

1.1.2 Prospective Patients

As professionals dedicated to protecting the well-being of patients, physicians have an ethical obligation to provide care in cases of medical emergency. Physicians must also uphold ethical responsibilities not to discriminate against a prospective patient on the basis of race, gender, sexual orientation or gender identity, or other personal or social characteristics that are not clinically relevant to the individual's care. Nor may physicians decline a patient based solely on the individual's infectious disease status. Physicians should not decline patients for whom they have accepted a contractual obligation to provide care.

However, physicians are not ethically required to accept all prospective patients. Physicians should be thoughtful in exercising their right to choose whom to serve.

A physician may decline to establish a patient-physician relationship with a prospective patient, or provide specific care to an existing patient, in certain limited circumstances:

- (a) The patient requests care that is beyond the physician's competence or scope of practice; is known to be scientifically invalid, has no medical indication, or cannot reasonably be expected to achieve the intended clinical benefit; or is incompatible with the physician's deeply held personal, religious, or moral beliefs in keeping with ethics guidance on exercise of conscience.
- (b) The physician lacks the resources needed to provide safe, competent, respectful care for the individual. Physicians may not decline to accept a patient for reasons that would constitute discrimination against a class or category of patients
- (c) Meeting the medical needs of the prospective patient could seriously compromise the physician's ability to provide the care needed by his or her other patients. The greater the prospective patient's medical need, however, the stronger is the physician's obligation to provide care, in keeping with the professional obligation to promote access to care.
- (d) The individual is abusive or threatens the physician, staff, or other patients, unless the physician is legally required to provide emergency medical care. Physicians should be aware of the possibility that an underlying medical condition may contribute to this behavior.

AMA Principles of Medical Ethics: I, VI, VIII, X

Background report(s):

CEJA 3-A-16 Modernized *Code of Medical Ethics*

CEJA 2-I-07 Modification of Ethics Policy to Ensure Inclusion for Transgender Physicians, Medical Students, and Patients

CEJA 6-A-07 Physician Objection to Treatment and Individual Patient Discrimination

CEJA 2-A-00 Potential Patients: Ethical Considerations

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- (b) *The physician lacks the resources needed to provide safe, competent, respectful care for the individual. Physicians may not decline to accept a patient for reasons that would constitute discrimination against a class or category of patients. [New content addresses challenges of contemporary practice.]*
- (c) Meeting the medical needs of the prospective patient could seriously compromise the physician's ability to provide the care needed by his or her other patients. The greater the prospective patient's medical need, however, the stronger is the physician's obligation to provide care, in keeping with the professional obligation to promote access to care.
- (d) The individual is abusive or threatens the physician, staff, or other patients, unless the physician is legally required to provide emergency medical care. *Physicians should be aware of the possibility that an underlying medical condition may contribute to this behavior. [New content addresses gap in current guidance.]*

AMA Principles of Medical Ethics: I, VI, VIII, X

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS*

CEJA Report 2-I-07

Subject: Modification of Ethics Policy to Ensure Inclusion for Transgender Physicians, Medical Students, and Patients

Presented by: Mark A. Levine, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Jane C.K. Fitch, MD, Chair)

1 INTRODUCTION

2 At the 2007 Annual Meeting of the AMA House of Delegates, Board of Trustees Report 11,
3 “Recommendations to Modify AMA Policy to Ensure Inclusion for Transgender Physicians,
4 Medical Students, and Patients,” was adopted. The report asks the Council on Ethical and Judicial
5 Affairs (CEJA) to consider revising certain ethics policies to ensure protection and equality relating
6 to gender identity issues.

8 DISCUSSION

9 The three ethics Opinions identified in BOT Report 11, E-9.03, “Civil Rights and Professional
10 Responsibility,” E-10.05, “Potential Patients,” and E-9.12, “Patient-Physician Relationship:
11 Respect for Law and Human Rights,” all advocate for the broad protection of civil liberties among
12 patients and physicians. This ideal stems primarily from Principles I, IV, and IX of the Principles
13 of Medical Ethics: physicians must “be dedicated to providing competent medical care, with
14 compassion and respect for human dignity and rights” (Principle I), “respect the rights of patients,
15 colleagues, and other health professionals” (Principle IV), and “support access to medical care for
16 all people” (Principle IX). Taken collectively, these Principles illuminate physicians’ duty to
17 promote human well-being without discrimination.

