


Article

Legal Considerations Regarding Blood Transfusion Refusal in Cases of Minor Patients

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Abstract: (1) Background: This study examines the issue of malpractice accusations related to medical procedures in cases of minor patients belonging to specific religious sects, focusing on both legal and ethical perspectives. The analysis particularly addresses the consequences of disregarding the refusal of legal guardians to consent to blood transfusions. (2) Methods: The present study analyzes the opinion of doctors that practice in various hospital units regarding a series of aspects related to the refusal of blood transfusions in cases of minor patients who belong to certain religious sects. These aspects mainly targeted their level of awareness regarding the relevant legislation, the incidence rate of such cases in practice, and the risk of malpractice accusations. For this observational–prospective study, a questionnaire consisting of ten closed-ended questions was delivered to fifty doctors. Before starting to complete the questionnaire, the doctors were asked for their consent to participate in the study, being informed about its purpose. Doctors’ answers were analyzed and interpreted in order to reveal whether the doctors were informed about any legal aspects, their protection offered by the law, and their attitude regarding blood transfusions for this category of patients. (3) Results: The results of this study show that most doctors are aware of the Romanian legislation regarding the rules on the expression of consent to a medical act in cases of minor patients by the latter’s legal representatives, but they feel threatened by the danger of being exposed to accusations of malpractice when they are put in the situation of providing medical care to minor patients who belong to a certain religious denomination, because they are faced with the vehement refusal of their family members who do not accept the idea of medicine based on blood transfusions. Although this is a rule from which the legal representatives of minor patients belonging to a particular religious denomination do not deviate, the results showed that doctors believe that the best interests of those seeking medical services must be emphasized, prioritizing the fundamental values that protect life or health. (4) Conclusions: Protecting the best interest of minor patients by prioritizing their health should be the main guideline for any legal representative when they need to make a decision regarding their medical care. From a legal perspective,

however, it must be accepted that there is no unified viewpoint on this extremely delicate and complex issue, with voices condemning the physician's attitude of violating the will of the legal representatives of minor patients, adherents to a certain religious sect, by applying blood-transfusion-based treatments.

Keywords: informed consent; blood transfusions; minor patient; legal representative; medical malpractice

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Introduction

Debates within the specialized literature, from both ethical and legal perspectives, regarding the refusal of patients who adhere to certain ideologies to accept the administration of treatment based on blood transfusions have led us to focus on this research topic.

This category of patients supports the idea of bloodless medicine, which leads them to accept only those medical interventions that are performed using alternative solutions to blood transfusions. The reasons why these patients refuse blood-transfusion-based treatments are religious in nature [1,2].

In cases of minor patients who belong to families adhering to certain religious ideology, doctors have often encountered the categorical refusal of legal representatives to give their consent for medical procedures on minors that involve blood transfusions [3,4].

One question that arises concerns the difficulty faced by doctors when a medical procedure cannot be performed using alternative solutions but necessitates blood transfusions in emergency situations that severely and irreversibly endanger the life and health of minor patients. In this context, doctors find themselves exposed to the risk of being accused by the family of medical malpractice as a result of disregarding the will of the legal representatives of minor patients [5,6].

The principle that should guide any doctor in their activity when providing medical care to minor patients is to respect the best interest of the latter, a principle that finds its foundation in Law no. 272/2004, republished, regarding the protection and promotion of children's rights [7,8]. Therefore, in situations where the life or health of the minor patient is in imminent danger, doctors have the right to perform those medical acts of strict necessity, even in the absence of the legal representatives' consent [9-11].

In addition to Law no. 272/2004, the provisions of Law no. 46/2003 regarding patients' rights should also be mentioned, according to which in cases where emergency medical intervention is required, the consent of the minor patient's legal representative is no longer necessary [12]. The Romanian legislator has not adopted a passive attitude regarding the protection of minor patients' interests; on the contrary, within Article 17 of Law no. 46/2003, it is stipulated that if the legal representative refuses to give consent and the healthcare providers consider that the intervention is in the patient's best interest, the decision will be made by a special arbitration commission, composed of three doctors for hospitalized patients and two doctors for outpatient patients.

Considering the aforementioned legal provisions, emphasis should be placed on respecting the principle of the best interest of the minor patient by providing the highest quality medical care, so that their life or health is not endangered, rather than on the refusal of blood transfusions for religious reasons [13,14]. In this context, from an ethical and legal standpoint, opinions are divided, and there is currently no unified position in the medical and legal specialized literature [15]. One question that arises is whether doctors can be exposed to a real risk of being accused of medical malpractice, given that they are protected by a series of existing normative acts currently in force in Romania [16].

When analyzing a possible accusation of medical malpractice, based on a complaint from the legal representatives of minor patients who adhere to a certain religious ideology, due to the doctor's violation of the rules regarding consent to the medical act, the judge called to resolve this case should prioritize the best interest of the minor patient. This means giving precedence to their right to life and health protection in emergency situations where intervention is absolutely necessary, even if it involves treatments based on blood transfusions [17–20].

Materials and Methods

The study we chose to conduct is an observational–prospective type, focusing on the preparation of a questionnaire addressed to fifty doctors from Timiș County, who practice in hospital units. The main inclusion criterion for the study considered the specialty of doctors whose medical specialty involves surgical interventions and medical emergencies. Consequently, the questionnaire was distributed to be completed by doctors working in the hematology department of the Louis Țurcanu Emergency Clinical Hospital for Children, as well as in the pediatrics department of the same medical unit. Additionally, the questionnaire was distributed to doctors working in the Anesthesia and Intensive Care department.

