Right of Conscience for Health-Care Providers

Mary L. Davenport, M.D., Jennifer Lahl, R.N., and Evan C. Rosa*

Dr. Davenport is a fellow of the American College of Obstetrics and Gynecology. She is president of the American Association of Pro-Life Obstetricians and Gynecologists, and medical director of Magnificat Maternal Health Program. Ms. Lahl has a B.S. in nursing and an M.A. in bioethics. She is president of the Center for Bioethics and Culture. Mr. Rosa is communications director of the Center for Bioethics and Culture.

Abstract

Health-care providers have been challenged by changes in medical practice to include abortion, euthanasia, and controversial fertility technologies. These procedures go beyond saving lives, healing disease, and alleviating pain, the traditional purposes of medicine. The foundational principles of Western medical ethics, as characterized by the Hippocratic Oath, have been weakened or even rejected. The consequences of abandoning the Hippocratic tradition are illustrated by the eugenics movement, the Nazi Holocaust, the Tuskegee experiments, and contemporary bioethics theories. Physicians and other health-care personnel are under institutional and governmental pressure to succumb to anti-Hippocratic ethics. Conscience clauses are a means of defending medical practitioners from these trends. Characteristics of conscience legislation that protect health-care providers are described. Strong conscience clauses also protect the public by ensuring the survival of health-care personnel with shared Hippocratic values.

* Additional material supplied by Wesley J. Smith.

The Linacre Quarterly 79(2) (May 2012): 169–191.

0024-3639/2012/7902-0004 $.30/page.

Should a doctor be required to perform an abortion, assist the suicide of a patient, or engage in other practices he or she finds objectionable? Most people believe that no doctor should be forced to participate in the taking of human life, but this view is increasingly challenged. Protecting the right to say no is at the heart of the issue of the right of conscience for health-care providers.

Legal Changes to Medical Practice

Because we live in such a culturally diverse society, and because some in medical ethics want to require doctors to engage in activities such as abortion or assisted suicide, a movement has begun to legally protect the right of doctors to say no. For doctors who oppose what some call the "new medicine," the right of conscience both protects patient health and safety and allows physicians to focus on the traditional purposes of medical care. The purposes and practices of medicine have radically changed in the West in recent decades. Whereas doctors once considered it their sacred duty to protect and save the lives of their patients, relieve pain, and promote good health practices, today some actively take—or intentionally assist in the taking of—human life. Today, doctors perform abortions, some through the ninth month. Others openly prescribe drugs for use in suicide. In European nations such as the Netherlands and Belgium, physician-assisted suicide and euthanasia are practiced, and physicians legally practice infanticide when babies are born with serious disabilities or terminal conditions.[1] Meanwhile, bioethicists and others advocate transforming medicine from a healing profession into a technocracy, a primary purpose of which is to facilitate individual lifestyle choices.[2]

Consider the profound changes in law, which have materially impacted medical practice in just the last fifty years:

- In 1973, the Supreme Court of the United States created a constitutional right to abortion on demand, leading to physicians participating in more than one million pregnancy terminations in the United States each year. The U.S. *Roe v. Wade* decision legalized abortion, paving the way for eugenic and sex-selection abortions.
- In a span of less than a decade, active euthanasia became legal in the Netherlands, Belgium, and Luxembourg. Physician-assisted suicide has been legal in Switzerland since the 1940s and became so more recently in the states of Oregon and Washington. A court order in Montana made it a state constitutional right.
- A number of other procedures have been introduced into medical practice, including new reproductive technologies, embryonic stem-cell research, and cloning, that many might find objectionable. Some of these new procedures require the destruction of human embryos.

These new procedures distort the traditional goals of medicine, which are saving lives, healing disease, and relieving pain. These changes have irrevocably altered the face of medicine, blurring what it means to be a physician, nurse, or other health-care professional. Other developments in the last several decades present challenges to the physician patient relationship. Third-party payers, both private and public, can reward physicians for withholding care or providing controversial services. In addition, government control can politicize medical care, favoring some and not others. Many doctors, for example, do not want to participate in abortion, assist in suicide, or be associated with other questionable medical technologies. But powerful forces seek to coerce medical professionals to be complicit in medical killing—or abandon medicine altogether.

The Hippocratic Oath: Foundation of Medical Practice

When confronted with these radical transformations, many people ask, "But doesn't the Hippocratic Oath prohibit these practices?" (see table 1). Indeed, it does. The Oath established a professional obligation on physicians that required them to practice medicine to a standard that was far greater than just "doing what the patient asked." These obligations can be summarized as follows:

1. To give optimal care to the sick and to never injure or wrong them—a concept often summarized by the term "do no harm" ("I will use those dietary regimens that will benefit my patients according to my greatest ability and judgment, and I will do no harm or injustice to them");
2. To never assist in suicide or practice euthanasia, nor suggest it ("I will not give a lethal drug to anyone if I am asked, nor will I advise such a plan");
3. To never perform an abortion ("And similarly [to giving a lethal drug], I will not give a woman a pessary to cause an abortion");
4. When one does not have sufficient expertise (there was a clear demarcation between physicians and surgeons in ancient medicine), to refer to a practitioner who does ("I will not use the knife, even upon those suffering from stones, but I will leave this to those who are trained in this craft");
5. To treat all patients as equals ("avoiding any voluntary act of impropriety or corruption, including the seduction of women or men, whether they are free men or slaves");
6. To never have sex with patients ("avoiding any voluntary act of impropriety or corruption, including the seduction of women or men, whether they are free men or slaves"); and
7. To maintain patient confidentiality ("Whatever I see or hear in the lives of my patients, whether in connection with my professional practice or not, which ought not to be spoken of outside, I will keep secret, as considering all such things to be private").

Table 1 Medical Oaths.

