



Fact Sheet

Ethics & Pain

About

“The duty to relieve pain and suffering is central to the physician’s role as healer and is an obligation physicians have to their patients.” — American Medical Association Code of Ethics¹

In September 2010, the International Association for the Study of Pain (IASP) mobilized global pain care leaders to demand acknowledgement of pain care as a human right during the 13th World Congress on Pain in Montreal. The “Declaration of Montreal” was created to call attention to inadequate knowledge of pain management techniques by most medical workers and the lack of national policies in both the developed and developing world regarding the seriousness of pain as a global health problem.

Recognizing the intrinsic dignity of all persons and that withholding of pain treatment is profoundly wrong, leading to unnecessary suffering which is harmful; we declare that the following human rights must be recognized throughout the world:

- The right of all people to have access to pain management without discrimination.
- The right of people in pain to acknowledgment of their pain and to be informed about how it can be assessed and managed.
- The right of all people with pain to have access to appropriate assessment and treatment of the pain by adequately trained health care professionals.

— International Association for the Study of Pain, “Declaration of Montreal: Declaration that Access to Pain Management Is a Fundamental Human Right,” September 2010²

Pain care and ethics go hand in hand. Medical advances, the acknowledgment of rights to pain care and patient advocacy efforts have influenced the way health care providers approach people with chronic pain. The ability to control pain has dramatically improved over the years. Millions of people suffering from cancer, HIV/AIDS, and other conditions have been able to find relief from debilitating chronic and acute pain. However, despite medical developments, pain remains severely under-treated around the world, leaving many to suffer needlessly.

Pain control with medication deals with health policy, regulation, law enforcement and standards of medical care. Each of these factors play a role in shaping the environment for pain care and can either interfere with or contribute to efforts to strengthen pain

management. From law and policy that govern health care professionals to personal responsibility and personal attitudes and beliefs about pain and suffering, ethical and legal considerations in decision-making are important parts of this complex picture.^{3,4}

Ethics of Pain Care

When viewed as a human right, pain care also intersects with ethics. Ethics have come to the forefront of many pain care discussions as individuals are increasingly demanding better care. This has led to an increase in legal action regarding the failure of health care providers to adequately treat their patients' pain.

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We know that while pain does not discriminate, its care does. Health care providers, families and people who live with pain also need to be aware of personal background and biases when approaching a pain care plan. Disparities in pain care exist based on gender, age, race, income level and education. There is a great deal of unmet need for pain

management and therapy among the elderly, institutionalized population, as well as children and other vulnerable people with mental disabilities or impairments who can not effectively communicate about their pain. There are also significant issues with chronic pain care in emergency room settings, because sufferers often have nowhere else to go.⁵ Despite these challenges, pain care remains a human right.

Difficult ethical decisions about pain care are forcing health care providers to redefine how pain is viewed. For example, traditionally, the field of bioethics has focused on end-of-life pain management, with less attention being given to chronic pain issues, post-surgical pain, or suffering not related to dying. To address these pain problems and encourage ethical approaches to chronic pain conditions, it has become necessary for providers to become better educated about chronic pain, bias and myths regarding pain relief, and how substance disorders affect the pain experience.⁶

Pain management as a human right is a moral imperative that will help medicine return to its humanist roots. Acknowledging this right is a crucial step in reversing the public health crisis of under-treated pain. However, simply recognizing pain relief as a human right without making the changes necessary to provide appropriate treatment for patients in pain will only foster an illusion of care that can fuel unrealistic expectations and discontent among physicians and patients. — Scott M. Fishman, MD. “Recognizing Pain Management as a Human Right: A First Step.”⁷

Standards of Pain Care

The Joint Commission accredits and certifies more than 19,000 health care organizations and programs in the United States. Current Joint Commission pain management standards require that patients be asked about pain, depending on the service the organization is providing. According to the American Pain Society, there is little question the standards have increased visibility and accountability for pain management in settings across the United States since they went into effect in 2001. Accredited facilities can no longer ignore pain.⁸

“ Accredited facilities can no longer ignore pain.”

Additionally, the Veterans Health Administration National Pain Management Strategy, initiated November 12, 1998, established pain management as a national priority.

