

## PHYSICIAN-PATIENT RELATIONSHIP BEFORE THE SECOND HALF OF THE XIX<sup>th</sup> CENTURY IN ROMANIA

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Informed consent is nowadays one of the most important concepts guiding the physician-patient relationship, based on the right of the person to autonomy. Data about the patient-physician relationship in the Romanian countries before the second half of the XIX<sup>th</sup> century are scarce, and usually come from literary sources or letters. These, even if associated with a high degree of subjectivity, can however allow us to identify a certain pattern. This article aims to summarize the available data regarding the physician-patient relationship before the second half of the XIX<sup>th</sup> century in the Romanian countries. The discussion will be divided in two time periods: before the emergence of the first legal rules and regulations specifically regarding medical practice (drafted at the end of the XVIII<sup>th</sup> century), and between these and the foundation of modern Romanian medicine (foundation of the first medical university). In both stages the patient-physician relationship is highly paternalists, based on the Hippocratic model, with a very strong physician figure and a patient with a very weak bargaining position.

*Key words:* informed consent, paternalism, physician-patient relationship.

### INTRODUCTION

Informed consent is nowadays one of the most important concepts guiding the physician-patient relationship, based on the right of the person to autonomy. This concept has been identified in rudimentary forms for almost a thousand years; for example Mondeville, a professor of anatomy and surgeon that lived in the XIII-XIV<sup>th</sup> century recommended that, if a patient violently refuses a vital intervention, the surgeon must decline its competence, as operating this patient may hurt his (the surgeon's) reputation<sup>1</sup>. Respecting the autonomy of the patient was considered as much less important as helping him, saving his life by any means necessary. This model of the patient-physician relationship was directly derived from the principles stated by Hippocrates: „*the physician must be able to identify the history of the patient, know the present and foresee the future, it must*

*mediate these things and have two main objectives in the relation with the disease – to do good or at lead not to do harm” – primum non nocere<sup>2</sup>. According to this model informing the patient, telling him the truth about his/hers diseases or therapeutic alternatives was only useful if it would lead to an increase of the medical good for the patient. The physician was an authoritative figure, very difficult to combat by a diseased person, who had an absolute power over the patient. This paternalistic approach to the physician-patient relationship was preeminent until the second half of the 20<sup>th</sup> century when a series of legal rulings from the U.S.<sup>3</sup>, associated with the emergence of bioethics, diminished its impact, being more and more replaced with a model based on autonomy, where the patient take informed decisions regarding medical interventions.*

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the XIX<sup>th</sup> century are scarce and usually come from literary sources or letters. These, even if associated with a high degree of subjectivity, can however allow us to identify a certain pattern. This article aims to summarize the available data regarding the physician-patient relationship before the second half of the XIX<sup>th</sup> century in the Romanian countries. The discussion will be divided in two time periods: before the emergence of the first legal rules and regulations specifically regarding medical practice (drafted at the end of the XVIII<sup>th</sup> century), and between these and the foundation of modern Romanian medicine (foundation of the first medical university).

### Patient-physician relationship before the XIX<sup>th</sup> century

In this period, when an aggressive treatment is implied, the duty to do good (beneficence) prevails over the physician's *modus operandi* and, extremely important, over the patient's will. The voluntary consent of the patient is thus only manifested in his action to call upon the physician or not. Once the physician is called upon, he is entitled to do anything in order to cure his patient<sup>4</sup>. An example in this respect is provided by Dimitrie Cantemir, a Romanian Prince and one of the most preeminent cultural person in the Romanian Principalities in the XVII<sup>th</sup> century<sup>5</sup>: during a Turkish-Polish war, the Turkish commander falls ill with dysentery.

As the Ottoman army physician proved incapable of curing him, the Turkish leader asked the ruler Constantin Cantemir to send his physician „Hieromonacho Hieremia Cacavela praeceptore et Evangelii praedicatore”. He finds the Turk in a very serious condition “in extremo agone positum”, because the Ottoman physician was only treating him with cold water to quench the fever: “*non alio medicamine utebatur, quam potu aquae glaciatae quae illum ad tumulum etiam ante tempus, deducendum accelerabat*”<sup>5</sup>. Cacavela ceases the cold water treatment and subject to the Turkish commander's protests, informs him that people should obey and take the medicine as given and prescribed by the old Hippocrates; otherwise they would suffer the consequences of their own foolishness “*nam qui homines sunt, medicamina hominibus constituta, et a veteri illo Graeco medicorum Principe*

*Hippocrate inventa sunt, sumere solent, quibus non observatis, brutalitatem suam produunt inobedientes*”<sup>5</sup>.



