

## Communication Gaps in Georgian Palliative Medicine: Ethical and Legal Review

*Tebidze N., DDM, PhD*

Associate Professor of BAU International University, Batumi  
Associate Professor of Grigol Robakidze University, Georgia

*Kazhashvili G., LL.D, PhD*

Assistant Professor of Batumi Sh. Rustaveli State University  
Judge of the Civil Affairs Panel of Batumi City Court, Georgia

[Doi:10.19044/esj.2024.v20n37p271](https://doi.org/10.19044/esj.2024.v20n37p271)

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Submitted: 14 December 2023

Accepted: 08 February 2024

Published: 21 February 2024

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*Cite As:*

Tebidze N. & Kazhashvili G. (2024). *Communication Gaps in Georgian Palliative Medicine: Ethical and Legal Review*. European Scientific Journal, ESJ. 20 (37), 271.

<https://doi.org/10.19044/esj.2024.v20n37p271>

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### Abstract

**Introduction:** Difficulties in communication, decision-making, and end-of-life management have emerged in the implementation of palliative care in recent decades. The imperfection of ethical issues was also highlighted. This fact is confirmed once again by a study conducted by the oncology department of the Batumi High-technology Hospital, which aimed to study the adequate perception of existing oral pathologies by patients under palliative care and their impact on the quality of life.

**Aim:** We aimed to discuss the mentioned problem within the framework of bioethics and Georgian legislation.

**Methods:** Despite the few amount of literary sources, we tried to discuss the mentioned issue based on Georgian legislation and also existing literature.

**Conclusion:** Thus, as we mention in medical activities there are cases when the real diagnosis is not told to the patient for „his favor", also there are cases when an inappropriate diagnosis is made, which can lead the patient to a fatal condition. In this case, the patient can civilly protect his rights.

The best option is to provide the patient with information in the correct form so that it does not mean the end of the world and does not cause depression in him. The patient should be able to pass the last stage of life peacefully and

with dignity.

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**Keywords:** Palliative Medicine, Georgian Legislation, Ethics, Communication Skills

## **Introduction**

Palliative care is one of the main directions of modern medicine. Among the healthcare and social systems, it is practically the only one that, unlike other directions of the mentioned systems, focuses not on "disease" and "cure", but on "patient" and "quality of life". (Clark D. et al., 2007; Portenoy R.K. et al., 2013).

Difficulties in communication, decision-making, and end-of-life management have emerged in the implementation of palliative care in recent decades. The imperfection of ethical issues was also highlighted (Carter B.S. et al., 2012; Scho eld G. et al., 2021).

Efforts for the implementation of a modern model of palliative care in Georgia began in 2000. Despite many efforts, it is still far from European standards. The country's coverage of palliative care, as well as its quality, is poor (Kordzaia D., 2011).

This fact is confirmed once again by a study conducted by the oncology department of the Batumi High-technology Hospital, which aimed to study the adequate perception of existing oral pathologies by patients under palliative care and their impact on the quality of life. (Tebidze N. et al., 2017). During the conduction of the research, many difficulties were revealed, but the most noteworthy of them was the lack of awareness of the patients about their health status.

We grouped them into 3 main groups:

1. Most of them either do not know the diagnosis at all, or
2. they know it incompletely. Few of them are aware of the case, but their psychological condition is so severe that it causes their general condition to deteriorate.

The part that doesn't know the diagnosis calmly waits for recovery and his/her life ends unplanned.

Unprofessional delivery of a diagnosis or no delivery at all is a brutal violation not only of medical ethics but also of the law.

The question arises - do health care workers have the right to hide the diagnosis, which is a gross violation of the patient's autonomy and rights, or is it correct to report the diagnosis in a form that further aggravates the patient's condition?

**Aim:** We aimed to discuss the mentioned problem within the framework of bioethics and Georgian legislation.

**Methods:**

Despite the few amount of literary sources, we tried to discuss the mentioned issue on existing publications based on Elsevier, Google Scholar, and Georgian legislation. At this point, we discussed the ongoing practice and legislation. The amount of literature with the same content was analyzed. Qualitative content analysis and quantitative approaches were used to evaluate the overall situation in the mentioned field.

