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Blood transfusion in Jehovah's witnesses, a dilemma in medicine?



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Abstract The provision of health services should be carried attached to the scientific and ethical principles of medicine. The negative to accept blood transfusion by Jehovah's Witnesses, when indicated, determines a conflict and a challenge for physicians. We discuss concepts related to this complex situation, including: Freedom of religion and belief, patients' rights, regulatory framework that applies to providers of health services and medical rights. Which should be taken into account in these situations to make an informed decision from the legal and ethical point of view.

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PALABRAS CLAVE

Testigos de Jehová;
trasfusión sanguínea

Trasfusión sanguínea en testigos de jehová, ¿un dilema en la medicina?

Resumen La prestación de servicios de salud debe realizarse apegado a los principios científicos y éticos de la medicina. La negativa de aceptar transfusión sanguínea por Testigos de Jehová, cuando está indicada, condiciona un conflicto y un reto para los médicos. Se presentan y analizan conceptos relacionados a esta compleja situación, que incluyen: La libertad de religión y creencias, derechos de los pacientes, marco normativo que aplica a los prestadores de servicios

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de salud y derechos de los médicos. Los que se deben tomar en cuenta en estas situaciones para tomar una decisión bien fundamentada, desde el punto de vista legal y ético.

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Introduction

The provision of health services must attend to the scientific and ethical principles of medicine, in an opportune and efficient way; respecting the will of the patient, which implies demanding for its informed authorization to perform the diagnosis procedures, therapeutic and of rehabilitation that are required. While it is undisputable, that the autonomy of the patient must be respected in order to take his own decisions, there are situations in the practice of medicine in which the will of the patient prevents the use of the adequate treatment to provide the medical attention required. An example that medics face, in their daily praxis, is the negative of Jehovah's Witnesses patients to accept sanguine transfusions despite it being required for their treatment. This situation places the medic in a disjunctive to respect the autonomy of the patient or to fulfill its obligation of veiling for the health of his patients. Taking into account that the World Health Organization established the concept of health as: the complete state of physical, mental and social well-being, and not only the absence of affections or illness¹. In the present article concepts related to this complex situation will be revised, which include: freedom of religion and of beliefs, rights of the patients, regulatory frameworks that apply to providers of health services and medic rights. In order to present the aspects that must be taken into account in these situations and to make a well grounded decision, from the legal and ethical point of view.

Freedom or religion and beliefs

The Political Constitution of the Mexican United States in its 130 Article, subsection C, establishes: Mexicans can exercise the ministry of any cult. For that, Mexicans as well as foreigners will have to satisfy the requisites that the law designates². The Law of Religious Associations and Public Cult, establishes in its 2nd Article- the Mexican State guarantees in favour of the individual, the next rights and liberties in religious matter: Subsection a) To have or to adopt religious belief which best considers and to practice, in individual or collective form, the cult acts or rites of his preference. Subsection c) Not to be object of discrimination, coercion or hostility for cause of his religious beliefs, and neither be obligated to declare in respect to them³.

In the international context it is guaranteed through the Universal Declaration of Human Rights, Article 18- Every person has the right of freedom of thought, conscience and religion; this right includes the liberty to change religion or belief, as well as the freedom to manifest its religion or belief, individually or collectively, whether in public or in

private, by teaching, practice, cult and observance. Article 19- Every individual has right of freedom of opinion and expression; this right includes not to be bothered because of his opinions, to investigate and receive information and opinions, and to spread them without limitations of frontiers, by any means of expression⁴. In the Regulation of the Law of Religious and Public Cult Associations, it is established in its 37 Article- The intervention of competent authorities in the case of religious intolerant behaviors, without prejudice to what other applicable jurisdictions dispose, it will base itself in the principles of no discrimination and equality before de law, and the right of every individual to exert the liberty of beliefs and cult, without restrictions than the foreseen in the dispositions of the matter⁵. It is clearly stated in Mexico the liberty to manifest and change religion or belief, as well as the prohibition of religious intolerant behaviours. However, it is not clearly stated in any of these legal jurisdictions what happens in situations related to the provision of health services. Hence, it is essential to revise other legal mandates to be able to relate adequately what has been written previously in relation to medical attention.

