

# Communicating the Conscience Issue

## *Protecting patient access to ethically guided physicians*

1. Abortion mandates threaten healthcare access. ....	1
2. Ethical standards protect patients. ....	2
3. Abortion mandates penalize physicians for following the Hippocratic Oath. ....	2
4. Whatever happened to the "choice in "pro-choice"?.....	3
5. The HHS regulation simply implements existing civil rights law. ....	3
6. The HHS regulation does not impact the legality of abortion or contraception.....	3
7. Conscientious dissent is fundamental to American history, law and society.....	3
8. Conscience must trump convenience. ....	4
9. Abortion advocates are politicizing medicine. ....	5
10. Allowing the violation of one person's rights puts all of our rights in jeopardy. ....	5
11. Healthcare needs ethically guided doctors—not "ethically neutered" doctors. ....	6
12. A physician's conscience may be a patient's last line of protection. ....	6
13. Conscientious objectors expose abuses of power.....	6
14. What happens when the state tramples rights of conscience? China. ....	7
15. <b>STORIES</b> of pro-life healthcare professionals facing discrimination.....	7

### ***1. Abortion mandates threaten healthcare access.***

Faith-based hospitals and clinics provide irreplaceable services to poor patients who otherwise would have nowhere to turn for help. Yet abortion-related mandates (requiring healthcare professionals and institutions to either perform, refer for or fund abortions) specifically target and penalize faith-based hospitals and clinics as well as all physicians, nurses and pharmacists who oppose abortion on religious grounds. Are we prepared to shut down faith-based hospitals that provide services to poor patients who otherwise have nowhere to turn for help?

"I consider the government of the U.S. as interdicted by the Constitution from intermeddling with religious institutions, their doctrines, discipline, or exercises. This results not only from the provision that no law shall be made respecting the establishment, or free exercise, of religion, but from that also which reserves to the states the powers not delegated to the U.S."

--Thomas **Jefferson**, letter to Samuel Miller January 23, 1808

"Peace hath her victories  
No less renowned than war; new foes arise,  
Threatening to bind our souls with secular chains:  
Help us to save free conscience from the paw  
Of hireling wolves whose gospel is their maw."

--**John Milton** (1608–1674), British poet. To the Lord General Cromwell (l. 10–14). . .  
The Complete Poetry of John Milton. John T. Shawcross, ed. (1963, rev. ed. 1971)  
Doubleday.

## 2. *Ethical standards protect patients.*

Patients need to be able to trust their physicians to abide by time-honored medical ethics and life-honoring principles that transcend changing laws. The Hippocratic Oath, for example, not only protects the unborn and the infirm; it also protects patients from sexual abuse and invasions of privacy. Abortion-related mandates violate the Hippocratic Oath, which guided medicine for two and a half millennia.

“I will use treatment to help the sick, according to my ability and judgment, but I will never use it to injure or wrong them. I will not help a patient commit suicide, even though asked to do so, nor will I suggest such a plan. Similarly, I will not perform abortions. But in purity and in holiness, I will guard the sanctity of life and my role as healer. Whenever I enter a home, I will do so to help the sick, keeping myself free from all intentional wrongdoing and harm, especially from sexual involvement. Whatever I see or hear in the course of practice, I will keep private and confidential, not divulging any information but considering such things to be holy secrets between the patient and myself.”

--**Hippocratic Oath**, circa 429 BC

## 3. *Abortion mandates penalize physicians for following the Hippocratic Oath.*

Physicians who adhere to the Hippocratic Oath promise, “...I will not perform abortions. But in purity and in holiness, I will guard the sanctity of life and my role as healer.” Abortion mandates force these physicians to either violate the Hippocratic Oath or lose their career in medicine.