The Hippocratic Oath*	Cornell's Version of the Hippocratic Oath†	Loma Linda's "Physicians' Oath"*†
I swear by Apollo the physician, and Asclepius, and Hygieia and Panacea and all the gods and goddesses as my witnesses, that, according to my ability and judgment, I will keep this Oath and this contract: To hold him who taught me this art equally dear to me as my parents, to be a partner in life with him, and to fulfill his needs when required; to look upon his offspring as equals to my own siblings, and to teach them this art, if they shall wish to learn it, without fee or contract; and that by the set rules, lectures, and every other mode of instruction, I will impart a knowledge of the art to my own sons, and those of my teachers, and to students bound by this contract and having sworn this Oath to the law of medicine, but to no others. I will use those dietary regimens which will benefit my patients according to my greatest ability and judgment, and I will do no harm or injustice to them. I will not give a lethal drug to anyone if I am asked, nor will I advise such a plan; and similarly I will not give a woman a pessary to cause an abortion.	I do solemnly vow, to that which I value and hold most dear: That I will honor the Profession of Medicine, be just and generous to its members, and help sustain them in their service to humanity; That just as I have learned from those who preceded me, so will I instruct those who follow me in the science and the art of medicine; That I will recognize the limits of my knowledge and pursue lifelong learning to better care for the sick and to prevent illness; That I will seek the counsel of others when they are more expert so as to fulfill my obligation to those who are entrusted to my care; That I will not withdraw from my patients in their time of need; That I will lead my life and practice my art with integrity and honor, using my power wisely; That whatsoever I shall see or hear of the lives of my patients that is not fitting to be spoken, I will keep in confidence; That into whatever house I shall enter, it shall be for the good of the sick;	Before God these things I do promise: In the acceptance of my sacred calling, I will dedicate my life to the furtherance of Jesus Christ's healing and teaching ministry. I will give to my teachers the respect and gratitude which is their due. I will impart to those who follow me, the knowledge and experience that I have gained. The wholeness of my patient will be my first consideration. Acting as a good steward of the resources of society and of the talents granted me, I will endeavor to reflect God's mercy and compassion by caring for the lonely, the poor, the suffering, and those who are dying. I will maintain the utmost respect for human life. I will not use my medical knowledge contrary to the laws of humanity. I will respect the rights and decision of my patients. I will hold in confidence all secrets committed to my keeping in the practice of my calling. I will lead my life and practice my art with purity, and honor; abstaining from immorality myself, I will not lead others into moral wrong doing.

In purity and according to divine law will I carry out my life and my art. I will not use the knife, even upon those suffering from stones, but I will leave this to those who are trained in this craft.

Into whatever homes I go, I will enter them for the benefit of the sick, avoiding any voluntary act of impropriety or corruption, including the seduction of women or men, whether they are free men or slaves.

Whatever I see or hear in the lives of my patients, whether in connection with my professional practice or not, which ought not to be spoken of outside, I will keep secret, as considering all such things to be private.

So long as I maintain this Oath faithfully and without corruption, may it be granted to me to partake of life fully and the practice of my art, gaining the respect of all men for all time. However, should I transgress this Oath and violate it, may the opposite be my fate.

That I will maintain this sacred trust, holding myself far aloof from wrong, from corrupting, from the tempting of others to vice;

That above all else I will serve the highest interests of my patients through the practice of my science and my art;

That I will be an advocate for patients in need and strive for justice in the care of the sick.

I now turn to my calling, promising to preserve its finest traditions, with the reward of a long experience in the joy of healing.

I make this vow freely and upon my honor.

May God's kingdom, His healing power and glory be experienced by those whom I serve, and may they be made known in my life, in proportion as I am faithful to this oath.

---

* "The Hippocratic Oath," trans. Michael North, National Library of Medicine, National Institutes of Health, 2002.

† Melissa Hantman, "From Antiquity to Eternity: Revised Hippocratic Oath Resonates with Graduates," Cornell University News Service, June 22, 2005, http://www.news.cornell.edu/stories/june05/hippocratic_oath.mh.html.

‡ Loma Linda University, "The Loma Linda University Physician's Oath," http://www.llu.edu/central/bioethics/llupo.page.

At the time of its creation circa 400 B.C., the Hippocratic Oath was a distinctly minority view in a pagan society that did not consider human life to be sacrosanct. Unwanted babies were exposed to die and be consumed by wild animals, a practice considered utterly odious today (partially as a result of the influence of the Oath), but which at the time was thought unremarkable. Abortion was also common, as was physician-assisted suicide. But believers in Hippocratic values sought a radical transformation in medical ethics. Slowly, over the centuries, the powerful message of the Oath's maxims—asserting the sheer moral worth of each individual patient—influenced the practice of medicine and permeated the values of society.

The assertion of human exceptionalism was aided by growth of the nascent religion Christianity, whose beliefs and values would eventually surmount pagan civilization in the West. Indeed, as Nigel Cameron points out in his history of the Hippocratic Oath, *The New Medicine: Life and Death After Hippocrates*, a Christian version has been discovered that began, "From the Oath according to Hippocrates in so far as a Christian may swear it." After stating allegiance to "God the Father of our Lord Jesus Christ," this version includes identical precepts to the original pagan oath.[3]

As the Roman Empire converted to Christianity, the values of the now-dominant faith dovetailed closely with the professional maxims and proscriptions of the Oath, and transformed the doctor's role. Physicians no longer routinely assisted their patients' suicides, and abortion became an underground practice. What began as a minority reform movement in Ancient Greece became the primary view throughout the West.

As time went on, the values of the Hippocratic Oath eventually became the foundational values for modern medical professionalism. Hippocratic precepts influenced medical systems beyond the West, including Islamic medicine as well as other medical systems throughout the world.

Doctors made a *moral commitment* to be healers, not killers. Their patients' lives were to be paramount. Professional responsibilities of acting for the benefit of the patient and patient confidentiality became viewed as the sacred duties that all physicians owed their patients. These values remained unchallenged for the next two millennia. Indeed, even the anthropologist Margaret Mead stated in a private correspondence:

> For the first time in our tradition there was a complete separation between killing and curing. Throughout the primitive world the doctor and the sorcerer tended to be the same person. He with the power to kill had the power to cure. . . . He who had the power to cure would necessarily also be able to kill. With the Greeks, the distinction was made clear. One profession . . . [was] to be dedicated completely to life under all circumstances, regardless of rank, age, or intellect—the life of a slave, the life of the Emperor, the life of a foreign man, the life of a defective child.

Mead also understood that the Hippocratic ideal was under threat even in her own time, as she added, "Society is always is attempting to make

the physician into a killer—to kill the defective child at birth, to leave the sleeping pills beside the bed of the cancer patient."[4]

The physician is in a position of authority and power, literally over life and death. That is why medical ethics is so important.

Eugenics: The Consequence of Abandoning the Hippocratic Tradition

If a doctor does not treat the life of each patient as precious and of equal worth with all other patients, if a doctor does not give optimal care to all patients, then weak, vulnerable, devalued, or defenseless patients could easily be subjected to oppression and exploitation. Concern about the physician's prerogative to influence life and death is not new. In 1806, the German physician Christoph Wilhelm Hufeland wrote, "It is not up to [the doctor] whether . . . life is happy or unhappy, worthwhile or not, and should he incorporate these perspectives into his trade . . . the doctor could well become *the most dangerous person in the state*."[5] Hufeland recognized the tremendous power society gives to physicians.

