

## CONSCIENTIOUS OBJECTION IN THE HEALING PROFESSIONS:

### A READER'S GUIDE TO THE ETHICAL AND SOCIAL ISSUES

#### Nurses

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Intimately involved in the short and long term care of patients and supporting the medical procedures of physicians and surgeons, nurses are in a unique position requiring careful thought about the place and time for conscience-based refusals.<sup>1</sup> At the same time, as Kane notes, nurses have an increasingly autonomous role in medical decision making.<sup>2</sup> Furthermore, nurses also play an important role in the care of patients that need care that some professionals may find objectionable, including abortion services and end of life care. Some nurses have objected to participating in abortion procedures, prepping instruments that will be or have been used for abortions, providing emergency contraception, offering information or referrals, and aiding in provision of reproductive technologies especially to persons in same sex relationships. Others have objected to providing or restricting assisted nutrition or hydration or some forms of palliative care.

Even when conscientious objections are not voiced, nurses may experience substantial distress from participating in morally complex care. Studies have shown that some nurses who have participated in personally objectionable procedures suffer from moral distress—“an act of interior aversion, which occurs in response to a perceived harm to some observed or objectively known good.”<sup>3</sup> Hanna describes three types of moral distress: shocked, muted and suppressed (persistent) distress. Shocked moral distress manifests itself as “intense anger, fear, disbelief or panic,” while muted moral distress is described as “an interior experience with exterior silence.”<sup>3</sup> Suppressed moral distress is more difficult to classify because it is hard to detect. This type “blocks conscious relativity” such that the nurse attempts to block painful realities. It may manifest as fatigue, depression, migraine headaches and gastrointestinal upset.<sup>3</sup>

Some nurses who have expressed distress by refusing to provide services have faced employment consequences. For example, nurses have lost employment positions for refusing to provide pregnancy prevention treatment (as was the case in *Brownfield v. Daniel Freeman Marina Hospital*).<sup>4</sup> Likewise, nurses have been demoted for refusing to participate (as in *Kenny*

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*v. Ambulatory Center Of Miami, Fla., Inc*).<sup>5</sup> Others have been dismissed for refusing to take flu shots<sup>6</sup> and some have entered employment disputes regarding circumcision.<sup>7</sup>

Should nurses be forced to participate in activities that seem to violate their conscience? In *Swanson v St. John's Lutheran* a nurse refused to provide anesthesia in a tubal ligation procedure.<sup>8</sup> The nurse could not claim an exemption under the relevant Montana statute because imposing her exemption would “impose hardship on a particular facility.” Thus, the nurse was compelled to perform an action even when other health professionals could resort to conscience clauses.

Nurses' conscientious objections are guaranteed and protected by law and policy. Most argue, however, that these objections should be carefully balanced with patient interests so as to ensure that the religious and moral beliefs of the nurse as well as the welfare of the patient are protected. The American Nurses Association recognizes that nurses may have conscientious objections, but that these should not be based on “personal preference, convenience, or arbitrariness.”<sup>9</sup> The nurses are also expected to let their conscientious objections be known, preferably in advance of a conflict. Kane states that “nurses should provide comprehensive care to all patients, regardless of their reason for being in hospital.”<sup>2</sup>

Although nurses may object, this may cause an undue strain on other nurses. When one nurse objects others must fill in shifts for the objector. This has a negative effect as it may increase the workload of the other nurses. In *Kenny*, for example, other nurses had agreed to substitute for Kenny but after a while they refused.<sup>5</sup> Thus, a nurse may be disallowed to object if it will cause undue hardship on a particular facility.<sup>8</sup> As with any health professional, conscientious objections by nurses must be carefully balanced to respect the interests of patients and colleagues.

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