Patients' rights

The Letter of Patients General Rights, published in December 2001, contains people prerogatives when, in their character as patients, they receive medical attention. For its elaboration the National Commission of Medical Arbitration, the Undersecretary of Innovation and Quality, the National Commission of Bioethics, the Inter-institutional Commission of Infirmary and the General Direction of Legal Issues of the Health Secretary took part. It includes the following statements: The National Commission of Human Rights, National Federation of the Mexican Institute of Social Security, The General Medical Branch of the Institute of Security and Social Services for State Workers to receive adequate medical attention by qualified personal, in accordance to the necessities of their health state and the circumstances in which attention is provided; to receive respectful and dignified treatment; to receive sufficient, clear, opportune and truthful information; to decide freely in respect to their treatment; to give or not their validly informed consent; to be treated with confidentiality; to have facilities to obtain a second opinion; to receive medical attention in case of urgency; to have a clinical expedient; to be attended when in inconformity with the medical attention received. All the prerogatives are relevant, but the first, in relation to the present subject, is fundamental; given that it establishes the patients' right to receive adequate medical attention in accordance to his necessities. Which implies that the medic has to ground his necessities in scientific evidence, not in a

discretionary way. Linking this precept, it must not be forgotten the obligation to facilitate a second medical opinion, when the patient so requires. Which can confirm the necessity to transfuse or give a therapeutic alternative, which could have been omitted at first ⁶.

Legal framework that applies to health service providers

The legal framework that applies to health services providers is wide and can be complex, and, in occasions, confusing for those who exert the medicine. In our Magna Carta, in the fourth article, fourth paragraph, it is established that: Every person has right to health protection. The Law will define the bases and modalities of the access to health services and will establish the concurrency of the Federation and the federative entities in matter of general salubrity, according to that disposed in the fraction XVI of the article 73 of this Constitution ⁷. As of this constitutional right, emanates the Health General Law, which establishes in its THIRD TITLE Provision of Health Services, CHAPTER I Common Dispositions CHAPTER II Medical Attention, Article 32: It is understood as medical attention the set of services provided to the individual, with the purpose of protecting, promoting and restoring his health, which can be supported by electronic media in accordance with Mexican official normative that the Health Secretary issues. CHAPTER IV Users of Health Services and Community Participation Services Article 51. - The users will have right to obtain professional and ethically responsible attention, as well as respectful treatment and worthy of professionals, technicians and auxiliaries. Article 51 Bis 1. - The users will have right to receive sufficient, clear, opportune and veracious information, as well as needed orientation in respect to their health and including the risks and alternatives of the offered procedures as well as the therapeutic and surgical diagnostics. In case of urgency or if the user finds himself in a state transitory or permanent incapacity, the authorization to proceed will be given to the familiar that accompanies him or his legal representative; in case of the foregoing not being possible, the provider of health services will proceed immediately to preserve the life and health of the user, leaving constancy in the clinic expedient. CHAPTER III Transplant. Article 334: to perform donors' transplants that have lost their lives, the next must be fulfilled: I. Ascertain, previous to the organs and tissues extraction and by a different medic to those who will intervene in the extraction of organs or tissues, the loss of the patients' life, in the terms required in this title ⁸. For the application of the legislation previously indicated applies the compliance of the REGULATION of the General Health Law in Matter of Provision of Health Services and Attention. In the article 71 designates: Public, social or private establishments that provide medical attention services for the hospitalization of patients, are obliged to provide immediate medical attention to any user, in case of urgency that occurs in their proximity. Article 72. - It is understood as urgency, any acute medical-surgical problem, that puts in danger the life, organs or function and that requires immediate medical attention. Article 73. - The responsible of the urgency service of the establishment, is obliged to take the necessary measures that assure the

medical valuation of the user and the complete treatment of the urgency or the stabilization of their general conditions, in order to be transferred. Article 80. - In all hospital and as long as the patients' state allows it, at his entry written and signed authorization must be gathered to exert, with therapeutic and diagnostic purposes, the medical surgical procedures necessary according to their condition, having to clearly inform him the type of document presented for their signature. This initial authorization does not exclude the necessity to gather after the corresponding to each procedure that involves a high risk to the patient. Article 81. - In case of urgency or when the patient finds himself in a state of transitory or permanent incapacity, the document to which the article above refers, will be subscribed by the closest familiar that accompanies him, or in its case, by his tutor or legal representative, once informed of the nature of the authorization. When not possible to obtain the authorization by incapacity of the patient and absence of persons to which the above paragraph refers, the authorized medics of the hospital in question, previous valuation of the case and in accordance with at least two of them, will carry out the required therapeutic procedure, leaving written constancy in the clinic file ⁹. Explicitly, in the Official Mexican Norm NOM-003-SSA2-1993, "For the disposition of human blood and its components with therapeutic purposes", specifies: The blood receptor and of its components, must have a disorder not susceptible to be amended by other therapeutic means, only transfusion ¹⁰. While the patient needs to provide his authorization for the medical-surgical procedures to be carried out, it is established that the medical attention services are the set of services provided to the individual, with the purpose of protecting, promoting and restoring his health and the medic must provide opportune and qualified attention. Hence, neither the user nor the health service provider can be obliged to carry out procedures that contravene these precepts. Such that, when a patient refuses to accept a sanguine transfusion, the health services provider cannot be obliged to carry out medical-surgical procedures in which sanguine transfusion is justified. The scenario is different in those cases of urgency, because in the case of requiring a transfusion and if the patient is not possibilities of taking a decision and, no familiar or legal representative is present, the health service providers will have to take the decision based on scientific principles of medicine. Which will have to be fully accredited in the clinical expedient of the patient.