The questionnaire addressed to doctors contains 10 closed-ended questions with three answer options, focusing on analyzing their opinion regarding the existence or non-existence of the risk of malpractice accusations in cases of medical interventions performed on minor patients who are adherents to a certain religious ideology. The method of distributing the questionnaires included both printed and electronic formats to the doctors for completion and the results were centralized for the statistical interpretation. The doctors were invited to fill out a form to voluntarily express their consent to participate in this study after being explained to them the main purpose of this research.

The questionnaire included information regarding their gender, age, the environment in which they practice (urban/rural), and their medical specialty.

The first question aims to analyze their level of awareness regarding the refusal of legal representatives of minor patients, who embrace a certain religious ideology, to accept treatments based on blood transfusions for these patients. We also wanted to observe to what extent doctors are aware of this aspect and whether they have encountered this category of patients in their practice.

The second question seeks to analyze doctors' opinions on a highly debated topic, namely to what extent they consider that there is always a risk of being accused of malpractice due to violating the will of the legal representatives of minor patients by performing medical interventions based on blood transfusions. Considering this common reality in medical practice, in urgent cases, there is a risk that the condition of such patients may worsen or even result in death if blood transfusions are not performed. Therefore, doctors face a conflict and a contradiction between choosing to respect the will of the legal representatives of minor patients

who refuse blood transfusions, requesting adherence to their religion, and providing medical treatment aimed at saving the patient's life.

The third question aimed to identify to what extent doctors have personally encountered and are aware of cases in medical practice where malpractice was determined due to the violation of the consent expressed by the legal representatives of minor patients regarding the refusal to allow them to perform the medical act using blood transfusions.

In the fourth question, the level of doctors' knowledge in the field of medical legislation was analyzed, concerning the rules of expressing consent in cases of medical interventions on minor patients. Considering that the rules governing the expression of consent in medical practice, when it comes to minor patients, are specific and different from the scenario where the medical act targets an adult, we deemed it appropriate to observe to what extent doctors are familiar with their content, respecting and applying them in their daily profession. Moreover, given that the interests of minor patients must be prioritized, considering their age and the fact that their judgment is still developing until the age of 18, we considered it extremely important to analyze whether doctors know the legislation in this field, to be able to perform the medical act to ensure the complete safety of the life and health of minors.

The fifth question aimed to analyze the doctor's opinion regarding their real chances of defending themselves in court when accused of malpractice by in the already mentioned situations. We aimed to analyze to what extent the legal provisions in the field offer protection to doctors in a malpractice lawsuit when they are accused by the legal representatives of minor patients of violating the rules of their will to refuse blood transfusions.

The sixth question evaluated doctors' knowledge regarding Law no. 46/2003 on patients' rights. Through this question, we wanted to identify the percentage of doctors who are aware of the content of this normative act, being especially informed about the rules of expressing consent to the medical act when it comes to minor patients. Doctors' knowledge of this provision included in Law no. 46/2003 on patients' rights clarifies a series of situations that may arise in practice, where, despite encountering the refusal of the legal representatives of minor patients, they have the legal possibility to decide whether this arbitration committee should choose if the medical act is in the best interest of minors, so that their best interest prevails.

The seventh question aimed to numerically analyze the percentage of doctors who, during their professional practice, have encountered minor patients who are adherents to a certain religious denomination and had to provide medical assistance while respecting their wish not to resort to blood transfusions.

The eighth question addressed to doctors analyzes an extremely delicate and, at the same time, debated topic both in medical practice and in the specialized legal literature, namely the extent to which the legal representatives of minor patients, adherents to a certain ideology, should consider the specifics of the religion they belong to when refusing medical procedures based on blood transfusions. The aim is to analyze doctors' opinions on this subject because they find themselves in situations where they cannot perform medical procedures using blood transfusions, even though the health condition of minor patients would require this.

The ninth question aimed to identify the percentage of doctors who, during their professional practice, have encountered minor patients who are adherents to a certain religious denomination and, despite refusing blood transfusions, both they and their legal representatives were in medical situations where alternative treatments were not viable. This meant that the medical staff had to override their will to provide the necessary medical assistance.

Regarding the last question in the questionnaire, its purpose was to analyze to what extent hospital units are currently equipped with the necessary facilities for doctors to use alternative treatments for minor patients who do not accept blood transfusions. For doctors to realistically use alternative treatments that replace blood transfusions, it is necessary to ensure that the healthcare units provide the required infrastructure.

Results

Following the centralization of the questionnaires addressed to doctors, a total of fifty participants in the conducted study, approximately 50% of all participants, had faced cases of minor patients belonging to a certain religious denomination in which their legal representatives had refused blood transfusions when they needed to address medical staff. The other 50% of doctors had the same level of information, but had not encountered such cases in practice. What emerges is that the level of information among doctors is significantly high (Figure 1).

In relation to the second figure (Figure 2), the results indicate that more than half of the total fifty doctors consider themselves to be at a real risk of being accused of malpractice if they were to violate the will of the legal representatives of minor patients, adherents to a certain religious denomination, by performing medical interventions based on blood transfusions. Second in line were the doctors who refused to give an opinion on this matter, as they lack knowledge regarding the legislation on this topic, and an extremely small number of doctors stated that there is no risk of malpractice looming over them.