**Results and discussion:**

Palliative care is nonsense without effective communication. Healthcare professionals must accurately understand the patient's pain and condition. Accurate assessment of the situation requires effective communication skills. Almost invariably, communication is a central part of therapy, sometimes the only part. It requires more thought and planning than writing a prescription (Buckman R., 2001).

Patients with incurable diseases need doctors with good communication skills, but unfortunately, this is not the case (Buckman R., 2001).

When receiving information about an incurable disease, a significant part of patients and their families experience great emotional stress, and therefore this circumstance requires the improvement of communication skills and methods. Effective communication includes the following important points:

1. Reassuring the patient that doctors will do everything to achieve specific goals. In no case should the patient be told that there is nothing they can do;
2. The provided information, including the estimated forecast, should contain less uncertainty;
3. Study of the patient's emotional background and emotional support;
4. Providing information about advanced treatment;
5. Quiet environment (Morita T. et al., 2004).

Providing bad information requires correct action on the part of both the doctor and the patient. The most important and painful information is about life limitations.

Before, it was considered correct to provide the correct prognosis to the patient, but today it is a question of what information should be provided to the patient and in what form. Studies have shown that the majority of patients prefer detailed information about the disease and the expected

outcome. However, the need for information may vary in different phases of the disease.

The legislation of some countries obliges the doctor to provide all necessary information to the patient (Delvaux N. et al., 2004)

However, patients often misunderstand their disease status and treatment goals. As a rule, their life expectancy is overestimated. All this can affect the course of the disease and, as a result, worsen the quality of life.

Today, there is a broad consensus regarding the need to improve the communication skills of healthcare professionals (Delvaux N. et al., 2004).

Unfortunately, there is no evidence-based information on how to deliver the diagnosis correctly. Which obviously requires more research, literature, and sources. Inadequate information leads to a loss of trust in the doctor. Correct delivery of bad information is an ideal option, but raising false hopes is unethical (Hagerty R.G. et al., 2005, Tulskey J.A. et al., 2005).

Ethics has been relevant since the time of Hippocrates (Beauchamp T.L. et al., 2001).

It refers to the application of values and moral rules in human activities. Bioethics is a subset of ethics, actually, a part of applied ethics, which uses ethical principles and decision-making to solve existing or anticipated dilemmas in medicine and biology (Beauchamp T.L. et al., 2001).

There are 4 basic principles of medical ethics:

- Respect for autonomy
- Prosperity
- No malice (or innocence)
- Justice (Beauchamp T.L. et al., 2001).

It offers a common, basic moral-analytical framework and moral language. Although they are not hard-and-fast rules, these principles can help physicians and other healthcare workers make decisions when considering ethical issues that arise in the workplace. (DeGrazia D. 2005)

The abovementioned four principles have withstood 40 years of challenge and still form the basis for most decision-making in both research and clinical practice. However, it is still a matter of controversy and requires more research and attention (Laurence D.J. et al., 2007)

As mentioned earlier, the legislation of some countries obliges the doctor to provide the patient with all necessary information (Delvaux N. et al., 2004). The legislation of Georgia in the field of health care consists of the Constitution of Georgia, treaties and international agreements of Georgia, this Law, and other legislative and subordinate normative acts (<https://matsne.gov.ge/document/view/29980?publication=50>).

Article 5<sup>th</sup> of the Constitution of Georgia declares the principle of Social State. Paragraph 4 of the mentioned article says: The State shall take care of human health care and social protection

(<https://matsne.gov.ge/ka/document/view/30346?publication=36>).

Article 28<sup>th</sup> defines the citizen's right to healthcare. The right of a citizen to affordable and quality healthcare services shall be guaranteed by law (<https://matsne.gov.ge/ka/document/view/30346?publication=36>).

The Georgian law of „Health Care" defines the term - patient autonomy – a patient's right to make independent decisions on all issues related to the provision of medical care to him/her.

