

Medical honoraria in the 17th century

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Summary

Paolo Zacchias (1584 - 1659), the physician of the Pope, in his main work, 'Quaestiones medico-legales' (Rome, 1621- 1625) provides answers to hundreds of important practical and theoretical questions. On the following pages the author tries to summarize Zacchias's opinion concerning the problem of honorarium and fee, hoping that this short extract will prove to be useful for the modern physician as well.

Résumé

Paolo Zacchias (1584 - 1659), médecin du Pape, tente de répondre à une centaine de questions pratiques et théoriques dans son ouvrage principal "Quaestiones medico-legales" (Rome, 1621 - 1625). Dans les pages qui suivent, l'auteur essaye de résumer les idées de Zacchias en ce qui concerne les honoraires et les paiements; il espère que ce court article sera également utile au médecin moderne.

Among the scientific, philological and belletristic works written by Paolo Zacchias (Rome, 1584 - Rome, 1659) (1), who was physician to the Pope Innocent X, the work entitled "*Quaestiones medico-legales*" is considered to be his main achievement. Over a period of 150 years several editions were prepared by different editors for various publishers. This work, published first in Rome between 1621 and 1625, is known as being the greatest collection of legal material concerning medicine and public health, containing all that had been written between classical antiquity and the 17th century on the subject. Zacchias' compendium is not simply a dry legal handbook, but one based on profound knowledge, written with a unique command of philology and sometimes even with amusing witticism. Zacchias by this work, may be regarded as the founder of legal medicine.

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The book - consisting of three thick folios - provides answers to many significant contemporary questions. As an example, I have selected the issue of the honorarium, still providing interesting problems for physicians even today. In the following few pages, are summarized the questions and opinions of his 17th century colleagues concerning the honorarium, together with the answers supplied by the "official" law and ethics - as compiled by Zacchias. Although human behaviour has never been determined by declared principles, but by quite different laws, I hope that these old-new thoughts might serve as a lesson to us even today.

Zacchias writes about the doctor's fee in the 6th book of his work, under the title "Medical omissions and medical faults committed during activities connected with the doctors' honorarium" (2). He notes - probably ironically - only a single type of medical omission in relation to this question, namely, if the doctor takes too low a fee. This he regards as dishonest - as it makes

the position of other colleagues difficult. The physicians, who sell their knowledge for too low a fee, must be expelled "from the body of honest doctors".

"Should the physician," the author asks later, "actually receive any fee (*merces*) at all ?" He offers three arguments against this :

1. The sale of so-called spiritual goods (*spiritualia*) is nothing less than simony, which is a mortal sin. And medicine undoubtedly belongs to the category of *spiritualia*.

2. Hippocrates, while writing to the Abderites, is sufficiently offended to refuse the honorarium offered to him, for - "one who accepts any fee whatsoever, is a slave, and one who sacrifices his liberty of his own will, is a man to be treated with contempt". Asclepius, for example, according to legend was stricken to death by Zeus for a quite similar sin.

3. The physicians are granted many privileges, so that further payment would be redundant.

Based on literary sources Zacchias refutes all three arguments:

1. According to the Bible (*Exodus* 21.19.) the physician should be paid for the cure, thus negating the accusation of simony.

2. The physician receives his honorarium not for the treatment, but for his efforts : it is not humiliating to receive money for effort.

3. The privileges do not replace but complement income.

"If money can be accepted, is bartering allowed to physicians ?" Hippocrates in this respect offers a contradictory opinion. On the one hand, he agrees with such barter, but on the other hand he argues that "We are allowed only to accept payment from those cured, when given out of gratitude, not something the patients promise when under great duress". According to Zacchias the latter does not apply to the fees (*merces*) but to the honorarium. That means, in the case of employment the question could be answered differently.

It is possible that not only "professional" doctors (*physici*), but other *medici*, for example pharmacists (*empirici*, *chymici*) and barbers (*chirurgici*) would also get this fee, and impose further difficulties (3). Does everything mentioned above apply to them too, or does it not? According to Zacchias, the *physicus* differs from other artisans by receiving an honorarium and not *merces*. Thus artisans may barter, as their trade belongs to the category of *artes mechanicae*, but not so the *physicus*, who pursues *unam artem liberalem*.

