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UPDATE

Secularism, postmodernity and justice in healthcare in Engelhardt

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Abstract

This study presents and critically analyzes the main conceptual aspects of the moral thinking of US physician and bioethicist Hugo Tristram Engelhardt Jr. Initially, the theoretical elements that frame Engelhardt's arguments are introduced, emphasizing how the author perceives the status of bioethical morality in postmodernity, including the "failure of the modern philosophical project" and his original notion of "moral strangers". After addressing these epistemological aspects, the study examines Engelhardt's position on morality and justice in the allocation of healthcare resources. Finally, Engelhardt's ultraliberal approach is critically analyzed, concluding that by putting himself at the radical end of the liberal spectrum, he denies the State any moral duty to play a role in healthcare provision.
Keywords: Bioethics. Secularism. Resource allocation. Morals. Consensus.

Resumo

Secularismo, pós-modernidade e justiça na assistência à saúde em Engelhardt

Este artigo tem por objetivo analisar conceitos centrais do pensamento de Hugo Tristram Engelhardt Junior. Inicialmente são introduzidos os principais elementos de sua argumentação, com ênfase na maneira como o autor percebe a bioética, considerando o fracasso do projeto filosófico moderno e sua concepção original de "estranhos morais". Em seguida, o estudo procura interpretar o posicionamento de Engelhardt quanto à moralidade e à justiça na distribuição dos recursos de saúde. Ao final, critica-se a concepção marcadamente ultraliberal do autor, que, ao se colocar no extremo do espectro do liberalismo, nega qualquer dever moral do Estado em prover assistência à saúde.
Palavras-chave: Bioética. Secularismo. Alocação de recursos. Princípios morais. Consenso.

Resumen

Secularismo, posmodernidad y justicia en la asistencia sanitaria en Engelhardt

Este artículo tiene como objetivo analizar los conceptos centrales del pensamiento de Hugo Tristram Engelhardt Junior. Inicialmente, se introducen los principales elementos de su argumento, con énfasis en la forma en que percibe la bioética, considerando su concepción original de "extraños morales" y el fracaso del proyecto filosófico moderno. Al final, se critica a la concepción marcadamente ultraliberal del autor, que al situarse en el extremo del espectro del liberalismo niega cualquier deber moral del Estado en la atención en salud.
Palabras clave: Bioética. Secularismo. Asignación de recursos. Principios morales. Consenso.

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Doctor, philosopher and professor of philosophy at the University of Texas at Austin, the American Hugo Tristram Engelhardt Jr. (1941-2018) dedicated a considerable part of his academic career to understand the moral condition in postmodernity, examining how this condition is reflected in bioethics. According to the author, the historical-cultural context of postmodernity is marked by the failure of the Enlightenment project, which yearned for the establishment of a common morality, of rational basis, capable of uniting all peoples under the aegis of universal principles, providing peaceful solutions for conflicts [1].

Faced with the failure of the modern philosophical project, Engelhardt argues that, in the perspective of bioethics, the role of secular rationality and morality is to offer the *sparse language of peaceable communication with moral strangers* [2]. Based on these assumptions, Engelhardt articulated his view on the allocation of healthcare resources.

This article addresses Engelhardt's thought with a markedly critical approach. By presenting his main ideas concerning contemporary morality and its effects on distributive justice in healthcare, this critical approach is applied to some of his philosophical and political positions, which seem anachronistic and at odds with current theories of justice.

Bioethics status in postmodernity

Regarding the failure of modernity's philosophical project as a determinant of contemporary morality, Engelhardt argues that it is impossible to impose a canonical secular ethics [1]. For the author, the human condition in postmodernity translates into the experience of living in a post-Christian culture, immersed in the ruins of moral institutions and in the fragments of a once cohesive way of life [1,3]. Thus, postmodernity would be marked by a plurality of conceptions and the absence of intact religious and metaphysical moralities [1].

Postmodern humanity is faced with fundamental questions that cannot be answered satisfactorily in the secular context in which they are raised. Postmodernity would thus be marked by the collapse of canonical secular morality, and it is precisely this failure that Engelhardt defines as the *fundamental catastrophe of contemporary secular culture* [4]. Divergence and moral fragmentation also have repercussions in the field of bioethics, which deals with ethical conflicts concerning sexuality, child bearing, suffering, treatment provided to patients, establishment of healthcare institutions, justice in the allocation of healthcare resources, and how to cope with death.