Medic rights

As well as the patients have unquestionable and irrefutable rights, the health personal has too rights to exert their labour activity. The National Commission of Medical Arbitration was in charge of conducting the elaboration of the General Rights Letter of the Medics, these having published and diffused by diverse media, and integrated in the following Decalogue: To exert the profession in a free manner, without pressures of any nature; To labour in appropriate and safe facilities that guarantee their professional practice; To have to their disposal the resources required for their professional practice; To refrain from guaranteeing results in the medical attention; To receive respectful

treatment from the patients and their familiars, as well from the personal related with their professional labour; To have access to continuous medical education and to be considered in equality of opportunities for their professional development; To have access to investigation and teaching activities in the field of their profession; To associate in order to promote their professional interests; To safeguard their professional prestige; To receive remuneration for their given services¹¹. In them is embodied the right of the health personal to exert their profession in a free manner and without pressure of any nature; which can be interpreted as antagonistic with the patients autonomy. However, that these are not opposing principles, the medic is obliged to inform the patient of the diagnostic and therapeutic proposals ideal for each case, and the patient must authorize their realization. Which does not implies that the medic is obliged to carry out a procedure that attempts against the scientific principle of the medicine, so that the patients and health services providers rights remain safeguarded.

Conclusions

Medicine requires the acquisition and appliance of knowledge based on scientific evidence, skills, clinical criteria, experience, compromise, service attitude, decision taking in short periods of time in different contexts. If we add to that the interaction with the patient, his familiars and the health team, we can assure that it is a complex discipline, subjected to unexpected changes, not preventable, that condition high risk of committing involuntary mistakes. While new factors add that difficult adhering to these precepts, the risk of committing mistakes increases and the security of the patient is placed at risk. The negative of accepting transfusion by Jehovah Witnesses when this is correctly indicated, in accordance to medicine precepts, attempts against their security as a patient. As it has been mentioned previously, the rights of the patients are not subjected to discussion, among them their autonomy to accept or deny the diagnostic and/or therapeutic procedures proposed for their medical attention. For the medic it must be clear that there are existing guidelines that oblige him to respect the patients' decision, but it also has to be accepted that the maximum wealth to preserve for the medic is the health and the life of the patient. It is because of this, that when this kind of situations present themselves, the medic will have to take a decision adhering to the current normativity, the patients' decision and his obligation as a responsible of the patients' medical attention. For that, the describe factor will have to be taken into account in order to take the right decision without attempting against the patients' rights, the active legal framework and his obligation as a health services provider. From the collegial work of the National Commission of Medical Arbitration, Undersecretary of Innovation and Quality, General Direction of Legal Issues of the Health Secretary, General Direction of Religious Associations of the Secretary of Governorship, National Centre of Sanguine Transfusion, National Human Rights Commission, Mexican Academy of Surgery, National Commission of Bioethics and the National Academy of Bioethics; six recommendations were emitted for the attention of Jehovah Witnesses' patients. 1. - To transfuse it is necessary to obtain an informed consent

letter. 2. - If transfusion is considered indispensable, in accordance to established criteria, in an elective procedure, allow the participation of medics from the Link Committees of the Jehovah Witnesses, to value other alternatives. 3. - Do not deny the hospitalization, despite no blood donors provided. 4. - When unable to attend Jehovah Witnesses' patients without blood, medical attention must not be suspended and, if possible, the patient must be transferred to a medical unit with this capacity. 5. - In case of necessity state (real urgency), the medic must preserve the life before other juridical goods and his prescriptive liberty must be respected. 6. - Health institutions must promote the creation of hospital committees of transfusion medicine, to support the taking of decisions and diffuse guides for transfusion medicine. The recommendations above were presented before the Plenary of the National Health Council, where the agreement of adoption and diffusion on the health sector was taken¹². The most important for the medic is to never deny the attention, not to abandon the patient and to preserve the health and life of the patient which is maximum wealth for any medic. The appliance of these recommendations can prevent the appearance of conflicts between the patient and the medic and respect the rights of both sides.

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