Furthermore, in some severe, acute illnesses there is no place for any barter, as Fridericus a Castro (4), the famous doctor once noted : "Bartering about the honorarium at a time of serious illness equals infamy". If money has been received by the physician in an urgent case, the loan could be reclaimed with the help of the authority. On the other hand - says Zacchias - it is unworthy of a doctor even to speak about money. As Soran (5) summarises: '*Accept what is given, but do not demand what is not given.*' The demanding physician would then degrade himself to the status of a *mercennarius* or a man working for a fee.

Unfortunately, sometimes there are villains to be found even among the patients who - after a successful cure - simply refuse to pay. In this case the doctor has a right to claim the honorarium regardless of what people say (6).

There was also the question of whether the physician may accept money from the poor. The Hippocratic oath forbids it. According to Zacchias, he may accept a fee from the "already-cured" poor, but only a small one, mostly in the form of food. But this poses a further problem : Who qualifies as poor ? Who has the right to determine the criteria of poverty ? Is it the physician himself ? Zacchias' definition of 'the Poor' is someone who cannot meet his everyday needs, who is prevented by illness from sustaining his own life.

"Is it the physician's duty to visit every poor person, who calls on him ?" Unfortunately - regrets Zacchias - the number of poor is high. In addition to being poor, they are always ill, so to demand this from the doctor is simply unreasonable. The physician should be required to make a free visit only under the following three circumstances.

1. If death is imminent.
2. If there is no one else to help the sick.
3. If there is no one else to pay for the sick.

If, under these circumstances, the doctor does not fulfill his duties free of charge, he commits the mortal sin of murder. On the other hand, in the absence of at least one of the three circumstances, the physician has the right to decide.

"Is the physician required to treat a rich person who refuses payment, even against the patient's will ?" Yes, he is - says the author - but later he has the right to demand his honorarium if necessary through the legal channels.

There may be a further complication. "If the physician is paid by the public" (as a *publico salariatus*) "may he receive any other gift or money from the sick ?" According to some authors - says Zacchias -, this is a sin, while according to others, the gift given by the sick of their "own free will, and after healing!" could be accepted. Zacchias does not decide this question, but calls our attention to the claim that a "gift" of this sort is neither a fee (*merces* or *salarium*) nor an honorarium (*honorarium*), but a gift (*donum*). And one cannot prevent anyone from offering a gift (7).

"May the doctor receive the fee before the patient is cured ?" "In return for treating a person he may not, but as an honorarium for his efforts he may", appears to be the astute answer. "Anyway" - says Zacchias - "effort is independent of its result".

"May the doctor heal on holidays ?" This question was rather important in a society abiding by strict religious rules. Zacchias calls attention to the fact that even Christ himself healed on holidays (*Luke. 13.14.*), and that Thomas Aquinas declared: "Healing is not the duty of the slaves, it is not a profession, nor a job, so it may be done even on holidays. At the worst, the doctor will not get a fee, but only an honorarium for it." (In Florence, for example pay for the holidays was always deducted from the salaries.)

"May the doctor ask for money from the terminally ill ?" According to some authors, he may not, since the work has not been completed. In addition, the doctor this time treats "*mala fide*", (in bad faith) since whilst knowing that the patient is going to die, he nevertheless imposes himself on him. But, according to others, it is not the result, but the effort (*labor*) that is to be paid for, and the latter does not change in the event of the patient's death. Zacchias agrees with the latter view. But regarding the amount of the honorarium he cites Gailius (8) - that "in this case let the honorarium be not too great and let it be accepted only if the doctor has done everything he could, and his diagnosis has proved to be correct." Codronchus and Mercurius (9) complete the sentence: "The doctor is obliged to tell the true diagnosis to his terminally ill patient, or he will prove to be merely a fraud who, rather than being paid, should be punished."

