

# Healthcare law and ethics

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Healthcare Ethics Paper Brian Lucas HSC / 545 Healthcare Law and Ethics  
1/16/2012 SHAWNA BUTLER Healthcare Ethics Paper My paper is on patient dumping which happens when a medical treatment facility may treat a patient initially for acute symptoms but then realizes the patient has no means to pay for the medical services rendered. In some cases back in the 1990's it was found that a patient was put into a cab and the cab driver paid to take the patient away and let out on a street corner somewhere in a city in the USA. Some stories have been told that patients only had on a hospital gown and diaper and dumped on the curb.

Usually these patients are older population, may have dementia or are chronic alcoholics and are too sick to care for themselves. Of course this practice is illegal after Congress passed the “ Emergency Medical Treatment and Active Labor Act (EMTALA), sometimes referred to as COBRA since it was part of the year’s Consolidated Omnibus Budget”. (<http://www.nurseweek.com>, Karen Markus, JD, RN, p 1. ) The Emergency Medical Treatment and Active Labor Act is a law passed by Congress to protect the patients from the practice of patient dumping.

The law states that every patient that seeks medical treatment care in medical treatment facility must be assessed or screened by a qualified medical professional for the presence of an emergency medical condition. The law also requires the medical treatment facility to run tests, to rule out an emergency medical condition, can be screened by a physician, nurse practitioner, physician assistant. The patient must not just be triaged, which is a process in which order of priority a patient is to be screened and treated,

but must be assessed to whether the patient has any health or safety issue that will result in impairment of life or death.

The law states that the patient must be stabilized before any kind of means to transfer may occur. Supporting documentation both from the physician or medical doctor, nurse practitioner, physician assistant and nursing care staff must also accompany the patient prior to any transfer. The patient must be deemed stable with no health or life threatening condition occurring during transfer. ((<http://www.nurseweek.com>, Karen Markus, JD, RN, p 1. ) So why did hospitals and medical treatment facilities start the illegal practice of patient dumping?

Hospitals were being burdened with the financial costs of treating patients who were uninsured or didn't have a means to pay for services rendered. Other factors were also researched and was just more than having financial means to pay. Social groups such as poor blacks and hispanic groups were also profiled to have the inability to pay for services rendered. Motivating factors for incentives to patient dump include “ increasing number of uninsured, healthcare cost containment measures, the common law no-duty rule, and ineffective state statutory responses”. (ZITO1. DOC, THOMAS A.

GIONIS, pg. 1). Healthcare Ethics Paper Cost cutting measures though is the primary reason for patient dumping and with the common law no-duty rule, both hospitals and physicians have used this measure to decrease liability in services rendered without the possibility of reimbursement. But in order to protect the patient from denial of care, it is required by law for hospitals and treatment facilities to be compliant within Emergency Medical Treatment and

Active Labor Act Law. The patient must be determined to be medically stable before any kind of transfer is to be arranged.

So how do the four major ethical principles apply to patient dumping? To answer this we need to look closer at the four major ethical principles and expand on each principle as it applies to our ethical problem. The four major ethical principles are: Autonomy - respecting self-determination of individuals and protecting those persons with diminished autonomy. 2. Benefice - giving highest priority to the welfare of persons and maximizing benefits to their health. 3. Non-maleficence - avoiding and preventing harm to persons or, at least, minimizing harm. . Justice - treating persons with fairness and equity and distributing benefits and burdens of health care as fairly as possible in society. With Autonomy being the first ethical principle, the patient either must be able to understand and make decisions based on the information presented by the hospital for his or her own medical care. If the patient is not in a mental state to do that, then it must be determined either through a designated assigned guardian legally, or through the state to determine the best interest for that patient.

With Benefice, the law requires that the patient should be able to have dignity with respect to their own healthcare. They shouldn't be denied medical care based on their race, color, social economic group status and receive a fair treatment as other citizens receive within the laws established by the government. With Non-maleficence, safety is the number one priority here. The patient must be protected from being harmed or harming themselves or others during their medical treatment and care.

With Justice, the patient must be treated in a fair and appropriate manner that is equal to the treatments of what other people in society would expect to receive. This would be equal and fair humane treatment. Healthcare Ethics Paper Still even today patient dumping is still happening. Illegal undocumented aliens who are in a condition of chronic illness or injury are being shipped back to their home countries through the use of air ambulances. When they return to their home countries, it is known that those countries don't have the means or medical equipment to treat those patients and their mortality rate significantly increases.

So is this practice an ethical issue. Yes because the avoidance of treating them is still the same issue as before by using the practice of patient dumping. This last year the President of the United States and Congress passed the Patient Protection and Affordability Act. This law still leaves out undocumented illegal aliens not allowing them to receive medical treatment. The law is still continuing to evolve and it is in the future that changes in the law will be changed to include medical care for these people. Wolpin, *supra* note 6, at 152–53. ) This paper goes to provide more insight concerning ethical issues regarding patient dumping. It is the hope in the future that all patients regardless of economic social status, race and ethnic groups will receive fair and adequate humane medical treatments. As to allow patient dumping is a non ethical practice that should not be allowed to continue.

References: [www. wcl. american. edu/journal/lawrev/52/zito. pdf](http://www.wcl.american.edu/journal/lawrev/52/zito.pdf) File Format: PDF/Adobe Acrobat [www. jblearning. com/samples/... /4526X\\_CH14\\_235\\_250. pdf](http://www.jblearning.com/samples/.../4526X_CH14_235_250.pdf)