Modern doctors are authorized to cut people with a scalpel, prescribe dangerous drugs, and learn the most intimate and private aspects of their patients' lives. So long as physicians exercise these powers strictly for the well-being of each patient—so long as they view the lives of all patients as inherently of equal worth—then the power is unlikely to be abused. Indeed, that is what the Hippocratic Oath defends—the value of each patient's health and life.

History reveals clearly what can happen when the physician's professional commitment to the life and health of all patients is compromised. The perversion of Hippocratic ethics was a major theme in the last one hundred years of the history of medicine. Too often, the twentieth century saw doctors become oppressors rather than protectors of their most weak and vulnerable patients: *killers* rather than healers. To make matters worse, much of this medical discrimination was either legal or otherwise condoned by society, a trend that continues to this very day.

We need look only at the human devastation wrought by the eugenics movement to see the danger. Eugenics originated with the English mathematician and statistician Francis Galton. A cousin of Charles Darwin, Galton believed that heredity "governed talent and character" just as it does eye color and facial features.[6] Profoundly influenced by Darwin's theories of natural selection and Gregor Mendel's genetic experiments in Austria involving peas, in 1865 Galton proposed that humans take control of their own evolution by using selective breeding techniques to improve society's physical, mental, cultural, and social health. In 1883, Galton coined the term "eugenics" to apply to his theories, a word he derived from the Greek, meaning "good in birth."[7]

The concept of eugenics began with the promotion of "positive eugenics," that is, persuading eugenically correct people to mate and

procreate bounteously. But the movement soon took an even darker turn: "Negative eugenics" promoted the idea that undesirable people should not be allowed to procreate *at all*. As often happens with radical social movements, eugenics first became popular among academics and then spread rapidly in the early years of the twentieth century among the cultural elite and the intelligentsia of the United States, Canada, England, and Germany. By 1910, "eugenics was one of the most frequently referenced topics in the *Reader's Guide to Periodical Literature*."[8]

Eugenicist societies formed for the promulgation and discussion of theories, academic eugenics journals sprouted, and philanthropic foundations (such as the Rockefeller and Carnegie Foundations) embraced the movement, financing eugenics research and policy initiatives. Many of the political, cultural, and artistic notables of the time supported eugenics—including Theodore Roosevelt, Winston Churchill, George Bernard Shaw, and Margaret Sanger—leading to further expansion of the movement's popular support.

The eugenics virus quickly infected medicine, with thirty-three states legalizing eugenic sterilization. As reported by historian Edwin Black in his history of American eugenics, *War Against the Weak*,

> When Galton's eugenic principles migrated across the ocean to America, Kansas physician F. Hoyt Pilcher became the first in modern times to castrate to prevent procreation. In the mid-1890s, Dr. Pilcher, superintendent of the Kansas Home for the Feebleminded, surgically asexualized fifty-eight children.[9]

When this scheme was discovered, authorities stepped in. Pilcher's defenders correctly predicted that he would be looked upon as a courageous pioneer. Soon states began to legalize involuntary sterilization for people demeaned as the "unfit." Minorities, such as African Americans and Native Americans, were intentionally targeted. "Three generations of idiots is enough," United States Supreme Court Chief Justice Oliver Wendell Holmes declared in authorizing the involuntary sterilization of Carrie Buck, age twenty-one.[10]

What had Carrie done to deserve this cruel fate? She was born poor and powerless, the daughter of a prostitute. In 1924, at age seventeen, she became pregnant out of wedlock, apparently after being raped by a relative of her foster father. To cover up this heinous act, Carrie's foster family had her declared morally and mentally deficient, after which she was involuntarily institutionalized in an asylum. The State of Virginia enacted a law permitting "mental defectives" to be involuntarily sterilized to better the welfare of society. Asylum doctors, believers in the pernicious theories of eugenics, decided that Carrie was a splendid candidate for sterilization and that it behooved society to remove Carrie's genes from the human gene pool.[11]

The case eventually was accepted for decision by the United States Supreme Court, whereupon Chief Justice Holmes and seven of his

colleagues sealed Carrie's reproductive fate with but one lonely dissent, after which she was quickly sterilized and released. During her life, Carrie married twice, sang in the church choir, and took care of elderly people. She always mourned her inability to have more children. She died in 1983.[12]

An American citizen—who committed no crime—was ordered by her government to be sterilized, and her doctors willingly complied. Such are the bitter fruits of discarding Hippocratic values. And that opened the floodgates. *With the imprimatur of the United States Supreme Court, doctors involuntarily sterilized over sixty-five thousand individuals between 1907 and 1960.*[13]

Perhaps one of the darkest marks on twentieth century American history was the use of poor African American sharecroppers in the Tuskegee Syphilis Study, conducted by the U.S. Public Health Service between 1932 and 1972. Almost four hundred men were used as if they were mere laboratory animals to "study" the effects of syphilis. When penicillin became available to cure syphilis in the 1940s, the men were not informed and continued to die and to suffer from the effects of the disease, as well as to infect their wives and children.[14] This could not have happened if the physicians conducting the study followed Hippocratic medical precepts and acted for the benefit of the men in the study. The eugenics mentality that was predominant at the beginning of the study had obviously influenced the researchers to regard their subjects as disposable.

The majority of the American people opposed eugenics policy. But that did not matter. As Edwin Black wrote in *War Against the Weak*,

> The men and women of eugenics wielded the science. They were supported by the best universities in America, endorsed by the brightest thinkers, financed by the richest capitalists. They envisioned millions of America's unfit being rounded up and incarcerated in vast colonies, farms or camps. . . . [Moreover,] murder was always an option.[15]

What many American eugenicists yearned for, Germany eventually implemented in an even more profoundly evil manner in the Holocaust.

Most people believe that the medical horrors of the Holocaust—mandatory sterilization, unethical medical experiments, and euthanasia—were the sole creation of Adolph Hitler and Nazi ideology. However, the path to medical evil was laid by Social Darwinism and eugenics advocacy long before Hitler was even a dark cloud on the German horizon.

