LETTER TO THE EDITOR

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Advance Healthcare Directives and Patients Afflicted with Dementia

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Dear Editor,

As a result of the promulgation of Law 219/2017 in Italy, the advance healthcare directives were regulated.[1] In particular, article 3 refers to the necessary criteria for the drafting of the advanced directives. According to the law, everyone has the right to know their condition and must be informed about possible diagnostic pathways and therapeutic alternatives. Any person, fully legally capable, may draft his or her wishes regarding the medical treatments that he authorizes, or does not authorize, in the event of his or her future inability to self-determination. In addition, the patient may name a person who will be informed about the clinical condition and who will decide on the clinical path to be undertaken.

Obviously, one of the basic prerequisites for drawing up the advance directives is the legal capability. The patient, moreover, can change the advance directives at any time, but also for this, it is necessary that the individual is not legally incapable.

After this law, considerable importance is given to the will of the sick person, also with regard to future and possible treatments to which he might be subjected.

Also, in the field of dementia, through this new law, it becomes mandatory to inform the patient of his diagnosis and any applicable therapeutic strategies.[2]

It is important to highlight, nevertheless, that Alzheimer's dementia patients and also patients affected by mild cognitive impairment are at higher risk of impaired capacity to consent to treatment.[3]

However, the demented patient, even in the limit of his cognitive abilities, has "the right to the valorization of his own capacities of understanding and decision." Moreover, in the early stages of cognitive decline, the patient can still autonomously understand and choose whether, and how, to be treated even in the perspective of an inevitable worsening of cognitive decline. The doctor, therefore, will have the legal and bioethical duty to respect his wishes but with the utmost attention to the residual mental capacities of the subject.

Thus, based on Law 219, informed consent will also be the first step in shared care planning. Moreover, in view of the possible worsening of the cognitive impairment with the inability to understand and want, the patient afflicted with early-stage dementia, can still appoint a trustee who in the future will be responsible for the decision concerning the diagnostic path and therapeutic action to be taken.

The new law requires the patient to be fully informed about his condition, thus favoring a change in perspective of the doctor, family, and society itself. In fact, the patient must be recognized as a person at all stages of illness. Communication, enhancement of patient’s remaining skills, and respect for the right to self-determination are essential. It is essential to understand and respect all that constitutes “dignity” for the sick. All this is valid both in the early stages of the illness and in the last days of life and must be guaranteed as a fundamental right.

Therefore, thanks to Law 219/2017, also with regard to dementia patients, it is no longer possible to apply a custodial approach based on the presumed inability to self-determination, but it will be essential to take into account all the advance directives of these subjects at all stages of the disease. There will certainly be many bioethics issues in this area of psychiatry.

However, even in the event of a severe cognitive decline, the treating physician and the patient’s family will be required to consider and respect the wishes of the patient regarding therapeutic choices.

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