Regarding abortion, the American Medical Association states, “Neither physician, hospital, nor hospital personnel shall be required to perform any act violative of personally held moral principles.”<sup>i</sup>

Over 40% of Christian Medical Association members report being pressured to violate ethical standards. Physicians report losing positions and promotions based on their life-affirming principles. Medical students report opting out of careers in obstetrics and gynecology for fear of discrimination stemming from abortion ideology. Pro-life prospective medical students report discrimination in application interviews.<sup>ii</sup>

Hippocratic, biblical and other life-affirming principles have been marginalized to an extent in the medical community by abortion ideologues trying to make abortion perceived as standard, mandatory medical care. The abortion propaganda is also having an impact on the public. A scientific poll found that only 38 percent of Americans realize that physicians may not legally be coerced into violating standards of medical ethics and their own conscientiously held moral convictions by requiring them to perform abortions or refer patients for abortions.<sup>iii</sup>

#### **4. *Whatever happened to the “choice in “pro-choice”?***

"Many people who favor abortion rights defended the right of healthcare providers to dispense abortion services when it was illegal to do so. Their argument was that women had a right to control their own reproduction. It was, at least in some respects, an individualist and a conscientious argument.

"But if we respect the right of women to control their bodies, we ought to respect the rights of doctors to control their own actions. And if we respect the decision to perform abortions, we ought to respect the refusal to do so."<sup>iv</sup>

-- **Crispin Sartwell**, philosophy professor at Dickinson College and self-described "pro-choice atheist"

#### **5. *The HHS regulation simply implements existing civil rights law.***

The new HHS regulation implements 35 years of federal civil rights law passed by Congress. Those laws include provisions that explicitly protect those who *support* abortion as well as those who oppose abortion.<sup>v</sup>

The regulation is specifically aimed at “Ensuring that department of health and human services funds do not support coercive or discriminatory policies or practices.”

**Final HHS regulation:** <http://edocket.access.gpo.gov/2008/E8-30134.htm>

#### **6. *The HHS regulation does not impact the legality of abortion or contraception.***

Abortion advocates have ginned up significant opposition to the regulation by claiming that it represents a plot by the Bush-era Department of Health and Human Services to keep women from accessing contraception and abortion. That’s quite an implausible accusation against an agency that (in the same year the regulation was enacted) also budgeted over \$1.6 billion for “family planning” programs.

Abortion advocates like to claim that those who oppose participating in prescriptions of drugs that can end the life of a human embryo are oddballs who comprise an insignificant minority. When lobbying against the regulation, however, abortion advocates contradict their own assertion by claiming that so many healthcare professionals will refuse to participate in such prescriptions that women’s access to contraception will be extensively hindered.

If hardly any healthcare professionals object to abortifacient prescriptions, there will be no drastic decrease in access. If a significant number of healthcare professionals actually do object to abortifacient prescriptions, then instead of forcing their participation, perhaps we should begin asking why so many consider such prescriptions dangerous and unethical.

#### **7. *Conscientious dissent is fundamental to American history, law and society.***

Our nation was founded by dissenters, and our founding fathers fought for the revolutionary notion that the exercise of conscience and freedom of religion are inviolable rights. A key

measure of a democracy is how it treats divergent opinions. The suppression of dissent and coercion of conscientiously opposed individuals is a mark of tyranny and fascism.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."

--**Bill of Rights**, First Amendment

"[O]ur rules can have authority over such natural rights only as we have submitted to them. The rights of conscience we never submitted, we could not submit. We are answerable for them to our God."

--**Thomas Jefferson** (1743–1826), U.S. president. Notes on the State of Virginia (1787), Query 17, p. 159, ed. William Peden (1954).

"The Civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established, nor shall the full and equal rights of conscience be in any manner, or on any pretext, be infringed."

--**James Madison** (First draft of the First Amendment, June 8, 1789.)

"That religion, or the duty which we owe to our Creator and the manner of discharging it, can be directed by reason and conviction, not by force or violence; and therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience..."

**The Virginia Declaration of Rights** (June 12, 1776)

## 8. *Conscience must trump convenience.*

Abortion advocates argue that healthcare professionals with conscientious objections should have to quit their positions and find other work rather than inconvenience patients by having them seek objectionable services elsewhere.

"...you can choose where to work. That's why health professions are so highly regulated: to distribute these resources. A religious practitioner could choose to work at a nursing home where he or she wouldn't have to deal with this, or a Catholic hospital where he or she wouldn't have to deal with this... So there would be other employment options. As the holder of the license, you do have responsibilities to the public that you are serving, and if your beliefs are such that they are so ingrained, then I would certainly think you would be willing to tailor your life accordingly and pick a career where you're not facing this constant tension between either doing your job or being consistent with your values."