The medical horrors of the Holocaust were specifically set in motion in 1920 with the publication of a book titled *Permission to Destroy Life Unworthy of Life*. Its authors were two of the most respected German academics in their respective fields: Karl Binding was a nationally renowned law professor, and Alfred Hoche was a physician and noted humanitarian. *Permission to Destroy Life Unworthy of Life*

was a full-throated assault on the Hippocratic tradition and the sanctity and equality of life by promoting the noxious notion that some humans had greater worth than others. The latter were disparaged as "unworthy" of life, a category that included those with terminal illnesses, the mentally ill, and deformed children.[16]

The authors argued that the people deemed "life unworthy of life" should be allowed to be killed (that is, euthanized). More than that, the authors professionalized and medicalized the entire concept, promoting killing in the circumstance of "life unworthy of life" as "purely a healing treatment" and a "healing work."[17] They justified euthanasia as a splendid way to divert money otherwise spent on caring for unworthy life to other more worthy societal needs. *Permission to Destroy Life Unworthy of Life* was nothing less than a prescription for the medical cleansing of Germany's weakest and most vulnerable citizens, a prescription that would be filled with murderous precision by German doctors between 1939 and 1945.

After the Nazis came to power in Germany, society's belief in the sanctity of human life was constantly undermined by a barrage of propaganda intended to cause the people to view the disabled as a dangerous drain on resources, even as enemies of the state. This theme was repeated in advertisements, booklets, and motion pictures. Eugenics ideas—which the Nazis called "racial hygiene"—had a firm hold in Germany by the mid-1930s. After1933, hundreds of thousands of mandatory sterilizations took place.[18] Binding and Hoche's notions of killing as a "healing" practice became widely accepted as ethical.

Dr. Karl Brandt, who organized Hitler's medical euthanasia program, recognized that before full implementation of the eugenics agenda could commence, the medical profession had to reject the Hippocratic Oath and its precept of loyalty to each individual patient. Between 1933 and 1945, physicians instead took an oath to the health of the nation, known as the *Gezuntheit*, making their service to the German state their primary loyalty.[19]

The stage was now set for the mass murder of hundreds of thousands of disabled people, the opening movement of the Holocaust. S.S. physicians engaged actively in genocide and human medical experimentation. At Auschwitz, doctors helped create "the murderous ecology" of the camp. They performed selections and lethally injected debilitated inmates. Under Dr. Joseph Mengele, they engaged in a sadistic study of twins, dissecting them at autopsy after killing them.

> German physicians in the name of science committed horrible crimes of bodily violation including freezing people to death, depriving them of oxygen at high altitudes, injecting them with tubercle bacilli, and cutting off limbs of prisoners to attempt [tissue] grafting. They perfected the use of Zyklon B for gassing in the concentration camps, supervised the gassings, and helped coordinate the details of body disposal.[20]

Dr. Michael Franzblau, Holocaust expert and Nazi hunter, commented, "Once you breach Hippocratic morality, only bad things can happen."[21]

Doctors and midwives were legally required to report any baby born with a disability, and most enthusiastically complied. Disabled infants became the first to suffer medical cleansing when Hitler signed a secret executive order in early 1939 permitting infanticide based on disability. The order stated, "patients considered incurable according to the best available human judgment of their state of health, can be granted a mercy death."[22]

The infamous T-4 program, named after the address of the German Chancellery "Tiergarten 4," targeted adults with disabilities, including epilepsy, polio, schizophrenia, senility, paralysis, and Huntington's disease. As with the infanticide program, T-4 was officially a secret. Death certificates listed phony causes of death. But such mass murder could not remain secret for long.

Amazingly, some found the courage to resist. Bishop Clemens von Galen forcefully preached against these policies and dared the Gestapo to arrest him, stating that he would meet them in full regalia. Hitler actually rescinded the T-4 program, although not the infanticide directive. Nevertheless, German doctors continued their murderous spree in a freelance process known as "wild euthanasia" until stopped by the Allies at the end of World War II. The final death toll from the eugenics program is estimated to have been about 250,000 people.

After the crematorium fires were finally exposed, a stunned world took stock. How could doctors have participated in such unmitigated evil? Dr. Leo Alexander, the lead medical examiner for the Nuremberg Trials, found the answer. Writing in the *New England Journal of Medicine* in 1949, he warned,

> Whatever proportions these crimes finally assumed, it became evident to all who investigated them that they started from small beginnings, merely a subtle shift in the basic attitudes of physicians. It started with the acceptance of the attitude, basic to the euthanasia movement, that there is such a thing as a life not worthy to be lived. This attitude in its early stages concerned itself merely with the severely and chronically sick. Gradually the sphere of those to be included in this category was enlarged to encompass the socially unproductive, the ideologically unwanted, the racially unwanted, and finally all non-Germans.[23]

Dr. Alexander then issued a prophetic warning,

> In an increasingly utilitarian society these patients [with chronic diseases] are being looked down upon with increasing definiteness as . . . unwanted ballast. A certain amount of rather open contempt for the people who cannot be rehabilitated . . . has developed. This is probably due to a good deal of unconscious hostility, because these people, for whom there seem to be no effective remedies, have

> become a threat to newly acquired delusions of omnipotence. . . . At this point, Americans should remember that the enormity of the euthanasia movement is present in their own midst.[24]

A Revolution in Medicine against the Hippocratic Oath

Some of the world's most prestigious medical journals have, in recent years, led the charge against traditional adherence to the Hippocratic Oath. In a bitter irony, the *New England Journal of Medicine*—which had published Dr. Leo Alexander's 1949 warning that the American health-care system was in danger of being subverted by the euthanasia movement—proved his point by publishing an editorial in 1997 strongly advocating that the Supreme Court uphold the Oregon assisted-suicide law.[25]

As the Christian bioethicist Gilbert Meilaender has written, the Hippocratic Oath commits doctors "to the bodily life of their patients."[26] But in this era of managed care, the growing utilitarian sway of contemporary bioethics increasingly endangers the weakest and most vulnerable among us. Even though the majority of obstetrician-gynecologists do not perform abortions and a tiny minority of physicians participates in physician-assisted suicide, most of the leading bioethics centers, prestigious journals, such as the *New England Journal of Medicine* and *The Lancet*, and powerful foundations advocate these practices. But substituting the Oath's venerable maxims with tepid generalities is precisely the wrong approach. Rather than being an archaic relic, the Oath's "do no harm" approach to medical practice is more important than ever.