Bioethics is immersed in this context of "cacophony" described by Engelhardt. Plurality challenges the idea that there is a secular bioethics filled with rationally validated and therefore universally accepted moral content. Contemporary life is experienced amid *the shattered remnants of once vibrant and integrated moral visions and understandings* [5], and bioethics is no exception. Only fragments remain to provide content-full narratives about appropriate healthcare policies.

In this bleak context, Engelhardt committed himself to achieving the only objective he believed possible: to devise *an ethics that recognizes the limits of secular moral reasoning* [6] without the coercive realization of egalitarian visions of political correctness. Safeguarding liberal ideals and values such as autonomy and individualism, Engelhardt takes on the task of defending plurality – which he considers natural and healthy – from the so-called "moral strangers," people and communities who adopt essentially different views. He thus argues in favor of the *privatization of plural bioethics commitments and forms* [7] in relation to the perspective of large-scale coercive social ventures. As an example of these movements, the author cites the modernizing projects of secular States, like Marxism [1,8].

Engelhardt points out that *it was the West that first aspired in a systematic fashion to see reality from the anonymous perspective of reason, of* logos*, of any person – to articulate a normative view from nowhere and outside any particular history* [9]. The author recalls that such a project was already conceived since antiquity by thinkers like Heraclitus, Plato and Aristotle, who sought to rationally explain the being and the morality. Even Western Christianity, at various times, assumed that morality could be known and understood through reason, without resorting to faith [1].

The modern philosophical moral project reached its peak in the Enlightenment, when gained strength the aspiration to discover a common morality capable of uniting all peoples and providing the foundations for perpetual peace [1]. Enlightenment thinkers had hopes that it would be possible to discover through reason a common denominator, which would reveal uniform moral standards. In this sense, *the hopes in a common morality were turned away from an encounter with God and with grace to a rational secular encounter with a reality all persons could share* [10].

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Engelhardt [1] emphasizes that all historical attempts to justify secular ethics have failed. According to him, in its various expressions, the modern philosophical project hope always concentrated efforts on examining reason itself, human sympathies or other elements of our condition, seeking to disclose what binds us in one community and establish a common moral understanding of social conflicts. However, in the various contexts in which this project was undertaken, there were various accents given to the role of reason or to common sympathies, sensibilities and sentiments, always leading to the difficulty of determining which reason should guide morality and which sympathy should be canonical [1].

Establishing concrete obligations and rights in relation to moral preferences has always been a problem. In the presence of diverse understandings and assumptions, moral controversies proved unsolvable by the rational argument, making it clear the need to define a standard to judge, order and compare what is morally at stake [1]. As a result, post-modern humanity shares the paradoxical experience of living in a time *many yearn for the Western Middle Ages, while at the same time wanting to avoid belief in its God. They aspire to discover a content-full secular bioethics that can warrant a particular health care policy* [11].

According to Engelhardt [1], sound rational argument is unable to quiet moral controversies, especially those resulting from the encounter with moral strangers. It is mainly in this context of divergence that the modern project fails to establish a narrative concerning actions and morals as profound as that provided by content-full, metaphysical and religious morality, because in the secular context *the virtues are evacuated of moral content* [12].

He is pessimistic about the ability of postmodernity to resolve bioethical dilemmas. The Enlightenment project's collapse results in the failure of the *epistemological claim that one can by reason know what one ought to do* [13]. For Engelhardt, efforts to build a morality grounded in reason are useless, since few issues concerning virtue and character could be understood in general secular terms, outside of particular moral communities.

Secular bioethics would thus be unable to develop arguments for forbidding many actions that communities like the Christian consider deeply morally deviant, such as suicide or the euthanasia of newborns with severe, life-threatening disorders. In this regard, *bioethics will usually qualify its answers, leaving vexing areas of uncertainty* [14]. This lack of moral clarity would preclude the moral authority necessary to establish public policies in general and health care policies in particular. Engelhardt therefore argues that *particular communities should be at liberty to fashion substantive moral understandings with their own members* [14].

