



Letter To Editor

Ethical and Legal Aspects of Breast Cancer Prevention in Individuals Living with Mental Disabilities: Legally Incapacitated

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Dear Editor

Studies in law and ethics discuss several subjects in the field of medicine, one of which is the legal aspects associated with patients living with mental disabilities [1]. Laws are implemented as tools to protect the rights of vulnerable groups [2]. Individuals with mental disabilities may need supportive rules in a variety of situations to be protected. Such individuals are at greater risk for injuries due to late or misdiagnosis of their issue when they experience illnesses other than their current condition [3]. Breast cancer can be prevented by screening and early diagnosis. Periodic breast self-examination is the simplest, most inexpensive, and most important way to screen and prevent breast cancer [4]. Unfortunately, most people with mental disabilities cannot self-examine or self-care. Interdisciplinary gaps have left such a defect in the rules lacking consideration.

In a prior essay, we presented a 24-year-old female patient living with a mental disability and diagnosed with great tumor growth in her right breast [5]. Inadequate self-care as well as a lack of breast self-examination were

the reasons for the postponed referral and delinquent diagnosis. The patient's family expressed that no periodic breast examination had been performed by the family or in health centers.

One question arising under such circumstances is will the legal system protect incapacitated individuals if they cannot provide for themselves? This issue is less addressed by the legal systems in many countries. Families are often the predominant providers of the essential needs of individuals living with disabilities, as they are emotionally and morally involved. According to civil law, every person born alive has rights such as health, life, freedom, and education among others [6]. However, people living with mental disabilities need community support and advocacy to access their human rights. [7].

The Iranian legal system has legislated rules to protect incapacitated persons that include determination profiteers (custodianship, administration, and compulsory guardianship) to support them. [8]. Even though health is the basic right of every human being, unfortunately, this right is located in the gray area of the legal system for this specific population [9]. The rights of anyone living with mental disabilities are considered in civil, criminal, and commercial law; nonetheless, legislature has neglected to pay attention to the health rights of certain disabled

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individuals. Preventive measures for this population should be implemented in the health policies. To solve the problem with similar cases in preventing breast cancer in mentally retarded women, it is suggested that protective rules regarding screening for early diagnosis be enacted. As an ethical and legal suggestion, people with mental disabilities need periodic screening by local primary health centers to prevent cancer and, consequently, reduce the mortality rate.

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References

1. Stein A. Toward a Theory of Medical Malpractice. *Iowa L Rev.* 2011; 97:1201.
2. Damm R. Incapacitated persons-participation rights and the legal concept of the capacity to consent. *Bundesgesundheitsblatt, Gesundheitsforschung, Gesundheitsschutz.* 2016;59(9):1075-84.
3. Trétarre B, Bourgarel S, Stœbner-Delbarre A, Jacot W, Bessaoud F, Satge D. Breast cancer and screening in persons with an intellectual disability living in institutions in France. *Journal of Intellectual Disability Research.* 2017;61(3):266-78.
4. Migowski A, Dias MBK, Diz MDPE, Sant'Ana DR, Nadanovsky P. Guidelines for early detection of breast cancer in Brazil. II-New national recommendations, main evidence, and controversies. *Cadernos de Saude Publica.* 2018;34: e00074817.
5. Torkmandi H PA, Afshar MK, Fayazi S, Abdi M. Health policy Challenge for Breast Cancer Prevention in Mental Retardation: A Case Report. *UJPH* 2021;10(2):5-1.
6. Tavajjohi A, Mohammad Kourepaz H. The Typology of Restrictions on the Right to] Access to [Counsel in Security Offenses with Emphasis on Pre-Trial Stage: Comparative Study. *Journal of Criminal Law Research.* 2019;7(27):75-108.
7. Seifi Zeinab G, Shahmoradi Zavareh M. A Comparative Study of Husband's Non-Financial Rights in Iranian and French Law. *Journal of Law Research.* 2019;22(86):217-40.
8. Rahbari E, Lajmorak H. A Comparative analysis on Legal Protection of Sport Publicity or Image Right. *The Judiciarys Law Journal.* 2019;83(108):71-93.
9. Skalnaya MG, Skalny AV. Essential trace elements in human health: a physician's view. Publishing House of Tomsk State University, Tomsk. 2018;224.