

Module 7

Case 7.2: Physician Activism—Doctors Go on Strike

Case Presentation

Dr. Alex Nelson is an internist at a large private urban hospital. He is one of the more junior members of the practice, having finished his residency training only 2 years before.

Malpractice insurance premiums for Dr. Nelson and other physicians in the area have skyrocketed over the last couple of years. The situation has become so serious that his more senior colleagues ask him why he stayed in the area to practice after residency. Some of them say that they are considering retiring or finding other practice opportunities in another state. Not only can they not generate comfortable incomes after paying for malpractice premiums, they say, but they are also beginning to have trouble finding companies that will offer them any coverage at all.

Local physicians—including many of Dr. Nelson's colleagues—recently held a rally at the state capitol to draw attention to the situation in the hopes that legislators would take action to make malpractice insurance more affordable in the state. They have also lobbied their federal congressmen through professional associations. Despite their efforts, legislation to address the growing crisis remains stalled.

Frustrated by the lack of action on the part of policymakers, Dr. Nelson's colleagues decide that more drastic measures are needed. Specifically, they decide to plan a work stoppage. Based on physician work stoppages in other states, they decide to set aside one day on which only physicians who provide emergency care will work. They think this will draw more attention to the issue and force the legislators to move on the stalled bill. They plan the work stoppage for the following Monday and will hold another rally and a press conference on the same day.

Dr. Nelson is not quite sure how he feels about the issue. On one hand, he knows that the malpractice insurance crisis is real and appears to be worsening. He also knows that legislators might not realize how serious the situation has become. On the other hand, he isn't sure whether these tactics are ethical. How, he wonders, can physicians advocate for sustained access to care by denying care?

Still undecided about the planned work stoppage, Dr. Nelson is approached by his most senior colleague a few days before the planned stoppage. "So Alex, we'll see you down at the rally on Monday?"

What should Dr. Nelson do about the work stoppage? (select option)

- A. [Offer to be one of the physicians who provides emergency care on the day of the work stoppage.](#)
- B. [Agree to participate in the rally as a way of showing solidarity with his colleagues though he thinks the action they are taking is unethical.](#)
- C. [Refuse to attend the rally stating to his colleagues that he will maintain his regular schedule on the day of the work stoppage.](#)
- D. [Attempt to convince his colleagues that the ethics of the profession will be compromised if they hold a work stoppage.](#)

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Option Assessment

- A. Choosing to provide emergency care on a day when fewer doctors will be available is an **acceptable** option for Dr. Nelson. Emergency situations make demands on the profession that override individual physicians' rights and freedoms.
- B. Agreeing to participate in the rally as a way of showing solidarity with his colleagues though he thinks the action they are taking is unethical should be **avoided**.
- C. Maintaining his regular schedule in spite of the decision of his colleagues, even if it means handling the office himself, is the **preferred** course of action. Opinion 9.025, "Collective Action and Patient Advocacy" of the *Code* states, "Strikes and other collective action may reduce access to care, eliminate or delay necessary care, and interfere with continuity of care. Each of these consequences raises ethical concerns. Physicians should refrain from the use of the strike as a bargaining tactic. In rare circumstances, individual or grassroots actions, such as brief limitations of personal availability, may be appropriate as a means of calling attention to needed changes in patient care."
- D. Further discussions with his partners about the possible gains and potential consequences of a work stoppage are **acceptable**. Opinion 9.025, "Collective Action and Patient Advocacy" recognizes that "physicians may participate in individual acts, grass roots activities, or legally permissible collective action to advocate for change, as provided for in the AMA's *Principles of Medical Ethics*." Opinion 9.025 goes on to admonish physicians that "whenever engaging in advocacy efforts, physicians must ensure that the health of patients is not jeopardized and that patient care is not compromised." In addition, it warns that "some actions may put them or their organizations at risk of violating antitrust laws. Consultation with legal counsel is advised."

[Compare these options](#)

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Option Comparison

Option C—continuing to see patients—is the preferred option because the *Code* urges physicians not to use strikes as bargaining tactics. Option A—choosing to provide emergency care—is acceptable because it maintains the integrity of the physician who disagrees with the tactic. On the other hand, Dr. Nelson's disagreement with his colleagues' tactics does not necessarily imply disagreement with their cause. Maintaining on-going discussions about tactics and appropriate actions, as in option D, is always acceptable. Option B—being coerced to engage in these actions—especially by senior partners—should be avoided. Opinion 9.025, "Collective Action and Patient Advocacy" emphasizes that "physician participation should be voluntary and free from undue pressure by colleagues." Physicians are not only expected to respect patients, but are to offer the same respect to other physicians and health care providers.

Preferable: Option C

Acceptable: Options A and D

Avoided: Option B

[Additional discussion and information](#)

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Additional Information

The ethical principle which requires "respect for the law and a responsibility to seek change when existing law may be contrary to the best interests of the patient" supports responsible advocacy on the part of physicians. Drawing the public's attention to complex health care issues involves decisions regarding what tactics will be the most effective means of communication. As frustrations rise from the lack of response to traditional actions—letter writing campaigns, telephone calls to legislators, use of lobbyists, etc.—calls for more radical approaches may become more prevalent.

In the area of health care, calls for work stoppages create conflicts of interest. One interest—"patient advocacy"—the presumed underlying reason for legislative changes—conflicts with another interest—continuity of patient care. Engaging in advocacy such that needed care is still provided may raise important issues in a constructive way without neglecting physician obligations. For example, elective or screening procedures may be briefly postponed without patient harm or abandonment. Due diligence in ensuring continuity of care and emergent care for patients must be carefully balanced with the aims of advocacy.

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