Regarding the third question in the questionnaire addressed to physicians, as also shown in Figure 3, a very small number of doctors out of the total fifty had knowledge about the existence of cases in medical practice that have resulted in the legal liability of doctors for malpractice due to violating the refusal of legal representatives of minor patients to accept medical procedures based on blood transfusions. More than half of the doctors participating in this study stated that they were not informed about the existence of such cases in practice, where their colleagues had been found guilty of malpractice, and a relatively small number of doctors responded that they know there have been such malpractice accusations, but they were not informed about how such complaints were resolved in court.

Out of the total of fifty participants in the conducted study, approximately 50% of them were very well informed about the legislation in the field that regulates the rules regarding obtaining consent for medical procedures when patients are under the age of 18, being minors, while the remaining 50% had rather vague knowledge on this topic, being unfamiliar with the content of the legislation (Figure 4).

As evident from the analysis of the fifth figure, most physicians believe that currently, there are no adequate legislative mechanisms available for them to rely on and invoke in court to defend themselves in a potential malpractice lawsuit (Figure 5). Out of the total of fifty doctors, the minority claim that the existing legislation in force in Romania is formulated in such a way as to support them in a potential malpractice lawsuit.

Out of the total of fifty doctors included in the study, more than half of them are informed about the role of the arbitration committee in the event that healthcare personnel encounter the refusal of legal representatives of minor patients to accept a possible medical intervention, even though from a medical standpoint, it would effectively contribute to mitigating risks regarding the health status of minor patients (Figure 6). Second in this case are the doctors who stated that they have knowledge of the existence of Law no. 46/2003 on patient rights, but are not aware of the role of this arbitration committee. A very small number of doctors have no legal knowledge whatsoever on this subject.

Regarding the seventh question in the questionnaire, out of the total fifty doctors who participated in the study, more than half of them stated that they had not encountered cases where they were required to provide specialized care to minor patients who are adherents to a certain religious denomination (Figure 7). Second in line were the doctors who had faced this category of patients multiple times throughout their professional practice, and a very small number of doctors from this group had encountered this category of patients only once so far.

Regarding question number eight in the questionnaire, out of the total of fifty doctors who agreed to participate in the conducted study, a considerable number expressed their opinion that the legal representatives of minor patients, who are members of a certain religious denomination, should primarily consider the best interest of these patients, particularly focusing on protecting the health status of minor patients, especially in cases of emergency that often require treatments based on blood transfusions, so that the health or even the life of patients is not endangered (Figure 8). Other doctors also expressed the same sentiment, but they believed that the situation might be different in medical practice.

As indicated in Figure 9, out of the total of fifty doctors, an extremely small percentage of them stated that they have encountered in practice the inability to resort to alternative treatments instead of blood transfusions for minor patients who are adherents to a certain religious denomination. Most of the doctors involved in the study stated that they have not encountered in practice such situations where they were required to override the legal representatives' wishes of minor patients to resort to blood transfusions, as they were able to apply alternative treatments.

Regarding the final question in the questionnaire, out of a total of 50 physicians, the majority expressed the opinion that, unfortunately, healthcare facilities currently lack the necessary equipment to employ alternative treatments when faced with the refusal of legal representatives of minor patients who belong to a specific religious sect to accept medical care involving blood transfusions (Figure 10). In second place were the physicians who believed that such equipment is available, but only in a very limited number of healthcare facilities in Romania. A very small number of physicians stated that these provisions are currently available in hospitals within the country.

