

Conscientious Objection

Conscientious objection has always been a challenging topic in clinical practice. Many doctors may be unaware as to what constitutes a conscientious objection. Deeply held religious and personal beliefs may conflict with some aspects of medical practice; however, doctors cannot make moral judgements on behalf of their patients. Such clinical scenarios may include termination of pregnancy, requests for contraception or fertility treatment. The introduction of the *Health (Regulation of Termination of Pregnancy) Act 2018* highlighted the need for clarity in this area. This factsheet is aimed at highlighting the key issues surrounding conscientious objection and providing practical guidance to ensure that the care needs of patients are met, whilst respecting an individual doctor's ethical or moral beliefs.

Meeting the needs of patients

All doctors should be aware of their ethical obligations as set out in the Medical Council's *Guide to Professional Conduct and Ethics for Registered Medical Practitioners 9th Edition 2024*; available on the Medical Council website.

Doctors have a professional duty to act in the best interests of their patients. As a doctor you should be aware that a patient may be in a position of vulnerability and you will need to act appropriately to ensure they are given access to treatment or services that they require. The Medical Council provides clear guidance on meeting patients' needs where a conscientious objection arises. Paragraph 42 of the Guide provides:-

You may refuse to provide, or to participate in carrying out, a lawful procedure, treatment or form of care which conflicts with your moral values, subject to compliance with the guidance set out below.

42.1 If you have a conscientious objection to providing or participating in a lawful procedure, treatment or form of care, you must:

- *Inform your employer, colleagues and the patient as soon as possible.*
- *Inform the patient that they have a right to seek the lawful procedure, treatment or form of care from another doctor.*
- *Give the patient enough information to enable them to transfer to another doctor to obtain the required treatment.*
- *Make such arrangements as may be necessary to enable the patient to obtain the required treatment (see transfer of care).*
- *Not mislead or obstruct a patient's access to the lawful procedure, treatment or form of care based on your conscientious objection.*

When arranging transfer of care to another clinician the Guide states:

42.2 In referring a patient and/or facilitating their transfer of care, you must make sure that this is done in a safe, effective, and timely manner.

42.3 When discussing the referral and/or transfer of care with the patient, you must be sensitive and respectful to minimise any distress your decision may cause the patient. In an emergency situation, you must provide the care and treatment your patient needs.

42.4 You must provide care, support and follow-up for patients who have had a lawful procedure, treatment or form of care to which you have a conscientious objection.

Practical tips - disclosing conscientious objection

As set out in the Guide, doctors who hold a conscientious objection to providing or participating in a lawful procedure **must inform their employer, colleagues and the patient as soon as possible**. The term “you must” is used where there is an absolute duty on you to comply with the guidance that follows.

The following points may be of assistance when considering the timing of a disclosure by a doctor of their sincerely held belief:-

1. Informing patients:

- A conscientious objection may arise when a patient requests a particular treatment; in such instances the doctor must inform the patient of their sincerely held ethical or moral view and proceed to refer the patient to another healthcare professional to ensure the patient's care needs are met. It is important to ensure that the patient has sufficient understanding of the reasons for the transfer of their care for this particular medical need. It is also important to carefully document this discussion with the patient.

2. Informing colleagues:

- A doctor may be aware of the ethos of a practice and it may be necessary to inform colleagues in the practice regarding any sincerely held ethical or moral values in order to ensure adequate staffing levels to meet patients' care needs.
- The introduction of *Health (Regulation of Termination of Pregnancy) Act 2018* has led to open discussions regarding conscientious objection and clinicians are advised that they must disclose their views to their colleagues in confidence, as per paragraph 42 of the Guide.

3. Informing employer:

- Employers and employees should consider any possible employment law implications that may arise and any discussions/advices that may be necessary as a result of disclosing a conscientious objection.

If you have any specific queries in relation to conscientious objection, please contact a member of the Medisec team to discuss further.

The contents of this publication are indicative of current developments and contain guidance on general medico legal queries. It does not constitute and should not be relied upon as definitive legal, clinical or other advice and if you have any specific queries, please contact Medisec for advice.

Medisec Ireland CLG is a private company, limited by guarantee, having its registered office at 7 Hatch Street Lower, Dublin 2. Registration No. 216570. Medisec Ireland CLG (trading as Medisec Ireland) is regulated by the Central Bank of Ireland. Medisec's risk, education and medico-legal advisory services are not regulated by the Central Bank of Ireland.

January 2024