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Religious Exemptions From Child Abuse Statutes

**American Academy of Pediatrics
Committee on Bioethics**

Children sometimes die or become disabled when they fail to receive medical treatment because of the strongly held religious views of their parents. The numbers of such incidents of neglect are hard to ascertain reliably, but there are increasingly frequent reports in the mass media. We believe the reported cases represent the most extreme examples of a larger problem. According to some newspaper reports, the following are some specific cases that have come to recent attention: **(1)** a 4-year old girl in Sacramento, CA, died of bacterial meningitis; her only treatment was spiritual healing by a Christian Science practitioner (Sacramento Bee, April 21, 1984). **(2)** Two children died of pneumonia and meningitis in Indiana. Both sets of parents were prosecuted for withholding medical care from their children. The parents belonged to the Faith assembly, a sect that relies exclusively on faith healing (Medical World News, Oct 4, 1984). **(3)** A 2 1/2-year-old boy died in Boston of bowel obstruction in April 1986 following five days of treatment by a Christian Science practitioner. (Boston Globe, April 10, 1986). **(4)** A 16-month-old Santa Monica, CA boy died of bacterial meningitis; his only treatment was prayer by a Christian Science practitioner. (Los Angeles Times, April 30, 1984). **(5)** Parents of a 13-month-old boy in Coshocton, Oh, who died with bacterial (*Streptococcus pneumoniae*) pericarditis were tried and released because of religious exemption protection. The child had received no medical care because the parents were members of the Christ Assembly, a group that believes in healing by prayer (Columbia Citizen-Journal, June 15, 1984). **6)** A 23-month-old girl died of bronchopneumonia in Celina, OH, in April 1986. The parents have claimed that their religious beliefs prevented them from seeking medical care. Although the parents were prosecuted, charges were dismissed because of the religious exemption clause [\[1\]](#) (Akron Beacon-Journal, May 6, 1986).

Ethical and Legal Issues

Religion plays an important role in the growth and development of many children and families. However, when parental practices potentially harmful consequences, state intervention may be warranted.

The boundary between parental freedom in child rearing and the interest—or even

basic rights of the child is unclear. The limits to parental decision making for children are uncertain, but it is widely accepted that parents generally will make decisions that do not directly threaten the welfare of their children. Tradition, social forces, and belief systems shape the limits of acceptable nurturance, parental imperatives and privileges, and even of physical force used in the discipline of children. These, of course, change with time. However, the constitutional guarantees of freedom of religion do not sanction harming another person in the practice of one's religion, and they do not allow religion to be a legal defense when one harms another.

Because the efficacy or necessity of many medical practices are arguable, those who claim that much of common medical practice can be replaced or improved by various forms of non-medical intervention or "faith healing" will inevitably find some basis for their claims. Although there will always remain areas of legitimate debate, it is the intent of this Committee to exclude from that debate for the purpose of defining medical neglect: medical interventions of clear efficacy that can prevent, ameliorate, or cure serious disease, incapacity, or loss of life and interventions that will clearly result in prevention of future handicaps or disability of the child.

Recognition of the prevalence and serious consequences of child abuse and neglect has led society to develop increasingly comprehensive systems for its detection and reporting and to the establishment of legislation and procedures by each of the states. Federal rules, in addition to mandating that certain procedures be adopted for each state also confirm the inclusion of standard medical treatment in the category of those rights assured to children and establish the withholding of medical treatment in some circumstances as a form of child abuse or neglect.

In the United States, the constitutional guarantee of protection of religious practice from intrusion by government has been used by some religious groups to seek exemption from legislative or regulatory requirements regarding child abuse and neglect, including medical neglect in more than three quarters of the states. There are now statutes in 44 states which contain a provision stating that a child is not to be deemed abused or neglected merely because he or she is receiving treatment by spiritual means, through prayer according to the tenets of a recognized religion. Although these exemptions take different forms and interpretations in different state jurisdictions, the overall effect has been to limit the ability of the state to prosecute parents for abuse or medical neglect of children when such occurrences may be the result of "religious practice." Severe (even fatal) physical discipline, failure to seek medical care, or refusal of a proven efficacious treatment of a critically ill child may be protected from remedy because of the so called religious exemption clauses now found in a majority of state codes.

