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Humanism in medicine - practical dimension: analysis of the documents (complaints and requests of patients) - problems and dilemmas

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ABSTRACT

Although "about the patient" much has been written, however, due to the complexity and changing nature of the problems, we can still feel the insufficiency and desire to deepen and broaden the framework of reflection in this area. Especially in the case of "analysis of the patient's actions" functioning in contemporary medicalized reality. Reality, in which the typical becomes a crossing borders of intervention in nature, the biological dimension of the human being; which says about transcendence; about the potential biomedical research - the opportunities and threats created by new technologies; which is raising issues of importance to discover new methods and tools for effective diagnosis and treatment. All actions are guided by the most important goal: the good of mankind and man. However, is the reality keeping pace with the ideas? Is the pursuit of the noble objectives of the medicine not losing so important for it humanistic element? Complaints and requests made to the authorities upholding respect for the rights of the patient suggest a positive answer to this question.
In the article are presented selected results of a larger research project. The results of the analysis of complaints and requests submitted to the Professional Liability Officer of Regional Medical Chamber in Lodz (1990-2010). The time frame and the problem of the analyzed material can be considered reliable exemplification of "disappearance" of the humanistic element in the "patient - medical staff" relationship and indicates the nature of the problems faced by patients over 20 years. Selecting the indicated data also allows to bring up the conclusions of a broader nature.

***Keywords*:** humanism; patient's rights; complaints and requests of patients; Professional Liability Officer

1. INTRODUCTION

Polish health care system, despite the implemented reforms and modernization, still appears to be a complicated and unfriendly to the patient, in which the formalized procedures and standards are more important than the good of man. The phenomenon of medicalization of life and widely available (thanks to modern technology) medical knowledge (thanks to which, among others, a new secular vision of health and disease is being formed), are causing, on the one hand, the desire for access to medical benefits at the highest level, on the other hand - in the face of reality: anger, frustration, a sense of helplessness. The market of medical benefits is being transformed, methods of dissemination of information about the methods and tools of obtaining the recipients of health care services, a way of thinking about the rights of the patient [1]. It also changes the profile of the modern patient who increasingly wants to consciously and actively participate in the treatment process, to be a partner in the discussion of the implemented methods, procedures and participate in their choice [2] (empowered patient [3]). Paradoxically, implemented legislative, structural and organizational solutions having "in theory" to provide safe care at the highest level, often bring the opposite results, the effect of which are: a departure from “the humanistic" model "patient - medical staff", increased bureaucratization and unfulfilled expectations of recipients of health care services, often resulting in the submission of a request/complaint to the entity appointed for that purpose.

In the study, by necessity limited in outline, the results of the analysis of materials about "perdition" (for various reasons) of humanistic elements in medicine (in the general sense) have been recalled. Humanism in medicine should be understood as a holistic perception of the man who is to be the objective and subject of medical procedures, it should refer to all medicine-related areas. Man is seen as the most important value [4] and should be treated with *dignity*. Man is an integral entity, which is characterized by psychophysical unity. The idea of humanism assumes the appropriate relation to the rights [5] and autonomy of the patient [6]. Manifestations of the lack of humanism in medicine are visible, among others, in the course of the wrong “patient - medical staff" relationship from the perspective of "the beneficiary", who is submitting a complainant to adequate (selected) institutions in the region (Lodzkie voivodship). Prepared presentation of own research results should be treated as an exploration of these important issues, and an invitation to discussion.