Responding to a report from the Netherlands that patients who were assisted with suicide sometimes had terrible symptoms before dying, such as convulsions or extended coma, the *New England Journal of Medicine* published an editorial by Dr. Sherwin Nuland, an internationally prominent physician and bioethicist from Yale University and author of the bestselling book *How We Die*. Nuland, a supporter of euthanasia, proposed a remedy: that doctors be provided "thorough training in [euthanasia] techniques." Incredibly, one of the country's most celebrated doctors urged that instead of refusing to administer deadly drugs upon request, continuing medical education classes should teach doctors how to kill. But what about the Oath? Pay no attention to it, Nuland sniffed, it is no longer relevant. Specifically, he wrote,

> [T]hose who turn to the Oath in an effort to shape or legitimize their ethical viewpoints [against euthanasia], must realize that the statement has been embraced over approximately the past two hundred years far more as a symbol of professional cohesion than for its content. Its pithy sentences cannot be used as all-encompassing maxims to avoid the personal responsibility inherent in the practice of medicine.[27]

For most people, this is a very radical idea. Patients do not blithely dismiss the Hippocratic Oath as if it were merely akin to a secret handshake. In their commonsense understanding, the Oath protects their welfare by making doctors objectively honor bound to always "do no harm." If physicians can ignore the Hippocratic Oath, medicine has ceased to be a profession, and patient safety will depend on the vagaries of each doctor's personal values and beliefs.

Another challenge to Hippocratic ethics is concern about cost. The Hippocratic Oath's admonition to "use my power to help the sick to the best of my ability and judgment" as an imperative to do everything for the patient has resulted in a "perfect storm" of overutilization, according to Ezekiel Emanuel, M.D., White House Special Advisor for Health Policy.[28]

In an article in *The Lancet*, Emanuel described eight different systems for rationing limited medical care, appropriating such principles as sickest first, lottery, save the most, and first come first served. He favored a scheme called "quality-adjusted life years" that would prevent older adults from consuming the costliest medical care, as is the current practice.[29] Emanuel also suggested that in rationing medical care, adults with dementia need not be guaranteed medical coverage because they were "irreversibly prevented from being . . . participating citizens."[30] Emanuel failed to delineate which parties would control who receives the rationed care, however, if the decision were not up to the individual patient and physician.

There is little doubt that many contemporary bioethicists and medical intelligentsia think like Emanuel about rationing medical care or have opinions similar to Nuland's about euthanasia. These opinions are related to the fact that very few doctors take the actual Hippocratic Oath anymore. But there remains the pull of tradition. Many medical schools and professional associations have instituted various watered-down pledges or declarations that are mere shadows of the great document itself.

In table 1 are the Hippocratic Oath and two examples of these revised oaths, one from Cornell Medical School and the other from Loma Linda University. Compare the rich patient-protecting impetus of the original Hippocratic Oath with the mostly nonspecific, bland generalities of the Cornell version. Gone is the proscription against performing abortions—no surprise given the several decades that abortion has been considered a right in this country. But Cornell's oath also cast aside two other crucial patient-protecting affirmations of the Oath: the prohibition against euthanasia and the requirement that doctors avoid sexual relations with their patients. Consider Hippocrates's original words: "Into whatever homes I go, I will enter them for the benefit of the sick, avoiding any voluntary act of impropriety or corruption, including the seduction of women or men, whether they are free men or slaves" (see table 1).

The clear call here is active, requiring doctors never to take advantage of patients in any way, with the example of engaging in sexual relations included to specifically emphasize the point. Now, recall Cornell's oath: "That into whatever house I shall enter, it shall be for the good of the sick. That I will maintain this sacred trust, holding myself far aloof from wrong, from corrupting, from the tempting of others to vice" (see table 1).

This is a far more passive and vague approach. What is deemed to constitute the "good of the patient" will vary from doctor to doctor. Indeed, if a physician believes that a patient's ill health or serious disability makes his or her life not worth living, it would permit *killing* as the prescribed remedy—even if the patient never asked to be killed (a common practice, not by mere coincidence, in the Netherlands nowadays). Besides, what does "tempting others to vice" mean in the context of today's "anything goes" morality?

Another poor substitute for the traditional Oath is the "Christian" physicians' pledge taken by graduates of Loma Linda University. Loma Linda University's pledge states, "I will maintain the utmost respect for human life. I will not use my medical knowledge contrary to the laws of humanity. I will respect the rights and decision of my patients" (see table 1). If respecting human life is a priority, why edit out the explicit promise not to kill? If patient autonomy is paramount, then that would permit voluntary euthanasia and other potentially harmful "treatments," such as amputating the healthy limbs of mentally disturbed patients known as "amputee wannabes."[31]

Of perhaps even greater concern, Loma Linda University's oath adds a clause that could interpose a conflict of interest between doctors and certain of their individual patients: "Acting as a good steward of the resources of society and of the talents granted me, I will endeavor to reflect God's mercy and compassion by caring for the lonely, the poor, the suffering, and those who are dying" (see table 1). Under the Hippocratic medical principles, the doctor's sole loyalty was owed to each patient as an individual. The doctor is not free to give optimal care to one patient but provide a lower standard to another. In contrast, Loma Linda University's version now requires physicians to treat individual patients in the context of a potentially superseding duty to broader society to steward resources—which, in some hands, could be exercised at the direct expense of patients who are the most expensive to care for. Indeed, a fair reading of the Loma Linda University's oath would justify bedside health-care rationing. This is not to say that physicians should not make proper use of resources. But, to prevent discrimination and abuse, a doctor's first duty must be to the individual patient, not to society. As history has shown, placing a dual mandate on the doctor, as Loma Linda University's oath appears to do, is dangerous precisely because resource management could trump the health, welfare, and even the lives of the sickest patients.

The Need for Conscience Clauses

The mores of society changed dramatically in the last several decades. But this did not mean that all physicians changed their ethics to comport with modern sensibilities. Physicians who do not wish to perform abortions are still not required to do so. The assisted suicide laws of Oregon and Washington protect physicians from sanction whether they decide to participate in assisted suicide or refuse.[32]

In recent years, advocates and politicians have begun trying to force health-care providers to violate Hippocratic ethics. For example, in 2005, former Illinois Governor Rod Blagojevich ordered all pharmacists to fill all legal prescriptions including the emergency contraception Plan B, and Washington's Governor Christine Gregoire issued a similar rule. These and other cases have resulted in litigation. How better it would be for all—doctors, patients, and society—if the law protected the rights of conscience.