For him, *one must appreciate the enormity of the failure of the Enlightenment project of discovering a canonical content-full morality* [15]. This failure has major implications for the theories of justice and moral understanding, calling into question all secular bioethics, because if it is impossible to justify a common morality, then it is impossible to justify general claims of what would be (im)moral:

If one cannot discover an objective method to decide when the morally deviant are also morally wrong, then the action of the morally heinous and the saint will be equally justifiable or lacking in justification, at least in general secular terms. One stands on the brink of nihilism. (...) *God is dead in the secular public area* (...) *and since a secular substitute is not available in a canonical content-full morality disclosable by reason, there are no general moral constraints. Bioethics in its secular project is in ruins* [16].

Moral strangers and secular morality

Engelhardt distinguishes secular bioethics from a content-full bioethics founded on moral commitments. The latter would be purely based on continuity; in following it, individuals assign to the collective the moral authority of permission [1]. Even in postmodernity, countless moral communities of this type remain and resist. It is in this context that moral strangers arise, *persons who do not share sufficient moral premises or rules of evidence and inference to resolve moral controversies by sound rational argument, or who do not have a common commitment to individuals or institutions in authority to resolve moral controversies* [17].

There are real differences between moral visions, underlying substantially different understandings of bioethics. This variety arises from the various moral premises and rules of those involved in the controversy. Therefore, moral disputes between moral strangers cannot be resolved by sound rational arguments or by recourse to a commonly recognized authority. It is this inability to resolve disputes (except by agreement) that marks the distance between moral strangers, even when the distance is not emotionally experienced, or when the

actors manage to build a harmonious relationship of coexistence and mutual cooperation.

Engelhardt [1] asserts that moral diversity is not engaging, and may even be offensive. To have particular beliefs is to invite judgment. He warns that in the contemporary world coercion still resists plurality; in healthcare, the secular state itself often takes coercive action to suppress diversity. Recognizing moral strangers is thus also recognizing the limitations of secular moral authority.

Among moral strangers, the value of tolerance must be stressed, but "tolerating" does not mean that moral communities need to stop condemning acts that they find reprehensible. Engelhardt recalls that, in fact, tolerance only makes sense with respect to what each of us considers wrong and inappropriate [1]. However, aside from this attitude, the author emphasizes that even believers in religions and ideologies must recognize that *secular bioethics provides a content-less, procedural moral framework through which individuals and communities can collaborate with each other* [2]. In the absence of a content-full agreement, only general secular morality can offer a dialogical space capable of bridging gaps and allowing collaboration.

It is at this point that he shows some optimism regarding the secular bioethics project, which could allow moral strangers to collaborate peacefully [3]. Only secular morality could provide a discourse capable of being shared even with those with whom one profoundly disagrees. It is a matter of creating *the language that can be spoken in the ruins of the Enlightenment's failure and in the face of the tragedy of fragmented moral commitment* [18].

Disagreements cannot be remedied by analysis and rational argument, but only by conversion to the moral community. In such circumstances, much must be tolerated that one considers profoundly wrong. Thus, *secular bioethics does not provide guidance for living one's life; on the contrary, it is rather the morality that can bind persons who are "moral strangers"* (…) *so that they can meet and collaborate peacefully, since this is the very little persons who come from diverse moral communities and who have diverse visions about the world and its values can share* [19].

Moral authority, permission and beneficence

For Engelhardt [1], bioethics is a field marked by tensions, such as the tension arising from the difference between respecting freedom and securing peoples' best interests – in other words, the conflict between permission or consent and beneficence. The tension between these principles gives rise to fundamental health care dilemmas, such as abortion, treatment compliance and refusal of healthcare.

In postmodernity, authority among moral strangers can only spring from consent, that is, even in complex circumstances the root of authority is permission, not rational arguments or common beliefs [1]. Sensible women and men can only establish a common morality through mutual agreement. Engelhardt thus argues that permission is the general ethical principle that should regulate conduct in a plural, large-scale society.

The principle of beneficence establishes that the purpose of moral action is to achieve good and avoid harm. However, a pluralistic society does not allow a canonical vision of good. In the various moral communities that compose it, the very notion of "good" is fashioned out of a complex web of understandings. Due to these various perspectives, one cannot deduce a general secular morality from beneficence, although the commitment to this principle is crucial, since without it moral life has no essence [1].

