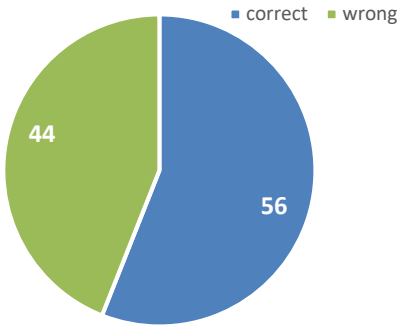

Table 4: Answers to Question no. 4

		Frequency	Percent	Valid percent	Cumulative percent
Valid		1	4.00	4.00	4.00
	b	15	60.00	60.00	64.00
	b, c	3	12.00	12.00	76.00
	c	6	24.00	24.00	100.00
	Total	25	100.00	100.00	

The analysis of chosen answers demonstrates that 24% from doctors consider that only information regarding diagnosis and treatment must be made available to the patient/legal representative.

This attitude may also be caused by an excess of legislation, which generates confusion. Thus, law no. 46/2003 was amended in 2016, the following article being added: "Article 12: the patient or the person expressly designated by the patient, according to articles 9 and 10, has the right to receive, when discharged from hospital, a written summary of investigations, diagnosis, treatment, medical care provided during hospitalisation and, upon request and once, a copy of high performance investigations' records.".

It may be generated the impression that information mentioned in this article could be accessed only by patients, but this interpretation would contradict article 9 of the norms for application with respect to Law no. 46/2003 regarding patient's rights which prescribes the following: "the hospital units must ensure unlimited access to personal medical data for patients ".

We believe that medical practice should take into account the most restrictive (unlimited access) legal requirement and this represents a correct attitude for a school doctor,

Question no. 5

"*May the medical personnel film the patient in the medical unit?*"

The proposed answers were the following>
a) After obtaining the patient's written consent.
b) By protecting the patient's identity.
c) For teaching and research purposes exclusively.

The correct answer (to be chosen from the proposed alternatives) is b).

The patient cannot be photographed or filmed in a medical unit without his consent, with the exception of the situation when the images are necessary for diagnosis and treatment and for avoiding the suspicion of medical malpractice.

Therefore, the medical personnel may film/photograph without the patient's or the legal representative's consent if the confidentiality of data which is obtained throughout this means is protected.

Chart 5: Representation of answers to Question no. 5, according to valuation correct/wrong

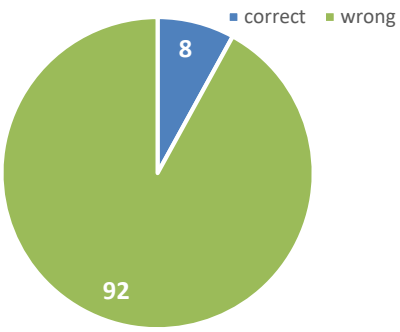

Table 5: Answers to Question no. 5

		Frequency	Percent	Valid percent	Cumulative percent
Valid		1	4.00	4.00	4.00
	a	11	44.00	44.00	48.00
	a, b	2	8.00	8.00	56.00
	a, b, c	6	24.00	24.00	80.00
	a, c	1	4.00	4.00	84.00
	b	2	8.00	8.00	92.00
	b, c	1	4.00	4.00	96.00
	c	1	4.00	4.00	100.00
	Total	25	100.00	100.00	

Most of wrong answers are generated by respondent doctors' conviction that they need patient's consent for filming/photographing him/her. It may be noticed that there are many alternatives of answers selected for this question that suggests the ignorance of the specific legal framework.

CONCLUSIONS

School doctors' practice does not respect entirely the applicable legal framework.

The consequences are that civil liability may be incurred against doctors and the protections of malpractice assurance ceases. Moreover, respecting patients' rights represents an element to measure medical act's quality, as defined by the National Authority of Quality Management in Health (Autoritatea Naţională de Management al Calităţii în Sănătate – ANMCS) throughout specific accreditation standards for medical units. Extensive further studies are necessary in order to determine this phenomenon's amplitude and configuring some education projects destined to cover the identified educational need is necessary.

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