2. COMPLAINTS AND REQUESTS OF PATIENTS - DATA ANALYSIS

At the outset it is necessary to point out that in the social sciences we can find an amazing array of analyzes and studies on the health and diseases, in which the patient (in different dimensions) is the basis for deliberations [7-14]. Patients operate in a specific area of social, legal, economic, systemic, organizational and market conditioning - therefore, in a broader project the author has undertaken these threads [15]. The complexity of the activities undertaken autonomously [16] with respect for the rights of patients (the plane of the humanities in medicine), is also influenced by the fact that the negative effects stemming from the heterogeneous processes of reform and systemic and legalistic changes, that are still being implemented since the 80s, are being felt. Instability of the legislative and continuous transformations do not facilitate already complex activities and relationships in the provision

of health benefits. The desire to enforce the entitlements granted to each side, in theory, is to be simplistic in nature, but in practice encounters various obstacles. One of the purposes of the undertaken analysis is to characterize the institutional solutions used by recipients of health care services who are pursuing claims regarding violation of the rules of medical arts and an ineffective functioning of the health care system. The analysis covered procedures in problematic situations, impossible to solve in the framework of the activities undertaken independently by patients. Undertaken analysis is mainly to show the scope and nature of the problems experienced by people trying to get needed medical care or take advantage of their respective health benefits - and have not received it within the expected range (especially in the context of professional responsibility).

1. 1. Patient's rights

Polish legislation contains a rich catalog of the rights of the person benefiting from health care services, as well as regulations that guarantee patients that they will be respected. Until the adoption of the bill on patients' rights and the Ombudsman for Patients' Rights [17], regulation of patients' rights were dispersed in several documents: the Constitution of the Republic of Poland and a number of laws, such as: Act on Health Care, on the medical profession, on mental health protection, on professions of nurse and obstetrics, about obtaining and transplantation of cells, tissues and organs and the Act on general health insurance. Protecting the interests of the patient in Poland ensures civil law, criminal law, administrative law and medical law. The patient's rights are also mentioned in the codes of professional ethics, which are normative acts, containing the terms of reference of people benefiting from the care of medical staff. Collective document containing a range of entitlements granted to patients is a Charter of Patients' Rights [18] announced by the Minister of Health and Social Welfare on December 11, 1998. This document was supposed to contribute to increasing public awareness of rights related to health care. The Patients' of Rights Bill is not a legal act, and you cannot assert your rights on this basis. This can be done on the basis of the acts listed in the Charter of Patients' Rights.

The terms of entitlements granted to patients is wide, and primary include: the right to care and treatment (right of the patient to health care), the right to health care services suited to the requirements of medical knowledge, the right to respect for the human person and privacy (the right to respect for private and family life), the right to information about their state of health, protection of medical confidentiality, respect for the dignity of the patient at the time of the granting of benefits, the right to access medical records, the right to give informed consent for treatment or to refuse of its granting for certain benefits, after obtaining the relevant information and the right to make complaints (the right to report adverse reactions of therapeutic products, the right to object to the opinion or judgment. The patient also has the right to pastoral care and to store valuables in the depository.

The patient or a person representing his rights, if he considers that they have been violated, can:

- seek the intervention of the immediate supervisor of the person granting health benefits, then the director of the facility; in case of unsatisfactory settlement of the matter ask for its consideration by the board of directors of the healthcare facility and then to the authority that created and operates facility;
- Patient Ombudsman at the National Health Fund;

- Office of the Patients' Ombudsman at the Ministry of Health; Especially when the patient seeks help in operations against the National Health Fund;
- From January 1, 2012, the patient, his legal representative or heir have the right and the ability to submit an application to:
  - the Regional Commission for adjudication on medical occurrences;
  - Ombudsman
  - Professional Liability Officer at the Regional Medical Chamber - if the violation of law concerned the professional medical activities;
- bring the matter before the ordinary courts, if, as a result of acts or omissions of the healthcare facility or the person performing the medical profession, personal right of the patient was violated or material damage as defined in the Civil Code was inflicted.

Court proceedings takes place in a situation where, as a result of improper treatment, a person suffered damage to health and wishes to apply to the court by way of civil proceedings to obtain compensation from the health care facility, where the treatment was carried out.

