

How up-to-date does medical knowledge have to be?

Jak aktualna jest wiedza medyczna?



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Abstract

The Act regulating the medical and dental professions says that every physician is obliged to perform his or her profession in accordance with current medical knowledge, available methods and means of prevention, diagnosis and treatment of diseases, the principles of professional ethics and with due diligence.

The doctors' code of ethics states that the professional activities of a physician must be in accordance with his or her conscience and modern medical knowledge. It also guarantees each physician the right to choose those treatment methods which he considers to be the most effective, always within the context of activities that are actually necessary according to the current state of medical knowledge. The physician's obligations are correlated with the patient's rights, namely a power to obtain treatment which meets the requirements of current medical knowledge. The legislature deliberately has not created a legal, precise definition of current medical knowledge, because this allows a wider assessment of a physician's performance in terms of compliance with its standards.

Key words: current medical knowledge, available means, due diligence

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Introduction

The Act regulating the medical and dental professions says that every physician is obliged to perform his or her profession in accordance with current medical knowledge, available methods and means of prevention, diagnosis and treatment of diseases, the principles of professional ethics, and with due diligence [1]. The doctors' code of ethics states that the professional activities of a physician must be in accordance with his or her conscience and modern medical knowledge. It also guarantees each physician the right to choose those treatment methods which he considers to be the most effective, always within the context of activities that are actually necessary according to the current state of medical knowledge [2]. The physician's obligations are correlated with the patient's rights, namely a power to obtain treatment which meet the requirements of current

medical knowledge [3]. The legislature deliberately has not created a legal, precise definition of current medical knowledge, because this allows a wider assessment of a physician's performance in terms of compliance with its standards [4].

How courts and doctrine define it

The judiciary also uses the definition of current medical knowledge as one of the main obligations and a legal criterion of health service provision. A physician may be responsible for a crime against the life or health of a patient in connection with a treatment only in the event of a culpable mistake within the medical profession and if his action or omission has not complied with the requirements of current knowledge and commonly accepted medical practice [5]. The obligation to act with current medical

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knowledge obliges physicians to improve their professional qualifications and to keep up to speed with the progress of science and medical technology. Ignorance in this area constitutes a physician's guilt [6]. However, even if the proceedings are performed in compliance with current medical knowledge and due diligence, the risk of harm cannot be eliminated [7]. Acts or omissions of a physician in the field of diagnosis and therapy that are incompatible with medical science can be recognised as malpractice, on condition that a physician has not used or has incorrectly used available means [8].

Medical knowledge is current when it is not outdated, as medicine is subject to a dynamic development process [9]. It is defined as the currently available knowledge [10]. With reference to the term 'current', it is believed that the implementation of, among others, new drugs, methods or techniques, does not always make existing ones obsolete, but only increases the treatment possibilities available to a physician [11].

Safjan advises that we refer to a supranational (European) average of knowledge. At the same time, compliance with current medical knowledge does not oblige a physician to provide universal access to state-of-the-art medical technologies. It does however prevent him from adhering to old methods if they have been commonly replaced with others [12].

The state of knowledge that is considered to be current is that obtaining at the precise time of the procedure, due to the constant rapid advances in medicine [13]. Medical standards, understood as guidelines and algorithms of medical conduct, include, among others, indications concerning diagnostic, therapeutic and preventive methods [13].

If a physician complies with the standards issued by the relevant legislature or scientific societies, he or she is provided with legal security. This means that in typical situations his medical conduct path shall be considered as correct on condition that at the same time he acts with due diligence.

The standards developed by professional entities are defined as non-legal standards, often of the nature of professional rules, according to which we assess the level of professionalism (art practice) and conscientiousness: this is the physician's diligence. Such recommendations, opinions or positions constitute a determinant according to which we assess acts or omissions, and their legal consequences [14].

Performing professional activity using all available means must be considered in terms of fact, law and economics. Available means actually constitute a method that can be used by a doctor himself, which is available in a certain medical entity, or in another facility, in which case a physician should refer the patient on. Legal access means methods which are legally permissible. Availability

in an economic sense defines a method as included within the list of guaranteed health services financed from public funds. However, the Supreme Court has underlined that priority is given to the obligation to help in a situation where there is a threat to life or of serious health damage [15]. In such cases all necessary procedures are available for physicians, regardless of economic limitations.

What is and what is not current medical knowledge

As medicine is a worldwide science, medical standards are not limited by national borders. Thus, the current state of knowledge is recognised to be both domestic and international. The standards may have a legal form, for instance when they have been issued by the Ministry of Health, e.g. in the cases of obstetrics and gynaecology or intensive therapy.

However, the legislature has not discussed each and every aspect of the above-mentioned fields of medicine at length. Scientific committees successfully and permanently not only follow the progress in medical sciences, but also create it. The standards are referred to as medicine based on objective knowledge, created on the basis of broad, medical, scientific reviews [16]. The source of the current state of knowledge also depends on professional literature, including scientific papers.

Legislation has excluded the possibility of using obsolete methods, or those which have been found to be ineffective, incorrect or even dangerous [17].

Neither is it acceptable, apart from in the course of a medical experiment, to use unproven methods that have not received sufficient assent from the medical community. At the same time, the legislation does not use the word 'latest' when discussing medical knowledge, because this could lead to the use of as yet not entirely proven scientific achievements, and thus bring medical treatment too close to the territory of a medical experiment [18].

Medical knowledge standards, other than in emergency cases, to some extent can be adjusted to stay within financial limits. However, even if a particular medical procedure cannot be performed at the level corresponding to the latest medical knowledge requirements, it mustn't go below the minimum limit of medical accuracy, according to the current state of knowledge [19]. At the same time, it is illegal, due to the lack of means, to apply to patients those methods of conduct that do not correspond to the current state of medical knowledge [20].

Conclusion

To act with current medical knowledge means to use scientifically verified methods with proven effectiveness. This obligation can be considered, together with due diligence,

to be the most important standard of medical activity. Current means not outdated, but at the same time not necessarily the newest. A patient cannot always expect the highest quality of healthcare, because, sometimes for legal or economic reasons, some health benefits are not available to a physician. Nevertheless, a patient is entitled

to be provided with a healthcare service that is delivered to the best practicable standard [21].

Conflict(s) of interest

The author declare no conflict of interest.

Streszczenie

Ustawa o zawodach lekarza i dentysty stanowi, że każdy lekarz ma obowiązek wykonywać swój zawód zgodnie z aktualną wiedzą medyczną, dostępnymi metodami i środkami zapobiegania, diagnozowania i leczenia chorób, zasadami etyki zawodowej i należytą starannością.

W kodeksie etyki lekarskiej przewidziano, że działalność zawodowa lekarza musi być zgodna z jego sumieniem i nowoczesną wiedzą medyczną. Gwarantuje on również każdemu lekarzowi prawo do wyboru metod leczenia, które uważa za najbardziej skuteczne, jednak w odniesieniu do rzeczywiście niezbędnych działań zgodnie z aktualnym stanem wiedzy medycznej. Obowiązki lekarza są skorelowane z prawami pacjenta, a mianowicie uprawnieniem do uzyskania świadczeń zdrowotnych, które spełniają wymagania aktualnej wiedzy medycznej. Prawodawca celowo nie stworzył legalnej, precyzyjnej definicji aktualnej wiedzy medycznej, ponieważ pozwala to na szerszą ocenę postępowania lekarza pod względem zgodności z jego standardami.

Słowa kluczowe: aktualna wiedza medyczna, dostępne środki, należyta staranność

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