

## ETHICAL AND LEGAL ISSUES OF MEDICAL CARE IN PEDIATRIC OTORHINOLARYNGOLOGY

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A patient-physician relationship is regulated by the principles of medical ethics and the Law on Healthcare of the Russian Federation. In pediatric practice, ethical issues are even more important. Pediatric otorhinolaryngology is one of the most popular branches of medicine that diagnoses, treats and prevents diseases of the ear, throat and nose (ENT) in children. ENT diseases are most common in childhood. Pathology of the upper respiratory tract and diseases of the ear and mastoid process account for about 20% of all cases. The prevalence of pediatric otorhinolaryngologic diseases currently accounts for 184 per 1,000 children; however, as they age, the chronic pathology of the ear, throat and nose is increasing. This field has its own unique ethical and legal aspects that require special attention of medical professionals, parents, and legislators. In Russia, ethical and legal issues of pediatric otorhinolaryngology have not been addressed for a long period of time, although it has its own peculiarities due to anatomical and physiological features of a child's ENT organs. The article provides detailed description of ethical and legal problems in the practice of an otorhinolaryngologist and describes how to solve them. Compliance with the rules will improve quality of medical aid among children.

**Key words:** medical ethics, legislation, otorhinolaryngology, children's age

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## ЭТИЧЕСКИЕ И ПРАВОВЫЕ ПРОБЛЕМЫ ОКАЗАНИЯ МЕДИЦИНСКОЙ ПОМОЩИ В ДЕТСКОЙ ОТОРИНОЛАРИНГОЛОГИИ

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Взаимоотношения больного и врача регулируются правилами медицинской этики и Законом о здравоохранении РФ. Значение этических норм в детской практике еще более важное. Детская оториноларингология — одна из самых распространенных отраслей медицины, занимающаяся диагностикой, лечением и профилактикой заболеваний уха, горла и носа у детей. Болезни уха, горла и носа относятся к наиболее часто встречающимся в детском возрасте. На долю патологии верхних дыхательных путей и болезней уха и носоглоточного отрезка в общей заболеваемости приходится около 20% обращений. Распространенность оториноларингологической патологии у детей в настоящее время составляет 184 на 1000 детского населения; причем с возрастом наблюдается тенденция к росту хронической патологии уха, горла и носа. Эта область имеет свои уникальные этические и правовые аспекты, которые требуют особого внимания со стороны медицинских работников, родителей и законодателей. В России длительное время этические и правовые вопросы детской оториноларингологии не затрагивались, хотя в ней существуют свои особенности, это связано с анатомо-физиологическими особенностями ЛОР-органов ребенка. В статье подробно рассмотрены этические и правовые проблемы в практике врача-оториноларинголога, описаны пути их решения. Соблюдение всех правил приведет к улучшению качества получения медицинской помощи у детей.

**Ключевые слова:** медицинская этика, законодательство, оториноларингология, детский возраст

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Each profession has its own ethical code that ensures decent and socially significant behavior of a person while carrying out their activities [1]. Medical ethics, which is a type of professional ethics, represents a set of rules of behavior and morality of medical professionals. Its basis is formed by traditional ideas about the humane purpose of the work of a medical practitioner, who should act for the benefit of the patient's physical and spiritual health, regardless of difficulties, and be ready to risk their own safety in exceptional cases [2].

A patient-physician relationship is one of the most difficult issues in medicine because trust is essential for proper diagnosis and treatment of the disease. In pediatric practice, ethical issues are even more important [3]. In 1995, Alan Fleischmann, the American pediatrician, wrote as follows:

"children occupy a special position in the world of ethics, and in the world in general, although the tasks are the same as they have to choose between life and death, have a right to refuse from treatment and provide conscious consent. However, the issue is especially pressing and difficult among children" [4, 5].

Pediatric otorhinolaryngology is one of the most widely spread branches of medicine that diagnoses, treats and prevents diseases of the ear, throat and nose in children. This field has its own unique ethical and legal aspects that require special attention of medical professionals, parents, and legislators [6].

Diseases of the ear, throat and nose most commonly occur in childhood. Pathology of the upper respiratory tract and diseases of the ear and mastoid process account for about

20% of all cases. In pediatric population, the prevalence of otorhinolaryngologic diseases currently accounts for 184 per 1,000 children; however, as they age, the chronic pathology of the ear, throat and nose is increasing [7].

