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,IV,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
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, 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.

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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. [New language clarifies guidance.]

(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)

INTRODUCTION

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

DISCUSSION

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

In its report, the Board of Trustees recognized challenges faced by transgender individuals that are unique to this group. Transgender individuals often view themselves and/or are perceived by others as the most marginalized sector of the gay, lesbian, bisexual, and transgender (GLBT) community. As a result, transgender individuals are at risk for adverse health outcomes, as well as 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.
However, the BOT Report noted that transgender individuals could not refer to AMA policy when dealing with discrimination because there was no explicit protection for this group. Although other members of the GLBT community can claim protection through the “sexual orientation” category of AMA policy, transgender individuals cannot. The BOT Report remedied this deficiency by amending appropriate HOD policies, but could only recommend amendment to ethics Opinions.

CONCLUSION

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

RECOMMENDATIONS

The Council on Ethical and Judicial Affairs recommends:

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

E-9.03 Civil Rights and Professional Responsibility

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

Issued prior to April 1977; Updated June 1994.

(Modify HOD/CEJA Policy)

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

E-10.05 Potential Patients

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

(Modify HOD/CEJA Policy)


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

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


(Modify HOD/CEJA Policy)

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

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

INTRODUCTION

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

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

KEY ETHICAL POLICY

Ethical Considerations Prior To Establishing a Patient-Physician Relationship

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

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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 physician, 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.”

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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 redirected 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:

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(Reaffirm HOD/CEJA Policy)

Fiscal Note: Staff cost estimated at less than $500 to implement.
Physicians are professionals and as such have obligations to use their skill and knowledge for the benefit of society. Although physicians retain a great degree of control over their practice, they often must subjugate their self-interest to the interests of patients. As service professionals, physicians may not always have the prerogative of choosing whom to serve. Professional responsibilities to provide care, the need for patients to receive care, and the responsibility to act in the best interest of patients, all place limits on physicians’ prerogative to select their patients.

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

Choice in the Patient-Physician Relationship

The Council recognizes that a priori both patients and physicians should be able to exercise freedom in choosing with whom to enter into a patient-physician relationship. In Opinion 9.06, “Free Choice,” the Council definitively states that patients should have a choice when selecting a physician: “[f]ree choice of physicians is the right of every individual. One may select and change at will one’s physicians . . . .”¹ The Council acknowledges, however, that limits exist on the patient’s ability to choose physicians. For example, the Opinion states that “emergency treatment in cases of accident or sudden illness may, as a practical matter, preclude free choice in physician.”² Correspondingly, physicians can exercise their prerogative to select whom to treat by assenting to or declining to enter into a patient-physician relationship. Opinion 9.06, “Free Choice,” states that “[a]lthough 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.”³ But this

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

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

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

Obligation to Treat

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

A. Emergency Situations

Physicians’ responsibility to treat patients in emergency situations is referred to in Opinion 8.11, “Neglect of Patient.” The opinion states that a “physician should…respond to the best of his or her ability in cases of emergency where first aid treatment is essential.” At a minimum, physicians ought to help stabilize an individual in these situations.

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

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

C. Infectious Diseases

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

D. Preexisting contractual arrangement

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

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

Justifiable Refusal to Treat

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

A. Treatment requests beyond physician’s current competence

Opinion 9.12, “Patient-Physician Relationship: Respect for Law and Human Rights,” recognizes that patients might approach physicians with treatment requests that clearly are beyond the physician’s training or ability. It states: “[a] physician may decline to undertake the care of a
patient whose medical condition is not within the physician’s current competence.” In such situations, the physician is expected to inform the patient about his or her inexperience with a particular problem and suggest that he or she seek care from another physician. Such refusals are focused on protecting the patient’s best interests.

B. Invalid treatment requests

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

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

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

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

If physicians wish to discuss a treatment with which they disagree, they should do so based on sound medical evidence and not on their personal beliefs. For example, Opinion 2.12, “Genetic Counseling,” states that when discussing genetic testing with prospective parents, “physicians should avoid the imposition of their personal moral values and the substitution of their own moral judgment.” Relying heavily on personal, moral, or religious beliefs when attempting to dissuade patients from pursuing a treatment could ultimately erode patients’ faith in physicians’
ability to provide them with objective medical advice. When declining to treat a patient on these
grounds, the physician should be careful that the reasons for refusal are not directed at the
potential patient, or characteristics of the individual, but rather at the treatment requested by the
individual.

General considerations in other cases

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

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

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

Conclusion

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

* 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.
Recommendations

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

(1) Physicians must keep their professional obligations to provide care to patients in accord with their prerogative to choose whether to enter into a patient-physician relationship.

(2) The following instances identify the limits on physicians’ prerogative:

(a) Physicians should respond to the best of their ability in cases of medical emergency (Opinion 8.11, “Neglect of Patient”).

(b) Physicians cannot refuse to care for patients based on race, gender, sexual orientation, or any other criteria that would constitute invidious discrimination (Opinion 9.12, “Patient-Physician Relationship: Respect for Law and Human Rights”), nor can they discriminate against patients with infectious diseases (Opinion 2.23, “HIV Testing”).

(c) Physicians may not refuse to care for patients when operating under a contractual arrangement that requires them to treat. (Opinion 9.12, “Patient-Physician Relationship: Respect for Law and Human Rights”). Exceptions to this requirement may exist when patient care is ultimately compromised by the contractual arrangement.

(3) In situations not covered above, it may be ethically permissible for physicians to decline a potential patient when:

(a) the treatment request is beyond the physician’s current competence (Opinion 9.12, “Patient-Physician Relationship: Respect for Law and Human Rights”).

(b) the treatment request is known to be scientifically invalid, has no medical indication, and offers no possible benefit to the patient (Opinion 8.20, “Invalid Medical Treatment”).

(c) a specific treatment sought by an individual is incompatible with the physician’s personal, religious, or moral beliefs.

(4) Physicians, as professionals and members of society, should work to assure access to adequate health care (Fundamental Element VI).* Accordingly, physicians have an obligation to share in providing charity care (Opinion 9.065, “Caring for the Poor”) but not to the degree that would seriously compromise the care provided to existing patients. When deciding whether to take on a new patient, physicians should consider the individual’s need for medical service along with the needs of their current patients. Treatments range along a continuum from necessary to sustain life, to necessary to sustain functioning health, to useful to sustain functioning health, to discretionary. Clearly, greater individual need for a service corresponds with a stronger obligation to treat.

REFERENCES


8 “Ethical Issues involved in the Growing AIDS Crisis” Report 9


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.