Two important sets of interests are in apparent opposition - those of children in the benefits of proven medical and health care and those of parents in making a decision about their children's well-being. Some parents believe that a constitutionally protected freedom of religion allows them to deny their children some or all of the benefits of standard medical intervention. However, this interpretation of the US constitution is in contradiction to important court rulings to the effect that parents may not martyr their children based on parental beliefs [\[2\]](#) and that children cannot be denied essential

health care. [\[3,4\]](#)

Statement

The Committee on Bioethics asserts that **(1)** the opportunity to grow and develop safe from physical harm with the protection of our society is the right of every child; **(2)** the basic moral principles of justice and of protection of children as vulnerable citizens require that all parents and caretakers must be treated equally by the laws and regulations that have been enacted by state and federal governments to protect children; **(3)** all child abuse, neglect, and medical neglect statutes should be applied without potential or actual exemption for religious beliefs; **(4)** no statute should exist that permits or implies that denial of medical care necessary to prevent death or serious impairment to children can be supported on religious grounds; **(5)** state legislatures and regulatory agencies with interests in children should be urged to remove religious exemption clauses from statutes and regulations.

It is not the intent of the Committee to encourage the development of separate legal systems to respond to parents who abuse or neglect their children for religious or philosophical reasons. The usual procedures of detection, reporting, and remediation by established civil or criminal court processes are, in most jurisdictions, sufficiently developed and functional. Rather, it is the Committee's concern that those procedures designed to help children who are victims of their caretakers and to prevent neglect should be applied equally to all caretakers. Claims of exemption from responsibility of care—as defined above—should not be honored on religious or philosophical grounds, and offending parents or caretakers should not be treated more or less stringently than those who make no such claim. The Committee does not intend by this statement to advocate punishment of offending parents as a solution to the problem of child abuse and neglect, but rather, we are calling for equal treatment of all abusive parents.

Recommendations

The American Academy of Pediatrics recommends that all pediatricians, pediatric surgeons, and AAP state chapters vigorously take the lead to **(1)** increase public awareness of the hazards to children growing out of religious exemptions to child abuse and neglect legislation; **(2)** support legislation in each state legislature to correct statutes and regulations that permit harm to children under the shield of religious exemption; **(3)** work with other child advocacy organizations and agencies to develop coordinated and concerted public and professional actions for exemption of religious exemptions.

The Academy must unequivocally defend the rights of all children to the protection and benefits of the law and medicine when physical harm—or life it self—is in the balance.

Committee on Bioethics, 1986-1986:

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References

1. Ohio Rev Code 2919.22(A). [This religious exemption clause was held unconstitutional in *State v Miskimens*, 22 Ohio Misc. 2d 43, 49O NE.2d 931 (Ohio Com Pl, 1984). However because this was a lower court decision it only applies in the local jurisdiction of the court and is not effective throughout the entire state of Ohio]
2. [Prince v Massachusetts](#), 321 US 158 (1944)
3. *Jehovah's Witnesses vs Washington King County Hospital*, 278 F Supp 488 (Washington DC 1967), affirmed per curiam [390 US 598](#) (1968)
4. *Raleigh Fitkin - Paul Memorial Hospital v Anderson*, 42 NJ 421, 201 A. 2d. 537 (1964), certiorari denied 377 US 985 (1964)

This statement has been approved by the Council on Child and Adolescent Health.

The recommendations in this statement do not indicate an exclusive course of treatment or procedure to be followed. Variations, taking into account individual circumstances, may be appropriate.

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[CIRP Note: The AAP has issued a later statement that appears to update and replace this statement. See [Religious Objections to Medical Care.](#)]

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