Ethical and legal aspects have not been covered in Russian pediatric otorhinolaryngology for a long time though it has its own specific traits [8]. This is associated with anatomical and physiological features of children's ENT when manipulations cause discomfort and pain, as well as pathologies of the ear and larynx, such as hearing loss, installation of a tracheostomy tube, etc. that often hamper socialization in childhood. Some pediatric ENT diseases can result in stable disability caused by both pathologies and complications. In recent years, there has been a rapid development of knowledge and technology in clinical medicine, which leads to introduction of high-tech treatment methods, on the one hand, and to emergence of new, previously unexplored problems, on the other hand. For example, an otorhinolaryngologist can come across younger children with necrosis of the columella due to nasal continuous positive airway pressure (nCPAP) in premature babies. In addition, it is necessary to understand that pediatric otorhinolaryngology is a surgical specialty with all its inherent features [9]. Young children are immature persons without a complete autonomy who often can't formulate their preferences and protect themselves, i.e. they are incapacitated. According to the law, parents or guardians, who, as a rule, are participants of all doctor-child relationships, are endowed with moral and legal rights to consent or withdraw consent to perform medical and diagnostic interventions among children (under 15 years old) [10, 11].

All types of iatrogenic events can be found in pediatric otorhinolaryngology. Nosocomial diseases can be classified as iatrogenic in pediatrics, including pediatric otorhinolaryngology. The majority of otorhinolaryngologists believe that inadequate drug therapy, administration of ototoxic drugs, manipulations or operations performed incorrectly or without indications are iatrogenic events [12, 13]. Hospital otorhinolaryngologists mention iatrogenic diseases associated with improper actions of the doctor during operations and manipulations (trauma to the external auditory canal, eardrum, traumatic labyrinthitis, nasal bleeding when removing a foreign body from the nasal cavity, traumatic intubation with damage to the structures of the larynx and subsequent development of laryngeal stenosis, incorrect provision of help with chemical burns of the pharynx and esophagus) more common than their colleagues from outpatient clinics. Iatrogeny associated with late referral of a child to the consultation by doctors of other specialties (mainly pediatricians) and, as a result, occurrence of diseases with a more severe course and complications such as acute purulent otitis media, purulent polysinusitis, complications of acute tonsillitis, etc.

In otorhinolaryngology, prevention of iatrogenic conditions consists in continuous professional development of doctors, reasonable limitation of indications to instrumental and surgical interventions of a diagnostic and therapeutic nature, their careful justification, and in a joint discussion of each iatrogenic case with pediatricians and otorhinolaryngologists, and, if necessary, with doctors of other specialties who treated this child [14].

In pediatric otorhinolaryngology, these ethical problems can be resolved depending on knowledge of the legal framework, since ethics and legislation are interrelated [15].

Let's consider the legal aspects in the practice of an otorhinolaryngologist.

1. *Legislation in healthcare*: medical care for children, including ENT diseases, is regulated by international, federal and regional documents. It is important to comply with all laws and regulations concerning children's rights to receive medical care [14, 15].

International documents are used when choosing patient surveillance.

#### 1.1 The Universal Declaration of Human Rights (1948).

##### – Article 2:

everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

##### – Article 25:

everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.

#### 1.2 "Convention on the Rights of the Child" (approved by the UN General Assembly on 11/20/1989) (entered into force for the USSR on 09/15/1990)

##### – Article 24:

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
  2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
    - a) To diminish infant and child mortality;
    - b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
    - c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
    - d) To ensure appropriate pre-natal and post-natal health care for mothers;
    - e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
    - f) To develop preventive health care, guidance for parents and family planning education and services.
  3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
- #### 1.3 The Constitution of the Russian Federation.

- 1.4 Federal Law No. 323-FZ dated 21.11.2011 "On the Basics of Public Health Protection in the Russian Federation".
- 1.5 Federal Law No. 61-FZ dated 12.04.2010 "On the Circulation of Medicines".
- 1.6 "Good clinical practice. GOST R 52379–2005".
- 1.7 Order of the Ministry of Health of the Russian Federation dated 19.06.2003 No. 266 "On Approval of the Rules of Clinical Practice in the Russian Federation" (GCP).

2. *Informed voluntary consent*: informed voluntary consent is an integral part of good clinical practice, especially in cases involving minors. This requirement is not only a legally binding act, but also an ethical necessity for medical professionals to protect the rights of patients, develop autonomy, and strengthen the trust of patients and their families. Therefore, ensuring that children and parents are fully informed about medical procedures is fundamental to provision of the best possible clinical care.

