

# RIGHTS OF A PHYSICIAN

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Rights of a Physician has to be justified by the claim which has to be accepted legally and morally. The rights should not conflict with obligations. Mary Warnock in 1998 defined the right of an individual is misunderstood and there is an increasing tendency to believe that everything desirable may be claimed as a right. This may be true by many in the society including patients. However there are some limitations when it comes to a Physician. Rights are not ideals or benefits and privileges. Rights lead to beliefs that it is an entitlement. If it is not provided it leads to adversarial and confrontational attitudes. One has to distinguish between individuals rights versus community's rights and privileges.

The medical profession is unique as it is a service provision dedicated to the healing of patients based on a fiduciary doctor-patient relationship. There is an obligation for doctors to do the utmost in caring for patients. It allows the sick to claim their right to humane and dignified care from doctors. The profession is based on the principles of non-maleficence, beneficence, autonomy and justice. However, the rights of the physician are ill defined. In some way it is defined by health care policies in societies and in the institutions in which they serve. The evolution of a doctor-patient relationship defines the rights of the physician as well. The patient starts as a stranger or person in need who needs target of interventions. If the interventions result in a satisfactory outcome there are no complaints. Should there be any unintended outcome then there could be a potential for medical litigations and the concerns regarding the physician's rights. This may bring about a malpractice claim against the physician which is the right of the patient. The patient might claim a breach of duty as resultant harm caused by treatment. To avoid such encounters if the physician feels that there could be a possibility of harm then could the physician refuse treatment? It is acceptable to refuse treatment on clinical grounds should there be a possibility of very poor outcome despite treatment. It is also possible for the physician not to provide treatment if that particular act is against his conscience e.g. termination of pregnancy. When it comes to abusive or difficult patients and patients who are non-compliant to treatment, whether the physician has the right not to treat is debatable. Similarly, in an unknown place a Good Samaritan act is done by the physician, but is there a right by the physician not to act and provide the needed treatment? There are often conflicts e.g. perineal reconstruction for cosmetic reasons or magnetic resonance imaging for head injury where the patient has no symptoms or signs but still he or she insists on such an investigation. Similarly, there might be arguments for treatment which is well and over what is necessary e.g. hysterectomy for contraception. There are always unreasonable expectations of the patient in certain settings such as elective surgery and in cosmetic surgery. However, this is limited when it comes to emergency surgery.

The physician's right can be well defined in certain circumstances like abortion, euthanasia, capital punishment, reproductive technologies, genetic technologies and clinical experimentation. The place where there is difficulty in judging where the physician has a right is when it is concerning abusive or difficult patient, those who have behavioural problems, those who have drug addiction, those who have personality disorders and in those who have demanding or unreasonable forms of treatment. In these situations one should try to provide the treatment or alternative arrangements should be made available. Here again the patient's right overcome that of the physician's rights. The rights might come under the scrutiny of ethics and law. In terms of law it seeks to educate and regulate by announcing a minimal standard of conduct. It looks mainly at due

process. It establishes negative sanctions for ignoring the standard, which has the power of official coercion. On the other hand ethics extends beyond the law to prescribe

desirable conduct and articulate ideas and virtues to which we should aspire. Ethical sanctions are generally non-coercive and include the praise or blame of colleagues or others. The power resides primarily in the strength of reasoning, unaccompanied by state endorsement. Respecting law is an important moral duty and therefore legal cases have ethical relevance. For example, what is legally permitted may not be ethically justifiable in certain cases. In terms of Good Samaritan acts the doctor has no legal obligation to attend to a victim in medical emergencies. However, it is a humanitarian obligation to provide the necessary care. If you accept the existence of an ethical duty of care in emergency situations, this raises concerns about the physician's ability to provide an adequate standard of care. In most cases a doctor who provides emergency treatment in a place without adequate medical facilities may be protected from liability for any death or injuries cause, unless they are the result of gross negligence.

The physicians should exercise professional judgement in providing the highest quality of medical care possible. They should exercise conscience in medical practice and terminate or decline any therapeutic relationship. They should exercise freedom from conflict of interest, e.g. financial, corporate, social and political. One could conclude that the physicians do have rights. In exercising those rights it is the responsibility of the physician to act as the patient's primary advocate. Despite this there might be difficult situations and it is useful to consider and consult a colleague's opinion and to act collectively. At certain times it may be necessary to enter a legal process in order to establish the legal right of the physician.