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Commentary
Comment on "The static evolution of the new Italian code of medical ethics"

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Dear Editor,

In the February's issue of this Journal (Eur Rev Med Pharmacol Sci) a paper commenting the reform of the Italian Deontological Code, completed in 2014, was published[1].

In the eight years since the previous version of the Code, there has been a continuous tendency to simplify the possibility of patients to obtain compensation. In fact, according to the Italian Supreme Court, physicians must guarantee the patients the best reasonable result possible and whenever the result differs from the expectations the physicians are presumed guilty of malpractice[2]. Moreover, from a social point of view, also because of the role of the media, the illogical convincing has spread that in medicine everything thanks to scientific progress is possible[3]. This is why people in medicine wish to find a solution for all their problems starting from beauty to the possibility of healing all illnesses. Giving to the physician the role of a service dispenser instead of the one of a professional who performs a difficult task.

The authors highlight that the new Code of Medical Ethics has not taken into consideration the problems actually debated by the medical class, not suggesting precise behavioural indications to apply in the complexity of clinical choices that professionals must face in their daily practice. Instead, in some dispositions, such as the ones regarding untested therapies, the new Code seems more backward than the previous version of 2006. The previous Code had forbidden «the adoption and diffusion of therapies and diagnostic methods lacking sufficient scientific proof or testing and clinical-scientific documentation»[4]. The corresponding disposition of the new Code, at Section 13 is vague e only disposes that «The physician does not use or spread diagnostic or therapeutic practices that are not provided with the adequate scientific documentation available for evaluation by the professional community and the competent Authority». The authors declare that on this matter the reform should have been more precise, because exactly in the period when the new code was drafted, the Stamina case controversy[5] was at his apex and, therefore, should have guided towards more severe rules regarding scientific proof and safety of treatments[6].

Among the most significant aspects of the reform are the anticipate directives[7], the risk management and the patients self-determination. We will only comment on the latter two aspects.

Regarding risk management, the new Code considers that the physician must discover report and evaluate near misses, mistakes and adverse events. This can be considered an attempt to introduce error disclosure. This tool can represent a radical change in the physicians' mentality. Moreover, it requires specific information to be actually carried out efficiently. Yet, the reform does not give any kind of practical means to achieve such a goal[8]. Another limit of the new Code consists in not indicating specific conducts for the professionals dealing with risk management in healthcare facilities.

Section 33 confirms that the duty of the physician, in the boundaries of the doctor-patient relationship, is to inform the patient clearly about his/her clinical conditions, of the possible adequate therapies, the possible consequences of adopting a specific therapy and the possible alternatives offered by medical science. The difference regarding the previous version consists in obliging the patient to respect the physician's advice in order to improve his/her health. Section 33 decrees that the physician has to inform the patient about what he/she must do during the healing process.

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At a first glance, this disposition does not seem compatible with the principle of autonomy, meaning the patient's freedom to choose if, when and how he/she should be treated as the patient has the right or to refuse the treatment or to interrupt it. Instead, Section 33 limits both the choice of the treatment and the patient's life-style.

Furthermore, the authors state that the change from the paternalistic role of the physician has led to the therapeutic alliance between the physician and the patient[9]. In this relationship the former is not only a passive receiver of a treatment, but also covers an active role which contributes to the ultimate goal of better health conditions.

On this basis it appears ethically coherent to give more responsibilities to the patient in order to maintain the obligation towards the physician, meaning the behaviours that are deemed necessary so that the treatments are actually efficient for the healing process, for example, rehab or diagnostic and pharmacological treatments after hospital discharge.

This is an interesting perspective since in Italy it is of widespread opinion that the rules of the Deontological Code should be applied to evaluate possible guilt in cases of medical liability[10]. In conclusion, the reform could have positive effects on the medical profession from a judicial point of view.

Conflict of Interest

The Authors declare that there are no conflicts of interest.

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