Signs of obtaining informed consent from children:

- Age-appropriate: this information should be provided to the child depending on his age and psychological and pedagogical theory. Games and visual materials are suitable for young children, but a teenager needs a more detailed explanation;
- Involvement of parents/guardians: since children are not full subjects of duties, consent to medical procedures must be given by their parents or legal representatives. However, the child's opinion must be taken into account as well;
- consent and disagreement of the child: if the child's consent to the procedure is legally optional in the vast majority of cases, his disagreement is an important factor in making a decision;
- special cases: in some cases (for example, emergency care), consent may not be required. In other cases, medical professionals can go to court to protect the interests of the child when parents refuse to provide necessary treatment.

Complexities and ethical dilemmas:

- conflict of interests: sometimes the opinion of parents may not coincide with the interests of the child. In such cases, medical professionals must protect the child's interests;
- refused treatment: parents may refuse to provide necessary treatment to their child due to religious or other beliefs. In such cases, doctors face an ethical dilemma of how to protect a child without violating the rights of parents;
- minor patients: the age of consent may vary in different jurisdictions, creating legal difficulties while treating adolescents.

3. *Medical documentation*: all data related to the child's health status, examinations and treatment should be carefully and timely reflected in the medical record, primarily for their own legal security.

4. *Responsibility of medical workers*: medical professionals are responsible for their actions and have legal liability for mistakes and negligence that may harm a child.

5. *Children's rights*: children have a right to access qualitative medical care, including ENT specialists, and to be treated with respect by medical professionals.

6. *Protecting children from abuse*: otorhinolaryngologists should know how to detect signs of child abuse and report them to the appropriate authorities.

7. *Disclosure of medical secrets*: confidentiality of medical information in pediatric practice should be maintained with special care and sensitivity, as it affects the interests of both the child and his parents. Health care providers should achieve a balance between protecting a child's privacy and ensuring their well-being. Violation of medical confidentiality may result in legal liability.

Maintaining confidentiality in pediatrics is a complicated issue.

- Involvement of parents/legal representatives: in pediatric practice, medical confidentiality is often applicable to parents or legal guardians who have a right to make decisions about the child's health. However, difficulties arise when the interests of the parents and the child do not coincide.
- Age differences: the older a child is, the more rights to confidentiality they have. Teenagers may have their own ideas about what information should be disclosed to their parents.
- Conflicts of interest: in some situations, when, for instance, child abuse is suspected, medical professionals are required to report their suspicions to the appropriate authorities, even if it contradicts the wishes of the parents or the child.
- Information exchange: medical professionals involved in treatment of a child should exchange data confidentially.
- Use of electronic medical records: electronic medical records simplify access to information, but can also breach confidentiality if appropriate security measures are not taken.

Ethical aspects in pediatric otorhinolaryngology are essential because children are vulnerable and dependent on adults who make decisions about their own health. They are intertwined with legal norms, but empathy and desire to help a child should undoubtedly be inherent to a doctor.

Let's consider ethical aspects in clinical practice.

1. Consider the best interest of a child: the principle of "the best interests of the child" is the main ethical principle in pediatric medicine. It means that all decisions and actions of medical professionals should ensure health and well-being of the child, even if this contradicts the wishes of the parents or guardians.
2. Informed consent: in pediatric practice, obtaining informed consent for medical procedures is undoubtedly necessary, but it is more important to tell the parent/legal representative and the child about upcoming manipulations, complications, and treatment tactics clearly and in detail. The parent/legal representatives should have no questions, fears, or doubts.
3. Confidentiality: information about the child's health status is confidential and cannot be disclosed without the consent of the parents or guardians, except in cases provided for by law. It is necessary to show understanding to children of the older age group, treat them as independent persons and take their opinions into account.
4. Justice: every child has a right to receive qualitative medical care, regardless of their social status, ethnicity, or other factors.
5. Psychological comfort: children are particularly sensitive to medical procedures, that is why it is important to create a comfortable and friendly atmosphere to reduce their anxiety and fear. All medical care should be provided in order to minimize harm and suffering of the child. In pediatric ENT practice, it is especially important when performing invasive procedures and surgical interventions.

6. Respect for the child's autonomy: as a child grows up, they should have a right to participate in making decisions about their health, as far as it is possible at that age.

Pediatric otorhinolaryngology has complex ethical and legal aspects. Taking care of pediatric health and well-being is the primary task of medical professionals. They must adhere

to ethical principles and legal norms and constantly strive to improve the quality of medical care for children. Parents also play an important role by participating in making decisions about their children's health and cooperating with doctors. Effective cooperation and continuous learning ensure provision of the best possible care for children with ENT diseases.

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