Unfortunately, as what some call the "culture of death" has advanced, tolerance for heterodox views in the medical professions has waned. On July 1, 2002, New York City Mayor Michael R. Bloomberg instituted regulations that changed abortion training for obstetrics and gynecology residents in the city's public hospitals, from an elective to a required course (but allowed an exemption for physicians with a religious or moral opposition to abortion). Yet that forbearance is showing signs of disintegration. In the state of Victoria, Australia, a woman can abort through her ninth month. If she requests an abortion from her physician, the physician must either perform the procedure or refer her to another practitioner who the objecting doctor believes has no compunction against abortion. This law means that every doctor in Victoria could be legally coerced into violating the letter and spirit of the Hippocratic Oath.[33]

The U.S. does not have such a draconian mandate—yet. However, there have already been attempts to compel physicians to participate in anti-Hippocratic actions, primarily in California. For example, a bill (SB 374) was introduced in 2009 in the California Senate, which if passed would require doctors with a moral objection to abortion to refer abortion-seeking women to physicians willing to perform the procedure.[34]

The purpose of such legislation was not to ensure that women know that they have the right to an abortion. Rather, its coercive purposes are (at least) threefold: first, to control thinking; second, to drive Hippocratic professionals out of medicine and sweep aside the penetrating message sent by their noncooperation in killing in the medical context; and third, to win an important battle primarily about the symbolism that a victory achieved over dissenters would send to medical professionals and the society alike.

In 2008, two California legislators who had previously cosponsored bills to legalize assisted suicide, attempted to legalize *terminal*

sedation in California with bill AB 2747. Terminal sedation involves placing a patient into an artificial coma and withholding food and fluids so that the patient dehydrates to death. This should not be confused with *palliative sedation*, properly defined, in which a patient at the end of life, suffering from severe agitation or pain, is sedated into unconsciousness until death comes from the underlying disease. As originally written, AB 2747 would have required physicians to terminally sedate dying patients—defined broadly as having one year or less to live—virtually on demand.[35]

Some politicized medical associations seek to force physicians into medical practices to which they object. The American College of Obstetricians and Gynecologists (ACOG), the professional organization for U.S. obstetricians and gynecologists, issued a committee opinion in 2007 that was the most drastic challenge to conscience rights in this specialty to date. Committee Opinion 385 stated that providers who "deviate from standard practices" (including abortion) have a duty to refer patients for elective abortions or practice in close proximity to providers who perform abortions.[36] The American College of Obstetricians and Gynecologists termed abortions "standard practice," even though the majority of obstetrician-gynecologists do not perform abortions. This unbalanced document placed a patient's autonomy as the dominant principle, regarding physician conscience as a merely private concern. It failed to recognize that Hippocratic ethics are the very core of professional commitment.

Conscience is an essential component of religious belief and practice. It was recognized as such by framers of the U.S. Constitution and can be considered to be embedded in the First Amendment, in the provision guaranteeing free exercise of religion. Initial drafts of the Bill of Rights were even more explicit in the guarantee of rights of conscience.

However, concern over possible threats to conscience for health-care providers has led to legislation in addition to constitutional protections. An array of legislation in forty-five U.S. states protect nurses, physicians, medical students, and others from being compelled to participate in abortion and other medical procedures. The Church Amendments were passed immediately after *Roe v. Wade* to prevent providers from being forced to participate in objectionable procedures such as abortion. The Public Health Service Act ties federal funding to nondiscrimination against individuals and institutions declining to perform abortions, as do the Hyde-Weldon Amendments.[37]

In spite of existing legislation, it is clear that discrimination against Hippocratic physicians exists. In one study conducted by the Christian Medical Association, forty percent of their members have felt pressures to compromise their convictions and nearly one-fourth have lost their job, suffered losses in compensation or been denied promotions because of their beliefs.[38] In direct response to the aforementioned ACOG Committee Opinion 385, and because the current conscience legislation

was not sufficiently known or acknowledged, in December 2008 during the last days of the Bush Administration, the Department of Health and Human Services promulgated an additional conscience rule. This Provider Conscience Regulation, clarifying previous laws, prevented health-care facilities and other entities from discriminating against individuals and institutions that refuse to participate in procedures such as abortion or assisted suicide because of religious or moral belief.[39]

In an age of "tolerance" and "diversity," this would not seem an onerous regulation. But the culture is transforming medicine from a profession into an order-taking consumer service. Accordingly, the medical intelligentsia and media declared war on the Bush conscience clause. Thus, a commentary in the *New England Journal of Medicine* asserted,

> Health-care providers already enjoy broad rights—perhaps too broad—to follow their guiding moral or religious tenets when it comes to sterilization and abortion. . . . Federal laws may make room for the rights of conscience, but health-care providers—and all those whose jobs affect patient care—should cast off the cloak of conscience when patients' needs demand it. Because the Bush Administration's rule moves us in the opposite direction, it should be rescinded.[40]

But there is a difference between patient "needs"—such as requiring a procedure to save a life—and a "desire," such as an elective abortion. Casting aside the conscience rights of medical professionals would transform virtuous medical professionals with Hippocratic ethics into mere technicians.

Other groups, in addition to the editorial board of the *New England Journal of Medicine*, reject the Hippocratic tradition and conscience clauses as out of date. Reproductive rights organizations such as the Abortion Access Project regard the provision of abortion as an overarching principle and argue that physicians and nurses with conscientious objections should not be in women's health care at all. The influential law professor and bioethicist Alta Charo wrote an insulting article quoting George Washington's admonition to "labor to keep alive in your breast that little spark of celestial fire called conscience." She denigrated the desire of health providers to practice according to their consciences as unprofessional, ignoring the fact that Hippocratic precepts have defined professionalism for two thousand years.[41]

Forcing physicians to perform procedures to which they object is not the only problem. Some recent laws and proposals would require physicians to be complicit in an abortion or assisted suicide, even if they did not perform it themselves. These laws, such as the Victoria, Australia, abortion license, require physicians who do not wish to perform these procedures to refer their patient to a different physician who they know will be willing. In essence, such referral requirements make the original physician complicit in the objectionable act.

As recently as 2009, it is clear the American public believes that health-care professionals should not be forced to participate in any procedures they find morally objectionable.[42] The majority of patients want their health-care providers to share their moral convictions. The trade-off of abandoning rights of conscience will have disastrous effects leading to the dilution of a healing and lifesaving medical profession. Fewer people will want to enter the field. It will be harder to find a health-care provider who shares your moral views. The assault on the conscience rights of Hippocratic physicians was even more bluntly stated in the media. An editorial in the *St. Louis Post Dispatch* asserted, "Doctors, nurses, and pharmacists choose professions that put patients' rights first. If they foresee that priority becoming problematic for them, they should choose another profession."[43] Obviously, the gauntlet has been thrown: pro-life health-care professionals are under attack.