Dimitrie Cantemir, engraving from the first edition of “*Descriptio Moldaviae*” (1716).

The Turk obeys uncomplainingly but prior to administering the medicine, Cacavela makes the sign of the cross and utters „in nomine patris et filii et spiritus sancti”. Cacavela answers Turkish protests with: “*in nomine Domini Jesu Christi, qui illuminat omnem hominem venientem in hunc mundum, et qui est, vita et resurrectio omnis hominis in illum credentium*”<sup>5</sup> (In the name of Christ, who lighteth every man that cometh into the world, that liveth and raiseth all who put their faith with Him). The Turk finally took the medicine and was cured. Then asked Cacavela what he gave him that he healed so rapidly. Cacavela answered that nothing important, only sprayed chalk, but that the chalk healed him in the name of Christ whose word he preaches<sup>6</sup>: „*non dedi domine Pasza tibi alia medicamenta, praeter pulverem craete qui in medicaminibus nihil valet*”, „*sed in nomine Jesu Christi, cuius*

*Evangelii ego ex benedictione Constantinopolitani Patriarchae universalis profesor sunt, et Christus Dominus est qui te sanum per meas preces fecit*"<sup>5</sup>.

This parental attitude was generated by four main elements:

- The fact that medical practice was based on the Hippocratic texts which provided the obligation of beneficence and non-maleficence irrespective of the means needed to achieve these goals (see above). This Hippocratic precept suggests that, once the patient needs a doctor, and the doctor accepts the patient, the later implicitly consents to all medical interventions deemed as necessary

- Medical practice in the rest of Europe, where this attitude was normal. For example Mondeville, surgeon and anatomist in the XIII–XIV centuries stated that: „*the patients shall obey the surgeon in all medical interventions necessary*”<sup>1</sup>. This way of perceiving the physician-patient relationship remained unchanged<sup>7</sup> until the XVIII century when John Gregory (1724–1773) but especially Benjamin Rush (1745–1813), influenced by Enlightenment philosophy, believed that physicians are bound to inform the patients, an information motivated by the fact that self-determination and happiness are adjuvant for the physician in curing the patient. The authorization of the physician by the patient however, was not considered as useful “physicians shall remain inflexible when medical problems have an increased lethal potential”<sup>8</sup> and the patients should not question the physician’s decisions “patient obedience at the physician’s request shall be prompt, strict and universal”<sup>9</sup>.

The authority of the medical profession, extremely high, and whose opinion was held as high as the letter of the law. This fact is suggested in the Laues of Vasile Lupu and Matei Basarab, which specify that medical expertise was stronger than any other case of evidence (including witnesses) when they are contradictory: “*We shall believe whatsoever the healer utters for the sore, and if the healer swears not; or if he is a Jew, or governed by another law, thenceforth we shall believe even more*”<sup>10</sup>. The physician’s authority is so strong that his vow is not necessary in order for him to be believed, and more important, the physician does not need to be a Christian doctor. An additional element augmenting the doctor’s authority is the fact that laws emphasize the

obligation of obedience of the sick person by the doctor “*If the harmed shall not obey the healer, and if that wound shall kill him, the leaven of his death is himself and not the wound*”<sup>11</sup>.



Alexandru Lăpușneanu, 1552–1561, 1564–1568.

- The extremely high risks incurred for the physicians if the treatment should fail. Thus, the aforementioned Turkish commander, cured by Cacavela, tells him that had he not been cured, the physician would have been punished by death, but as such, he is forgiven and is endowed with many gifts<sup>6</sup>. Alexandru Lapusneanu, ruler of Moldavia, had a young physician in 1560, called Asola di Bressana, who prescribed a medicine with pretty serious adverse effects, a fact which almost led to his execution on the grounds of attempted poisoning: “*Si ritruova qui hora un giovine medico d’Asola di Bressana, il quale gia alcuni anni era al servizio del Re di Transilvania, et essendo stato ricercato dal Signor Alessandro vaivoda di Moldavia in certa sua grave indispositione, quel re*

*gli lo concesse, et egli medicandolo, portando cosi, come esso medico dice, la qualita del suo male, gli diede una medicina un poco gagliarda, la quale perche fece molta operatione, fu causa, che esso medico fusse imputato d'haverlo voluto venerare, et percio fu posto in prigione, con opinione, che poi gli fusse tagliata la testa*<sup>12</sup>. These high risks associated with the practice of this profession, especially during when the patients are public authority figures obliged physicians to act in an authoritarian manner.