1. 2. The results of the empirical analysis - The scope and nature of the complaints addressed to the Professional Liability Officer of Regional Medical Chamber in Lodz in the years 1990-2010

In the realized overall concept of a research project to the analysis were qualified materials obtained from the Patients' Ombudsman for the period 2009-2013 (latest appointed, but acting in nationwide dimension), the Patients' Ombudsman at the Regional Sickness Funds in Lodz (1999-2002), the Patients' Ombudsman of Lodz branch at the National Health Fund (2007-2011) and the Professional Liability Officer at Regional Medical Chamber of Lodz (1990-2010). Of necessity, in this article have been included selected results of the study, which, however, reflect the nature and extent of the problems faced by patients.

Characteristics of complaints concern specific actions form part of the responsibility of professional doctors, as Professional Liability Officer shall consider the matter only in this area, and any complaints must involve the doctors registered in the local Chamber in Lodz. So their category restriction affected even the fact that the number of complaints filed in the years 1990-2010 to the Office of Professional Liability Officer in Lodz - compared to e.g. the number of complaints to the Ombudsman for Patients' Rights (the Lodz branch - 204222) was not high (total of 5957 cases). But they should be seen as an expression of autonomous actions taken by patients in the field of care for the protection of their rights.

In the period of 20 years to the Office of the District Officer for Professional Responsibility in Lodz 5794 cases were submitted. Their number have varied, but steadily increased each year.

In particular periods of the influx of all complaints (1990-2010) one could observe the different dynamics of growth in their number. In the years 1990-2010, the average number of complaints increased year on year by 11.8%, but e.g. in the years 1990-2003, the average rate was 18.7%, and after the Polish accession to the European Union (2004-2010), the number the complaints increased at an average year-on-year by 0.3%. One may be tempted for an interpretation which assumes that the implemented EU procedures contributed to improving the quality of health care, although data obtained from the analysis of complaints to the

Patients' Ombudsman does not support this thesis. Also, do not forget that in the 90's, social discontent with the quality of health services and access to them was very high. Almost half of respondents (47%) participating in the polls (CBOS 1994, 1996) assessed the condition of the state of health care services in Poland as definitely bad, and another 32% indicated that it is rather bad. Since 2000, the opinions about health care were not so negative, they have slightly improved, but still one cannot speak about the "state of satisfaction" (in 2007-2012 once again the percentage of Poles who are dissatisfied with doctors and treatment processes have increased).