18 In its report, the Board of Trustees recognized challenges faced by transgender individuals that are
19 unique to this group. Transgender individuals often view themselves and/or are perceived by
20 others as the most marginalized sector of the gay, lesbian, bisexual, and transgender (GLBT)
21 community. As a result, transgender individuals are at risk for adverse health outcomes, as well as
22 discrimination in medical education and employment.

* 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.

1 However, the BOT Report noted that transgender individuals could not refer to AMA policy when
2 dealing with discrimination because there was no explicit protection for this group. Although other
3 members of the GLBT community can claim protection through the "sexual orientation" category of
4 AMA policy, transgender individuals cannot. The BOT Report remedied this deficiency by
5 amending appropriate HOD policies, but could only recommend amendment to ethics Opinions.

6
7 CONCLUSION
8

9 The Council agrees with the Board of Trustees that respecting the rights of our patients and
10 colleagues is extremely important. The fact that any group still experiences discrimination
11 indicates that our current policies do not perfectly meet this goal. Therefore, it is appropriate to
12 amend our ethics policy to ensure that all individuals' rights are protected.

13
14 RECOMMENDATIONS
15

16 The Council on Ethical and Judicial Affairs recommends:

17 (1) That Opinion E-9.03, "Civil Rights and Professional Responsibility," be amended as follows.

18
19 E-9.03 Civil Rights and Professional Responsibility
20

21 Opportunities in medical society activities or membership, medical education and training,
22 employment, and all other aspects of professional endeavors should not be denied to any
23 duly licensed physician because of race, color, religion, creed, ethnic affiliation, national
24 origin, sex, sexual orientation, gender identity, age, or handicap. (IV)

25
26 Issued prior to April 1977; Updated June 1994.
27

28 (Modify HOD/CEJA Policy)
29

30 (2) That Opinion E-10.05, "Potential Patients," be amended as follows.

31
32 E-10.05 Potential Patients
33

34 (1) Physicians must keep their professional obligations to provide care to patients in accord
35 with their prerogative to choose whether to enter into a patient-physician relationship. (2)
36 The following instances identify the limits on physicians' prerogative: (a) Physicians
37 should respond to the best of their ability in cases of medical emergency (Opinion 8.11,
38 "Neglect of Patient"). (b) Physicians cannot refuse to care for patients based on race,
39 gender, sexual orientation, gender identity, or any other criteria that would constitute
40 invidious discrimination (Opinion 9.12, "Patient-Physician Relationship: Respect for Law
41 and Human Rights"), nor can they discriminate against patients with infectious diseases
42 (Opinion 2.23, "HIV Testing"). . . Greater medical necessity of a service engenders a
43 stronger obligation to treat. (I, VI, VIII, IX)

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1 Issued December 2000 based on the report "Potential Patients, Ethical Considerations," adopted
2 June 2000. Updated December 2003. * Considerations in determining an adequate level of health
3 care are outlined in Opinion 2.095, "The Provision of Adequate Health Care."

4
5 (Modify HOD/CEJA Policy)

6
7 (3) That Opinion E-9.12, "Patient-Physician Relationship: Respect for Law and Human Rights," be
8 amended as follows.

9
10 E-9.12 Patient-Physician Relationship: Respect for Law and Human Rights

11
12 The creation of the patient-physician relationship is contractual in nature. Generally, both
13 the physician and the patient are free to enter into or decline the relationship. A physician
14 may decline to undertake the care of a patient whose medical condition is not within the
15 physician's current competence. However, physicians who offer their services to the
16 public may not decline to accept patients because of race, color, religion, national origin,
17 sexual orientation, gender identity, or any other basis that would constitute invidious
18 discrimination. Furthermore, physicians who are obligated under pre-existing contractual
19 arrangements may not decline to accept patients as provided by those arrangements. (I, III,
20 V, VI)

21
22 Issued July 1986; Updated June 1994.

23
24 (Modify HOD/CEJA Policy)

25
26 (4) That the remainder of the report be filed.

