REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS[*]

CEJA Report 6-A-07

Subject: Physician Objection to Treatment and Individual Patient Discrimination (Resolution 5, A-06)

Presented by: Robert M. Sade, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws (Richert E. Quinn, Jr., MD, Chair)

---

1 INTRODUCTION
2
3 At the 2006 Annual Meeting, the House of Delegates referred Resolution 5, introduced by Medical
4 Student Section, "Physician Objection to Treatment and Individual Patient Discrimination." The
5 resolution sought to establish new policy "affirm[ing] that physicians can conscientiously object to
6 the treatment of a patient only in non-emergent situations." It also proposed that "our AMA
7 support policy that when a physician conscientiously objects to serve a patient, the physician must
8 provide alternative(s) which include a prompt and appropriate referral."
9
10 This report briefly reviews existing ethical guidelines found in the Code of Medical Ethics that
11 apply to the establishment of a new patient-physician relationship, and, conversely, the refusal to
12 establish a relationship. This review will clarify how physicians can conscientiously object to the
13 performance of interventions that are contrary to their religious or moral beliefs, or can refuse to
14 accept patients who desire such intervention.
15
16 KEY ETHICAL POLICY
17
18 Ethical Considerations Prior To Establishing a Patient-Physician Relationship
19
20 Principle VI of the AMA's Principles of Medical Ethics states: "A physician shall, in the provision
21 of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to
22 associate, and the environment in which to provide medical care." This Principle appears to grant
23 physicians considerable latitude in deciding whether or not to enter into a new patient-physician
24 relationship. However, this Principle includes a fundamental exception: from an ethical standpoint,
25 physicians are not free to refuse to provide services to patients in need of emergency care.
26

[*] Reports of the Council on Ethical and Judicial Affairs are assigned to the reference committee on Constitution and Bylaws. They may be adopted, not adopted, or referred. A report may not be amended, except to clarify the meaning of the report and only with the concurrence of the Council.

© 2007 American Medical Association. All Rights Reserved

THIS DOCUMENT MAY NOT BE CITED, REPRODUCED OR DISTRIBUTED WITHOUT EXPRESS WRITTEN PERMISSION

CEJA opinion E-9.06, "Free Choice," (AMA Policy Database) expands upon Principle VI, but also introduces a notion of reciprocity: "Although the concept of free choice assures that an individual can generally choose a physician, likewise a physician may decline to accept that individual as a patient."

Principle I of the AMA Principles of Medical Ethics calls upon physicians to provide medical care with compassion and respect for human dignity and rights. Accordingly, physicians may not decline to accept patients based on their race, religion, national origin, sexual orientation, or "any other basis that would constitute invidious discrimination" (see Opinion E-9.12, "Patient-Physician Relationship: Respect for Law and Human Rights). According to Opinion E-2.23, "HIV Testing," anti-discrimination also extends to HIV status. These ethical precepts are also solidly anchored in anti-discrimination law.

There are several circumstances when physicians are ethically justified to refuse entering into a therapeutic relationship with a patient (see Opinion E-10.05, Potential Patients). Foremost, a physician generally should not undertake the care of a patient whose medical condition is not within the physician's current competence. Similarly, a physician should decline to enter into a therapeutic relationship when a patient requests care that could prove harmful to the patient, without counterweighing benefits. Overall, these decisions are medically motivated, and intended to minimize the risk of harm, and to promote the patient's welfare. This is in contrast to a physician who refuses to enter into a relationship with a patient or refuses to provide a treatment on the basis of a conflict with his or her religious or moral beliefs.

Ethical Considerations Once a Patient-Physician Relationship Is Established

The AMA *Code of Medical Ethics* does not directly address instances within an existing relationship when a physician declines to provide a treatment to a patient on the basis of religious or moral beliefs. Opinion E-8.11, "Neglect of Patient," merely states that "Once having undertaken a case, the physician should not neglect the patient."

ETHICAL ANALYSIS

The exercise of a conscientious objection leans principally on Principle VI and its notion of "freedom to choose." However, the preface of the *Code* cautions that "A single Principle should not be read in isolation from others; the overall intent of the nine Principles, read together, guides physicians' behavior."

In this light, it is important not only to recall Principle I, referred to above, but also to consider Principle VIII, which states that "A physicians, while caring for a patient, must regard responsibility to the patients as paramount," and Principle IX, which states that "A physician shall support access to medical care for all people."

© 2007 American Medical Association. All Rights Reserved

THIS DOCUMENT MAY NOT BE CITED, REPRODUCED OR DISTRIBUTED WITHOUT EXPRESS WRITTEN PERMISSION

Principle VIII clearly places the interests of patients at the center of the therapeutic relationship; this in turn builds on a notion of respecting patients' right to make autonomous decisions about their care.

A physician who refuses, on the basis of religious or moral beliefs, to enter into a relationship or to provide a medically acceptable treatment risks undermining these principles. Therefore, physicians' conscientious objection must be counter-balanced with obligations that will respect patients' autonomy and ability to access medical services.

Currently, the Code is almost silent on the effect of care refusal. In the context of an existing patient-physicians relationship, Opinion E-8.115, "Termination of the Physician-Patient Relationship" merely states the need to give notice when withdrawing from a relationship, so that another physician can be secured. In addressing continuity of care, Opinion E-10.01, "Fundamental Elements of the Patient-Physician Relationship," states:

> The physician has an obligation to cooperate in the coordination of medically indicated care with other health care providers treating the patient. The physician may not discontinue treatment of a patient as long as further treatment is medically indicated, without giving the patient reasonable assistance and sufficient opportunity to make alternative arrangements for care.

Taken together, these Principles and Opinions strongly suggest that a physician who refuses to provide a treatment still owes an ethical responsibility toward the patient.

In other instances when a physician cannot provide care, for example, when treatment is outside the physician's expertise or when a physician is on vacation, patients can expect that they will be re-directed to other providers. Accordingly, in most circumstances, physicians who refuse to provide treatments on the basis of religious or moral objections should refer patients to other physicians or health care facilities.

CONCLUSION

Principle VI makes clear that physicians may choose whom to serve. Accordingly, except in emergencies, they may refuse to provide a treatment to which they object on the basis of religious or moral beliefs. However, other Principles balance this prerogative with obligations to respect patients and their ability to access available medical care. Therefore, a conscientious objection should, under most circumstances, be accompanied by a referral to another physician or health care facility.

RECOMMENDATION

The Council on Ethical and Judicial Affairs recommends that the following be adopted in lieu of Resolution 5 (A-06), and the remainder of this report be filed:

© 2007 American Medical Association. All Rights Reserved

THIS DOCUMENT MAY NOT BE CITED, REPRODUCED OR DISTRIBUTED WITHOUT EXPRESS WRITTEN PERMISSION

1 That our American Medical Association reaffirm policies E-8.11, "Neglect of Patient," E-
2 8.115, "Termination of the Physician-Patient Relationship," E-9.06, "Free Choice," E-
3 9.12, "Patient-Physician Relationship: Respect for Law and Human Rights," E-10.01,
4 "Fundamental Elements of the Patient-Physician Relationship," and E-10.05, "Potential
5 Patients" (AMA Policy Database).
6
7 (Reaffirm HOD/CEJA Policy)

Fiscal Note: Staff cost estimated at less than $500 to implement.

© 2007 American Medical Association. All Rights Reserved

THIS DOCUMENT MAY NOT BE CITED, REPRODUCED OR DISTRIBUTED WITHOUT EXPRESS WRITTEN PERMISSION