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1) INTRODUCTION

One of the main concerns in the set up of European tumor boards in the ExPO-r-Net project is the scarce knowledge and lack of information available about legal liability of a decision made in a tumor board. There is very little experience in claims about who is responsible if a patient is damaged by a medical decision taken by a multidisciplinary board where many different experts in different areas make a combined decision.

Another important issue is respecting patients' right to confidentiality when making use of teleconferencing technology. As WP5 leading members and analyzers of the actual situation of tumor boards in Europe, we have made a wide research in the available literature and by means of contacting national and international experts in legal and medical matters. This document is a summary of the gathered information so far. It will need to be updated with new findings.

2) METHODS

A) National expert contact in Valencia (Spain):

- University of Valencia (School of Medicine) - Dr. Gisbert
- Legal department of the Medical College in Valencia

B) International expert contact: Nikolaus Forgó (first contact)

C) Bibliography

3) RESULTS

A) National expert contact in Valencia (Spain):

We started the counseling at national level, making contact with the maximum experts of legal medicine at University of Valencia (Spain) and at the Medical College. Firstly, we interviewed Dr. Marina Gisbert Grifo from the Legal Department at University of Valencia. She stressed the fact that they have never had any notice of a particular claim to a multidisciplinary team. This might be related to the fact that a decision is made by a wide number of physicians and not a unique person makes the decision more credible and robust.

Then, we contacted with the Legal Department of the Medical College in Valencia. As Dr. Gisbert announced, they haven't managed until the date any particular claim that has been performed to a multidisciplinary board. They don't know about previous cases.

Both experts, at University and at the Medical College suggested that in order to preserve medical responsibility it is essential that a formal **informed consent** is prepared with the complete information of how the information of the patient is going to be discussed by different experts and always warning of the possible side-effects that can occur if the decisions of the multidisciplinary team are followed (surgery, chemotherapy, radiotherapy or other particular treatments). If an informed consent is signed by the patient or relatives explaining the whole process of the multidisciplinary discussion, there should be no legal problems related to the tumor board. In this case, any possible errors or associated medical negligence are to be treated as any other normal medical activity and has nothing to do with the entire tumor board. All of these matters should be specified in the informed consent so the tumor board is exempt of liability.

B) International expert contact:

As accorded in the last ExPO-r-Net meeting in Brussels we made contact with Nikolaus Forgo as medico legal international expert that has already made cooperation in other Pediatric Oncology associations like The European Network for Cancer Research in Children and Adolescents (ENCCA).

The opinion coming from his colleagues and himself is that the issue is indeed rather complex and the main thing we will have to be mindful of is who is liable for the decisions of the board. On the one hand is the leading physician of the patient, on the other the group itself. This is a specific medical law issue and it will heavily depend on the national legislation that is followed in each country. Therefore, if a virtual tumor board is held within members of different countries which is the case in the ExPO-r-Net network the responsibility of a possible claim will be different according to the nationality.

The second main concern about patient confidentiality was also discussed. The use of video conference systems with the scope of discussing a particular patient will always mean processing of patient data and hence needs a legal ground for the processing. Furthermore, the data will be shared across many hospitals.

A legal ground for processing of data. Usually the processing of patient data in care is based on the so called care exemption, which allows the care provider to process patient data. Sharing data with a virtual tumor board may be seen as reaching beyond what is considered normal care practice, hence, we should also consider whether asking the patient for specific consent should be an option. We should also always remember that the persons with whom the information is being shared should remain under the obligation of medical secrecy.

A specific conference system which fulfills the requirements of security and confidentiality's needed for this purpose, which is both a requirement from the view of medical law or right (confidentiality), as well as data protection law.

SUMMARY AND PRACTICAL ISSUES

- Maximum expertise aren't aware of previous claims to a multidisciplinary tumor board.
- Liability of a medical issue is determined in each country by national legislation.
- A standard informed consent is needed to exempt the tumor board of any legal responsibility.
- A legal ground for processing data is needed and individuals that share virtual information should remain under the obligation of medical secrecy.
- Sharing data with a virtual tumor board is beyond normal care practice so the patient must be asked for consent.

C) Bibliography

Relevant articles:

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