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

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 At the 2006 Annual Meeting, the House of Delegates referred Resolution 5, introduced by Medical
3 Student Section, “Physician Objection to Treatment and Individual Patient Discrimination.” The
4 resolution sought to establish new policy “affirm[ing] that physicians can conscientiously object to
5 the treatment of a patient only in non-emergent situations.” It also proposed that “our AMA
6 support policy that when a physician conscientiously objects to serve a patient, the physician must
7 provide alternative(s) which include a prompt and appropriate referral.”
8

9 This report briefly reviews existing ethical guidelines found in the Code of Medical Ethics that
10 apply to the establishment of a new patient-physician relationship, and, conversely, the refusal to
11 establish a relationship. This review will clarify how physicians can conscientiously object to the
12 performance of interventions that are contrary to their religious or moral beliefs, or can refuse to
13 accept patients who desire such intervention.
14

15 KEY ETHICAL POLICY

16 Ethical Considerations Prior To Establishing a Patient-Physician Relationship

17 Principle VI of the AMA’s Principles of Medical Ethics states: “A physician shall, in the provision
18 of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to
19 associate, and the environment in which to provide medical care.” This Principle appears to grant
20 physicians considerable latitude in deciding whether or not to enter into a new patient-physician
21 relationship. However, this Principle includes a fundamental exception: from an ethical standpoint,
22 physicians are not free to refuse to provide services to patients in need of emergency care.
23

24

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

5

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

13

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

23

24 Ethical Considerations Once a Patient-Physician Relationship Is Established

25

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

30

31 ETHICAL ANALYSIS

32

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

37

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

42

1 Principle VIII clearly places the interests of patients at the center of the therapeutic relationship;
2 this in turn builds on a notion of respecting patients' right to make autonomous decisions about
3 their care.
4

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

9
10 Currently, the Code is almost silent on the effect of care refusal. In the context of an existing
11 patient-physicians relationship, Opinion E-8.115, "Termination of the Physician-Patient
12 Relationship" merely states the need to give notice when withdrawing from a relationship, so that
13 another physician can be secured. In addressing continuity of care, Opinion E-10.01,
14 "Fundamental Elements of the Patient-Physician Relationship," states:

15
16 The physician has an obligation to cooperate in the coordination of medically indicated
17 care with other health care providers treating the patient. The physician may not
18 discontinue treatment of a patient as long as further treatment is medically indicated,
19 without giving the patient reasonable assistance and sufficient opportunity to make
20 alternative arrangements for care.

21
22 Taken together, these Principles and Opinions strongly suggest that a physician who refuses to
23 provide a treatment still owes an ethical responsibility toward the patient.

24
25 In other instances when a physician cannot provide care, for example, when treatment is outside the
26 physician's expertise or when a physician is on vacation, patients can expect that they will be re-
27 directed to other providers. Accordingly, in most circumstances, physicians who refuse to provide
28 treatments on the basis of religious or moral objections should refer patients to other physicians or
29 health care facilities.

30
31 CONCLUSION
32

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

39
40 RECOMMENDATION
41

42 The Council on Ethical and Judicial Affairs recommends that the following be adopted in lieu of
43 Resolution 5 (A-06), and the remainder of this report be filed:
44

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.

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS*

CEJA Report 4-A-00

Subject: Potential Patients: Ethical Considerations

Presented by: Herbert Rakatansky, MD, Chair

Presented to: Reference Committee on Constitution and Bylaws
(Jimmie A. Gleason, MD, Chair)

1 Introduction

2 Physicians are professionals and as such have obligations to use their skill and knowledge for the
3 benefit of society. Although physicians retain a great degree of control over their practice, they
4 often must subjugate their self-interest to the interests of patients. As service professionals,
5 physicians may not always have the prerogative of choosing whom to serve. Professional
6 responsibilities to provide care, the need for patients to receive care, and the responsibility to act
7 in the best interest of patients, all place limits on physicians' prerogative to select their patients.

