

Balancing autonomy and care: The ethical and legal dilemmas of artificial nutrition and hydration under compulsory health treatment

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Abstract. The complex issue of informed consent in the context of administering Artificial Nutrition and Hydration (ANH) under Compulsory Health Treatment (TSO) is explored, examining whether ANH can be forcibly administered, particularly in cases involving patients with eating disorders such as severe anorexia. The tension between respecting patient autonomy and the medical duty to provide care, especially when the patient cannot give valid consent, is highlighted. While TSO represents a significant limitation on personal freedom, it must be justified only under extreme clinical conditions, with the patient's informed consent being paramount whenever possible. Advocacy for a therapeutic alliance and empathetic-supportive approach is emphasized, stressing the importance of non-coercive methods and respecting patient self-determination. Additionally, a multidisciplinary approach in decision-making is underscored, involving ethicists, legal experts, and family members to ensure that decisions align with the patient's best interests and uphold their dignity and autonomy.

Key words: artificial nutrition and hydration, bioethics, compulsory health treatment, eating disorders, patient autonomy

On the assumption that informed consent is generally an indispensable moment in medical activity, is it possible to resort to Compulsory Health Treatment (TSO) to administer Artificial Nutrition and Hydration (ANH)? Initially, the juxtaposition of informed consent and TSO might seem like an error (1) or a mere provocation, as they appear to exclude each other (2): but is this really the case? In such a hypothesis, it would seem obvious that informed consent could not be present because the patient's conditions have necessitated the application of an extreme measure that significantly limits personal freedom (3-4), such as TSO (5), especially when applied in a hospital setting (6). However, according to some studies, patients under TSO can retain some decision-making freedom (7) and autonomy (8), even within a severe and often

difficult-to-manage clinical (10) and phenomenological condition (11-12). The most debated issue is whether ANH can be used even against the explicit dissent of a well-informed patient (13), particularly in extreme conditions. Specifically, the question arises whether forced feeding can be imposed on individuals with eating disorders (14), discussing whether it is necessary for the therapy of patients suffering (15) from certain conditions, such as severe anorexia (16). In this regard, it would not seem possible to resort to forced feeding even in cases where the patient has an eating disorder (17), even if such a medical practice might sometimes be a therapeutic necessity (18). Thus, it seems preferable to consider that imposing life-sustaining measures via a nasogastric tube is inadvisable for patients who are fully capable of understanding and

willing (19), even if they are minors and undernourished (20). Indeed, coercive interventions might only be justified in the face of persistently uncooperative behaviour (21) from the patient and in the presence of an alarming clinical picture (22). It would be more beneficial to establish a dialogue based on a therapeutic alliance (23), wherein the therapist empathizes with the internal experience of the eating disorder (24). An empathetic-supportive approach (25) that constructs the ego facilitates the introjection of the psychotherapist. False perceptions regarding oneself and one's body, and erroneous cognitive beliefs should be explored non-judgmentally to develop critical thinking. However, body image distortions (26) can be resistant to educational and therapeutic efforts. Therefore, it is desirable that the undertaken path leads to an objective assessment of one's condition (27), allowing for autonomous and responsible health management. In line with this, Article 13 of the Constitution states that personal liberty is inviolable. Specifically, this provision would configure a fundamental right of each individual to self-determination regarding their health and physical integrity. Consequently, can it be argued that there is an obligation for the physician to respect the patient's wish to "starve to death"? Regarding this, TSO in a hospital setting is considered by jurisprudence as the utmost form of limitation on personal freedom (28), and those who implement this procedure must operate within a complex regulatory framework (29). Consistent with this, Article 32 of the Constitution states that it is lawful to treat a citizen's health against their will only in cases provided by law. Therefore, TSO is justified only in cases of necessity (30) and urgency (31), extreme clinical severity, and due to the sudden incapacity to understand and will be caused by psychopathic alterations (32). More precisely, three conditions must simultaneously exist for a TSO order to be permitted: a state of mental alteration making urgent therapeutic intervention necessary; the person's refusal to undergo the intervention; and the impossibility of promptly adopting other extra-hospital measures. Outside of these cases, the physician must always obtain the patient's consent for artificial nutrition (33) if the patient is fully conscious and capable of understanding and willing. For these reasons and considering all these variables, the healthcare professional (34)

constantly faces the dilemma between safeguarding the patient's right to self-determination and their duty to provide care. One of the most noted risks, if coercive therapeutic treatment is imposed, is the potential to irreparably damage the doctor-patient relationship (35). In reality, some studies on the perceived degree of coercion at admission and after a (36) few weeks of hospitalization have shown that almost half of the people with eating disorders, especially adolescents, initially suffered but later recognized the TSO as a lifesaving measure. Nonetheless, the use of TSO must always be considered with the utmost care, as it represents the maximum form of personal freedom limitation. In conclusion, compulsory hospitalization is only a specific, though dramatic and necessary, moment in the care path of patients with eating disorders.

Therefore, it is essential that healthcare professionals approach each case with a nuanced understanding, weighing the potential benefits and harms of TSO, always aiming to respect the patient's dignity and autonomy to the greatest extent possible (37). Involving a multidisciplinary team, including ethicists, legal experts, and the patient's family, can help navigate these complex situations, ensuring decisions are made in the best interest of the patient while upholding their rights and values.

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