

Policy Document

Conscientious Objection and Access to Care Policy

Background

The Australian Medical Students' Association (AMSA) is the peak representative body for medical students in Australia. AMSA believes that all patients should have the right to the best attainable healthcare. Accordingly, AMSA advocates on issues that impact health outcomes.

Conscientious Objection

Conscientious objection in health care is defined as the abstention from offering certain types of medical treatment due to moral or other personal beliefs. [1] A disinclination based on fear, personal preference or convenience is not sufficient basis for a conscientious objection. [3] Not all treatment and diagnostic options in Australia obtain universal support from practising health practitioners on conscionable grounds [2].

In principle, conscientious objection acknowledges that clinicians are entitled to their own moralities, that stating one's conscientious objection ensures honesty and transparency in the doctor-patient relationship, and that comprehensive referral upholds a doctor's duty of care. This stands except in urgent situations where substantially severe or life-threatening adverse effects would occur should treatment be delayed [3].

Irrespective of a doctor's beliefs, patients have the right to be treated with dignity, to be afforded objective and evidence-based information on, as well as access to, all appropriate, legal management options. Further, patients rely on health practitioners to provide them with unbiased information about all available services to make an informed choice of the best course of management. Denying such information, or impeding such access to care, is contrary to the Medical Board of Australia's Code of Conduct:

2.4 Decisions about access to medical care

Your decisions about patients' access to medical care need to be free from bias and discrimination. Good medical practice involves: ...

2.4.6 Being aware of your right to not provide or directly participate in treatments to which you conscientiously object, informing your patients and, if relevant, colleagues, of your objection, and not using your objection to impede access to treatments that are legal.

2.4.7 Not allowing your moral or religious views to deny patients access to medical care, recognising that you are free to decline to personally provide or participate in that care. [4]

Similarly, the Australian Medical Association's own code of ethics states:

1.1.16. If you refuse to provide or participate in some form of diagnosis or treatment based on a conscientious objection, inform the patient so that they may seek care elsewhere. Do not use your conscientious objection to impede patients' access to medical treatments including in an emergency situation. [5]

Conscientious objection is also applicable in terms of a patient's personal consent to the care they receive, including the examples of withholding of consent for blood products or vaccinations. All patients have the right to provide, withhold or revoke informed consent within the constraints of the law and without coercion by members of the medical community or others. A doctor's role is to respectfully provide appropriate education to the patient or carer on the nature, indication, risks and benefits of the treatment [4]. This should be evidence-based where possible.

Termination of Pregnancy

Though termination of pregnancy is not the only procedure, such as circumcision or IVF, to which a practitioner or institution may conscientiously object, it is perhaps the most ubiquitous.

In figures published in 2004 20% of General Practitioners throughout Australia consider themselves as broadly anti-abortion (n=2495) [6]. This finding suggests that a legal framework ensuring standardised care for all patients, regardless of their doctor's moral or religious background, is necessary.

Termination of pregnancy is a personally stressful and often publically divisive service. There is little quantitative data on the physical, mental or emotional impacts of undergoing or, alternatively, being denied a termination of pregnancy. Legislated professional and non-judgmental standard of care, including timely referrals to those without an objection, is critical. It is even more significant for women who are geographically or socially isolated as stigma can have devastating consequences on the outcome of personal wellbeing and integration to care [7].

At the time of writing, termination of pregnancy is subject to criminal law in all Australian states and territories except ACT. Generally this coincides with legislation in place to either provide statutory explanation of when accessing an abortion is not unlawful, or interpret the Crimes Act or Criminal Code to the effect of allowing lawful abortions. [8]

Currently, Victoria and Tasmania are the only states which obligate an objecting

doctor to provide a referral to another practitioner who is qualified to perform a legal termination procedure and does not hold a conscientious objection. Both states' legislation recognises that, despite any conscientious objection held, a medical practitioner has a duty to perform a termination in an emergency where the procedure is necessary to save the life of a pregnant woman [9,10]. In all other Australian states and territories, health practitioners are still obliged to avoid any actions which would impede access to treatments that are legal in urgent situations, though no law pertaining directly to termination of pregnancy is enforced [8].

Position Statement

AMSA believes that a doctor has a right to hold a conscientious objection; however, the exercise of an objection must not impede a patient's access to appropriate and timely care in severe or life-threatening situations. Consequently, AMSA believes that where a course of management for a patient is legal, including that of termination of pregnancy, any doctor who holds a conscientious objection to the provision of such management must declare their objection to the patient and provide an effective referral to another health practitioner who does not hold such an objection.

Policy

AMSA calls upon:

1. All Australian state and territory governments to draft or amend legislation to mandate health practitioners and institutions that hold a conscientious objection to a course of management must:
 - a. Inform the patient that they have a conscientious objection;
 - b. Refer the patient to another registered health practitioner who, to the best of their knowledge, does not hold such an objection;
 - c. Perform any life-saving therapy for the consenting patient if within their scope of practice, regardless of conscientious objection, in severe or life-threatening circumstances.
2. All registered health professionals to:
 - a. Consider and acknowledge areas where they may have a conscientious objection and take steps to ensure that this does not affect the quality of care patients receive;
 - b. Give serious consideration to avoiding employment positions and consideration of geographic location, where they can foresee that a situation of conscientious objection may arise and would be challenging for patients to access treatment;
 - c. Provide effective referral for a procedure or therapy that they conscientiously object to in a timely, respectful and non-judgemental manner that could not be reasonably seen as a significant obstruction to appropriate patient care.

3. The AMSA Executive to:
 - a. In conjunction with the AMA, contact the appropriate members of state and territory governments to directly advocate for the development of conscientious objection disclosure and referral laws in states and territories where these do not currently exist.
4. Tertiary education providers to:
 - a. Ensure the education of medical students and allied health students on conscientious objection, including the social consequences, relevant legalities, and their duty of care in explaining and providing access to all appropriate and legal courses of therapy.

References

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