8 The Council offers the following report to identify limits on physicians' choice of patients and the
9 circumstances in which physicians may be obligated to provide medical care. This report
10 addresses only those situations in which there is no pre-existing patient-physician relationship, so
11 the focus is on a physician's choice regarding whether to accept an individual as a patient. The
12 report begins by examining the concept of physician choice of patients and outlines criteria
13 according to which, and situations in which, it would be unethical for the physician to decline to
14 treat a potential patient. It then identifies situations in which a physician may decline to treat.
15 Finally, it attempts to provide guidance regarding the extent and limits of a positive obligation to
16 treat in less clear cases.

17 Choice in the Patient-Physician Relationship

18 The Council recognizes that *a priori* both patients and physicians should be able to exercise
19 freedom in choosing with whom to enter into a patient-physician relationship. In Opinion 9.06,
20 "Free Choice," the Council definitively states that patients should have a choice when selecting a
21 physician: "[f]ree choice of physicians is the right of every individual. One may select and
22 change at will one's physicians . . ."¹ The Council acknowledges, however, that limits exist on
23 the patient's ability to choose physicians. For example, the Opinion states that "emergency
24 treatment in cases of accident or sudden illness may, as a practical matter, preclude free choice in
25 physician."²

26 Correspondingly, physicians can exercise their prerogative to select whom to treat by assenting to
27 or declining to enter into a patient-physician relationship. Opinion 9.06, "Free Choice," states
28 that "[a]lthough the concept of free choice assures that an individual can generally choose a
29 physician, likewise a physician may decline to accept that individual as a patient."³ But this

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1 privilege is not absolute and there are circumstances in which a physician may have an obligation
2 to undertake treatment.

3
4 There are two bases for physicians' prerogative to choose whom to treat. The first is a general
5 privilege held by all members of society that accords individuals a right to choose with whom to
6 associate. Physicians do not give up their freedom of association merely by becoming
7 professionals. But they do assume certain obligations that place limits on their choices in the
8 context of serving patients. The second aspect of the physicians' prerogative stems from the
9 notion of professionalism. Physicians are granted enormous autonomy within the context of the
10 patient-physician relationship and this autonomy includes the freedom to choose whether to
11 undertake the treatment of a particular patient. However, this autonomy is not designed to further
12 physicians' self-interests. Rather it is a necessary element of assuring patients the best possible
13 care. Since medical professionals are trained in a complex body of knowledge, and non-
14 professionals are not able to judge how that knowledge should be applied in particular cases,
15 physicians are often accorded the freedom to make medical decisions on their own—or
16 autonomously. The purpose of the exercise of autonomy in this context is not the furtherance of
17 the physician's interests, but those of the patient.

18
19 On what grounds can the prerogative to choose be curtailed? First, it may be limited by factors
20 such as legal requirements not to discriminate, or requirements for emergency care. Second, the
21 autonomy generally granted to the physician should be limited to the extent that it may only be
22 exercised in patients' interests and, therefore, there are cases where a physician should decline to
23 take on the care of a patient. When the prerogative to choose whom to treat and the obligations to
24 treat are less clearly delineated, physicians will have to weigh a number of factors in deciding
25 whether to take on the care of a patient. Each of these examples is explained in more detail below.

26
27 Obligation to Treat

28
29 Although a physician's ability to select patients is acknowledged by the "Principles of Medical
30 Ethics," several existing Opinions in the *Code of Medical Ethics* place limits on the prerogative to
31 select whom to treat. The situations described below are instances in which it would be clearly
32 unethical and perhaps illegal to refuse a patient since physicians' professional responsibility to
33 provide care would override their privilege to choose.

34
35 A. Emergency Situations

36
37 Physicians' responsibility to treat patients in emergency situations is referred to in Opinion 8.11,
38 "Neglect of Patient." The opinion states that a "physician should...respond to the best of his or
39 her ability in cases of emergency where first aid treatment is essential."⁴ At a minimum,
40 physicians ought to help stabilize an individual in these situations.

41
42 It may be difficult to determine what constitutes an emergency situation. An emergency can be
43 defined as "[a]n unexpected development or happening; a sudden need for action."⁵ However, a
44 continuum exists in medical care with some cases clearly emergent and others less so. In
45 situations where the physician has doubt about the emergent nature of the case, he or she should
46 attempt to act in the patient's best interest. Emergency situations in which a physician is asked to
47 provide care beyond his or her competence must be evaluated on a case-by-case basis.