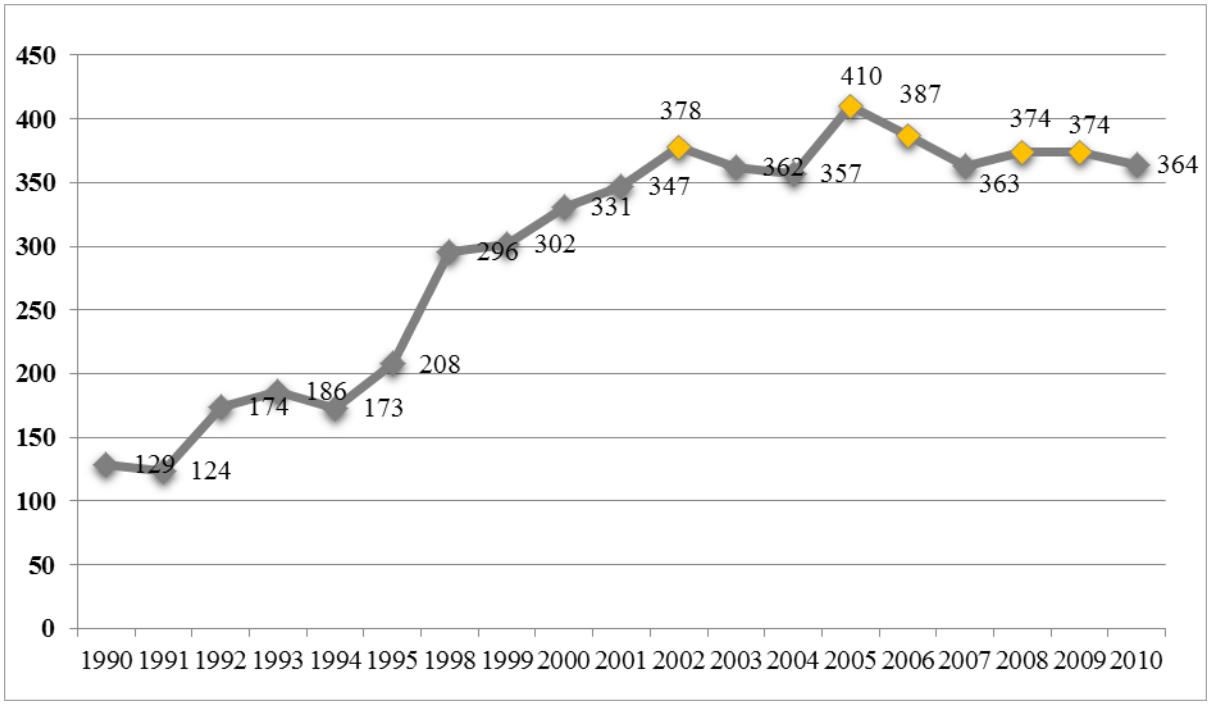

Figure 1. Complaints submitted to the District Officer for Professional Responsibility in Lodz in 1990-2010
Source: own research

Beneficiaries of the Lodzkie Voivodship in the years 1990-2010 (according to the analysis of classified cases) frequently complained about misconduct on the injury or the occurrence of complications of the disease (total of 1666). In the complaints they have pointed out the actions, as a result of which the patient suffered permanent damage or complications occurred sickness (e.g. as a result of negligence or a medical error). This is a category of which semantic range is wide and analysis of specific actions inscribed in it would be extremely interesting.

The subject of the complaints, by decreasing number of applications, were actions of doctors or their failure to act, which, according to applicants, have contributed to death (total of 1148). Analyzing the number of complaints concerning serious misconducts, such as medical malpractice or negligence resulting in health impairment or death, it is worth mentioning that over the 20 years, one could observe their general upward trend. These are the misconducts most often mentioned by those complainants. Confirmation of this trend are

the results of the survey conducted by CBOS in 2014, in which up to almost 41% of respondents said they faced the problem of a medical error in the immediate vicinity, and one in three respondents (33%) said that was the victim of medical error.