Thus, it is by consent, and not by coercion, that moral strangers might meet in the ruins of rationalism. Mutual agreement is the basis of the moral authority and power that defend victims of force not founded on consent [1]. In short, the author argues that *ethics, in the ruins of the Enlightenment project, must thus be conceived as a means of securing moral authority through consent in the face of intractable content-full moral controversies* [15].

Consent thus represents the only source of moral authority in postmodernity, precisely because there is no particular canonical content-full morality. The *secular moral community* is therefore composed of people who accept to collaborate with each other. Permission-based ethics can do what strength, conversion and secular reason cannot: unite moral strangers.

The right to healthcare in Engelhardt

After presenting his main concepts, we must comment on how Engelhardt addresses the issue of morality in the allocation of healthcare resources. In this regard, it is clear that Engelhardt adopts an ultraliberal perspective, vehemently denying the existence of the right to healthcare – in sharp contrast with the legal framework of countries

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such as Brazil, which recognizes this right in its Federal Constitution [20]. As such, Engelhardt's point of view aligns with the most classic American ideal, associating the topic of justice in bioethics to the preservation of the individual's autonomy.

Engelhardt thinks of justice as a guarantee of personal autonomy and, therefore, argues that healthcare should be treated similarly to other goods and services – ruled by the laws of the free market to guarantee its proper supply. For him, the imposition of a universal, free healthcare system is morally unjustifiable, as it would represent *a coercive act of totalitarian ideological zeal, which fails to recognize the diversity of moral visions that frame interests in health care, the secular moral limits of state authority, and the authority of individuals over themselves and their own property. It is an act of secular immorality* [21].

The philosopher, therefore, denies that healthcare is a basic human right. For him, there is no basic human secular moral right to healthcare, or even to a decent minimum assistance. The ideally egalitarian healthcare policy, according to Engelhardt, would be based on an impossible and incoherent commitment, as it could not, simultaneously, offer the best care to all, guarantee equality between providers and users (which the author calls "suppliers" and "consumers") and control costs. He states that this effort would be *rooted in the failure to face the finitude of secular moral authority, the finitude of secular moral vision, the finitude of human powers in the face of death and suffering, the finitude of human life, and the finitude of human financial resources* [22].

Instead of universal healthcare, the author proposes a system that acknowledges the moral and financial limitations of providing health protection, considering *inequality in access* (...) *as morally unavoidable because of private resources and human freedom* [22], and endorsing setting a price on saving human life. These would be basic prerequisites for *establishing a cost-effective health care system, established through communal resources* [22].

Engelhardt and liberal thinking

Among the very limited functions that liberal thinking delegates to the State, what stands out is the guarantee of individual rights against attacks by third parties and the state power itself. Arnsperger and Van Parijs summarize liberalism by stating that *its starting point* (...) *is the fundamental dignity of each person, which cannot be circumvented in the name of any collective imperative. This dignity resides in the sovereign exercise of freedom of choice within the framework of a coherent system of rights* [23].

For liberal thinkers like Engelhardt, a State that goes beyond protecting individual freedom violates the citizens' right to not be compelled to do certain things, such as contributing to a universal healthcare system. According to Nozick [24], for Engelhardt the State coercive apparatus cannot be used to compel some citizens to aid others or to prohibit activities aimed at the good and protection of the individual.

Engelhardt denies the existence of a basic right to health in a positive sense, arguing that subjective rights cannot be justified before the government – a position contrary to the Brazilian Constitution, which considers healthcare a citizen's right and a duty of the State [20]. However, we must emphasize that, as with most political doctrines, liberalism comprises a wide spectrum of perspectives, ranging from the most radical to the mildest, and Engelhardt's position is one of the most extreme.

Allen Buchanan [25], for example, argues for a duty of beneficence, distancing himself from more radical forms of liberalism by recognizing a decent minimum of health care. However, this conception derives not from the principle of justice nor does it implies a basic right to health, but it is rather founded on a *sense of moral duty of charity or beneficence of society as a whole* [26]. Thus, the State would coordinate a general social commitment to beneficence, but that would not justify any kind of state coercion on citizens.