48
49 B. Patient Characteristics

50

1 In Opinion 9.12, “Patient-Physician Relationship: Respect for Law and Human Rights,” the
2 Council states that “[p]hysicians who offer their services to the public may not decline to accept
3 patients because of race, color, religion, national origin, sexual orientation, or any other basis that
4 would constitute invidious discrimination.”⁶ The general obligation to provide care should not be
5 contingent on the characteristics of individuals. Selecting whom to treat based on such criteria
6 would be unprofessional and possibly illegal.
7

8 C. Infectious Diseases
9

10 Similarly, Opinion 2.23, “HIV Testing,” prohibits physicians from discriminating against patients
11 who are, or may be, HIV positive. The Council states that “[i]t is unethical to deny treatment to
12 HIV-infected individuals because they are HIV seropositive or because they are unwilling to
13 undergo HIV testing, except in the instance where knowledge of the patient’s HIV status is vital
14 to the appropriate treatment of the patient.”⁷ In the report, “Ethical Issues Involved in the
15 Growing AIDS Crisis,” the Council reasoned that the “tradition of the American Medical
16 Association, since its organization in 1847, is that ‘when an epidemic prevails, a physician must
17 continue his labors without regard to the risk to his own health.’”⁸ By agreeing to enter the
18 profession, physicians consent to face some level of risk inherent to the profession and training
19 they received.⁹

20 D. Preexisting contractual arrangement
21

22 A physician has an obligation to treat a potential patient if the physician is operating under a
23 contractual arrangement that requires the physician to provide treatment. Such contractual
24 arrangements are created, in part, to ensure that all patients in a certain context receive the care
25 they require. For instance, once a physician has agreed to serve as an on-call physician, he or she
26 has agreed to see all patients that require care during a limited time period. For the benefit of
27 patients, the on-call physician temporarily forfeits his or her privilege in deciding whom to serve.
28 Accordingly, Opinion 9.12, “Patient-Physician Relationship: Respect for Law and Human
29 Rights,” states that “[p]hysicians who are obligated under preexisting contractual arrangements
30 may not decline to accept patients as provided by those arrangements.”¹⁰

31
32 However, exceptions to this may exist, especially if patient care is ultimately compromised by the
33 contractual arrangement. For instance, the Council discourages physicians from entering
34 managed care plans in which incentives set unrealistic expectations for utilization or place the
35 physician at excessive financial risk and threaten to compromise the quality of patient care.¹¹
36 Furthermore, contractual arrangements that create a barrier to providing adequate patient care
37 should be avoided.¹²
38

39 Justifiable Refusal to Treat
40

41 The above situations describe instances when physicians cannot ethically refuse to provide care.
42 There are also circumstances in which physicians may decline to treat a patient. In these cases,
43 the physician must use his or her discretion in determining whether to undertake an individual’s
44 care.
45

46 A. Treatment requests beyond physician’s current competence
47

48 Opinion 9.12, “Patient-Physician Relationship: Respect for Law and Human Rights,” recognizes
49 that patients might approach physicians with treatment requests that clearly are beyond the
50 physician’s training or ability. It states: “[a] physician may decline to undertake the care of a

1 patient whose medical condition is not within the physician's current competence.”¹³ In such
2 situations, the physician is expected to inform the patient about his or her inexperience with a
3 particular problem and suggest that he or she seek care from another physician. Such refusals are
4 focused on protecting the patient's best interests.

5 B. Invalid treatment requests

6 In the era of modern medicine, options for promoting health and treating illness abound. At the
7 same time, patients are becoming more informed about their ailments and are playing a larger role
8 in suggesting a course of treatment.¹⁴ As a result, patients are more likely than ever to have
9 strong opinions about various treatments or to make treatment requests with which some
10 physicians may not agree.

