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Conscientious Objection to the Performance of Non-therapeutic Circumcision of Children

Guidance for Healthcare Providers

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Doctors Opposing Circumcision receives frequent inquiries from doctors, medical students, and other professionals deeply troubled by the bioethics of performing medically unnecessary circumcision of minors—or even assisting at them in any capacity. We assert here that medical providers have *no* obligation, whether in bioethics, law, or employment contracts, to perform non-therapeutic circumcision, even at parental request.

Circumcision considered clinically. The infant foreskin is invariably healthy, functional, protective erogenous tissue.[1] *No disease is present and there are no medical indications for neonatal circumcision.* The American Academy of Pediatrics has found insufficient evidence of the alleged benefits and cannot recommend performance of the operation.[2] The Council on Scientific Affairs of the American Medical Association classifies neonatal circumcision as "non-therapeutic."[3] Neonatal circumcision, therefore, is ineffective treatment. Circumcision is a radical procedure that extirpates about 50 percent of the healthy functional skin and mucosa from the penis.[4] Circumcision has significant inherent risks and drawbacks, including infection, partial or complete amputation, and even death.[5] A recent cost-utility study finds that male neonatal circumcision has a net adverse effect on health.[6] The Netherlands Institute of Human Rights has published a report that finds male neonatal circumcision violates human rights.[7]

Parents' duties and responsibilities. Children are not chattels, and parents do not own them. Parents instead are the natural guardians, protectors, and surrogate decision-makers for the child. They are *entrusted* with his nurture, care, and protection—including protection of his legal right to bodily integrity. Parents have an ethical duty to consider the best medical interests of the child, *and to act in accordance with the child's best interest*s.[8-10] Pediatric bioethics limits the authority of surrogates to granting of permission for diagnosis and treatment of disease.[10] Male neonatal non-therapeutic circumcision is neither diagnosis nor treatment, so parents may have no derivative authority to grant permission for circumcision. Parents have no inherent right to circumcise a child,[9] or amputate any of his body by proxy, without proven pathology and the demonstration of genuine therapeutic need, which is exceedingly rare.

Providers' duties and responsibilities. Providers must recognize that the child, not the parent, is the patient. The doctor must regard the patient's best interests as paramount and must respect the human and legal rights of patients.[9,11,12] Doctors must act in accordance with the child-

patient's best interests[8-10,13] and consider first the well-being of the patient.[12,14] As the Committee on Bioethics of the American Academy of Pediatrics notes, "Doctors have legal and ethical duties to render competent medical care to their child patients based on what the child-patient needs, not what someone else expresses."[10]

Roman Catholic doctors. Male neonatal circumcision is amputative,[2] mutilative, and non-therapeutic.[3] Healy writes that Catholic doctors who circumcise infants act in a manner "unworthy of their high calling."[15] The Catholic Catechism teaches Catholic physicians and others, under "Respect for bodily integrity," that "except when performed for strictly therapeutic medical reasons, directly intended amputations, mutilations...performed on innocent persons are against the moral law."[16]

Employment contracts. Medical professionals work under written, oral, or implied employment contracts. Such contracts typically require the medical professional to provide 'medical services' that comport with "*prevailing standards of care and medical ethics, subject always to the clinical judgment and final determination of the medical provider*." Such contracts allow that the "*medical provider will be free to exercise his or her own professional judgment regarding the treatment of any patient.*" Thus, even those medical professionals under contract have complete discretion within their professional judgment to decline a procedure that is merely cultural, not medical care, and provides no demonstrable benefit to the patient. There are no valid, recognized, medical indications for circumcision of the newborn.[17,18] Thus, in the absence of medical indications, circumcision for social, cultural, traditional, historical, family, or religious reasons is not a contractual medical service.

Discussion. Recent clinical inquiry indicates that male neonatal circumcision is more likely to harm the patient than benefit him.[6] Male neonatal circumcision is not effective treatment because it cannot be shown to prevent disease. Male neonatal circumcision, lacking urgency and necessity, is an inarguable violation of the child's legal right to bodily integrity. Parental permission for non-therapeutic circumcision is inconsistent with the parents' duty to protect the person of the child. It is doubtful that male non-therapeutic neonatal circumcision can ever be in the best interests of the child-patient.

Conscientious objection. A doctor, except in an emergency, has a right to choose whom to serve.[11] Ineffective treatment is outside the standard of care, so doctors have no obligation to provide it.[19,20] The Medical Ethics Committee of the British Medical Association[9] and the College of Physicians and Surgeons of British Columbia[13] formally recognize the right of doctors to object to the performance of neonatal circumcision on grounds of conscience. Forty-seven states have enacted conscience clauses that allow doctors to refuse to perform certain procedures on moral grounds.[21] Medical providers may object for medical, legal, human rights, ethical, moral, and religious reasons.[12,14,22] They may wish to avoid future legal liabilities or object for no reason other than instinct. Since non-therapeutic neonatal circumcision serves no medical purpose, there is no obligation to refer the parent to other doctors,[9] however, the reasons for the conscientious objection should be explained.[9,13] The right of medical professionals to refuse to perform non-therapeutic infant or child circumcision is clear.

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