



A position paper on Individual and Institutional Refusal Clauses

Refusal Clauses

A refusal clause is a provision often inserted into legislation, often related to health care, which permits a medical professional or institution to opt out of providing certain legal and medically approved procedures or drugs. These refusals can relate to reproductive health services, specifically abortion, EC and other services deemed “morally objectionable.”

Refusal clauses must to adhere to standards of medical ethics that state:

- “A physician shall, while caring for a patient, regard responsibility to the patient as paramount” and
- “[A physician shall] make relevant information available to patients... and use the talents of other health professionals when indicated”¹

Refusal clauses that fail to meet these standards abuse our respect for religious freedom and freedom of conscience by allowing opponents of vital legal services to simply choose not to perform those services even though it falls within the scope of their job.

Refusal clauses can be grouped into two types: individual refusals and institutional refusals.

Individual Refusal Clauses

Individual refusal clauses allow individual persons to opt out of providing certain medical care because of a personal objection. This can include health care providers such as doctors, nurses, pharmacists, medical technicians and other individuals charged with delivering a medical service. When an individual practitioner opts out of performing a medical procedure because of personal objections, the sponsoring organization bears the responsibility of either finding another medical professional to undertake the procedure or to provide a meaningful referral.

Institutional Refusal Clauses

Institutional refusal clauses permit an entity such as a hospital, HMO or insurance company to opt out of providing certain medical care because of an objection to doing so. These clauses supercede the right of individual providers to make determinations about what services they are willing and able to provide. These clauses also usurp with a patient’s right to make conscience-based decisions about what health care services they choose.

¹ American Medical Association, “Principles of medical ethics,” 17 June 2001.

CFFC's Position on Refusal Clauses

Catholics for a Free Choice recognizes the right of individual doctors and nurses as well as others to decline to participate in services they consider immoral for themselves personally. There is no doubt that there are times when the conscience of an individual doctor or nurse may conflict with the wishes or needs of a patient. Within the field of medical ethics, the accepted resolution to this conflict of values is to allow the individual to act on their own conscience and for the institution – the hospital or clinic – to serve as the facilitator of all consciences.

When an institution rejects this role and instead asserts its own "conscience-based" refusal to provide services, it violates the rights of patients and health care providers, who may well consider the services the institution is denying to be profoundly moral and medically necessary, to make conscience-based decisions.

There has always been an ethical preference for ensuring that patients have the primary opportunity to act on their conscience. Thus, it is the obligation of the institution to provide doctors and nurses who will provide services that patients deem moral and that are legal, while allowing those medical professionals who choose to opt out to do so. When this is not possible, a reasonable ethical fall back is for the institution to provide the patient with "meaningful referral" that will ensure that the patients receive continuity of care without facing an undue burden, such as traveling long distances or encountering additional barriers to obtaining the desired services.

For further information, please contact
Michelle Ringuette
Catholics for a Free Choice
1436 U Street NW, #301,
Washington, DC 20009
T: (202) 986 6093
F: (202) 332 7995
E: cffc@catholicsforchoice.org
W: www.catholicsforchoice.org

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