



Version provisoire

Women's access to lawful medical care: the problem of unregulated use of conscientious objection

Draft report

Social, Health and Family Affairs Committee

Rapporteur: Ms Christine McCAFFERTY, United Kingdom, SOC

A. Draft resolution

1. The practice of conscientious objection arises in the field of health care when healthcare providers refuse to provide certain health services based on religious, moral or philosophical objections. While recognising the right of an individual to conscientiously object to performing a certain medical procedure, the Parliamentary Assembly is deeply concerned about the increasing and largely unregulated occurrence of this practice, especially in the field of reproductive health care, in many Council of Europe member states.

2. The Assembly emphasizes the need to balance the right of conscientious objection of an individual not to perform a certain medical procedure with the responsibility of the profession and the right of each patient to access lawful medical care in a timely manner. The Assembly is concerned that the unregulated use of conscientious objection disproportionately affects women, notably those having low incomes or living in rural areas.

3. In the majority of Council of Europe member states, the practice of conscientious objection is inadequately regulated or largely unregulated. A comprehensive and clear legal and policy framework governing the practice of conscientious objection by healthcare providers, coupled with an effective oversight and complaint mechanism, would have the potential to ensure that the interests and rights of both healthcare providers and individuals seeking legal medical services are respected, protected, and fulfilled.

4. In view of member states' obligation to ensure access to lawful medical care and to protect the right to health, as well as the obligation to ensure respect for the right of freedom of thought, conscience and religion of individual healthcare providers, the Assembly invites member states to:

4.1. develop comprehensive and clear regulations that define and regulate conscientious objection with regard to health and medical services, including reproductive health services, which:

4.1.1. guarantee the right to conscientious objection only to individual healthcare providers directly involved in the performance of the procedure in question, and not to public/ state institutions such as public hospitals and clinics as a whole;

4.1.2. oblige the healthcare provider to:

4.1.2.1. provide information to patients about all treatment options available (regardless of whether such information may induce the patient to pursue treatment to which the healthcare provider objects);

4.1.2.2. inform the patient in a timely manner of any conscientious objection to a procedure, and to refer patients to another healthcare provider in that case,

4.1.2.3. ensure that the patient receives appropriate treatment from the healthcare provider to whom he or she has been referred;

4.1.3. oblige the healthcare provider to provide the desired treatment to which the patient is legally entitled despite his or her conscientious objection in cases of emergency (notably danger to the patient's health or life), or when referral to another healthcare provider is not possible (in particular when there is no equivalent practitioner within reasonable distance).

4.2. provide oversight and monitoring, including an effective complaint mechanism, of the practice of conscientious objection so as to ensure everyone, but particularly women, have access to an effective and timely remedy, and to guarantee the effective implementation and enforcement of these regulations within member states' respective health services.

B. Draft recommendation

1. The Parliamentary Assembly refers to its Resolution No. ... (2010) on "Women's access to lawful medical care: the problem of unregulated use of conscientious objection" and Resolution 1607 (2008) on "Access to safe and legal abortion in Europe".

2. The Assembly is deeply concerned about the increasing and largely unregulated occurrence of conscientious objection, especially in the field of reproductive health care, which poses an obstacle to women's access to lawful medical care in many Council of Europe member states.

3. The Assembly believes that the right of conscientious objection of an individual not to perform a certain medical procedure must be balanced with the responsibility of the profession and the right of each patient to access lawful medical care in a timely manner.

4. Thus, the Assembly recommends that the Committee of Ministers:

4.1. invite member states to develop comprehensive and clear regulations that define and regulate conscientious objection with regard to health and medical services, including reproductive health services, as well as to provide oversight and monitoring, as outlined in Resolution No. ... (2010) on "Women's access to lawful medical care: the problem of unregulated use of conscientious objection";

4.2. instruct the competent Steering Committees and/or other competent Council of Europe bodies to assist member states in the development of such regulations and the setting up of such oversight and monitoring mechanisms.