The duty of being a medical conservative. When in doubt, for the patient

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Summary. Recently, John Mandrola et al. established the tenets of medical conservatism. We endorse this approach to patient care, and we believe that, in order to have this perspective incorporated into medical reasoning, the foundations for being medical conservatives should be taught since medical school. In this Perspective, through an analogy between medicine’s and criminal law’s approaches to uncertainty, we suggest that the precautionary principle of in dubio pro reo could be adapted to medicine as a decisional strategy for medical conservatives. This principle would represent a cognitive and decisional filter that allows physicians to counterbalance the currently widespread propensity toward interventions with a conservative and precautionary attitude.

Introduction

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From uncertainty to intervention bias

In medicine, the difficulty of differentiating between abnormalities of low relevance and those that are clinically meaningful pushes many decisions into the realm of uncertainty.

Physicians routinely come across patients with a wide range of abnormalities of uncertain significance, such as a renal incidentaloma detected on chest CT scan, hypercholesterolemia in an elderly patient without a history of cardiovascular disease, or severe aortic stenosis in a symptomatic patient whose symptoms can, nevertheless, be reasonably attributed to one or more coexistent disorders.

However, although providing recommendations about diagnostic or therapeutic choices can be challenging in similar cases, when faced with uncertainty most physicians tend to opt for action over more conservative choices.

Starting in medical school, physicians’ education is shaped toward action. This results from the learning and the rewarding of an investigative attitude guided by the principle of not neglecting any diagnostic or therapeutic option. This education is strengthened, during practice, by the systematic targeting of omission errors.

Financial pressures, medical-legal concerns and increasingly “prescriptive” clinical practice guidelines have all contributed to lowering decisional thresholds when recommending interventions, and the same has been derived from cultural factors, both on the side of physicians and of patients.

Furthermore, as the sensitivity and availability of diagnostic tests have considerably increased, a parallel over-detection of potentially “actionable” abnormalities of uncertain significance has been observed. For example, in patients with suspected pulmonary embolism undergoing chest computer tomographic angiography, detection of incidental findings requiring diagnostic follow up has been reported to be more than twice as likely to be detected than the pulmonary emboli for which the test had been requested.

Finally, the biomedical model still represents a strong and implicit theoretical base of physicians’ reasoning...
and biased-to-action decision making. According to this model, diseases are equated with deviations from the norm of quantifiable biological variables so that any corrective action to restore the norm may be considered a solution. Physicians’ adherence to the biomedical model, particularly in the current technology-driven drift of abnormalities of uncertain significance, has contributed to a widespread assignment of disease labels that are often the starting point of corrective actions.

All the above factors have established fertile grounds for doctors to increasingly assign blame to abnormalities of uncertain significance, often by raising them to the rank of disease – even to the point where normality is eroded – and to eventually over-recommend diagnostic tests or treatments.

The need for a “presumption of innocence”

In this respect, medicine could receive inspiration from criminal law. Law and medicine share a decision-making process that is based on the contextual analysis of evidence. In criminal law, the attribution of guilt has been historically linked to the need to apply a protective precaution, symbolized by the *in dubio pro reo* principle (“[when] in doubt, for the accused”). Given the frequent uncertainty about the path to the truth, and about truth itself, and given the seriousness of the conviction of an innocent defendant, reasonable doubt – that is, a doubt that allows for the configuration of a plausible alternative hypothesis to the prosecution’s – underlies a protective system in which it is even accepted to let guilty parties go free in order to avoid the conviction of innocent individuals. Because every verdict holds the power to restrict individual freedom, this is a fundamental principle of criminal law.

Although moved by beneficial intent, physicians also hold a restrictive power over individual freedoms. Whether the physician is requesting a diagnostic test, prescribing a therapeutic intervention, assigning a label of disease or even of disease risk, these acts can prompt a metamorphosis from person to patient. The potential adverse consequences of this process often extend beyond physical issues, like drugs’ or interventions’ adverse effects, to other spheres of life, including the psychological, social and financial, along with the daily need of dealing with treatments’ burden.

At the same time, many medical decisions are subtended by doubt: indeed, the knowledge underpinning many routinely performed medical interventions is often lacking or unreliable, especially for patients facing multiple health challenges, and, even when robust evidence favors interventions, the expected health benefits are often marginal.

When the risk-benefit ratio of an intervention is uncertain, and no urgent need for action is deemed necessary, incorporation of the *in dubio pro reo* principle into medical decision-making highlights that a precautionary attitude can be a reasonable alternative to immediate action.

Rebalancing expectations through shared understanding

To apply the *in dubio pro reo* principle in medicine is not a renunciation to take care, nor is it to deny the possibility of a cure. Rather, it means acknowledging and disseminating the counterintuitive truth that not all interventions, even if recommended with beneficial intent, result in benefit.

Conservative strategies like watchful waiting, choosing a less invasive option, and deprescribing are all examples of medical acts arising from the “presumption of innocence” in uncertain terrain where the risk of harm may be relevant.

Unlike criminal law, where the application of the *in dubio pro reo* principle in a judgment implies the

**Primum non nocere, deinde curare.**
closure of the relationship between a defendant and the system, to apply this principle in medicine is only the beginning of a path in which a patient will be followed up about the outcomes related to this choice.

For doctors, to apply the *in dubio pro reo* principle implies to courageously take chances: whether a conservative choice is pursued, even a slightly higher risk of a missed diagnosis or omission to recommend a potentially effective treatment could pave the way to blame or even to malpractice proceedings.

However, as the introduction of the *in dubio pro reo* principle was required in the late Roman period to rebalance a criminal law system that was skewed toward accusation, also in contemporary health care systems dominated by intervention bias and prone to overuse, physicians’ approach to decision-making should be required to incorporate a precautionary attitude in order to rebalance health decisions.

Fear of malpractice proceedings arising from omission errors has contributed to stigmatize the misleading analogy between intervention and cure. Therefore, in order to disseminate medical conservatism, it would be necessary also for the medical-legal systems to adopt this beneficent principle and consider it while judging physicians’ conduct.

Patients also can be biased toward intervention, either as a result of unrealistic expectations or for the desire to have their symptoms legitimated through an intervention, which is often surrogate of a poor doctor-patient communication. Nonetheless, a balanced doctor-patient communication that is aimed at eliciting patients’ preferences has been observed to often result in patients opting for conservative choices. In this respect, “reasonable doubt” is a cognitive filter able to mitigate intervention bias and help deliver uncertainty to patients as a balanced sharing of the available imperfect medical knowledge.

Were the learning of this principle included and mastered during medical school and training, it would allow physicians to counterbalance the current attitude toward intervention with an opposite perspective that focused instead on the “presumption of innocence”.

Whenever uncertainty dominates the clinical picture, it can simply be unfeasible to define *a priori* on what side of a decisional threshold, whether more conservative or interventionist, the real benefit for a patient lies. Nonetheless, it is precisely when physicians share their imperfect knowledge with patients and support them, in a “maieutic way,” to have choices and values superimposed, that physicians’ role rises above mere action and reaches its highest objective, that is to care.

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