Egalitarian liberalism, on the other hand, incorporates certain principles of distributive justice and regards healthcare as a basic human right. This school of thought, informed by theories of justice, admits that the State is morally authorized to impose coercive distributive policies. According to Thomas Nagel [27], the main characteristic of this school of thought is the defense of an adequate relationship between freedom and equality, without prioritizing any of these ideals.

The development of egalitarian liberalism owes much to John Rawls [28], with the publication of *A theory of Justice*. The author's original position represents a Copernican shift on liberalism that leads to several attempts to justify the basic right to state-provided healthcare, even though Rawls himself does not include it in his package of basic needs.

Another liberal concept is Ronald Dworkin's [29] "prudent insurance," which raises three crucial questions when applied to healthcare: 1) how much should the State spend on healthcare; 2) what level of medical care should society offer its citizens; and 3) what is the fair minimum level of health protection that should be provided for all people, including the poorest. Dworkin sees the question as a right, but rejects the "rescue principle" that guides the distribution of resources in some societies. This principle is based on two criteria: life and health are the most important goods and, therefore, everything else must be sacrificed for them; and healthcare should be distributed equally. This principle would lead to the allocation of all national resources in the health of populations, an impossible project [29].

As an alternative, Dworkin proposes the "prudent insurance principle," with the adoption of the "necessary minimum". For this, the author establishes three conditions: 1) the economic system would distribute resources based on "fair equality"; 2) information on cost, side effects and usefulness of treatments, procedures and medications would be available to the general public; and 3) no one – including health insurance companies – would have any information about a person's background and likelihood of contracting illness or suffering an accident, in order to avoid discrimination [29].

There is an evident influence of Rawls' "original position," which basically aims to ensure impartiality in distributive justice. Dworkin thus builds a kind of original position of his own, in which there would be no social inequality and individuals would choose the health insurance package they could afford, considering the opportunity cost of these medical resources for them.

Dworkin suggests mandatory regulation, or imposed choices, in cases where free choices are hampered by externalities or other market imperfections. Inspired by the principle of correction, the hypothetical insurance approach would be a strategy to enable equal opportunities and avoid risks. Hence the adjective "prudent," which alludes to personal decisions that consider criteria of opportunity and rationality in the original position [30].

Mandatory state insurance should not guarantee expensive treatments, either because individuals would not exhaust their resources in purchasing the policy, or because the final benefit received would have doubtful value [30]. Dworkin intends to make people wonder what parameters guide healthcare spending, considering criteria of justice and economic rationality [23,29]. Dworkin's main contribution is to draw attention to the non-economic consequences of disabilities and serious illnesses, which should be mitigated in an egalitarian approach to justice in healthcare.

Norman Daniels [31] highlights the relationship between justice and health. The author applies Rawls's theory for two purposes: 1) recognizing that society has a duty to its members to allocate a fair and adequate share of its total resources to well-being needs; and 2) guaranteeing a fair distribution of healthcare services as determined by different needs.

Given that illness and disability are undeserved restrictions on individuals' normal range of opportunities to achieve their goals, Daniels [31] proposes a system governed by the fair equality of opportunity principle. Following this principle, no one should have social benefits based on undeserved advantages conferred by accidents of birth (because no one is responsible for having them), and no one should be denied social benefits due to undeserved disadvantageous conditions (because they are not responsible for these situations either). Healthcare, therefore, must operate to compensate for these disadvantages. Daniels [31] proposes the notion of "normal species functioning" for determining which healthcare needs should be met, considering as the object of assistance all deviations from normal functional organization of typical human being.

Engelhardt disregarded all contributions from egalitarian liberalism and other more modern approaches to justice even in the most recent editions of his work. Rawls' *A Theory of Justice* [28] was published in 1971, 15 years before the first edition of *The Foundations of Bioethics* [1] in 1986. The Brazilian translation was based on the 1996 edition, but there is no concessions to be found – even based on principles of liberalism itself – concerning the issue of distributive justice in healthcare resource allocation, and Engelhardt certainly had already read Rawls' work when he wrote his work, as he quotes him several times [1,28].