Informing the patient on what the medical act comprised of was optional, the aforementioned text on Cacavala's treatment standing as evidence. This attitude was generated by both an extremely strong paternalism of the medical act as well as the necessity to use the placebo effect, most medicine at the time having no objectively favorable effects to the diseases they were administered for. The placebo effect was augmented by:

- The physician's presence. Physicians may be good ("to bring a good healer to watch over him"<sup>10</sup>) or bad ("To vail the bad healer's pride"<sup>10</sup> or "for he hath died of the healer's wrongdoing"<sup>10</sup>). The better the physician, the higher his voice is heard "Whereas it shall bechance that not all healers utter the same word, for some few to declare that the wound is pestilent, and few others declare that it is not: thenceforth we shall believe the many, or the unrivalled, or the worthy, and not the others"<sup>10</sup>. A good physician was very likely to garner large fortunes in the Romanian Principalities, considering the extremely small number of physicians in these territories, and especially good physicians. Thus, Paul of Alep wrote, during one of his trips through Moldavia: "his death (n.n. priest Suleiman Ibn As-Zahr) was occasioned by a disease he was suffering for in Moldavia, namely chills and heat; he had two or three bouts per day; could not be cured... There were no physicians, nor syrups or marmalades. Only God's help"<sup>13,14</sup>. In order to be successful, and implicitly to gain prestige and wealth, a physician was only required to have a basic scientific knowledge: "For the standing of a wise physician demands only that through the power of his mind and speech judge with craftiness the roots of the sicknesses and thenceforth need not the staff of a beggar. If as such thou shalt work and prepare therein, thou shalt triumph over any sickness without breaking a sweat"<sup>14</sup>.

- Religion, a fact illustrated by the existence of an extremely large number of miraculous icons and relics in the religious institutes on Romanian territory.

### **Patient-physician relationship in the first half of the XIX<sup>th</sup> century**

Paternalism becomes even stronger in these times, mainly because, in addition to the elements presented above, the physician is bound by specific laws, who allow them, among others, to:

- Take disciplinary measures in case of deviations from the proper care of patients, sick and children. Thus, the Law of Public Houses of 1817 stated: "Art. 37. If after the doctor's showing, a child should fall ill for the unmindful treatment of the midwife, the child shall be stripped from her, and the midwife subject to punishment so as to serve as an example for the other midwives"<sup>15</sup>.

- To take measures for the proper maintenance of an optimum hygienic status, and in case of deviations may take disciplinary measures: "Art 22. The surgeon shall have the right of militia within the chambers, so as to guard for cleanliness and proper order, and to inform all those falling astray of their duties, and in case of disobedience, show them to the treasurer for punishment"<sup>16</sup>.

- Educational activity, augmenting the doctor's prestige: "Art 20. The surgeon shall tend to the wounded and lend all aid abased on his craft, he shall counsel and teach those within the hospital, charged with watching over the sick"<sup>16</sup>.

- Association with religious institutes in certain public health actions. Thus, for example in 1815 – the clergy is asked for help in advising the crowd to undergo free smallpox vaccination: "Now has the Lordship taken rendition upon themselves, as this settlement is swarming with a great pox breakout in children; I beg Thy Holiness, to send out commands from Thy Holiness, to the priests in the slums, to acquaint the poor with untreated children, to bring such to any of these noble doctors, to treat them with the vaccine, which the doctors themselves showing this Epitropy, vowed to relentlessly and without coin perform, with all spending"<sup>17</sup>.

After the foundation of the first medical university in 1857 (now Carol Davila University of Medicine and Pharmacy from Bucharest), and after the drafting of modern sanitary legislation, the

paternalism of the patient-physician relationship diminishes, leaving space for a modern, partially autonomous one, in which the patient may, in particular circumstances, be allowed to give its consent for medical procedures.

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