

Refusal to Vaccinate Forms Raise Ethical Questions

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One response to growing concerns about vaccinations and reported increases in the number of vaccine legal exemption claims has been physicians' use of "Refusal to Vaccinate" forms. The American Academy of Pediatrics (AAP) recommends that doctors require non-vaccinating patients to sign its Refusal to Vaccinate form, or a similar form, to "induce a wavering parent to accept [standard immunization] recommendations" and "reduce any potential liability should a vaccine-preventable disease occur in the unimmunized patient."¹ Arguably, neither of these rationales applies to patients exercising a legal vaccine exemption. For this and other reasons discussed below, the use of Refusal to Vaccinate forms raises serious ethical questions and should be reconsidered.

¹ Available at:
<http://www.in.gov/isdh/programs/immunization/MedialProviders/Support%20Materials/Refusal%20to%20Vaccinate%20Form.pdf>.
Accessed February 24, 2008.

First, some pediatricians reportedly require all unvaccinated children's parents to sign a Refusal to Vaccinate form before they will treat their children.² This puts non-vaccinating parents in the position of having to feign agreement with assertions they may genuinely dispute to avoid being refused medical treatment for their child. One question arising from this conflict concerns the threshold to be met before a doctor may ethically refuse treatment. In this instance, does a parent's refusing vaccination—a procedure aimed at protecting a child from a hypothetical future exposure to disease in a largely disease-free society—provide reasonable grounds for a doctor to refuse to address a child's immediate health care needs? Many would say not—especially if the parents are exercising a legal exemption to immunizations, as the exemption

² Many practices reportedly refuse to treat a child who is not immunized under any circumstances. This raises a separate ethical concern not addressed here.

likely removes any potential future liability concern for the doctor that might otherwise hypothetically arise from treating an unvaccinated child. Furthermore, if an unvaccinated child who was refused treatment suffers harm as a result, who then is to blame?

Some of the specific statements in Refusal to Vaccinate forms raise ethical questions as well. For example, the AAP form states: “I know that failure to follow the recommendations about vaccination may endanger the health or life of my child and others...” This assertion may conflict with not only the parents’ beliefs,³ but more importantly, with the federal and 48 state legislatures which, by their enactment of vaccine philosophical and/or religious exemption statutes, have already determined that exercising a vaccine exemption does not pose a significant risk to the child or others.⁴ Therefore, a doctor’s

³ And those of a growing number of health care professionals as well.

⁴ Or else those legislatures would not have enacted exemption laws in the first place. In federal settings and the 18 or so states where philosophical exemptions are available in addition to medical and religious ones, legislators apparently found reasons beyond medical and religious that outweigh the health-risk concerns and justify allowing vaccines to be legally refused.

asking an exempt parent to agree to such a statement amounts to a misplaced attempt to reopen a previously resolved legislative matter in circumvention of the appropriate political venue and legislative process.

Exacerbating the above concerns further is the AAP’s recommended practice of requiring Refusal to Vaccinate forms to be updated, or a new form to be signed, at each subsequent doctor visit. This practice cannot reasonably be attributed to a liability concern or a need to convince “wavering parents” to vaccinate if these matters were adequately addressed in the first go-round. Rather, in this context, these rationales appear utilized solely to create repeat opportunities to convince parents who refused vaccines previously into changing their minds and abandoning their legal right to refuse if they qualify for, or are already exercising, an exemption. Must doctors really employ such coercive tactics rather than simply inviting parents to discuss their concerns? Moreover, this practice risks undermining the doctor-patient relationship, for how can parents trust a doctor who repeatedly confronts them on a sensitive

issue previously addressed and presumed resolved? With each subsequent confrontation, trust may be further eroded and the child's future healthcare put at risk, as the parents may be reluctant to bring the child back to avoid the confrontation.

For patients exercising a religious exemption to immunizations,⁵ doctors' use of Refusal to Vaccinate forms may raise Constitutional concerns, as there is a body of federal legal precedent supporting broad, First Amendment rights to refuse vaccinations on religious grounds. Those rights may exist whether or not the parents belong to an organized religion and regardless of which church they belong to if they do, and the right may be available even if a child has been vaccinated previously. Additionally, many state constitutions set out broad religious freedoms that may add still further support to the vaccine

⁵ All US states offer a medical exemption. About 30 offer medical and religious exemptions, and about 18 states offer medical, religious, and philosophical exemptions. Exemptions are also available to immigrants, military personnel and contractors, and employees in some settings.

religious exemption rights afforded by federal law.

Another concern goes more to the heart of the AAP's health-risk argument, that being the numerous peer-reviewed medical studies, government statistics, and other credible information that collectively raise legitimate questions about current immunization policy. These concerns are echoed by a growing number of doctors, medical researchers, and professional organizations who are speaking out about problems with mandatory immunizations.⁶ So, despite the AAP's claim of unanimity among the American Academy of Family Physicians, the Centers for Disease Control, and itself on the merits of vaccination, the position behind its Refusal to Vaccinate form is ultimately only one side of an inherently complex, multifaceted issue. Doctors' requiring parents to sign Refusal to Vaccinate forms is therefore an attempt to force acceptance of one particular view among many, if admittedly the more widely held view at this

⁶ E.g., see "Dispelling Vaccination Myths" at <http://www.vaccinerights.com/Information.html> and "Show Us the Science," *Mothering Magazine*. March/April 2001.

point in time. But as long as parents can refuse vaccines legally, the fact that they may subscribe to minority views about vaccination that differ from those of their child's doctor should not determine whether or not their child gets medical treatment, nor expose the parents to ridicule or pressure for holding such views.