11 When potential patients approach a physician with a specific treatment request that is known to
12 be harmful, physicians have an ethical responsibility to decline to treat the individual (Opinion
13 3.01: “Nonscientific Practitioners”). Furthermore, Opinion 8.20, “Invalid Medical Treatment,”
14 specifically states that “[t]reatments which have no medical indication and offer no possible
15 benefit to the patient should not be used.”¹⁵ Physicians should explain how the treatment request
16 could be harmful or how it offers no benefit to patients referring to clinical outcome measures
17 when appropriate. If the potential patient remains steadfast in his or her request for treatments
18 that do not meet the standard of care and could prove harmful, the physician is justified in
19 declining to provide the specified care. However, patients should not be forced to accept a
20 specific treatment as a precondition to seeing a physician.

21 C. Treatment Requests that Conflict with the Physician's Religious, Moral, or Personal
22 Beliefs

23 Occasionally, a physician might be faced with a treatment request that is accepted widely by the
24 medical community but incompatible with his or her religious, moral, or personal beliefs.
25 Physicians should not be required to violate or revoke strongly held beliefs by virtue of entering
26 the medical profession. In these exceptional situations, a physician may be justified in declining
27 to undertake the care of a patient.¹⁶ The physician should provide an explanation as to why he or
28 she chooses not to treat the patient. Physicians who hold beliefs that might preclude potential
29 patients from receiving necessary care should be able to anticipate such situations and might
30 consider possible alternatives for individuals in need of care. A physician could inform his or her
31 colleagues about beliefs that would interfere with patient care, and make arrangements in advance
32 to help the individual find another physician. For instance, physicians whose beliefs preclude
33 them from performing abortions but who are likely to see women requesting such a procedure
34 might have a referral mechanism in place. Another option may be to work provisions into an
35 employment contract that would allow other physicians to deliver needed care when a physician
36 is confronted with a treatment that conflicts with his or her religious, moral, or personal beliefs.
37 By addressing these types of scenarios in advance, physicians would have options available to
38 them when asked to perform procedures or provide treatments that are incompatible with their
39 personal beliefs.

40 If physicians wish to discuss a treatment with which they disagree, they should do so based on
41 sound medical evidence and not on their personal beliefs. For example, Opinion 2.12, “Genetic
42 Counseling,” states that when discussing genetic testing with prospective parents, “physicians
43 should avoid the imposition of their personal moral values and the substitution of their own moral
44 judgment.”¹⁷ Relying heavily on personal, moral, or religious beliefs when attempting to
45 dissuade patients from pursuing a treatment could ultimately erode patients’ faith in physicians’

1 ability to provide them with objective medical advice. When declining to treat a patient on these
2 grounds, the physician should be careful that the reasons for refusal are not directed at the
3 potential patient, or characteristics of the individual, but rather at the treatment requested by the
4 individual.

5

6 General considerations in other cases

7

8 There are a number of other situations in which the physician's obligation to take on the treatment
9 of a potential patient is less clear. For example, a physician may be the only specialist or health
10 care provider available in a particular area. In general, physicians do have some special
11 obligations to provide service that is embodied in the meaning of professionalism.

12 A contentious issue in respect to physicians' obligations to treat often arises in the context of a
13 patient who is unable to pay for treatment. Currently, there is no societal or professional
14 consensus regarding individual physicians' obligations to treat beyond those outlined for
15 emergency care. But the *Code* does provide some guidance regarding positive obligations with
16 respect to care of indigent patients. In Opinion 9.065, "Caring for the Poor," the Council states
17 that: "Each physician has an obligation to share in providing care to the indigent.... Caring for the
18 poor should be a regular part of the physician's practice schedule."¹⁸ But this obligation is not
19 unlimited.¹⁹ For example physicians are not required to jeopardize the overall financial stability
20 of their practice or the health of other patients.* However, a reasonable effacement of self-interest
21 is a hallmark of any profession. The extent to which a physician fulfills his or her obligations in
22 this context is matter of individual character and circumstance, but its complete absence is a lapse
23 for any professional.²⁰

24

25 In general, physicians should consider the following in deciding whether to take on a new patient.
26 First, physicians should consider the level of the patient's need for a service. For example, is the
27 service necessary to sustain life (e.g., dialysis), necessary to sustain functioning health (e.g.,
28 resetting a bone), useful to sustain functioning health (e.g., allergy treatments), or discretionary
29 (e.g., laser removal of a benign but unsightly mark)? These examples are only a few along a vast
30 continuum of health care services. Physicians' obligations to treat are clearly stronger the greater
31 the patient need. Second, the needs of the physician's current patients should be taken into
32 account. Physicians may refuse to take new patients if doing so would compromise the care of
33 existing patients.²¹ Thus, a physician with a full practice in a rural area could refuse additional
34 patients if treating them would compromise the fundamental care his or her other patients
35 received. However, if the physician is able to anticipate such situations and address the problem
36 in advance, he or she is less likely to have to pit the interests of existing patients against the needs
37 of prospective patients.