The overall objective of the national strategy is to develop a comprehensive, multicultural, integrated, system-wide approach to pain management that reduces pain and suffering for Veterans experiencing acute and chronic pain associated with a wide range of injuries and illnesses, including terminal illness. Timely assessment and treatment of pain is emphasized in this strategy, which will remain in effect until 2014.⁹

More recently, the Centers for Medicaid and Medicare Services (CMS) issued guidance to state nursing home agency directors in 2009 stressing the importance of assessment and treatment of pain. The guidance acknowledges the imperative for timely and appropriate assessment and treatment of pain: “Effective pain recognition and management requires an ongoing facility-wide commitment to resident comfort, to identifying and addressing barriers to managing pain, and to addressing any misconceptions that residents, families, and staff may have about managing pain. Because pain can significantly affect a person’s well-being, it is important that the facility recognize and address pain promptly.”¹⁰

The development of pain care standards is essential to providing guidance and oversight of the care of people with pain, particularly vulnerable populations who may not be able to advocate for themselves. However, it is more difficult to determine if the standards have resulted in improvements in the quality of pain management.¹¹

Pain Care and the Law

The law and health policy are closely linked to how pain is treated. From the undertreatment of pain through criminal negligence and elder abuse to concerns about health care providers contributing to prescription drug abuse by providing access to medication to people without legitimate medical need, state law often defines the boundaries of what is acceptable. Because of the potential for abuse of pain medication, health care providers who treat pain are faced with regulatory considerations unlike any other area of medicine.

Patient-provider agreements and drug testing are other areas of pain care that present legal and ethical considerations. A commentary published in *The American Journal of Bioethics* describes this dilemma: “The confluence of undertreatment, the drastic shortage of pain doctors, the power disparity between doctor and patient, and the desperation and vulnerability of suffering patients may make it impossible for people with pain to provide voluntary consent to the agreement and all of its stipulations, including random drug tests. Patients may sign contracts and submit to drug screens because if they refuse, their pain goes untreated. “Consent or suffer worse, what’s your choice?” A patient’s consent on an agreement may be coerced by the threat of greater pain. This raises both ethical and legal questions.”¹²

Personal responsibility has recently risen to the forefront in terms of safe storage and disposal of pain medication. Views about pain and pain care, particularly at the end-of-life, can be overlaid with a lifetime of personal views and perceptions based on family, education level, cultural and religious beliefs. This may be complicated further by differing views among family members, communities and health care professionals’ personal beliefs. Health care providers, regulators and law enforcement agencies play important roles in the safe use of pain medication, but those at the center of pain care remain the very people who experience pain and have a fundamental human right to have their pain assessed and treated.

Additional Resources

American Bar Association

321 North Clark Street
Chicago, IL 60654-7598
Phone: (800) 285-2221
E-mail: service@americanbar.org
www.americanbar.org

American Medical Association

515 N. State Street
Chicago, IL 60654
Phone: (800) 621-8335
www.ama-assn.org/

American Society for Law, Medicine & Ethics

765 Commonwealth Avenue
Suite 1634
Boston, MA 02215
Phone: (617) 262-4990
Fax: (617) 437-7596
www.aslme.org/

Center for Practical Bioethics

Harzfeld Building
1111 Main Street, Suite 500
Kansas City, MO 64105-2116
Phone: (800) 344-3829
Phone: (816) 221-1100
Fax: (816) 221-2002
E-mail: bioethic@practicalbioethics.org
www.practicalbioethics.org

Department of Veterans Affairs

810 Vermont Avenue , NW
Washington, DC 20420
Phone: (202) 225-9756
Fax: (202) 225-2034
www.va.gov

Hastings Center for Bioethics

21 Malcolm Gordon Road
Garrison, NY 10524-4125
Phone: (845) 424-4040
Fax: (845) 424-4545
E-mail: mail@thehastingscenter.org
www.thehastingscenter.org

Human Rights Watch

350 Fifth Avenue, 34th floor
New York, NY 10118-3299
Phone: (212) 290-4700
Fax: (212) 736-1300
www.hrw.org

International Association for the Study of Pain

111 Queen Anne Ave N, Suite 501
Seattle, WA 98109-4955
Phone: (206) 283-0311
Fax: (206) 283-9403
www.iasp-pain.org

The Joint Commission

One Renaissance Blvd.
Oakbrook Terrace, IL 60181
Phone: (630) 792-5000
www.jointcommission.org

**Open Societies Foundation
International Palliative Care Initiative**

(Contact via website)
www.soros.org/initiatives/health/focus/ipci/about

Resources verified July 2011.

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