

Inquiring Minds for JUNE 14, 2019

Topic.. GOOD” MEDICAL CARE

Moderator.. Al Kaplan

**We offer here two of many recent expressions of standards for the delivery of medical care to you the patient by your treating physicians.**

**We have progressed, or regressed from methods of treatment based on "simplistic" guidelines by your physician based on what he learned in his formal years of education.**

**The articles enclosed present an interesting dilemma which is faced very frequently by the Treating Physician, as well as by you the patient?**

**The decision, in an overly simplistic wording, is what kind of standards lie behind the medical decisions made in your care every day?**

**Does, or should, Personal Religious, or Moral, or Ethical situations of the treating Physician over-ride Medical decisions?**

**Does or should the patient's Religious, Moral or Ethical situations take precedence over Medical Standards held by the Treating physician?**

**Should Legal or governmental restrictions be controlling factors?**

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# Can Doctors Refuse to Treat a Patient?

By [Sandeep Jauhar](#) May 13, 2019

President Trump recently announced a new rule, issued by the Department of Health and Human Services, that allows doctors, hospitals, insurers and other providers of health care to refuse to deliver or fund services like abortion, assisted suicide or procedures for transgender patients that they say violate their religious views.

The action has been criticized by Democrats and civil liberties groups, with some arguing that it serves as a pretext for discrimination against marginalized groups and threatens to substitute religious views for sound medical advice. But it also invites a larger question: What *should* doctors do when a patient's request runs counter to their moral convictions? In medicine we often talk about a patient's right to refuse treatment. But what about a doctor's right to deny it?

Such questions have not been definitively resolved by courts or legislatures. The American Medical Association, for its part, is somewhat ambivalent on the issue. The organization's code of ethics states that physicians have a responsibility "to place patients' welfare above their own self-interest." But it also recognizes that doctors are individuals with the right to free choice, stating that "physicians should have considerable latitude to practice in accord with well-considered, deeply held beliefs that are central to their self-identities." At the same time, that freedom, the code says, "is not unlimited."

A consensus exists among legal and bioethics experts that doctors can refuse to provide treatment in certain situations. For example, courts have ruled that doctors may refuse to treat violent or intransigent patients as long as they give proper notice so that those patients can find alternative care. Forcing doctors to treat such patients, courts have said, would violate the 13th Amendment's prohibition on involuntary servitude.

Doctors may also refuse to provide treatment if it conflicts with good medical practice. Physicians in intensive-care units, for example, routinely limit treatment they believe will

provide no benefit, especially in cases of terminal illness. I once took care of a man in his 50s who had metastatic cancer and respiratory failure requiring a ventilator. His family refused to turn off the machine and let him die, choosing instead to escalate treatment. However, life support in his case was futile. After consulting with the hospital's ethics committee, my colleagues and I told the family members that we would no longer obey their wishes. We gave them the option of transferring the patient to another hospital. They didn't want to do that; treatment was scaled back and the man died a few days later.

But refusing to treat a patient on the basis of conscience, which the Trump administration is defending, is more problematic. Federal legislation already permits doctors to opt out of care that is incompatible with their religious or moral beliefs. Gynecologists, for example, may refuse to perform abortions on those grounds. The new rule, however, is written more broadly, and more specifically itemizes religious exemptions, including which health care workers are covered and what particular situations might arise.

However, the American Medical Association has stated that such rights should not “unduly burden” patients or infringe on their civil liberties. And because doctors control the provision of medical care, this can easily happen. Conscientious objection by doctors necessarily limits a patient's own right to self-determination. Of course, patients can be directed to find a doctor to do their bidding, but this can lead to potentially dangerous delays, especially in resource-poor areas.

Conscientious objection can also promote outright discrimination. Christian medical associations, for example, have argued that providing treatment to transgender individuals can constitute “cooperation with evil.” In some cases conscientious objection may be motivated by rank prejudice as opposed to religious conscience — a distinction that can be hard to parse in practice.

Doctors have an obligation to adhere to the norms of their profession. In my view, as long as treatments are safe and approved by medical organizations, doctors should have limited leeway in refusing to provide them. Patients' needs should come first. At the very least, patients whose medical needs violate a doctor's deeply considered beliefs should receive a

timely referral to an alternative provider. And to avoid such conflicts, medical students who foresee problems of conscience should steer clear of certain fields, such as obstetrics-gynecology, when making career choices. Broad conscientious objection of the sort the Trump administration is defending could lead to chaos in health care.

