Conscientious objection: an overview

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What is conscientious objection?

- Conscientious objection in the health care context:

When a health care professional

(1) refuses to provide a legal service that falls within his/her professional competence; and

(2) justifies the refusal by claiming that it is conscience-based

(Wicclair, 2011)

Refusal is conscience-based *if and only if*:

- the agent has **core moral beliefs** (ethical or religious)
- providing the service is incompatible with her core moral beliefs
- the agent's refusal is based on her core moral beliefs

What are 'core moral beliefs'?

- 'beliefs that matter most to the agent'; 'beliefs that are integral to the agent's understanding of who she is'; 'the central moral core of her character'

(Wicclair, 2011)

- Other reasons for refusals that are *not* conscience-based:
  - Self-interest: e.g. concerns about personal safety (abortions, contagious disease)
  - Professional integrity: refusals based on clinical considerations, e.g. treatment not medically indicated, not in patients' best interest
  - Different from civil disobedience – goal is to secure legal exemptions

Cases

- Legislation typically permits individual health care professionals to refuse participation in certain medical procedures:
  - End-of-life care: ending life-sustaining treatment, palliative sedation, physician assisted suicide
  - Reproductive health care: Abortion, sterilization, assisted reproduction, dispensing (emergency) contraception

Why protect the right to conscientious objection?

- **Protect the moral integrity of health professionals**

- Tolerance of moral diversity
- Epistemic modesty
- We want health professionals who are capable of exercising judgement, not just ‘follow the rules’

Limitations on the right to conscientious objection

- No absolute moral right to act on one's conscience
  - Refusal to accept a patient may not be based on invidious discrimination (e.g. race, religion, sexual orientation)

- The medical professions' obligations to society
  - Patients' right to health care
  - No blanket approval or *general* right: CO should be considered in relation to *specific clinical services*

Patients' interests should be protected:

- Physicians may not refuse to accept patients in medical emergencies

The 'conventional compromise':

- CO must not undermine access to services
  - **HCPs required to provide information and/or referral**
- CO must not impose 'undue burden' on patients
  - What counts as 'undue burden'? (harm vs mere inconvenience)
  - **Patients may be affected unequally by CO (special concern for the poor, otherwise vulnerable groups)**
  - 'Geography-relative' right to CO? (urban vs rural)

Policy in Canada

Policy governing the right to conscientious objection in Canada:

- Diversity of bodies issuing policies (esp. for physicians)
  - Some inconsistencies
  - Considerable variability
  - Often vague with respect to referral requirements ('encouraging', 'preferring', 'expecting' physicians to 'consider' referring patients 'if possible')
- Policy gap in the three northerly provinces
  - More vulnerable population, worse health
  - Shortage of health care personnel

(Shaw & Downie, 2013)