At a certain point, when addressing individual luck in his discussion about the right to health, Engelhardt rely on a distinction already made by Rawls to draw surprising conclusions. On the one hand, there would be a certain "natural lottery" related to fortuitous circumstances resulting from natural forces; on the other, a "social lottery," which would reflect outcomes of human choices. From this perspective, inequalities between individuals would be the result of chance due to natural or social causes, and therefore could not be seen as unfair and requiring compensation [1].

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Inequality then appears as a morally unavoidable fact, which could not impose a secular, clear and manifest obligation to help the needy[1]. Since no one is responsible for someone else's bad fortune, the State is released from mobilizing its citizens' resources to help the sick who cannot afford hospital treatments. The ill and the disabled would have claims on our sympathy and even on our charity, but their misfortune could not be everyone's burden.

Needs cannot be translated into rights[32], concludes Engelhardt, exempting society from any moral commitment in relation to the outcomes of social and natural lotteries. And the author goes even further in his radical position, stating that there should be no state coercion based on intended social justice, which he defines as dishonest and demagogic.

Final considerations

Engelhardt's approach to the distribution of healthcare resources evidences his commitment to an ultraliberal ideology, in whose name the philosopher defends individual autonomy and freedoms and denounces the coercion of secular States. His bioethical approach starts by recognizing the failure of the Enlightenment moral project, pointing to the division separating moral strangers in plural societies to make consensus the exclusive source of moral authority.

He exacerbates the value of autonomy, while conveying a stunted perception of justice. His concept of individual freedom denies individuals' social context and determinants. Engelhardt's radical liberalism is based on the absolute respect for the private property and on the allocation of resources according to the contributory (or payment) capacity of each person. Thus, healthcare would not be free from market rules and the consensus of the "payers," leaving those who cannot afford medical insurance to the free and spontaneous beneficence of agents who decide autonomously who would contribute, with how much and under what conditions.

We appreciate the value of Engelhardt's analysis of moral pluralism and secular society, which seeks to establish consensus among moral strangers. However, he failed to provide sufficient reasoning for his liberal healthcare model, as opposed to a universal system. First, we should stress that establishing moral principles does not necessarily entails the validation of religious metaphysics. Morality can be the complex result of the interaction of several factors, such as customs, affections, worldviews (not necessarily of a religious character) and shared values.

If, as Engelhardt proclaims, particular moral communities must be free to shape their moral understandings, they do not need to resort to religious metaphysics. The absence of a common faith does not preclude the collective construction and negotiation of shared values and moral codes, such as the notions of basic human rights and personal dignity that underlie Western legal systems. Instead of the Engelhardt's approach, societies can develop a rational and consensual agreement about societal and humanistic ideals and shared rational conceptions of the common good.

Moral communities can establish a broad consensus on how to better meet their healthcare needs. Based on their particular context, they can decide how to guarantee the well-being of the greatest number of people, according to the representation they make of that well-being. One thus can, for example, consider the effects of the liberalism professed by Engelhardt to be morally degrading.

By deeming it morally unacceptable to leave people unable to pay for health insurance to their own devices, moral communities can undertake a public health care project in which collectivity and solidarity are placed above individual interests. Such communities would consent to the State's commitment to providing sufficient healthcare services. Determining what is considered sufficient can be conditioned on material calculations, on the negotiation of values and on the sacrifice that each member of the community is willing to make in favor of all, without prejudice to the citizens' autonomy.

In seeking to define the limits of a secular bioethics that he deemed emptied of values, Engelhardt has conceived an ethics founded on the hypertrophy of individualistic values. He exaggerates in his defense of personal autonomy, exposing his commitment to the most radical and inhuman forms of liberalism, based on the supremacy of property rights over the common good.

He thus seems to have conceived an ethics alien to the ideals of justice, equal opportunities and collective interests, disregarding the effects of inequality on the life of the poor to adhere to a shallow meritocratic approach to society, which disregards the principle of equity. In defending the allocation of resources based on supernatural lotteries and omitting the health consequences of social inequalities, Engelhardt's moral philosophy, despite its theoretical integrity, should be sent to the archive of losing bets.

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Participation of the authors
Artur Mamed Cândido and Ricardo Alcântara designed, organized and carried out the study and wrote the article. Volnei Garrafa supervised the study and carried out the final review.

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