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AMA CODE SAYS

Right to Choose Patients and Duty Not to Neglect

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The AMA *Code of Medical Ethics* currently has 2 opinions that relate to initiating and terminating the patient-physician relationship. Opinion 8.11 entitled 'Neglect of Patient' actually begins by acknowledging that physicians are free to choose whom they will serve. It then states that physicians should respond to the best of their ability in emergencies and that, "once having undertaken a case, the physician should not neglect the patient." Opinion 8.115, 'Termination of the Physician-Patient Relationship,' grants that physicians have the option to withdraw from the relationship, but may do so only after "giving notice to the patient, the relatives, or responsible friends sufficiently long in advance of withdrawal to permit another physician to be secured."

These 2 notions—that physicians can choose whom to serve and can terminate the relationship—first entered the *Code* in 1912, 65 years into its history. Prior to that, the *Code* warned only—and eloquently—against abandoning patients. The first *Code*, written at the time of the association's founding in 1847, put it this way:

A physician ought not to abandon a patient because the case is deemed incurable; for his attendance may continue to be highly useful to the patient, and comforting to the relatives around him, even to the last period of a fatal malady, by alleviating pain and other symptoms, and by soothing mental anguish. To decline attendance, under such circumstances, would be sacrificing to fanciful delicacy and mistaken liberality, that moral duty, which is independent of, and far superior to all pecuniary consideration¹.

In discussing non-abandonment only in relation to patients with incurable conditions, the *Code* followed the age-old Hippocratic standards for physician conduct. It is possible that the Hippocratic proscription on abandonment was necessary because physicians, eager to protect their reputations as healers, might avoid patients who were hopelessly ill. There is clear concern in Hippocrates, says Dr. Edmund Pellegrino, for the physician's reputation if the patient were to die². The *Code's* mention of "pecuniary consideration" lends credence to the interpretation that, even in 1847, physicians might fear the consequences that losing a patient could have on their reputation and future case load (Dr. Pellegrino adds that the Hippocratic concern for reputation may have been a warning to prognosticate accurately.)

In any case, the warning remained about the same when the *Code* was revised in 1903. The second sentence with its flowery appeal to moral duty was deleted; the

"physician " in the first sentence became "the medical attendant," and the item gained a title: "Incurable Cases Not To Be Neglected."

When the *Code* was next revised in 1912, a new concept entered the discussion of patient non-abandonment. Now titled "Patients Must Not Be Neglected," the principle introduced the idea that, except in emergency situations, the physician is "free to choose whom he will serve"³. The paragraph then goes on to say that, "once having undertaken a case, the physician should not abandon or neglect the patient because the disease is deemed incurable." The paragraph ends by pointing out the responsibility that is complementary to the freedom of choice just granted: once having undertaken a case, the physician should not withdraw for any reason "until a sufficient notice of a desire to be released has been given the patient or his friends to make it possible for them to secure another medical attendant"³.

Two changes are notable here. First, there is recognition that physicians might wish to sever relationships with patients for reasons other than the patient's incurable illness. The second notion, that physicians have the freedom to choose their patients, except in cases of emergency need, is elaborated upon in a small pamphlet published by the AMA in 1936 entitled *Economics and the Ethics of Medicine*⁴. Physicians' right to choose patients, the pamphlet explains, is merely the counterpart to the patients' right to choose their physicians. Moreover, this right sets physicians apart from the economic and legal class of the "'common carrier,' such as a railroad or an express company."

In the major revision of 1957, the *Code's* 8 chapters with their 48 sections were replaced by 10 principles that summarized the fundamental concepts of the earlier *Code* but omitted the time-sensitive specifics that could easily become outdated. In the 1957 principles, the choice to treat / non-abandonment topic became principle number 5:

A physician may choose whom he will serve. In an emergency, however, he should render service to the best of his ability. Having undertaken the care of a patient, he may not neglect him; and unless he has been discharged he may discontinue his services only after giving adequate notice. He should not solicit patients⁵.

Incurable disease had disappeared altogether as a reason for neglecting patients. (The prohibition on soliciting patients that was tacked on to principle 5 had a former life as a stand-alone section entitled "Advertising." The section condemned solicitation of patients as unethical. "Self laudations defy the traditions and lower the moral standard of the medical profession: they are an infraction of good taste and are disapproved"⁶. By 1966, the topic of advertising had been restored to a section of its own.) The language of patient non-abandonment remained unaltered (though its title changed from "Patient Must Not Be Neglected" to "Neglect of Patient" until 1996 when the Council for Ethical and Judicial Affairs decided to split the opinion into 2: "Neglect of Patient" and "Termination of the Physician-Patient Relationship," which is how the *Code* reads today."

References

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