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40 Conclusion

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42 The need for patients to receive care, coupled with physicians' responsibility to act in the best
43 interest of patients and the public, places limits on physicians' prerogative to select their patients.
44 Therefore, physicians exercising their prerogative to choose whether to enter into a patient-
45 physician relationship must take their professional obligations to serve patients into consideration.

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* The Council recognizes that some patients may pose a physical threat not only to other patients but also to treating physicians. The issue of personal risk in treating a potentially violent patient deserves a more in depth analysis than permitted by this report.

1 Recommendations
2

3 For the foregoing reasons, the Council recommends the following be adopted and that the remainder of
4 this report be filed:

- 5 (1) Physicians must keep their professional obligations to provide care to patients in accord
6 with their prerogative to choose whether to enter into a patient-physician relationship.
- 7 (2) The following instances identify the limits on physicians' prerogative:
- 8 (a) Physicians should respond to the best of their ability in cases of medical
9 emergency (Opinion 8.11, "Neglect of Patient").
- 10 (b) Physicians cannot refuse to care for patients based on race, gender, sexual
11 orientation, or any other criteria that would constitute invidious discrimination
12 (Opinion 9.12, "Patient-Physician Relationship: Respect for Law and Human
13 Rights"), nor can they discriminate against patients with infectious diseases
14 (Opinion 2.23, "HIV Testing").
- 15 (c) Physicians may not refuse to care for patients when operating under a contractual
16 arrangement that requires them to treat. (Opinion 9.12, "Patient-Physician
17 Relationship: Respect for Law and Human Rights"). Exceptions to this
18 requirement may exist when patient care is ultimately compromised by the
19 contractual arrangement.
- 20 (3) In situations not covered above, it may be ethically permissible for physicians to decline
21 a potential patient when:
- 22 (a) the treatment request is beyond the physician's current competence (Opinion
23 9.12, "Patient-Physician Relationship: Respect for Law and Human Rights").
- 24 (b) the treatment request is known to be scientifically invalid, has no medical
25 indication, and offers no possible benefit to the patient (Opinion 8.20, "Invalid
26 Medical Treatment").
- 27 (c) a specific treatment sought by an individual is incompatible with the physician's
28 personal, religious, or moral beliefs.
- 29 (4) Physicians, as professionals and members of society, should work to assure access to
30 adequate health care (Fundamental Element VI).^{*} Accordingly, physicians have an
31 obligation to share in providing charity care (Opinion 9.065, "Caring for the Poor") but
32 not to the degree that would seriously compromise the care provided to existing patients.
33 When deciding whether to take on a new patient, physicians should consider the
34 individual's need for medical service along with the needs of their current patients.
35 Treatments range along a continuum from necessary to sustain life, to necessary to
36 sustain functioning health, to useful to sustain functioning health, to discretionary.
37 Clearly, greater individual need for a service corresponds with a stronger obligation to
38 treat.

* Considerations in determining an adequate level of health care are outlined in Opinion 2.095: "The Provision of Adequate Health Care." Council on Ethical and Judicial Affairs, American Medical Association. *Code of Medical Ethics* 1998; Chicago, IL.

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- ¹⁹ All of this is not to imply that individual charity care relieves society of its general responsibility to ensure adequate health care for all members. Until society has established a universal system of health care coverage, physicians have a general responsibility to advocate for access to adequate health care. Council on Ethical and Judicial Affairs, American Medical Association. "Opinion 2.095: The Provision of Adequate Health Care." *Code of Medical Ethics: Current Opinions and Annotations*. Chicago, IL, 1998.
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