

13. Limitations on the obligation to provide medical treatment

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Background

A few years ago, the British medical community was in uproar following the amputation of a healthy leg by an orthopedic physician at the request of the patient, who demanded the operation since he regarded his healthy leg as a foreign body that did not belong to him and even affected the quality of his life. The case engendered a stormy argument that addressed various aspects, beginning with the neurological diagnosis of the foreign organ syndrome and ending in clear-cut psychiatric diagnosis of Munchausen Syndrome (Apotemnophilia).

One side of the argument focused on the role of the surgeon in this strange amputation and the ethical aspect of his actions. It was only a short step from here to the obvious question - is a physician obligated to accede to the request of a patient for any medical treatment whatsoever or should he limit his agreement, and if so, what is the limitation that he must set.

This issue was raised in Israel after the death of a woman who gave birth by caesarian section, without medical justification. Although the woman expressly demanded the operation and gave proper advance approval for its execution, a rare but known complication of the operation caused her death. As in Britain, here, too, the case aroused questions regarding the balance required between the wishes of the woman giving birth and the prima facie obligation of the physician to meet them, or his right to refuse to do so.

Israeli law has codified basic human rights and a person's full autonomy over his body. A patient has the right of absolute refusal to receive medical treatment, but the right to receive medical treatment is limited by other interests, including laws enacted by the State, as well as the autonomy of the physician and his right not to give medical treatment that is contrary to his professional conscience or position, except in life threatening emergencies.

In a caesarian section performed without medical reason at the request of the woman, opposing interests come into conflict. On one hand, lie the principles of freedom, dignity, and autonomy of the woman, which express her right to decide what is done to her body and how to bring her children into the world. On the other hand, no ethical or legal obligation is imposed on the physician to carry out every demand of the woman giving birth. The physician is entitled to retain his freedom of choice and decide whether to accede to the woman's demand to receive medical treatment that in his opinion is



unsuitable from professional or ethical standpoints.

In the attached position paper, the members of the Ethics Board have specified the circumstances in which the physician is entitled to refuse to give medical treatment at the request of the patient.

Position paper

- Optimal medical treatment is based on full cooperation between the patient and the physician.
- Basic Law: The Dignity and Freedom of a Person and the Patient's Rights Law grant the patient the freedom to choose alternative forms of the medical treatment that he will receive. This right is not absolute and is limited.
- The physician has no ethical or legal obligation to carry out every demand of the patient, except in the case of urgent lifesaving treatments.
- The physician must refuse the request of the patient to receive medical treatment that is contrary to the laws of the State.
- The physician is entitled to refuse the request of the patient to receive medical treatment if this treatment is contrary to his professional position or his conscience.
- The physician must attempt to persuade the patient not to receive treatment that in the physician's opinion has no medical justification.
- The physician shall examine the patient's request in a professional manner, without foreign considerations.
- The physician's freedom of choice not to give treatment without medical justification preserves his autonomy and professional integrity.