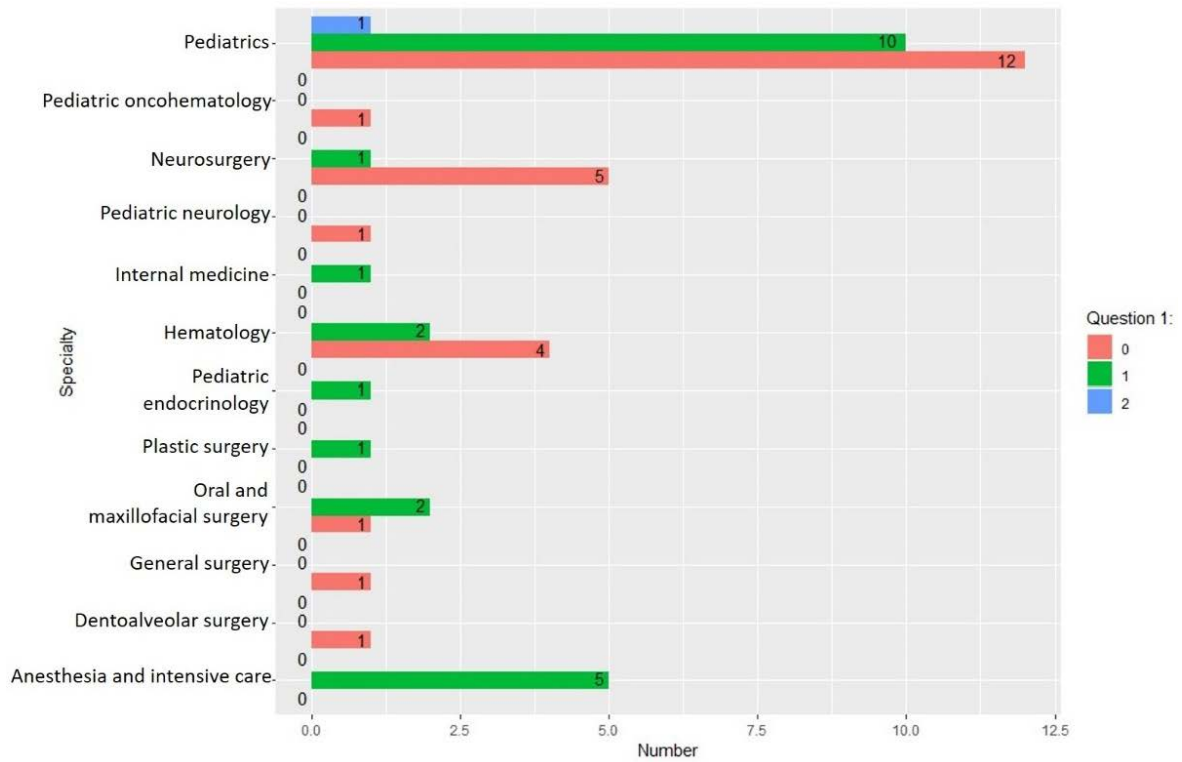


Figure 1. The degree of doctors' awareness regarding the refusal of blood transfusions by the legal representatives of minor patients who are adherents to a certain religious denomination.

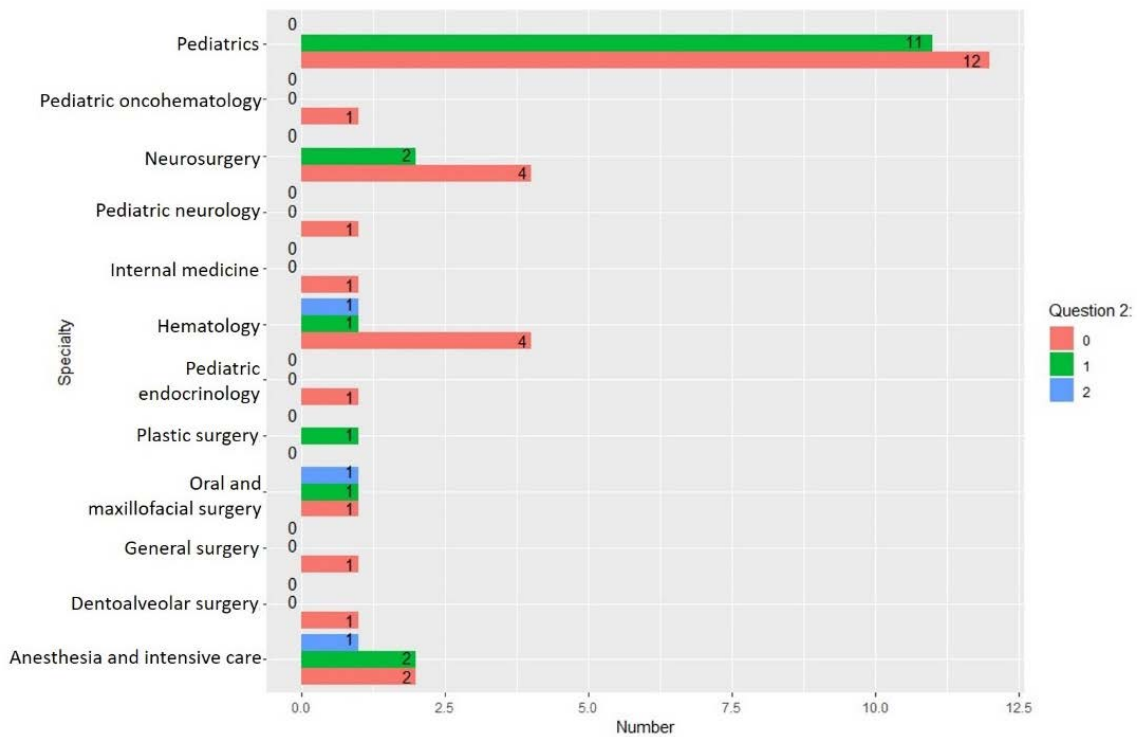


Figure 2. Risk level of malpractice incidence in cases of doctors performing interventions based on blood transfusions regarding minor patients who are adherents to a certain religious denomination.

