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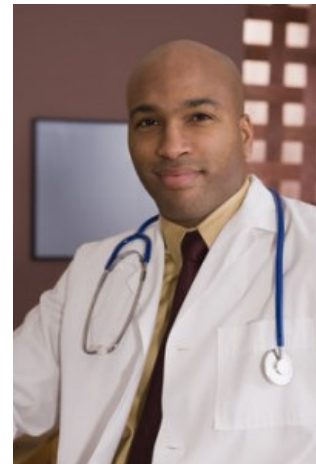
## When Conscience and Medical Practice Collide

Thursday, August 28, 2008

Should physicians and other healthcare professionals be required to perform procedures that violate their conscience? Most states have adopted so-called “conscience clauses” that shield doctors and others from being required to perform abortions, euthanasia, and other procedures when these would violate the doctor’s own moral commitments.

Now, this allowance for conscience is under attack. Just last week, the California Supreme Court handed down a decision that denied a right for physicians who perform IVF procedures to claim a religious liberty right to deny those procedures to persons on the basis of sexual orientation. The unanimous decision resets the whole equation in the nation’s most populous state and sets the stage for similar reviews elsewhere.

Then, just days later, the Bush administration announced a new set of regulations that would deny federal funds to any hospital or medical service that does not allow healthcare professionals to “opt out” of procedures that violate conscience. Given the controversy surrounding these proposed regulations, we can expect this issue to be thrust into the current presidential race — and probably soon.



A revealing look into the thinking of those who want conscience clauses eliminated or severely curtailed is found in a recent op-ed column contributed to *The Los Angeles Times*. In “[When Religion and Healthcare Collide](#),” Professor Richard P. Sloan of the Columbia University Medical Center argues against what he describes as a “disturbing trend” toward allowing doctors to exercise a right of conscience to opt out of certain procedures.

In his words, this disturbing trend is “an increasing willingness to allow the actions of individuals to disadvantage, and even endanger, others if those actions derive from religious faith.”

Of course, there could be situations in which Dr. Sloan’s logic would rightly apply. For example, we would not want to allow an emergency room physician to deny emergency treatment to a threatened patient — *any* patient. We would not allow for a surgeon to refuse to perform a life-saving operation just because of the patient’s sexual orientation.

If these were the situations that troubled Dr. Sloan, all persons of conscience would join in his call for action. But, as you might suspect, these are not the situations that concern him.

To the contrary, Dr. Sloan is concerned with doctors who want to opt out of “legal medical procedures” that they cannot perform without violating religious conscience. Lest we miss his point, he explicitly directs his concern toward the proposed Bush administration regulations that would allow medical professionals to opt out of procedures “including those associated with reproduction and terminal sedation.” In other words, including abortion and euthanasia.

Dr. Sloan laments the fact that “studies have shown that 14% of U.S. doctors, when confronted by possibly objectionable but legal medical treatments, not only would refuse to deliver such care but also would refuse to inform their patients about it or refer them to physicians who would deliver the care.” He estimates this means there are “about 40 million people who would receive substandard care from these physicians, who believe that their religious convictions are more important than the well-being of their patients.”

The use of terms like “substandard care” and “possibly objectionable but legal” point to the essence of Dr. Sloan’s radical argument. “Substandard care” is here applied to mean the refusal to use any legal procedure another physician may perform under a similar situation. Abortion, euthanasia (“terminal sedation”) and other procedures are presented as “possibly objectionable but legal.”

We must doubt that Dr. Sloan would apply his chosen criterion to the era of Nazi medicine, where, for example, the medical murder of “unworthy life” was legally sanctioned (and encouraged). These medical murders were legal, but immoral - a point Dr. Sloan would almost certainly accept. Nor, we can hope, would Dr. Sloan extend his argument to the involuntary sterilization of Americans on the basis of mental capacity or race. This practice was once legal in the United States, but it is inherently immoral.

Nevertheless, Dr. Sloan argues that “our deference to religion in contemporary American society has allowed us to subordinate all other values. It has allowed us to routinely accept religiously motivated behaviors that we otherwise would have no reluctance to sanction and that, indeed, would be impermissible with any other justification.”

Thus, “it’s time to say ‘enough,’” he argues. “In the United States, we all are free to practice our religion as we see fit, as long as we do not interfere with the well-being of others by imposing our religious views on them. If physicians or other healthcare providers who have religious objections to legal medical treatments will not at a minimum inform their patients about those treatments and refer them to others who will deliver them, they should act in a way that is consistent with their convictions and the well-being of their patients and find other professions.”

The virtue of Dr. Sloan’s argument is its clarity. There is no doubt where he stands. He wants doctors who cannot perform these procedures in conscience, or at least to refer patients to other doctors who will, to get out of medicine and “find other professions.”

This is a logic that leads to disaster. Indeed, it is a logic I believe Dr. Sloan would be hard-pressed to accept in other contexts, with respect to other procedures. Requiring medical professionals to violate their own moral convictions by coercing them to perform procedures they believe to be immoral is *itself* immoral, and these conscience clauses protect the religious liberty rights of all.

Without these protections of conscience, our world would be much less free — and much more deadly.

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Thanks to observant readers who corrected my reference to California as the nation’s largest state, when I meant in terms of population, not area. Interestingly, I heard only from those who identified themselves as Texans — and not from Alaskans. I can only be reminded of the Texas tourism slogan, “Don’t Mess with Texas.”