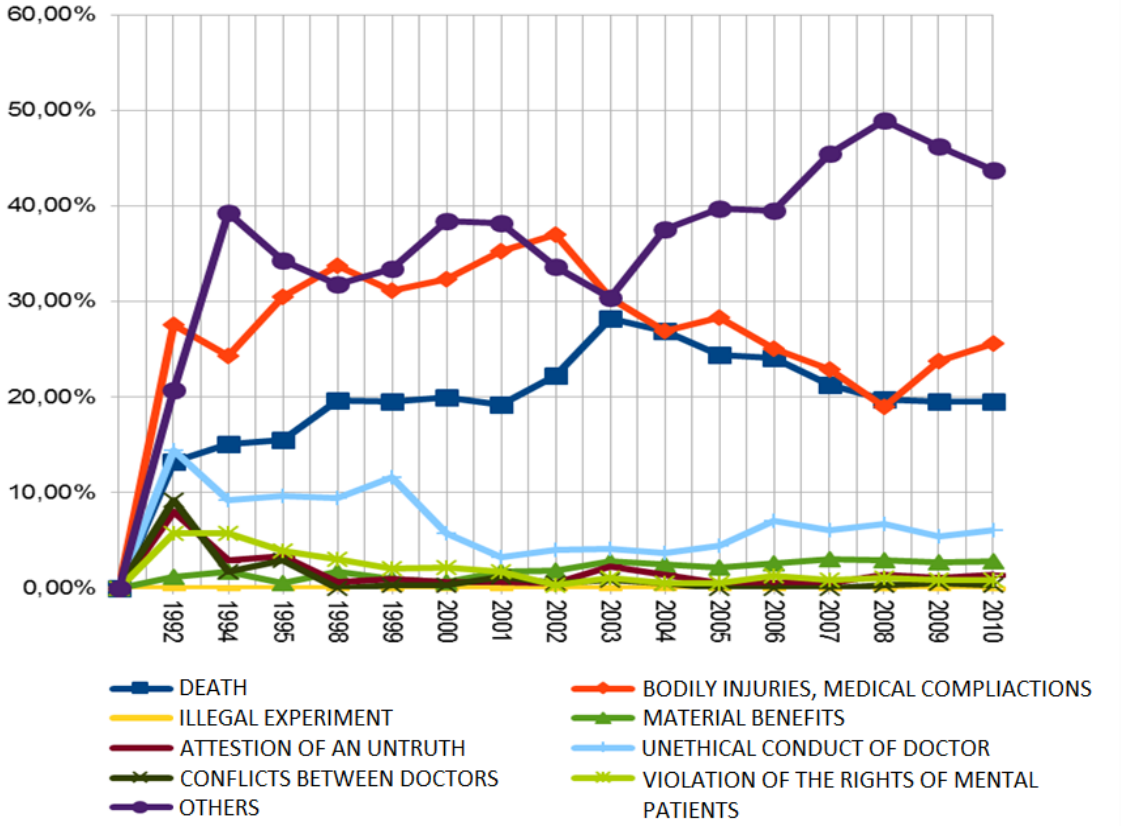

Figure 2. Trends in different types of misconduct (years 1990-2010) in %
Source: own research

Patients from Lodz complained also for the "unethical conduct of doctor" (a total of 410 complaints over 20 years). It is also a very broad category, in which have been included the scope of both the behavior related to the conduct of the doctor - patient (family) relation, as well as violation of ethical principles of conduct of a doctor, a basis of professional liability. Unfortunately, no information enabling a detailed characteristics of this category limits the possibilities of interpretation, which would be exceptionally interesting from the perspective of the issues studied by me. The need to be treated subjectively, with respect for the rights of a patient, is an expression of the weight of the patient's autonomy and an indicator of the maturity of entities.

The nature of misconducts indirectly indicates a group of health care providers, most often related to complaints. Patients pointed out weaknesses in the interventions undertaken by doctors of specialization such as surgery (adults) - 897 complaints, dentistry - 547 complaints, and obstetrics and gynecology - 460 complaints, and general practitioners of adults - 795 complaints submitted. Both in terms of interventions and in the internist care,

there is a broad spectrum of activities, which can result in neglect and misconduct, which can be perceived by patients as offensive to their dignity, improper, carelessly executed (leading to bodily injury or death) or unethical. In this dimension, patients pointed out the professional misconduct both in terms of professional competence and in the dimension of personal competencies. Professional doctor is the person using the knowledge and skills enabling the achievement of objectives important for a person using his services, is someone who obliged to adhere to professional ethical standards.

A large number of cases classified as "others" and those for which the Ombudsman made the decision not to initiate an investigation, also provides a wide range of problems that patients have reported - even if, according to the rules and criteria, there were no grounds to their further investigation. Adoption of intervention operations shows a deep sense of "inappropriateness" of the existing situation of the patient, which has arisen when he benefited from his rights (which is an expression of lack of respect for the idea of humanism in the relations to medical nature), he decides to intervene, demanding respect for his rights.