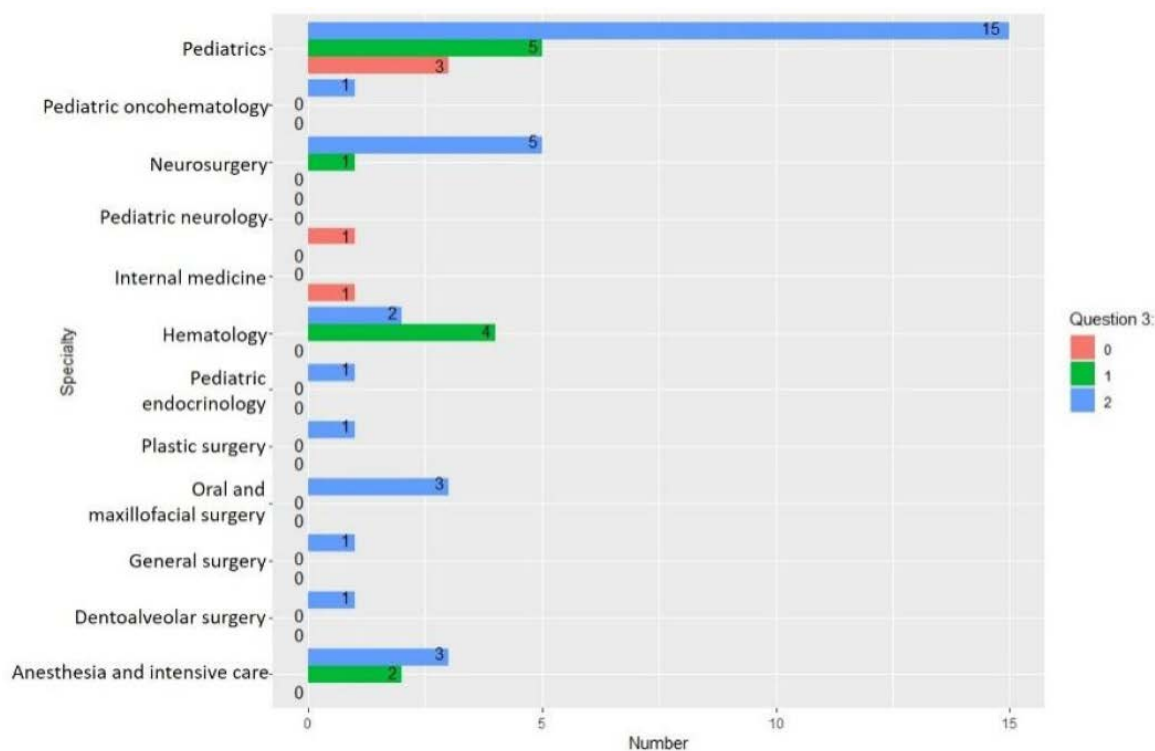


Figure 3. The level of awareness among physicians regarding the engagement of liability for malpractice as a result of healthcare personnel violating the consent expressed by the legal representatives of minor patients who are adherents to a certain religious denomination.

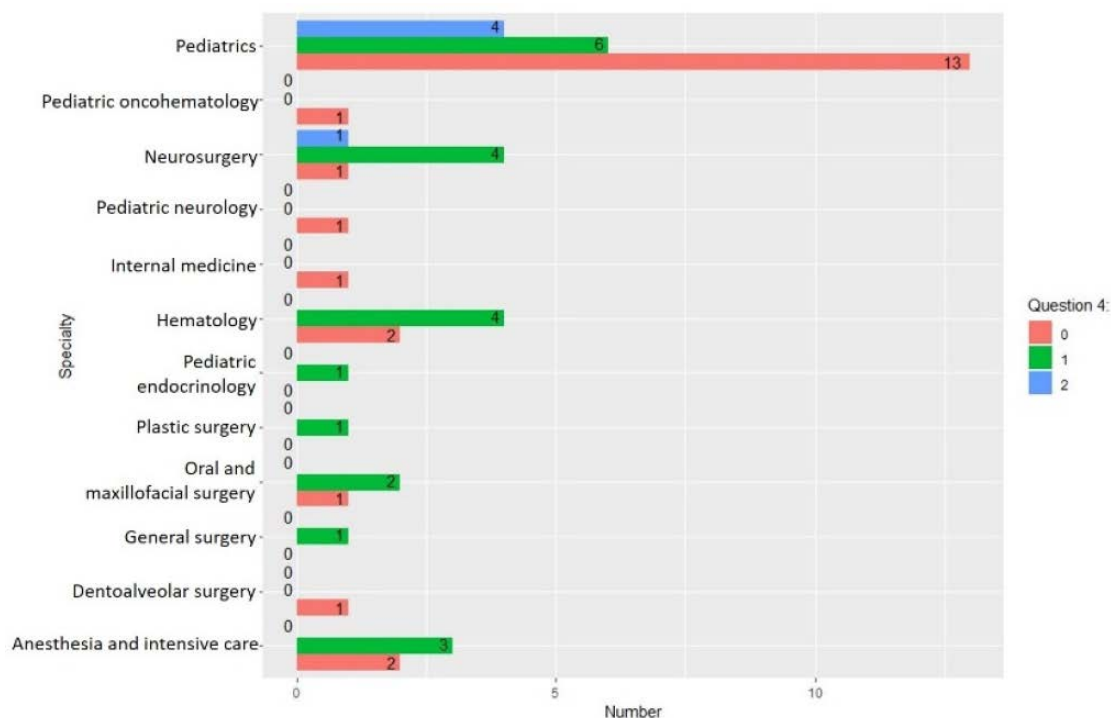


Figure 4. The level of awareness among physicians regarding the legislation regulating the rules for obtaining consent in cases of medical interventions on minor patients.

