

Re: When the patient refuses blood transfusion

A «Perspectives» article about refusing blood transfusion was recently published in the Journal of the Norwegian Medical Association (1). I understand the article as an appeal for a weakening of patient rights, and I would therefore like to make some comments.

The article maintains that the question has been raised as to whether the rule in Section 4-9 of the Patients' and Users' Rights Act must be understood as meaning that a patient who refuses to receive blood simultaneously renounces other treatment in a situation where blood transfusion is considered to be the only correct procedure. Reference is made to Marit Halvorsen, Professor of Law, who is quoted as saying: «Broadly speaking, if someone wants to have surgery, the person must accept undergoing the operation in a way that is medically acceptable, including if this means blood transfusion.» (2)

My special field is linguistics and semantics, and try as I might I cannot see that there is even a hint in the Act that serves as a basis for this interpretation. Neither is there anything that supports the interpretation in the Act's preparatory works. On the contrary, this interpretation contradicts the right everyone holds to choose their own medical treatment. The Act states explicitly that a patient has the right to refuse the treatment that a doctor suggests, and such a refusal cannot mean that the patient renounces the right to receive alternative treatment.

In the article the terms «adequate medical treatment» and «adequate professional health care» are used. The problem is that these terms are understood in different ways by different doctors due to their diverse experience and competence. A survey showed that Norwegian anaesthesiologists accepted a significantly lower haemoglobin level in surgical patients in 2002 compared with 1996 (...). Junior Registrars accepted a lower haemoglobin level than Senior Consultants, who in turn accepted a lower level than Chief Consultants. (3) Referring to *lege artis* as a criterion for disregarding a patient's refusal of a blood transfusion is extremely problematic since the concept has many different interpretations. The very core of the Patients' and Users' Rights Act is the right of informed consent. Therefore, even if the term «adequate medical treatment» was unambiguous, which it is not, the Act would not give a doctor the right to disregard a patient's choice by saying that this choice is inadequate.

When Jehovah's Witnesses established Hospital Liaison Committees in Norway in 1990, and we looked for cooperative doctors, there were several cases of doctors being reluctant to perform an operation because the law was unclear and because they feared the possible consequences. The Patients' and Users' Rights Act clarified the situation and solved this problem. I have given lectures on bloodless treatment to hundreds of doctors on hospital wards; I have answered their questions and listened to their comments, and my clear impression is that there are currently very few problems connected to treatment without the use of blood.

The proposal that those who refuse blood transfusion can lose their right to medical treatment when a doctor says that the use of blood is necessary is very unreasonable in both a national and a global context. In other countries there are hospitals that exclusively perform bloodless surgery and that do not under any circumstances use blood (5, 6). So in these hospitals, bloodless treatment is *lege artis*. It would be inconsistent if Norwegian patients were to lose their right to treatment when they choose a form of treatment that is standard procedure in many hospitals in other countries.

The Patients' and Users' Rights Act makes excellent provision for the rights of both patients and doctors. The new interpretation of Section 4–9 lacks any linguistic basis and should therefore be rejected.

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References

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