

committee and views it as a hindrance created to satisfy the fancy ideas of disgruntled elements. Or the institution knew that it would be difficult to provide a strong moral justification to the committee and the committee would not approve this practice. If the ethics committee disagreed with this practice and was truly independent in its functioning, what would the institution do if the ethics committee rejects proposals for retrospective research using blanket consent? Disband it and establish a new committee that agrees with its order?

How good are the justifications provided by the institution (mentioned above)? Let us start from the perceived problem from society, or litigation. In clinical practice, blanket consent would be taken for invasive procedures or treatments - something like "I agree to undergo any procedure or treatment using any anaesthesia by any doctor." But the law came down heavily against it, and now it is not acceptable. There is no guarantee that an administrative order will provide real immunity to the institution against litigation; on the contrary, the very existence of a written order may invite litigation. How can one give informed consent without specific information? How can patients give voluntary consent when the gun of denial of treatment is held at their heads?

Second, is it possible to argue that in all retrospective studies using patients' records and tissues - old and new - there is no ethical obligation to inform patients of new findings during research? What if the patient wants to know, is easily

contactable and an easy remedy is available for the problem detected? Does the institution have any obligation to offer treatment as a part of research in such cases? What is wrong in allowing ethics committees to make their own judgment on the potential risks, their mitigations and the kind of benefits participants are entitled to?

Another important issue is whether student research is a justification or an excuse. For, while the argument in this case is for student research, the consent is for all retrospective research using patient records. Will this blanket consent also apply to retrospective research done for commercial purposes, by Indian or foreign sponsors? Will it apply when done by the institution's faculty, with or without sponsorship from, say, public institutions in India and abroad? When private or public sponsorship for commercial ends is available for research, to what extent does the justification about lack of resources hold?

If the institution denies care to those who refuse to sign blanket consent, this is likely to create a storm. Blanket consent may also undermine the authority of ethics committees, which are supposed to regulate research. More debate is needed to find a solution that does not violate patients' rights and also facilitates good research. Indeed, the excuse of student research will draw scepticism unless teaching institutions and authorities conducting assessment of students show a genuine commitment to promoting good student research as a part of medical training.

ETHICS IN ETHICS COMMITTEES

Blanket consent for retrospective studies : patients' obligation

SUNIL PANDYA

Neurosurgeon, Jaslok Hospital and Research Centre, Dr G V Deshmukh Marg, Mumbai 400 020 INDIA email : shunil3@gmail.com

May I inject a dissenting note? (1)

Public hospitals, especially those that are attached to medical colleges, perform invaluable services for their patients free of cost. They have three obligations: patient care, teaching and research.

Since all patients are treated free of cost, patients have an obligation towards the institution.

It has been the practice to use organs and tissues removed at surgery or at autopsy for teaching, research and mounting in museums. I see nothing wrong in using material obtained from patients for retrospective studies, especially since the confidentiality of patients is being respected.

Were we to deny this to teaching hospitals, they will suffer a major handicap in two of their three functions.

Remember that public hospitals attached to medical colleges have perennial problems obtaining funds, getting competent teachers and retaining them and generally carrying out their intended tasks.

Let us not add to their problems on grounds that really make no practical difference to the vast majority of patients seeking care in these hospitals.

Reference

1. Jesani A. About student research and blanket consent from patients. *Indian J Med Ethics*. 2009 Oct-Dec. 6(4): 216-8.