-- **Jill C. Morrison**, Senior Counsel, the National Women's Law Center<sup>vi</sup>

Well-established First Amendment rights of speech and religion, however, trump any vague asserted right to convenience.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech..."

--**Amendment I, U.S. Constitution**

### ***9. Abortion advocates are politicizing medicine.***

Having failed to convince many physicians to embrace abortion in contradiction of life-affirming medical ethics, abortion ideologues have turned to coercion to make abortion mainstream medicine. The aggressively pro-abortion American College of Obstetricians and Gynecologists recently issued an official ethics statement asserting<sup>vii</sup> that:

- a. **Pro-life physicians must refer for abortion:** "Physicians...have the duty to refer patients in a timely manner to other providers if they do not feel they can in conscience provide the standard reproductive service that patients request."
- b. **Faith-based ethics are disqualified:** Physicians may not exercise their right of conscience if that might "constitute an imposition of religious or moral beliefs on patients."
- c. **Pro-life physicians should relocate:** "Providers with moral or religious objections should ... practice in proximity to individuals who do not share their views..."

"Religion, or the duty which we owe our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force and violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience."

--**James Madison** (1751–1836), U.S. president. Virginia Declaration of Rights, 1776. W.T. Hutchinson et al., *The Papers of James Madison*, vol. 1, p. 175, Chicago and Charlottesville, Virginia (1962-1991).

### ***10. Allowing the violation of one person's rights puts all of our rights in jeopardy.***

If we allow the government to force individual conscience violations in healthcare, where will the coercion stop?

"First they came for the Jews. I was silent. I was not a Jew. Then they came for the Communists. I was silent. I was not a Communist. Then they came for the trade unionists. I was silent. I was not a trade unionist. Then they came for me. There was no one left to speak for me." --**Martin Niemoller**, (1892 - 1984). Niemoller was a Protestant pastor and head of the anti-Nazi Confessing Church.<sup>viii</sup>

"No man shall...suffer on account of his religious opinions or belief, but all men shall be free to profess and by argument to maintain, their opinion in matters of religion."

--**Thomas Jefferson** (inscribed in the Jefferson Memorial)

### ***11. Healthcare needs ethically guided doctors—not "ethically neutered" doctors.***

In a healthcare system that has grown increasingly profit-driven and callous toward patients, do we really want to punish physicians who put conscience and concern for patients above the almighty dollar? Do we want medical schools to systematically strip our future doctors from any and all religious and ethical convictions that have not been approved or dictated by the government or abortion advocacy groups?

"People are getting smarter nowadays; they are letting lawyers, instead of their conscience, be their guide."

--**Will Rogers** (1879–1935), U.S. humorist. "Helping the Girls with Their Income Taxes," *The Illiterate Digest* (1924).

### ***12. A physician's conscience may be a patient's last line of protection.***

Vulnerable patients depend on conscientious physicians to protect them from those who consider their lives as worthless, or worse, a burden to the healthcare system.

"Some terminally ill patients in Oregon who turned to their state for health care were denied treatment and offered doctor-assisted suicide instead, a proposal some experts have called a "chilling" corruption of medical ethics."

--**FOX News report**, July 28, 2008

"Justice is conscience, not a personal conscience but the conscience of the whole of humanity. Those who clearly recognize the voice of their own conscience usually recognize also the voice of justice."

--**Alexander Solzhenitsyn**, letter Oct. 1967, from Solzhenitsyn to three students. "The Struggle Intensifies," *Solzhenitsyn: A Documentary Record*, ed. Leopold Labedz (1970).

### ***13. Conscientious objectors expose abuses of power.***

When rights of conscience are protected, conscientious individuals can fight a wrong-headed establishment and expose wrongs. Health-related examples include revealing the harms of tobacco use and exposing the unethical treatment of African Americans in the infamous Tuskegee experiments. When rights of conscience are suppressed, institutions, governments and special interest groups can abuse their power with impunity.