For the patient to exercise the right granted to him autonomously, he must have complete information about his health condition, to know the correct diagnosis in order to determine further actions related to medical intervention or making other lifemeaning decisions. Diagnosing the patient is the initial and at the same time determining stage for further actions.

It is also noteworthy that one of the serious arguments of the opponents of euthanasia is that "a mistake in the diagnosis" is possible;

Diseases that are considered incurable today may become curable tomorrow; Cases are known to medicine when patients considered incurable - recovered; It is possible that the doctor might be unqualified and dishonest (ფარსადანაშვილი ნ. et al.2007).

„ Even one life lost by mistake during euthanasia is enough for the legislator to refuse euthanasia" ((სადრაძე თ. Et al., 2010).

One of the functions of the World Health Organization is to standardize diagnostic procedures as necessary (WHO 2006 standardize diagnostic procedures as necessary), in order to reach the goal - as the objective of the World Health Organization (hereinafter called the Organization) shall be the attainment by all peoples of the highest possible level of health (WHO 2006)

Article 18 of the Georgian law on „Patient rights" declares the patient's rights to receive the information. Patients may receive from medical care providers comprehensive, timely, and clear information related to:

- a) existing resources of medical care and the forms of receiving such care, as well as the costs and payment methods;
- b) the rights and duties of patients under the legislation of Georgia and the internal regulations of medical institutions;
- c) planned prophylactic, diagnostic, treatment, and rehabilitation services, associated risks, and possible benefits;
- d) results of medical examinations;
- e) alternatives to planned medical care, associated risks, and possible benefits;

- f) expected consequences in the case of refusal to receive the planned medical care;
- g) diagnosis and possible prognosis, or current treatment;
- h) identity and professional experience of medical care providers.

The second paragraph of the article gives us the exception. The information about the health status of a patient may be withheld or limited if there is a reasonable belief that knowledge of full information will seriously affect the health of the patient. Patients shall be given full information about their health status only if they insist. This kind of behavior requires an individual approach, it should not be considered a general rule, it should not be made solely by one doctor. The decision on withholding or limiting information shall be taken by a medical ethics commission. If there is no such commission in a medical institution, the decision shall be made by another physician. A well-grounded decision on withholding or limiting information shall be entered into the medical records of patients. If a patient is a minor or unable to make a conscious decision, the medical care provider shall give the information specified in paragraph 1 of this article to a relative or a legal representative of the patient

(<https://matsne.gov.ge/document/view/16978?publication=12>).

According to Article 992 of the Civil Code of Georgia a person who unlawfully, intentionally, or negligently causes damage to another person shall compensate the damage to the injured party. Due to the harm to the life and health of a citizen caused by a medical error, the conditions for the emergence of civil legal liability are the same as in all tortious obligations: damage, wrongdoing, fault, and causal connection. The peculiarity of each of these components is determined by the nature of medical activity.

According to Article 3 (paragraph " n") of Georgian Law on „HealthCare" medical error is unintentional diagnostic and/or therapeutic measures inappropriate for the patient's condition taken by a doctor, which is a direct cause of harm;

Accordingly, in cases of harm caused to the patient, it is enough to establish the negligence of the doctor, which implies the implementation of the obligations assumed by him without the necessary care and attention (Judgment of the Civil Affairs Chamber of the Supreme Court of Georgia of November 17, 2022, Case No. As-1169-2022, para. 16, 17, 18).

## Conclusion

Thus, as we mentioned in medical activities there are cases when the real diagnosis is not told to the patient for „his favor", also there are cases when an inappropriate diagnosis is made, which can lead the patient to a fatal condition. In this case, the patient can protect his rights in civil manner.

The best option is to provide the patient with information in the correct form so that it does not mean the end of the world and does not cause depression in him. The patient should be able to pass the last stage of life peacefully and with dignity.

**Conflict of Interest:** The authors reported no conflict of interest.

**Data Availability:** All of the data are included in the content of the paper.

**Funding Statement:** The authors did not obtain any funding for this research.

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