

Position paper (health law m7)

[Health & Medicine](#), [Nursing](#)



A Position Paper on Resolving the Balance between Patient Rights and Practical Needs of the Medical Community Striking a balance between patients' rights and the practical needs of the medical community presents one major challenge for practitioners. Caring for the patient is an important element of our rights to health as individuals and as such merits close scrutiny in the perspective of human rights. Violation of human rights and rights of the patient for that matter occur in the context care frequently. As such the phrase "human rights in patient care" has been coined in response and is increasingly being applied to monitor, document and analyse cases of patient abuse in the settings of healthcare provision and in some events hold governments and other stakeholders responsible. In my position paper I look at how a balance can be stricken between rights of patients and the often necessary practical needs of the medical community.

One well documented practice where abuse of patients may arise yet is very necessary for the practical training of medical surgeons is ghost surgery. In ghost surgery, the contracting physician is not the actual one performing the procedure on the patient and sometimes procedure may be performed by physicians who are students of surgery. The phenomenon takes place in other settings of medical care provision to patients such as radiology and laboratory testing. The patient may or may not suffer as a result of ghost surgery but the fact remains his contract was violated as the service was offered a person different from whom the contract was signed with. Training needs of medical doctors are also an equally important element for the sake future surgeons and physicians.

In the Tunki cases, the court ruled California court ruled in favour of the

Regents of University of California largely on the grounds of the important research work that the university is engaged in through its medical centre. By the mere fact the patient knowingly submitted himself to the facility understanding it selectively accepts patients from the public for medical care as part of their research efforts and thus waiver of negligence was the appropriate ruling. Ruling in favour of the complainant would have diverted funds meant for research into payment of claims. In this case the bigger research needs override that single patient's rights to care and in effect life. In the case of Shorter her death was largely due to her faith with is supposed to be respected by the doctor yet it posed risk to her own life and by the doctor not abusing her rights it amounts to negligence. Her best interest in the circumstance was life and therefore the doctor ought to have abused her spiritual needs and saved her life (Furrow, Greaney, Johnson, Jost & Schwartz, 2013).

The idea of human rights in patient care dictates application of basic principles of human rights in the interactions between patients and providers of healthcare both theoretically and practically. Another important concept in healthcare with potential of controversy that of "dual loyalty," placing care providers in a situation of simultaneous obligations, express or implied to both the patient and some third party which in most cases is the state. The simultaneous obligations often pose the risk of violating human rights depending on the situation. Where interests of both the state and patients appear to align then little risk is posed by dual loyalty. In the event that the interests conflict then the doctor is often circumstances compel the physician to abuse his/her patient's rights (Cohen & Ezer, 2013).

In conclusion therefore patient interests and rights sometimes come into conflict with the medical needs such as necessary ghost surgery to train future surgeons. In order to balance rights of patients and compelling practical needs of the medical community I think it is very important for the doctor s make their decisions on the basis of ethics. They should weigh the two conflict interests and decide the most prudent course of action. Where patients rights pose risks to their own live then they should abused and where they conflict with those of third parties then the doctor is compelled to follow the law. Where training needs are noble then experience doctors should be present to guide the procedures as their students learn from real life experience.

References

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