Doctors are asked all the time to sacrifice personal beliefs in the service of professional ideals. I am reminded of a patient I once took care of who had AIDS and an irremediable intravenous drug habit. He needed a new heart valve because his current valve — itself a replacement for a previously infected valve — had gotten infected from shooting heroin. Surgeons at my hospital balked, saying that they would not operate on a patient who was almost certainly going to continue to use drugs and risk future infections. The case went to the hospital ethics committee. “I personally might not want to operate,” a physician told the surgical team. “But then, I did not choose to be a surgeon.”

The patient got his operation the following week.

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## No Religious Exemptions From Vaccines

The risk to public health is too great. Lawmakers should limit medical exceptions more, too.

[Jason L. Riley](#) May 14, 2019 7:10 p.m. ET

This year’s measles outbreak, the nation’s worst in 25 years, stands at 839 reported cases in 23 states as of Friday. The summer months could provide some respite because children are out of school, but many medical professionals expect the situation to worsen before it improves. Last week brought 75 new cases, according to the Centers for Disease Control

and Prevention, which is more than the previous week, when there were about 60 new cases. As a colleague recently quipped, “Both socialism and the measles are back.”

The disease is back because too many people have failed to get vaccinated, and it doesn't take much for an outbreak to become an epidemic. In 1994, a skier with measles at a resort in Colorado exposed five other people to the disease, including a teenage girl from Illinois, who proceeded to spread it to 51 people back home and 156 people at her boarding school in Missouri. As other vacationing skiers returned home, the outbreak spread to Texas, Maine, California, New York, Maryland, Michigan, Washington state and other parts of Colorado. Similarly, an outbreak in 2014 was traced to a single visitor to Disneyland in Southern California. It eventually reached more than 147 people in seven states.

This year, New York alone has recorded 600-plus measles cases, which is more than the number recorded nationwide in 2018. And it's only May. The cases have been concentrated in New York City and its suburbs, where pockets of Muslim, Christian and Orthodox Jewish families object to receiving the shots on religious grounds. Public-health officials across the country are scrambling to raise awareness about the importance of inoculations, a task made more difficult by others spreading quackery on social media. Evidence of any link between vaccines and increased incidence of autism or other diseases is nonexistent, but anti-vaccination conspiracy theorists have urged parents to forgo shots for their children. On social media last week, a state legislator in Texas compared vaccines to “sorcery” and called them “dangerous.”

Public officials have responded by declaring health emergencies, threatening resistant parents with fines and banning unvaccinated children from some schools and public spaces. This is productive to some degree, but what's really needed is a thorough rethinking of who gets to opt out of vaccination requirements. Every state has laws mandating certain vaccines for students, but most of them also offer medical, religious and even “philosophical” exemptions to these mandates.

According to the National Conference of State Legislatures, all but three states— California, West Virginia and Mississippi—grant exemptions from school immunization requirements for religious reasons. And 16 states “allow philosophical exemptions for those who object to immunizations because of personal, moral or other beliefs.” The results speak for themselves. States with fewer exemptions tend to have fewer cases of vaccine-preventable diseases.

Sadly, state lawmakers continue to pussyfoot. Last week, Washington state, which has reported more than 70 measles cases this year, passed a law that ends personal and philosophical exemptions to immunization but leaves religious exemptions in place. Since 2015, the New York state legislature has repeatedly tried and failed to pass a bill. Is it any wonder that New York became the epicenter of the latest outbreak, or that communities that exercise their religious exemptions have been hit hardest?

Even medical exemptions warrant more scrutiny from state officials. Obviously, there are sound health reasons for avoiding vaccines under certain circumstances. Someone who is receiving chemotherapy, for example, shouldn't get a measles shot. The problem is that some doctors have been handing out medical exemptions like candy on Halloween. In 2015, California passed a measure that barred parents from citing personal or religious beliefs to avoid vaccinating their children, but families quickly found a way around the new law. Kaiser Health News reported last month that the number of California children who were granted medical exemptions from vaccinations has tripled in the past two years. “Doctors in California have broad authority to grant medical exemptions to vaccination, and to decide the grounds for doing so,” according to Kaiser. “Some are wielding that power liberally and sometimes for cash: signing dozens—even hundreds—of exemptions for children in far-off communities.” The upshot is that “many of the schools that had the highest rates of unvaccinated students before the new measure continue to hold that alarming distinction.” Public-awareness campaigns can make a difference and should continue, but they're not enough. Opponents of vaccinations are putting the health of others at risk, and they have no right to do that. More laws should be passed and enforced in a manner that makes this crystal clear.