Two rulings in 2010 and 2011 affirmed conscience protections for health professionals. The Council of Europe in Strasbourg passed a resolution in October 2010 that strongly affirmed conscience protections for physicians.[44] In April 2011, in *Morr-Fitz v. Blagojevich*, an Illinois circuit court affirmed that pharmacists had the right to refuse to dispense emergency contraception based on Illinois laws protecting freedom of religion and the U.S. Constitution.[45] But in February 2011, the Obama Administration struck a blow against conscience rights, partially rescinding the 2008 Bush conscience law. It made it clear that the conscience regulations apply to only abortion and sterilization, but not to other procedures. Additionally, a regulation that health-care entities certify compliance with the regulation was removed.[46] We can anticipate only more erratic rulings from professional organizations and legal entities as the battle to preserve health-care provider right of conscience continues. Clearly, Hippocratic medical providers need conscience clauses in order to survive.

How Should Conscience Clauses Be Written?

Some general principles should apply to the important effort of drafting conscience clauses:

1. *Conscience clauses should be legally binding*. For conscience clauses to be protective, they need to be legally binding and enforceable. Thus, they need to be formally drafted and passed into law or regulation by government entities. By doing so, potential conflicts would be avoided because all health-care professionals, hospitals, and other medical facilities, as well as patients, will know the parameters of medical rights of conscience.
2. *Health-care professionals should let their patients know whether or not they practice under Hippocratic ideals*. Patients have a right to know whether their medical professionals will—

or will not—perform life-destroying services such as abortion or assisted suicide. That is the best way to avoid conflicts between patients and their doctors.

3. *No medical professional should ever be forced to take a human life*. This is a fundamental tenet of conscience protection.
4. *Conscience rights should apply to elective and semi-elective treatments*. If a procedure is not absolutely required to save or extend the life of a patient, the rights of conscience should apply.
5. *Conscience clauses should protect only health-care professionals*. They are intended as protectors of professional ethics. Thus, their scope should be restricted to licensed professionals and not everyone who works in health care (such as suppliers, receptionists, and drivers).

Conclusion

The sanctity of human life ethic no longer holds universal moral sway in contemporary society. In such a cultural milieu, medical professionals who still adhere to traditional do-no-harm Hippocratic values must be protected to ensure that they are not driven out of medicine altogether. The best way to protect them is the conscience clause.

But conscience clauses are capable of much more than "just" protecting the careers of doctors and other health-care professionals. They also communicate to members of society that human life has intrinsic and immeasurable value. As stated in a recent bioethics publication,

> Doctors, nurses, and other medical professionals who refuse to participate in life-terminating procedures send a clarion message to society that killing in the medical context is morally wrong. By protecting the conscience rights of these courageous professionals, we also protect the weak and vulnerable who are increasingly threatened by the growing influence of utilitarian bioethics.[47]

Conscience clauses are important. They promote freedom. They protect patients. They allow conscientious medical professionals to uphold the venerable ethics of medicine that have guided the field for thousands of years.

Physicians have traditionally had their patients' best interests at heart. They have been able to collaborate with their patients in determining a course of treatment. This has become more difficult today because of the profound difference in moral beliefs among the population, including patients and doctors. Interference of third-party payers has also added to the problem. These difficulties could become much worse should the heavy hand of government interfere in physician-patient relationships. Only when physicians are free to determine the scope of their medical practice according to their individual conscience can patients be confident that their best interests will be served. With the specter of limited budgets for health care, increased legalization of physician-assisted

suicide, aggressive promotion of voluntary refusal of expensive therapies, and the prospect of health-care rationing on the horizon, lifesaving care for any individual may be at risk. The conscience of the health-care provider may be the final protection of a vulnerable individual.

Dedicated medical professionals hope that the public will support properly drafted conscience clauses for physicians and other medical professionals. There must continue to be a place in health care for those who believe in the principles of the traditional Hippocratic Oath. Driving such life affirming caregivers out of the health professions would be exceedingly dangerous not only to the weak and vulnerable, but also to all members of society.

Notes

[1] See Eduard Verhagen and Pieter J.J. Sauer, "The Groningen Protocol—Euthanasia in Severely Ill Newborns," *New England Journal of Medicine* 352 (2005): 959–962.

[2] See John H. Evans, "Between Technocracy and Democratic Legitimation: A Proposed Compromise Position for Common Morality Public Bioethics," *Journal of Medicine and Philosophy* 31 (2006): 213–234; Nick Bostrom and Julian Savulescu, *Human Enhancement* (Oxford: Oxford University Press, 2009); Gregory Stock, *Redesigning Humans: Our Inevitable Genetic Future* (New York: Houghton Mifflin, 2002).

[3] Nigel Cameron, *The New Medicine: Life and Death After Hippocrates* (Chicago: The Bioethics Press, 2002), 41–42.

[4] Cited in Maurice Levine, *Psychiatry and Ethics* (New York: George Braziller, 1972), 324–325.

[5] C.W. Hufeland, "Die Verhältnisse des Ärzes," *Journal der praktischen Ärzneyleunde und Wundärzneykunst* 23 (1806), 15–16, quoted in M. Burleigh, *Death and Deliverance: "Euthanasia" in Germany, 1900–1945* (Cambridge: Cambridge University Press, 1994), 12, emphasis added.

[6] Daniel V. Kelves, *In the Name of Eugenics: Genetics and the Uses of Human Heredity* (Cambridge: Harvard University Press, 1985), 4.

[7] Ibid., xii.

[8] Ibid., 10.

[9] Edwin Black, *War Against the Weak: Eugenics and America's Campaign to Create a Master Race* (New York: Four Walls, Eight Windows, 2003), 63.

[10] *Buck v. Bell*, 274 U.S. 200 (1927), 207.

[11] Kelves, *In the Name of Eugenics*, 110.

[12] *Detroit News*, "Three Generations of Imbeciles in Enough," editorial, December 16, 1992.

[13] American Society of Human Genetics, board of directors, "Eugenics and the Misuse of Genetic Information to Restrict Reproductive Freedom," statement, October 1998.

[14] James Jones, *Bad Blood: The Tuskegee Syphilis Experiment* (New York: Free Press, 1981).