The tractate ends here. As we have seen, regarding the doctor's fee there is very little that is new under the sun. The physician's main dilemma has always been to find the golden mean between his personal interest and the system of ethical rules governing a given society. Zacchias and his work's long lasting popularity also proves this. He succeeded in giving astute and wise answers to these questions, which we still face even today. I hope that learning his answers and advice will not prove to be superfluous either for us or for the next generation.

Notes

1. Hirsch, A. - Gurlt, E. (Hrsg.): *Biographisches Lexikon der hervorragenden Aertze*. Wien-Leipzig, Urban-Schwarzenberg, 1888. VI. 352-353, Haller, Albrecht von : *Bibliotheca medicinae practicae*, Haller-Schweighawer, 1776. II. 501-553.
2. I have used the following edition : Zacchias Paul us: *Quaestionum medico-legalium opus perfectissimum ...* Ed. J.D. Horstius et Georgius Francus. Tom.I. Frankfurt am Main, Bancard, 1688. 506-509. (This is the best edition of the work, corrected, completed and explained by Georgius Francus de Franckenau). First edition : Rome, 1621-1625. Futher editions : Leipzig, 1630, Amsterdam, 1651, Avignon, 1660-1661, Frankfurt, 1666, 1701, Lyon, 1674, 1701, 1726, Nuremberg, 1726, Venice, 1737, 1751, etc. Cf.: Karplus H.: Medical ethics in Paolo Zacchia's questiones medico-legales. In : *Intern. Symposium on Society, Medicine and Law*. Jerusalem, March, 1972. Amsterdam-New York, Elsevier, 1973. 123-124.p.
3. According to the medieval classification there were : *medica physica* (internal medicine and dietetics), *medicina empirica* (treatment by drugs), *medicina chymica* (art of preparing of drugs), *medicina chyrgica* (curing by hand). Only the first was regarded as real science, *ars liberalis*, the rest belonged to the category of the more vulgar *artes mechanicae*.
4. Esteban Rodrigo a Castro (1550-1627), was a famous Portuguese physician, he lived mostly in Pisa. His fellow-countryman, Zacutus Lusitanus, called him "the phoenix of medicine".
5. Soran of Ephesus (2nd c.) a Roman doctor belonging to the so-called "methodical" school. His gynaecological work (*Peri gynakeion pathon*) is important.
6. Zacchias cites the proverb: "The doctor has

a triple face : whilst curing angelic; whilst amongst his friends human; but toward the non-paying sick demonic." Later he adds : "Nowadays unfortunately even the demanding doctor does not get his fee, or at the best only half of it."

7. In Hungarian is a special, charming word for this wide-spread folkway : "*paraszolvenca*" {*para*' (Greek) + *'solventia*' (Latin) = 'extra'}.
8. Andreas Gailius (1525-1587), German lawyer, *kaiserlicher Rat*, later counsellor of Cologne, author of several important legal books.
9. Battista Condronchi (second half of the 16th a), famous Italian physician, he wrote an important tractate on the diseases of the speech organs. Geronimo Mercuri (?-1595) Italian physician. From his rich opera written in Italian, Zacchias especially likes to cite his following works: *La commare o raccogliatrice* (Venice, 1603) or *Degli erroripopolari d'Italia* (Venice, 1603).

Biography

Laszlo A. Magyar was born in Budapest, Hungary in 1956. He attended the Faculty of Philosophy at the University of Budapest, where he read Latin, Greek and linguistics (1976-1981). He has since been employed at the Semmelweis Medical-Historical Library Budapest as a research fellow. In 1984, he completed his PhD thesis on the prose-rhythm of A. Cornelius Celsus.

Since 1988 Dr. Magyar has been the editor of the leading Hungarian journal for medical history (Communicationes de Historia Artis Medicinae).

His main fields of research are the history of sexuality and renaissance medicine. He has written three books in Hungarian, and made nine translations from Latin, English and German. About 60 essays and articles in Hungarian, German, American and Rumanian journals have also been published.

Dr. Magyar's poems and short stories have appeared in Hungarian and American literary magazines and a book of his poems was published in Budapest, 1989.