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Why U.S. Medical Professionals Cannot Ethically Block Patients from Getting Reproductive Health Care

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"Physician Refuses to Provide in Vitro Fertilization for Lesbian Couple"; "Pharmacist Refuses to Fill Prescription…for a Teenager Getting an IUD." Most Americans have seen such headlines publicizing what some medical providers call "conscientious objection" to giving some kinds of care – like abortions, or other reproductive health procedures. But do these cases make sense?

The concept of conscientious objection arose during the Revolutionary War as a moral response to being forced into military combat – but as pointed out by a recent opinion piece in the *New England Journal of Medicine* by historian Ronit Stahl and bioethicist Ezekiel Emanuel, the obligations of medical professionals are simply not analogous to those of citizens subject to military conscription, and the same framework should not apply. Nevertheless, legislatures have aided and abetted refusals of basic care by passing laws that allow professionals to make such excuses with little concern for patients' needs – or due attention to professional ethics. A review of ethics codes from various professional associations shows that healthcare workers cannot ethically deny their patients' requests for legal services like abortion, in vitro fertilization, or sterilization. Healthcare law and policy must reflect the primacy of patient rights and providers' obligations, instead of providing cover for medical professionals who use their personal beliefs, religiously motivated or not, to impede and even endanger their own patients in need.

Medical Ethics Codes Preempt Conscientious Objection

Some scholars have suggested that conscientious objections by healthcare professionals amount to "dishonorable disobedience." A care provider who has adopted his or her profession's code of ethics has made a commitment in principle – to provide care "above the physician's own self-interest" in the words of the American Medical Association's Code of Medical Ethics; or to respect "the autonomy and dignity of the patient," as promised by the Code of Ethics for Pharmacists. Or as the Code of Ethics of the American Nurses Association states, the "primary commitment is to the patient." Given that each of these professions stresses that caregivers and clinicians must respect each individual patient's right to make his or her own decisions, how do some of these professionals claim that a providers' personal beliefs can trump patient autonomy? Refusing to provide requested care to a patient is at the very least disobedient to the ethical code of the relevant health care profession. Yet there seem to be no consequences for such disobedience, because professional organizations often do little to monitor providers' compliance with their ethical codes – and lawmakers often ignore professional codes as well.

Balancing Personal Provider Beliefs and Patients' Reproductive Rights

Women's bodily autonomy is not only central to struggles about the right to receive abortion services, but also to conflicts over obligations to provide such services. When debates consider only a patient's right to abortion, something important is overlooked: What about the rights and obligations of clinicians to provide abortion care? Lisa Harris, an Associate Professor of Obstetrics and Gynecology, argues for *conscientious provision*, that is, the rights of clinicians to provide care appropriate to their training, in service to the needs of their patient, and in accord with their own consciences. Conscientious provision recognizes the moral obligation expressed by many abortion providers who say they are responding to women's expressed needs. There will always be questions about the limits of such services (for example, is it acceptable to terminate a pregnancy at eight months' gestation? At seven?), but each professional code of ethics acknowledges a shared sense of responsibility to individuals and all of humanity. Both the American Medical Association and American Nurses Association allow an individual doctor or nurse to fulfill their own personal moral beliefs, as long as they do not endanger patients and ensure that all patient needs can be met in alternative ways or by another provider.

As this suggests, it is important to recognize that abortion providers may feel a need to impose limits on their willingness to provide care – for example, when controversies about the age of fetal viability prompt some providers to express objections grounded in conscience about the maximum gestational age at which he or she is willing to participate in a termination procedure. Such instances may be rare, but they raise tough questions: Is it dishonorable, a violation of professional ethics, for a provider with such qualms to refuse to terminate a pregnancy at the behest of a woman, or does the provider have the right to "conscientious refusal"? Can a provider claim a right to conscience when an ultrasound demonstrates a fetal age of 24 weeks and 2 days, a time at which there is a 50-60% chance of survival, even if that baby carried to term would have a 60-75% chance of moderate to severe impairment? The evolving ethical tenets of conscientious provision suggest that, in such a case, the concerned provider has a responsibility to identify an alternative provider who is willing to perform the abortion the patient wants. But what if there is no such alternative available, or waiting to secure one puts the woman at even greater risk of increased complications, greater cost, or reduced access to services? Here lies the frontier of ethical dilemmas on which further discussion should focus.

A "Conscientious Resolve" Framework for Health Care

While the focus nowadays is on professionals who want to disobey ethical strictures to sidestep certain types of care, historically many have practiced civil disobedience to ensure access to reproductive care. For a decade before abortions were legalized by the Supreme Court in the 1973 *Roe v. Wade* decision, the Clergy Consultation Service offered an organized response to the moral responsibility of ensuring access to abortion care by directing patients to willing licensed physicians. This clandestine network of ministers and rabbis recognized the importance of serving the needs of women even when doing so required defiance of the law.

Dr. Willie Parker, who performs abortions in Alabama and other states, has written eloquently about the moral responsibility of providers to serve women who have the right to exert their own consciences. Realizing this responsibility may force some medical professionals to make difficult decisions – and not only about particular cases such as those involving late-term abortions. Indeed, many abortion providers believe that we are approaching a time similar to pre-Roe days, when U.S. abortion services are so restricted that they become in practice illegal or unavailable. What then? Dr. Parker's clarion call becomes all the more urgent, asking all professionals to keep the rights and needs of women front and center, fulfilling core obligations to all patients.

Read more in Amy Levi, "Commentary: Conscientious Objection, or Dishonorable Disobedience?" *Journal of Midwifery and Women's Health* 60, no. 5 (2015): 483-4.