Finally, some doctors modify the AAP form or design one of their own without full and proper consideration for the ethical and legal implications. For example, one pediatrician's office reportedly requires parents to sign a form that would have parents essentially admit to being neglectful or abusive for refusing to vaccinate their children. But if the parents are exercising a lawful vaccine exemption, how can they simultaneously be committing unlawful neglect or abuse for having refused vaccination?⁷ This concern is present by implication in the AAP's Refusal to Vaccinate form unmodified as well. Parents signing that form may be admitting to endangering the life

⁷ It should be noted that those who refuse vaccines and are not exercising a legal exemption may be violating the law and subject to prosecution accordingly.

and health of their child, which certainly suggests neglectful behavior on the part of the "confessing" parents. Surely it is unethical to ask parents to falsely admit to having committed unlawful behavior, and even more so if a child's medical treatment is held hostage to such an admission.

What should parents do? As a general rule, it is probably best to refrain from signing any document containing statements with which you disagree, especially if doing so may potentially constitute a false confession that could conceivably be used against you in the future. But for parents who are confronted with a Refusal to Vaccinate form upon seeking medical treatment for their child, this may be a difficult thing to do. When told on the spot to choose between medical treatment for their child and adhering to their personal convictions, many "good" parents will reflexively put their child's treatment first, yet many of these same parents will later regret having agreed in writing, under duress, to assertions they genuinely dispute. Sadly, this appears to be precisely the strategy and purpose for the creation and use of Refusal

to Vaccinate forms—to compel vaccination by threat and intimidation, whether or not the parents agree or have the legal right to refuse. The tactic is insidious, for even when its primary objective fails and a non-vaccinating parent signs the form to retain their right to refuse vaccines and still get treatment for their child, the doctor has a “confession” on file that may leave parents in constant fear of the possibility of its being used against them at any time in the future. Such unabashed coerciveness raises profound ethical concerns, even if employed with a sincere underlying belief about the importance of vaccines. For if the ends justified the means here, exemption laws would not be on the books.

Doctors may have a legitimate liability concern with patients who are neither vaccinated nor legally exempt, and a liability waiver may be appropriate in that instance. But even then, the form content should be limited to the liability concern only and not used as a vehicle for imposing what is essentially a political agenda. That is, a doctor’s unsolicited health-risk concerns about vaccination are not a proper tool to employ in pursuit of parents’ unwilling

allegiance to but one of two or more legal options, especially where one or more of those options may involve non-medical considerations such as religious beliefs or non-medical philosophical concerns. Besides, fear-based persuasion is just plain bad business. Health care consumers are more savvy these days and increasingly likely to view medical doctors’ scare tactics more as a discredit to the practitioner than a compelling reason to surrender personal convictions and legal rights.⁸ Medical doctors are becoming less and less the absolute health care authority of years gone by and more and more only one of a long list of options available for addressing health care needs, as evidenced by the mushrooming alternative and complementary healthcare industry in recent years. Prudent physicians may wish to consider this fact and design their style of practice accordingly.

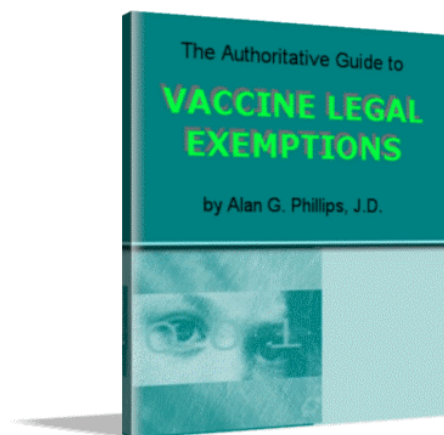
⁸ Though admittedly, pediatricians in particular are in a position of great influence over parents. Well-baby checkups may not be available elsewhere, and they are often dealing with young parents who are more easily intimidated. However, this imbalance between doctor and patient only raises further the seriousness of the ethical questions involved—i.e., the inappropriateness of tactics designed to take advantage of the parents’ vulnerability.

In summary, the use of Refusal to Vaccinate forms raises important ethical questions, and policy regarding their use may need to be revised accordingly. Where legal exemptions are available, patients must be allowed to choose, free from coercion in any degree, which of their legal options they wish to pursue. Those who refuse vaccines and are not exercising an exemption should be urged to comply with the law, and, during times of noncompliance, perhaps required to sign a liability waiver—but never pressured into exercising any one particular legal option where two or more such options may exist. Health-risk concerns and objections to exemption law are policy matters for the legislatures, unless information about them is solicited by the patient. For in a free democratic society, the choice from among two or more legal options is not any one person's decision to make for anyone else.

Disclaimer: The above is for educational purposes only and not intended to constitute legal advice.

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