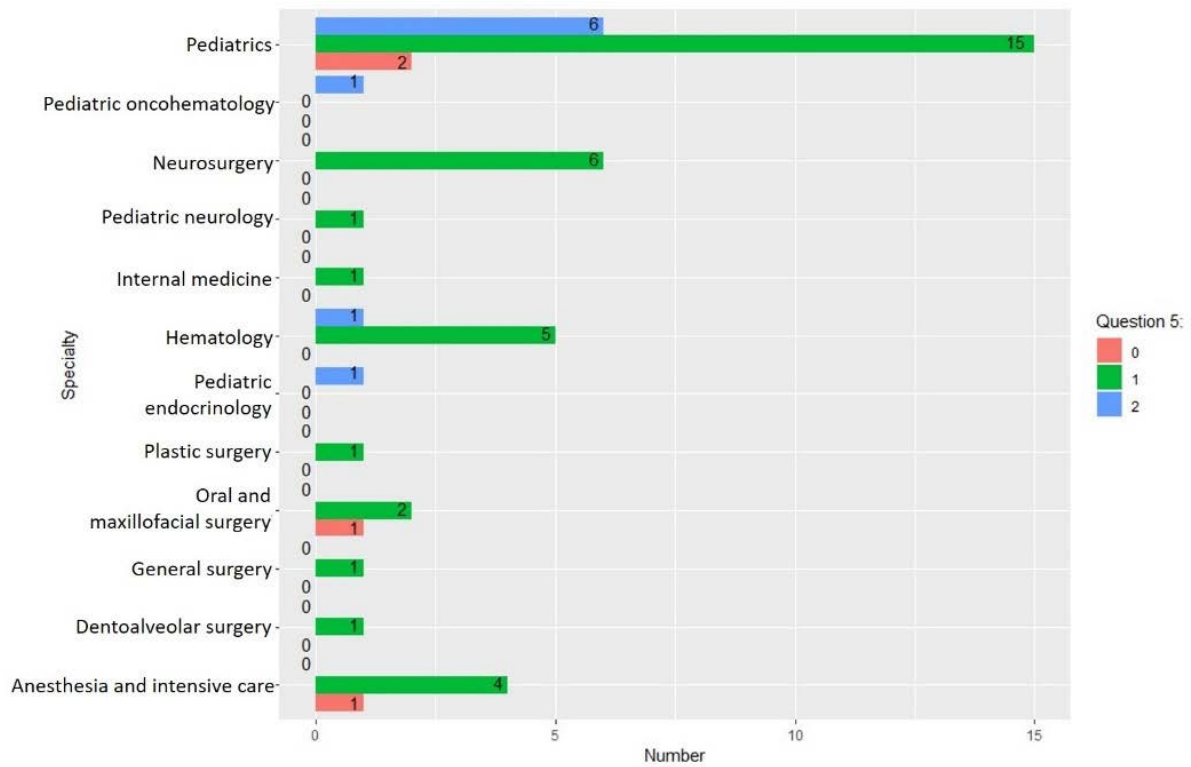


Figure 5. The level of protection for physicians from the perspective of legislation regarding the rules for obtaining consent for medical procedures by the legal representatives of minor patients who are adherents to a religious denomination.

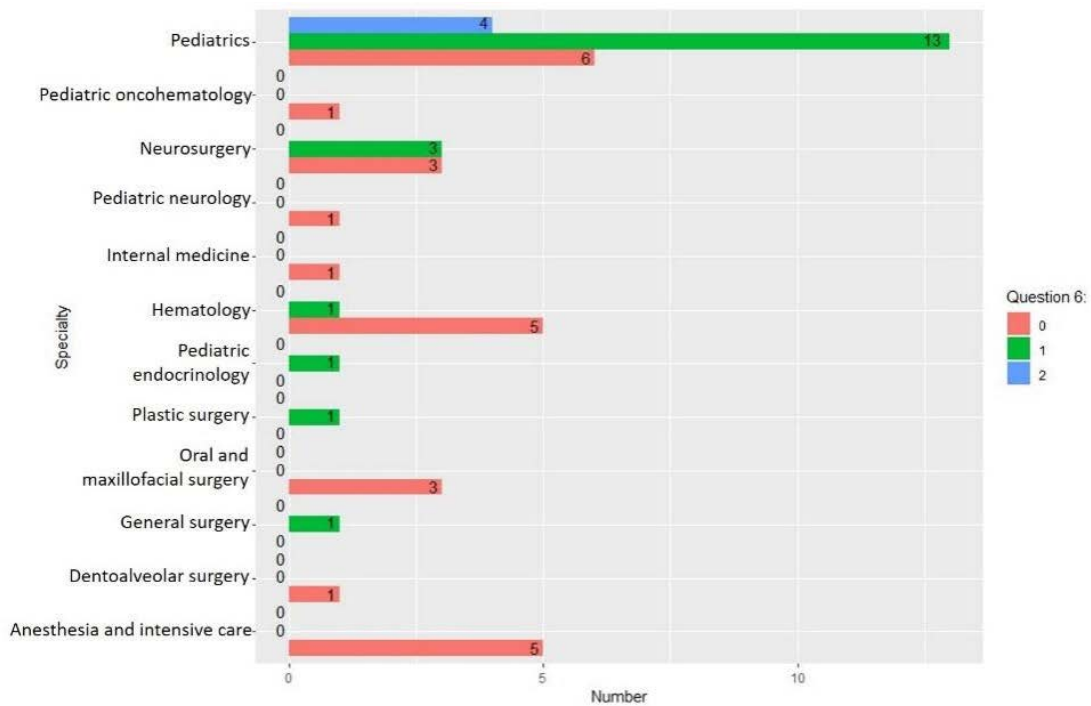


Figure 6. The level of awareness among physicians regarding the role of the arbitration committee regulated by Law no. 46/2003 on patient rights.