3. CONCLUSIONS

Comprehensive analysis allowed the following conclusions:

- Increased activity of patients to assert their rights [19], willingness to enforce them in the way determined in the context of civil, legal and professional liability. However, the lack of knowledge about the formal requirements to be met in the complaint and the scope of misconducts, which may relate to complaints submitted to the authorities upholding the rights of the patient, makes a significant part thereof is not examined.
- Contemporary patient wishes to participate in the treatment process, to establish a dialogue with a doctor (to be heard and understood), to build a "contact" of an interactive character, however, often encounters barriers and struggles with the following organizational, personnel, and concerning the quality of provided services problems:
  - refusal and limitation of access to medical services (especially specialized diagnostic and ambulatory), long-term of waiting for benefits;
  - unethical behavior of medical personnel; treating patients like objects, improper course of “patient - medical staff" relationship;
  - denial of access to medical records;
  - poor quality of services;
  - improper organization of work;
  - violation of patients' rights.
- The complaints concerned, in particular, the violation of patient's right to access the medical records, equal access to health care services, confidentiality of information, respect for privacy and dignity of the patient, information on the state of health, applied therapy, potential complications and consequences of its omission, respect for private and family life, object to opinion or judgment of a doctor, consent to examination and treatment, and breach of the right to pastoral care.
- Committing them were most frequently employees of: hospitals (public and private), primary health care (public and private), ambulatory specialist care, dental treatment,

rehabilitation, prevention programs, psychiatric treatment, emergency aid, long-term care and the employees of establishments classified as "others": e.g. health resorts, sanatoriums, ambulance, blood donation center and individual medical practices.

Despite the fact that patients use a modern communication technologies, in the office of the Ombudsman they sought current information about:

- locations and the shortest terms of granting specific health care services;
- benefits available to insured under health insurance;
- the principles of eligibility for health insurance;
- principles of treatment in the European Union;
- the legitimacy of payment of fees for specific medical services;
- the principles of issuing medical certificates;
- improvements for particular social groups;
- procedures for referring to diagnostic tests;
- the possibilities of legal pursue of claims before civil courts;
- patients' rights, including the possibility of obtaining compensation for medical malpractice; benefits beyond insurance scheme.

The adoption of laws and the introduction of new procedures and rules, in theory aimed at improving the quality and organization of medical care does not solve the problem of their implementation in practical terms (especially since implemented procedures also contribute to an inefficient functioning of the system of care, e.g. the limits of admissions to the doctor, financial details of contracts and agreements with the National health Fund restrict the procedural and organizational possibilities and a scope of the assistance provided by the health facilities).

In the area of professional liability most often occurred misconducts were related to: bodily injury or complications after the disease. The complainant raised the issue of these activities of a doctor or omissions which contributed to the death. The complaints pointed out the unethical behavior of doctors, a violation of the rights of mentally ill, attestation of an untruth and deriving material benefits.

Patients most often pointed out weaknesses in the interventions undertaken by doctors of treatment of specializations, such as surgery (adults), gynecology and obstetrics, internal medicine and dentistry (adults).

Can we therefore "intensify" respect for patients' rights, as an indicator of humanistic element in medicine? The order to respect the rights without internalization of fundamental values seems impossible. Evidence of this is fact that although the patient's rights have grown in popularity - this is the concept increasingly used in the dictionary of health policy, one gets the impression that reference is made to them often as a kind of manifesto or slogan or used superficially, instrumental to the implementation of other goals. Their respecting, in the dimension of personal interactions, determine the competence of people participating in them.

Similarly conditional is the respect for the rights of people participating in international research. The efforts of representatives of various research community are focused on the development of "a way" to strengthen respect for the rights of the patient in medical practice (especially during invasive and international bioethical research projects). One of the results of these efforts is a tactic developed in the framework of the BIONET project [20].

The idea of respect for the rights of people involved in all kinds of interactions in which the basic value is the human health and life, is seen as an inalienable and indispensable [21]. Medicine, especially understood as a service for life, should be directed to the integral good of the human person, requires a profound reflection on respect for life, dignity and freedom of man [22].

