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In a peaceable, secular pluralist society, one would at the very least expect that freedom of choice would include the freedom of physicians to decide on religious grounds not to be associated with the provision of abortion. However, the 1989 Ethics Manual of the American College of Physicians[1] requires at least material cooperation in abortion, even if the physician holds that abortion is objectively a seriously evil act. The manual states:

> A physician who objects to abortion on moral, religious, or ethical grounds need not become involved, either by proffering advice to the patient or by involvement in the surgical procedure. The physician does have a duty to assure that the patient is provided the option of receiving competent medical advice and care from a qualified colleague who does not impose his or her personal convictions upon the patient.[2]

Superficially, this passage might appear to meet the moral needs of those who recognize abortion to be a seriously evil act. However, though a physician is not required to offer "advice", the physician is required to "assure that the patient is provided the option of receiving competent medical advice." For those who hold abortion to be a seriously evil act, this position is similar to asserting that those opposed to rape need not give technical advice to would-be rapists; it is enough to refer interested individuals to those willing to provide instruction.

The American College of Physicians could have taken a substantial step toward respecting the rights of conscientious objection. This could have

been accomplished by stating that those opposed on moral grounds to abortion have a right to exempt themselves from any obligation to provide advice regarding abortion, if they inform patients of their objections when the physician/patient relationship is initially being formed. Such a disclosure could include informing patients that many consider that the standard of medical care requires advising patients in particular circumstances of the possibility of employing prenatal screening and abortion if the patients are at significant risk of having a child with a severe congenital defect, but that the physician is not free to do this for moral reasons. The disclosure could then end with the physician indicating a strong opposition to abortion on moral grounds. A condition of accepting the services of such a physician would be to forego information concerning abortion, even when such information might become relevant according to the general standard of care.

Absence of Disclosure

In the absence of such a disclosure discharging the obligation to provide further information concerning abortion, conscientious physicians may suffer significant costs at tort law. Steps must be taken towards a clear recognition in public policy that such an advance disclosure will relieve the disclosing physician of all civil liability for subsequent failures to inform patients of those instances when the general standard of care would include prenatal diagnosis and abortion. A statement by the American College of Physicians regarding such rights of conscience would contribute substantially to establishing the standard of care in a way that clearly acknowledges the integrity of the physician's conscience. The current statement accomplishes the very opposite.

It is worth noting that the American College of Physicians specifically supports the possible probity of civil disobedience with respect to maintaining confidentiality. "If the physician thinks that commitment to the patient's welfare overrides duty to the law, the physician can ethically refuse to give information not released by the patient, but must recognize that this is an act of conscientious objection that may have legal consequences."[3] However, justified civil disobedience is not noted to include actions by physicians predicated on an obligation to avoid violating significant principles of conscience with regard to abortion. Indeed, the tone of the American College of Physicians' Ethics Manual does not show sympathy to such matters of conscience. The physician who refuses to participate in abortion is characterized as an individual who "imposes his or her personal convictions upon the patient".[4] One wonders what this implies for a physician who disclosed that the standard of care supported prenatal diagnosis and selective abortion, who supplied the name of a physician who would provide the relevant advice and services but merely added, in an attempt to avoid formal cooperation, "However, I would consider you to be placing yourself in a proximate occasion of

committing murder and incurring eternal damnation if you were to seek such advice." The tone of the manual raises the suspicion that such a statement would be regarded as verbally coercive or a gross example of "imposing his or her personal convictions." Surely there is no appreciation in the manual of the fact that a patient is imposing her moral viewpoint on the treating physician if tort law requires a specific disclosure that a physician holds to be morally improper. The manual does not credibly address the ways in which individuals may avoid compromising their moral integrity through legally imposed formal and/or material cooperation in what is viewed to be a serious objective moral evil.

Moral Diversity/Personal Conscience

Taking seriously both the moral diversity in our society and the importance of personal conscience requires the development of procedures that will allow physicians to protect their moral integrity by disclosing at the initial physician/patient interaction that certain procedures will not be performed and that the "advisability" of certain interventions will not be discussed or entertained, and that if patients wish such information or services they should consult a different physician.

If it is not possible for physicians and private institutions fully and completely to remove themselves from any association with medical procedures they find seriously morally problematic, not only will their consciences be violated, but the seriousness of moral convictions will be undermined in our society. Many moral convictions are properly private matters, in the sense that they do not warrant the use of coercive force for their realization. But they are not merely matters of taste or relics from a religious past to be tolerated by the state only if they in no way limit the choices of those who do not share in those convictions. A peaceable, secular pluralist society must, at the very least, allow those with concrete moral convictions peaceably to witness to those convictions and peaceably to refuse association with disapproved practices. The privatization of moral convictions in a secular society should not lead either to the trivialization of individual and institutional moral commitments nor to the erosion of basic rights to freedom of moral association. Nor should licensure by the state be regarded as preempting the peaceable expression of serious moral convictions in the physician/patient relationship. Otherwise the state will coercively establish a particular secular ideology adverse to many religious views. When differences in conscience can be resolved by recognizing a basic secular right of freedom of association, then the problem can be solved without harm to anyone who has not freely consented to the risks involved. Otherwise, religious convictions are not only limited to their expression in areas where they coerce no one (a cardinal tenet of a limited democracy) but to areas where they inconvenience no one. If the second condition is imposed, one abandons the notion of a limited democracy and imposes a secular civil religion.

References

1. American College of Physicians, "American College of Physicians Ethics Manual. Part 1: History; The Patient; Other Physicians," *Annals of Internal Medicine,* 111 (August 1, 1989), pp. 245-252; "American College of Physicians Ethics Manual. Part 2: The Physician and Society; Research; Life-Sustaining Treatment; Other Issues," *Annals of Internal Medicine,* 111 (August 15, 1989), pp. 327-335.
2. *Ibid.,* p. 335.
3. *Ibid.,* p. 249.
4. *Ibid.,* p. 335.