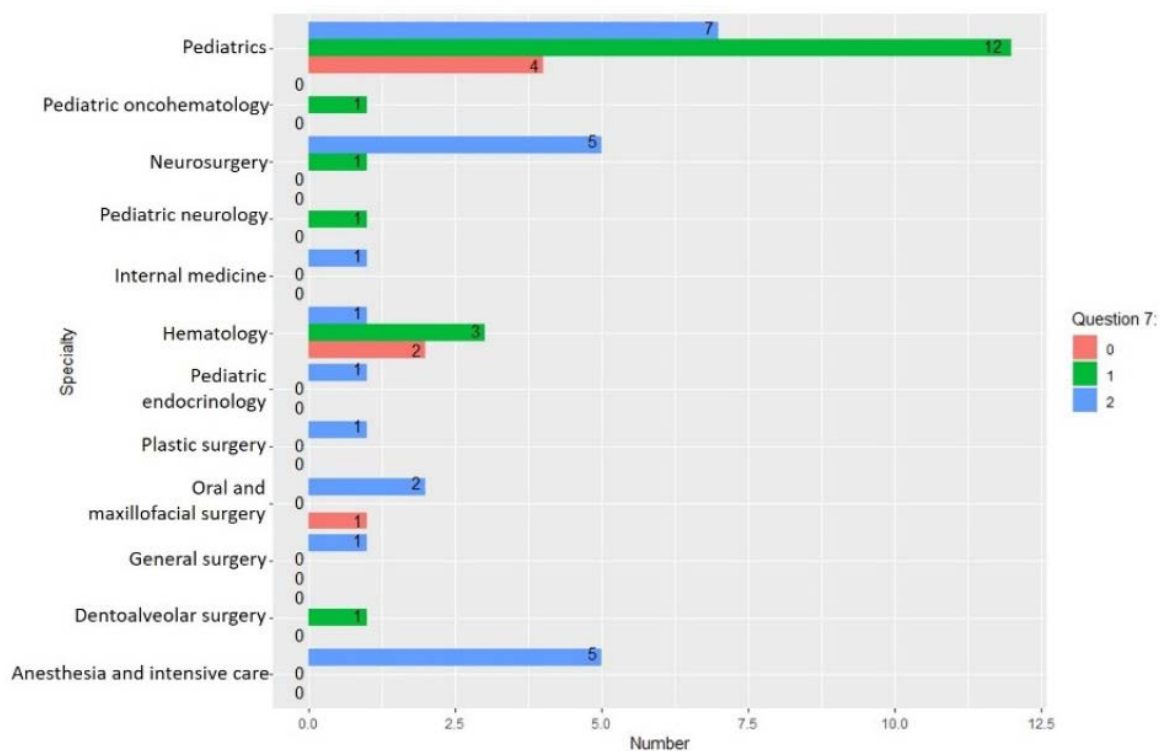


Figure 7. The incidence rate for the participating physicians of cases involving specialized care for minor patients who are adherents to a certain religious denomination.

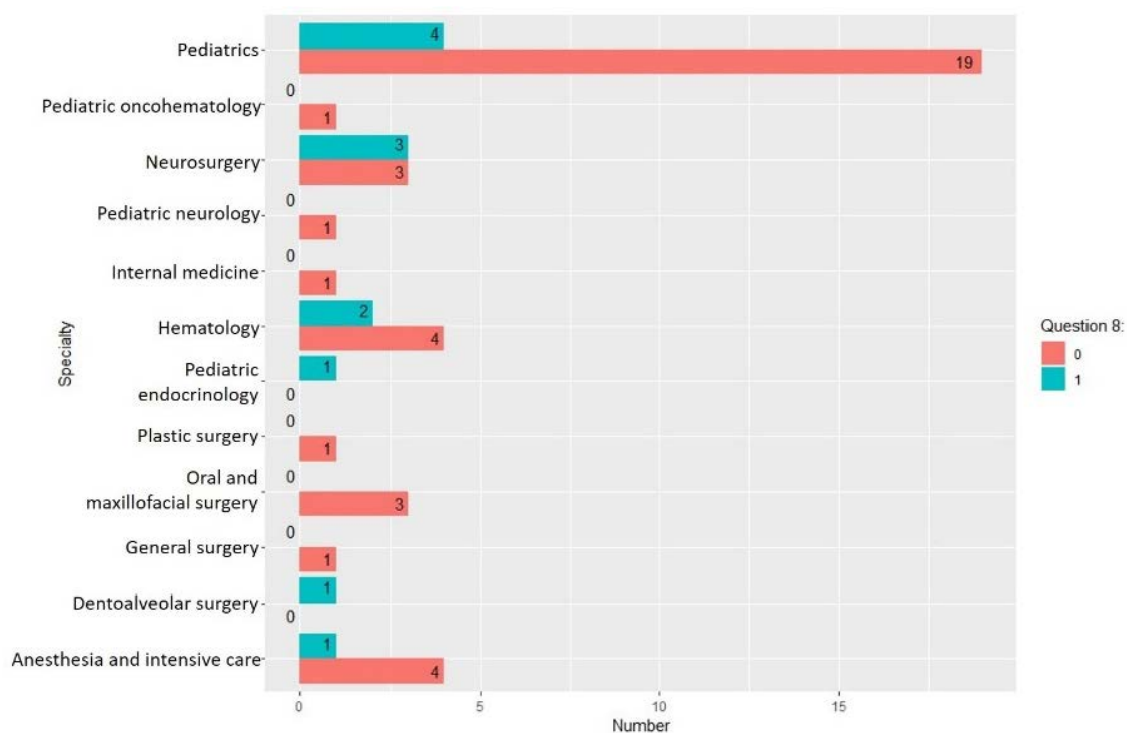


Figure 8. Physicians' opinion on the prioritization by legal representatives of the health status of minor patients who are adherents to a certain religious denomination.

