



F13 *Voluntas Aegroti Suprema Lex Esto: Ethics in Real Life in New Italian Law*

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Learning Overview: After attending this presentation, attendees will be aware of the possible ethics rather than legal conflicts between the need to respect the patient's health self-determination and the role of the National Transplantation Commission that must guarantee the national health security.

Impact on the Forensic Science Community: This presentation will impact the forensic science community by providing a framework to balance the latent conflict between the right of the individual to refuse a treatment and the community interest to protect the national health.

Spirituality and religiosity are often underestimated, but they are influential factors in Western medicine, as demonstrated by Jehovah's Witnesses' experiences and their "religious restrictions" in the approach to the care system.¹

There are studies in literature moving beyond "dyadic relationships" and caregiving contexts and contribute to a deeper understanding of care and relational conceptualizations of Witness patients' autonomy globally.^{1,2}

In the Italian national context, the promulgation of Law 219, issued on December 22, 2017, "*Norme in materia di consenso informato e di disposizioni anticipate di trattamento*" (GU General Series n.12 on January 16, 2018) has modified the basic framework related to these topics by a systematic regulation of informed consent concerning the diagnostic-therapeutic practices and the introduction of the new institute of "*Disposizioni Anticipate di Trattamento*" (DAT—the Italian for Advance Healthcare Directive (AHD)—also known as a living will) as well as that referring to the "shared planning" of cure.

The L.219/2017 states the overcoming of Hippocratic ethical-deontological tradition: the patient's conscious and freely expressed will becomes the nodal point of the lawfulness of the medical-surgical treatment. Translating this innovative forensic matter in the field of transplant medicine is an essential operation.

This study conducted a critical analysis according to traditional criteria of the "triptych" legal medicine/ethics/law of a case received by the Regional Transplantation Puglia Center and its Third Commission. The story refers to a pair of siblings: the receiver is a man, 53 years old, suffering from chronic renal failure who has been in dialysis for three years. The most compatible donor is a 51-year-old female in the family affected by thalassemia trait. She is a Jehovah's Witness and therefore rejects blood transfusions because of her religious belief.

The case presented is a paradigmatic example of the latent conflict between the right of the individual and the community interest: the patient/receiver versus the donor/bearer of rights. The setting is in the frame of a public health national service, with its needs, health workers' rights/duties, and the economic limits and related allocation of resources according to the principle of the maximum benefit.

The resulting and essential question is: Who should be first? The patient, the donor, and/or the global "system?" Which criterion and scientific method should be used to harmonize the whole system to respect basic and basilar standards? And, mainly, can the risk intrinsically linked to medicine be overcome unilaterally? The transplant community will have to reformulate the method, criteria, organization, and routine procedures through a deep analysis about ethical-deontological assumptions and "new" normative provisions resulting in a concretely useful compromise.

Reference(s):

1. West J.M. *Ethical Issue in the Care of Jehovah's Witnesses*. *Curr Opin Anaesthesiol*. 2014 Apr;27(2):170-6. Doi: 10.1097/ACO.000000000000053.
2. Maghen A. et al. *Spirituality and Religiosity of Non-Directed (Altruistic) Living Kidney Donors*. *J Clin Nurs*. 2018 Apr;27(7-8):1662-1672. doi: 10.1111/jocn.14223. Epub 2018 Mar 5.

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