

Implementing decree of Law 193/2023: Current Italian legislation on the oncological oblivion

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To the Editor,

We read with extreme interest the work of Napoletano et al. regarding a current and relevant issue in Italy and Europe such as oncological oblivion (1). Our working group also expressed considerable interest in the topic, believing that combating cancer discrimination is a priority goal for policy but also for medicine (2). In this sense, while appreciating the contribution of your work, particularly in terms of comparison with other European realities, we believe it is useful to highlight some optimal aspects of Italian legislation. Law 193/2023 defines the right to oncological oblivion as the right of persons cured of an oncological disease not to provide information or be subjected to inquiries regarding the past condition for the cases provided for in Articles 2, 3 and 4 (banking, financial, investment and insurance services, Art. 2; adoption, Art. 3; labor and vocational training competitive and selective procedures, Art. 4). In addition to offering protection in the context of access to mortgages and insurance services and in adoption procedures, as Napoletano et al. well pointed out, the right to oncological oblivion is guaranteed for any type of contract even between private parties (Art. 2) and in public and private competitive procedures as well as re-employment (Art. 4). The Ministry of Health's implementing decree of March 22, 2024, also provided an initial list of diseases for which shorter time limits than the 10- and 5-year time limits (for patients diagnosed before the age of 21) apply. This is a list of ten diseases, among which are stage I colorectal cancers, stage I and II breast neoplasms, testicular cancers and some thyroid cancers for which a

one-year limit is set for the recognition of oncological oblivion. We believe that it is of utmost importance that this list be regularly expanded in relation to scientific evidence and since other oncological diseases, treated in the early stages or in situ, have near-zero chances of recurrence. Even more recent is the Ministry of Health's implementing decree of July 5, 2024, which outlines the procedure for issuing the certificate attesting to the "oncological oblivion". The request for the certificate can be submitted to a health facility, public or accredited private, or to an SSN physician of the discipline pertinent to the oncological pathology. Of paramount importance is the possibility for the general practitioner or pediatrician of free choice to certify this condition as well, thus expanding the possibilities to access this right. The decree states that the certification must be issued free of charge within 30 days of the request. There are also specific templates to be followed for either the application for the issuance of the certificate of oncological oblivion, the information on the processing of personal data (in accordance with Articles 13 and 14 of EU Regulation 2016/679) and the drafting of the certificate. The person issuing the certificate is obliged to provide information on the processing of health data, also having the duty to keep the application for ten years and, after that period, delete it.

Law 193/2023 undoubtedly represents a first major step in the battle against discrimination for patients cured of oncological diseases in Italy. Nevertheless, there is still much to be done to ensure that the right to non-discrimination for cancer patients does not remain just a theoretical right. We are, in fact, still

awaiting the Implementing Decree of the Ministries of Labor and Health, which will define the policies aimed at ensuring equal opportunities for reintegration and retention of patients protected under Law 193/2023 in the workplace. In conclusion, we applaud what the legislator has done so far, and any initiative aimed at the ‘de-stigmatization’ of cancer, hoping for interventions of similar scope for other diseases and areas as well, (e.g. congenital disability, surrogacy) in accordance with the provisions of Law 18/2009, which ratifies the United Nations Convention on the Rights of Persons with Disabilities (3,4).

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