"On some positions cowardice asks the question, 'Is it safe?' Expediency asks the question, 'Is it politic?' Vanity asks the question, 'Is it popular?' But conscience asks the question, 'Is it right?' And there comes a time when one must take a position that is neither safe, nor politic, nor popular. But ... because it is right."

--**Dr. Martin Luther King, Jr.**

"The one thing that doesn't abide by majority rule is a person's conscience."

--Harper Lee, *To Kill a Mockingbird*, 1960

#### **14. What happens when the state tramples rights of conscience? China.**

Freedom of conscience sets America apart from the Chinese Government, which recently called for 20,000 women to undergo forced abortions and/or sterilization procedures in one county alone before the end of the year.

"A Chinese county has been ordered to conduct 20,000 abortions and sterilizations before the end of the year after communist family planning chiefs found the official one-child policy was being routinely flouted. Many of the terminations will have to be conducted forcibly on peasant women to meet the quota. Saying they are strapped for funds, the local county leadership decided it could buy the ultrasound machines only if it withheld part of the salaries of its 15,000 employees.

"'We don't know why we should pay for such a heartless drive.'"

--Chinese county government official<sup>ix</sup>

"The equal right of every citizen to the free exercise of his religion according to the dictates of conscience is held by the same tenure with all our rights. [The legislature] are bound to leave this particular right untouched and sacred, [or] we must say, that they may control freedom of the press, may abolish the trial by jury, may swallow the Executive and the Judiciary Powers of the State; nay that they may despoil us of our very right of suffrage ... or we must say, that they have no authority to enact [a religious assessment]."

--James Madison (1751–1836), U.S. president. "Memorial and Remonstrance against Religious Assessment" (1785). W.T. Hutchinson et al., *The Papers of James Madison*, vol. 8, p. 304, Chicago and Charlottesville, Virginia (1962-1991).

#### **15. STORIES of pro-life healthcare professionals facing discrimination.**

For a sampling of real-life stories of pro-life professionals and institutions that have faced discrimination, job loss and more, visit [www.cmda.org](http://www.cmda.org): [Home](#) / [Issues & Ethics](#) / [Healthcare](#) / [Conscience Rights](#) – see "Discrimination Stories."

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<sup>i</sup> AMA official policy statement H-5.995 Abortion.

<sup>ii</sup> CMA news release, 12/18/08.

[http://www.cmda.org/AM/Template.cfm?Section=CMDA\\_News\\_Releases&Template=/CM/HTMLDisplay.cfm&ContentID=19626](http://www.cmda.org/AM/Template.cfm?Section=CMDA_News_Releases&Template=/CM/HTMLDisplay.cfm&ContentID=19626)

<sup>iii</sup> The Polling Company, Inc. on September 11-14, 2008 conducted a nationwide survey, commissioned by the Christian Medical Association. [poll text and results:](#)

[http://www.cmda.org/AM/Template.cfm?Section=Right\\_of\\_Conscience&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=17710](http://www.cmda.org/AM/Template.cfm?Section=Right_of_Conscience&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=17710).

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<sup>iv</sup> "The fundamental right to refuse," op-ed by Crispin Sartwell, *The Los Angeles Times* September 2, 2008. Crispin Sartwell teaches philosophy at Dickinson College in Carlisle, Pa.

<sup>v</sup> The new HHS regulation, on p. 8, specifies that "(c) Entities to whom this paragraph (c) applies shall not:

(1) Discriminate against any physician or other health care professional in the employment, promotion, termination, or extension of staff or other privileges because he performed or assisted in the performance, or refused to perform or assist in the performance of a lawful sterilization procedure or abortion...."

<sup>vi</sup> Event Transcript, "Dr. No? The Debate on Conscience in Health Care," September 8, 2006, Washington, D.C.

<sup>vii</sup> November 2007 position statement of The Committee on Ethics of the American College of Obstetricians and Gynecologists (ACOG), "The Limits of Conscientious Refusal in Reproductive Medicine."

<sup>viii</sup> "Encyclopedia of the Holocaust", ©1990 Macmillan Publishing Company, New York, NY 10022.

<sup>ix</sup> "Chinese region 'must conduct 20,000 abortions,'" London's *Sunday Telegraph*, by Damien McElroy, August 5, 2001.