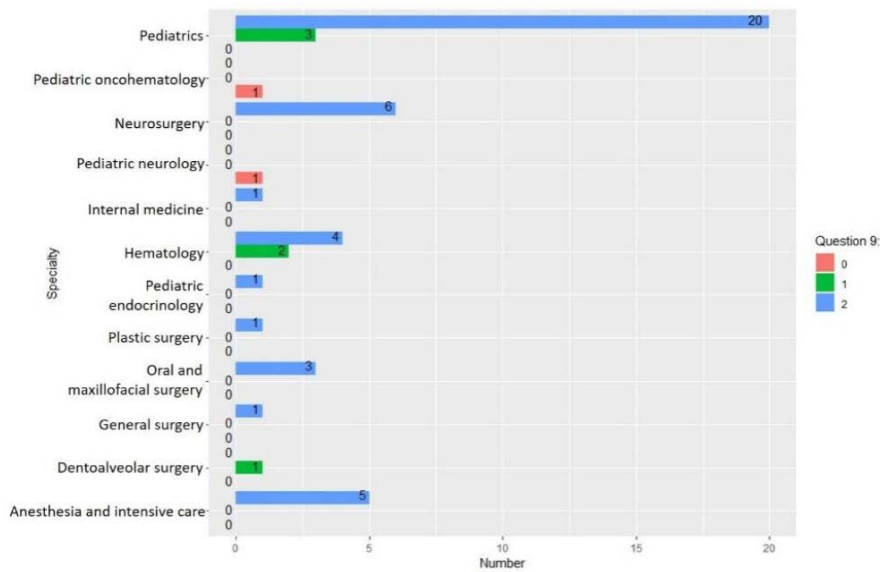


Figure 9. The incidence rate in medical practice of various situations where doctors were unable to resort to alternative treatments, being compelled to override the legal representatives' wishes of minor patients who are adherents to a certain religious denomination.

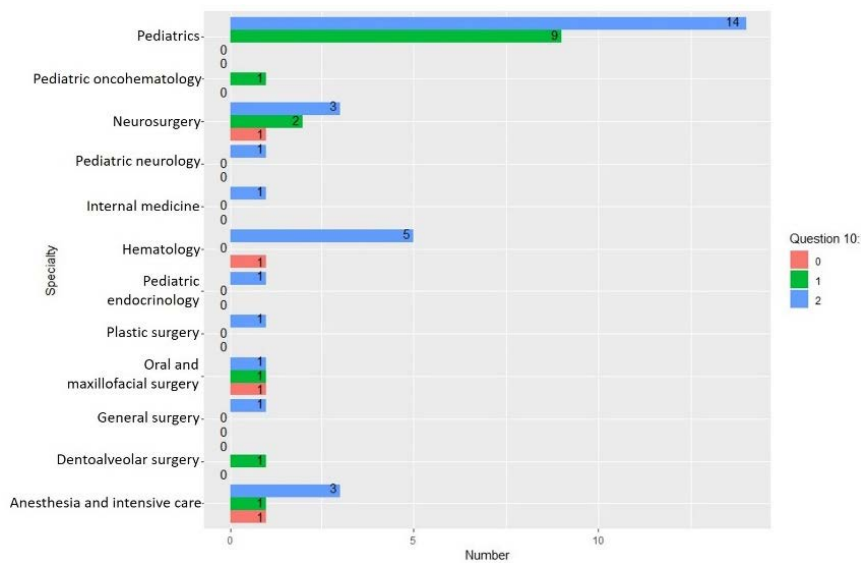


Figure 10. The opinion of physicians regarding the provision of necessary equipment in healthcare facilities for the implementation of alternative procedures to blood transfusions.

Discussion

There has been a high level of awareness among physicians regarding the refusal of legal representatives of minor patients, adherents to a certain religious denomination, to accept treatments based on blood transfusions.

Furthermore, there have been, and continue to be, situations in medical practice where doctors have faced difficulties in providing the most effective specialized care for this category of patients because they did not

have the necessary equipment in the healthcare facilities where they worked to resort to alternative treatments. This automatically entailed the risk of worsening the patients' health conditions.

Although doctors believe that, in some situations, their duty is to save the lives of minor patients, even if it means overriding the categorical refusal expressed by their legal representatives regarding blood transfusions, there is still the risk of subsequently being accused of malpractice for disregarding the legal guardians' wishes, thereby violating their autonomy.

Meanwhile, in relation to the research topic, one might ask themselves to what extent it is ethical and moral for the parents of minor patients belonging to a certain religious denomination to be allowed to make decisions regarding the treatment provided to their children, thus minimizing the professional competence of the doctor who possesses the necessary specialized knowledge and who is best suited to decide on the measures to be taken for the patient's recovery. Primarily, the role of the legal representatives of minor patients should be to protect their interests, ensuring the conditions necessary for providing the best specialized care, thereby prioritizing their life and health [21].

With the emergence of a malpractice accusation against doctors, their honor is also prejudiced, their professional image and dignity are tarnished, and their professional relationships with other potential patients could be affected. It would be an abuse over the practitioner from an ethical and legal point of view, although Romanian legislation protects the doctors in such cases.

Conclusions

Regarding the topic addressed in this scientific research, one of the conclusions worth mentioning and emphasizing is that debates still persist in the specialized literature regarding the level of risk for doctors to be accused of malpractice by the legal representatives of minor patients who are adherents to a certain religious denomination, due to their violation of the wishes of the guardians regarding the refusal of blood transfusions.

Currently, there is neither a unified perspective in the specialized literature nor at the jurisprudential level embraced by all legal specialists regarding this extremely delicate subject, considering the conflict arising between two values: the respect for each individual's religious beliefs, and the protection of the right to health as a fundamental right for every beneficiary of the healthcare system.

As a result, out of fear of facing civil liability for malpractice, doctors often find themselves compelled to comply with the wishes of the legal representatives of minor patients who are adherents to a certain religious denomination, even if this means being unable to provide the appropriate specialized care for the recovery of these patients, due to the inability in certain situations to resort to alternative procedures.

In the concluding remarks, we want to emphasize the practical significance of the study and to underscore the critical need for establishing explicit guidelines and protocols. These frameworks are essential to assist healthcare providers in effectively managing the intricate legal and ethical dilemmas entwined with the care of minor patients who decline blood transfusions on religious grounds.

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