Conclusions - Methodological remarks

In the case of completed research - sociological analysis of existing materials: official documents, reports; it should be emphasized that these documents were the only source of information sought. It should first be pointed out, that the first major difficulty was to reach to the data, which are public, itself. Institutions (most of them) having to uphold the rights of patients, but produce reports on their violation, do not expose data and provide them with reluctance. A major limitation of the analysis and interpretation of the obtained data were the structure and scope of the content of the written reports. The documents which were analyzed for the most part con be characterized by a selective data, the lack of a single, standardized structure in different years, different criteria selection and data classification. Only a small part of them contained a detailed description of the adopted classification or concrete examples for a more insightful analysis and more complex interpretation. One gets the impression that the preparation of reports shall be formal and rather due to the imposed obligation. It may also be conditioned by the competence and the legal basis for the functioning of authorities, but it does not change the fact that so limited and unstructured data cannot contribute to the implementation of the repair procedures, they are rather used for registration purposes, illustrating the "the movement of cases".

References

[1] G.J. Annas, 1979. Encyclopedia of Biotehitcs, New York: 1201-1202.

[2] J. A. Hallisay, 2008. The Empowered Patient. Hundreds of Life-Saving Facts, Action Steps and Strategies You Need to Know, San Francisco: 273-286.

[3] E. Cohen, 2010. The Empowered Patient, New York: 6-13.

[4] D. Callahan. Why America accepted bioethics, in: The Birth of Bioethics, red. A. R. Jonsen, *Hastings Center Report* 23(6) (1993) Special Supplement

[5] George J. Annas, 3rd ed. The Rights of Patients, New York: NYU Press, 2004, 273-297.

[6] B. Miller. Autonomy and the refusal of lifesaving treatment. *Hastings Center Report* 11(4) (1981) 22-28.

[7] E. Goffman, 1961. Asylum, Essay on the Social Situation of Mental Patients and Other Inmates, New York: Anchor Books.

[8] E. Freidson, 1961, Patient's View of Medical Practice, New York.

[9] S. V. Kasl, S. Cobb. Health behavior, illness behavior and sick role behavior. *Archives of Environmental Health* 12(2) (1966) 246-266.

[10] E. Freidson, 1975. Dilemmas in the doctor-patient relationship, [in:] C. Cox, A. Mead (eds.), A Sociology of Medical Practice, London.

[11] E. B. Gallager (ed.). The Doctor-Patient Relationship In The Changing Health Scene, Washington D.C. 1976.

[12] A. C. Twaddle, R.M. Hessler, 1977. Sociology of Health, S. Louis.

[13] D. Pendelton, J. Hasler (eds). Doctor-patient Communication, London 1983.

[14] F. di Mayo, 2010. Health and Social Theory, Basingstoke.

[15] A. Łaska-Formejster, 2015. Pacjent w sieci zależności. Społeczny kontekst praw i autonomii pacjenta, Łódź.

[16] M. S. Komrad. A defence of medical paternalism: maximising patients' autonomy. *Journal of Medical Ethics* 9 (1983) 38-44.

[17] Ombudsman for Patients' Rights: Web. 30 October 2016. <http://www.bpp.gov.pl/gfx/bpp/userfiles/_public/akty_prawne/ustawa06112008-pr.p.2013.pdf >.

[18] Charter of Patients' Rights: Web. 30 October 2016. <http://www.fum.info.pl/esp/files/KARTA_PRAW_PACJENTA.pdf>

[19] N. Kazu, A. Ergin, M Zencir, Patients' awareness of their rights in a developing country. *Public Health* 120(4) (2006) 290-296.

[20] Ethical Governance of Biological and Biomedical Research – LSE. Web. 30 October 2016.<http://www.lse.ac.uk/researchAndExpertise/units/BIONET/>

[21] A. Wahlberg, Ch. Rehmann-Sutter, M. Sleeboom-Faulkner, G. Lu, O. Döring, Y. Cong, A. Łaska-Formejster, J. He, H. Chen, H. Gottweis, N. Rose. From global bioethics to ethical governance of biomedical research collaborations. *Social Science & Medicine* 98 (2013) 293-300.

[22] A. Nawrocka, 2008. Etos w zawodach medycznych, Warszawa, 8.

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