[15] Black, *War Against the Weak*, 107, 247.

[16] Karl Binding and Alfred Hoche, "Permitting the Destruction of Life Unworthy of Life: Its Extent and Form," *Issues in Law and Medicine* 8 (1992): 231–265. Originally published as *Die Freigabeder Vernichtung Lebensunwerten Leben* (Leipzig, Germany: Felix MeinerVerlag, 1920).

[17] Robert Jay Lifton, *The Nazi Doctors: Medical Killing and the Psychology of Genocide* (New York: Basic Books, 1986), 46.

[18] H. Bruinius, *Better for All the World: The Secret History of Forced Sterilization and America's Quest for Racial Purity* (New York: Alfred A. Knopf, 2006), 273.

[19] Wesley J. Smith, *Culture of Death: The Assault on Medical Ethics in America* (New York: Encounter Books, 2001), 41.

[20] Lifton, *The Nazi Doctors,* 63.

[21] Smith, *Culture of Death,* 44.

[22] Lifton, *The Nazi Doctors,* 63.

[23] Leo Alexander, "Medical Science Under Dictatorship," *New England Journal of Medicine* 241 (1949): 9–10.

[24] Ibid., 11.

[25] Marcia Angell, "The Supreme Court and Physician Assisted Suicide: The Ultimate Right," *New England Journal of Medicine* 336 (1997): 50–53.

[26] Meilaender, *Body, Soul, and Bioethics* (Notre Dame, IN: University of Notre Dame Press, 2002), 5, quoted in Smith, *Culture of Death,* 19.

[27] Sherwin B. Nuland, "Physician-Assisted Suicide and Euthanasia in Practice," *New England Journal of Medicine* 342 (2000): 583–584.

[28] Ezekiel Emanuel, "The Perfect Storm of Overutilization," *Journal of the American Medical Association* 299 (2008): 2789–2791.

[29] G. Persad, A. Wertheimer, and E.J. Emanuel, "Principles for Allocation of Scarce Medical Interventions," *Lancet* 373 (2009): 423–431.

[30] E.J. Emanuel, "Where Civic Republicanism and Deliberative Democracy Meet," *Hastings Center Report* 26 (November–December 1996): 12–14.

[31] Wesley J. Smith, "Should Doctors Amputate Healthy Limbs for Patients Who Want to be Amputees?" *First Things* (May 5, 2009).

[32] See Oregon's ORS 127.885 s.4.01 (4); Washington's RCW 70.245.190 (b) and (d).

[33] *Abortion Law Reform Act,* Victoria, Australia, 2008, www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/f932b66241ecf1b7ca256e92000e23be/BB2C8223617EB6A8CA2574EA001C130A/$FILE/08-58a.pdf.

[34] California State Senate, SB 374, 2009, http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0351-0400/sb_374_bill_20090226_introduced.pdf.

[35] Proposed text of AB 2747, California State Assembly, 2008, http://www.leginfo.ca.gov/pub/07-08/bill/asm/ab_2701-2750/ab_2747_bill_20080515_amended_asm_v95.html.

[36] American College of Obstetricians and Gynecologists, "The Limits of Conscientious Refusal in Reproductive Medicine," *Committee Opinion* 385 (November 2007), http://www.acog.org/~/media/Committee%20Opinions/Committee%20on%20Ethics/co385.pdf?dmc=1&ts=20120627T1044277608.

[37] For a good summary of statutory federal conference protections, see Department of Health and Human Services, "Overview of Federal Statutory Health Care Provider Conscience Protections," http://www.hhs.gov/ocr/civilrights/faq/providerconsciencefaq.html.

[38] Online survey of faith based health professionals, WomanTrend, for Christian Medical Society, 2009, "Why Was the HHS Conscience-Protecting Regulation Necessary?" http://www.freedom2care.org/learn/page/faq-why-was-the-hhs-conscience-protecting-regulation-necessary.

[39] "Title 45: Public Welfare," 45 CFR 88.4, "Requirements and Prohibitions," *Code of Federal Regulations,* http://www.gpo.gov/fdsys/pkg/CFR-2010-title45-vol1/pdf/CFR-2010-title45-vol1-sec88-4.pdf: "Entities to whom this paragraph (d) applies shall not: (1) Require any individual to perform or assist in the performance of any part of a health service program or research activity funded by the Department if such service or activity would be contrary to his religious beliefs or moral convictions. (2) Discriminate in the employment, promotion, termination, or the extension of staff or other privileges to any physician or other health-care personnel because he performed or assisted in the performance, refused to perform, or refused to assist in the performance of any lawful health service or research activity on the grounds that his performance or assistance in performance of such service or activity would be contrary to his religious beliefs or moral convictions, or because of the religious beliefs or moral convictions concerning such activity themselves."

[40] J.D. Cantor, "Conscientious Objection Gone Awry—Restoring Selfless Professionalism in Medicine," *New England Journal of Medicine* 360 (2009): 1484–1485.

[41] R. Alta Charo, "The Celestial Fire of Conscience: Refusing to Deliver Medical Care," *New England Journal of Medicine* 352 (2005): 2471.

[42] The Polling Company, "Conscience Rights Polling," April 8, 2009, http://freedom2care.org/docLib/20090407_090408SurveyPressPacket.pdf.

[43] St. Louis Post Dispatch, "The Unconscionable Conscience Rule," editorial, December 23, 2008.

[44] Terrence McKeegan, "Historic Turnaround in Europe Preserves Conscience Rights," Catholic Family & Human Rights Institute *Friday Fax* 13 (October 14, 2010), http://www.c-fam.org/fridayfax/volume-13/historic-turnaround-in-europe-preserves-conscience-rights.html.

[45] Wesley Smith, "Illinois Court Protects Pharmacists' Conscience Opposition to Contraception Under First Amendment," *First Things Online, Secondhand Smoke* blog (April 5, 2011), http://www.firstthings.com/blogs/secondhandsmoke/2011/

04/05/illinois-court-protects-pharmacists-opposition-to-contraception-under-first-amendment/.

[46] Michael J. New, "Obama Administration Rescinds Bush Conscience Regulations," *National Review Online, The Corner* blog (February 21, 2011), http://www.nationalreview.com/corner/260270/obama-administration-rescinds-bush-conscience-regulations-michael-j-new.

[47] Wesley J. Smith, "Protecting the Careers of Medical Professionals Who Believe in the Hippocratic Oath," *Center for Bioethics and Culture Network Newsletter* (May 27, 2009).