

Statement of Principles on the Role of Governments in Regulating the Patient-Physician Relationship

Summary of Statement Approved by the ACP Board of Regents, July 2012

How Can Government Regulation Affect the Patient-Physician Relationship?

Some recent laws and proposed legislation inappropriately infringe on clinical medical practice and patient-physician relationships, crossing traditional boundaries and intruding into the realm of medical professionalism. Several states have proposed or adopted legislation and/or regulations that interfere, or have the potential to interfere, with appropriate clinical practice by (1) prohibiting physicians from discussing with or asking their patients about risk factors that may affect their health or the health of their families; (2) requiring physicians to discuss specific practices that in the physician's best clinical judgment are not individualized to the patient; (3) requiring physicians to provide diagnostic tests or medical interventions that are not supported by evidence or clinical relevance; or (4) limiting information that physicians can disclose to patients.

Of particular concern are laws and regulations that require physicians to provide care not supported by evidence-based guidelines and/or not individualized to the needs of the specific patient. This paper provides a framework with principles that can provide some guidance to help distinguish between mandates that interfere with clinical practice versus those that promote good public health.

Key Findings and Recommendations from the Paper

ACP recommends the following principles for the roles of federal and state governments in health care and the patient-physician relationship.

- (1) All parties involved in the provision of health care, including government, are responsible for acknowledging and lending support to the intimacy and importance of the patient-physician relationship and the ethical obligations of the physician to put the patient first.
- (2) Physicians should not be prohibited by law or regulation from discussing with or asking their patients about risk factors, or disclosing information (including proprietary information on exposure to potentially dangerous chemicals or biological agents) to the patient, which may affect their health, the health of their families, sexual partners, and others who may be in contact with the patient, as such rules can undermine the patient-physician relationship and inappropriately affect patient health.
- (3) Laws and regulations should not mandate the content of what physicians may or may not say to patients or mandate the provision or withholding of information or care that, in the physician's clinical judgment and based on clinical evidence and the norms of the profession, are not necessary or appropriate for a particular patient at the time of a patient encounter.
 - Even laws which mandate a test, procedure or treatment generally consistent with the standard of care should be approached cautiously, because they cannot allow for all

potential situations in which their application would be unnecessary or even harmful to particular patients.

- The following questions may be helpful in providing general guidance for evaluating the appropriateness of proposed laws and regulations:
 - Is the content and information or care consistent with the best available medical evidence on clinical effectiveness and professional standards of care?
 - Is the proposed law or regulation necessary to achieve public health objectives, and if so, is there any other reasonable way to achieve the same objectives?
 - Could the presumed basis for a governmental role be better addressed through advisory clinical guidelines developed by professional societies?
 - Does the content and information or care allow for flexibility based on individual patient circumstances and on the most appropriate time, setting, and means of delivering such information or care?
 - Is the proposed law or regulation required to achieve a public policy goal without preventing physicians from addressing the healthcare needs of individual patients?
 - Does the content and information to be provided facilitate shared decision-making between patients and their physicians based on the best medical evidence and the physician's clinical judgment, or would it undermine shared decision-making?
 - Is there a process for appeal to accommodate for specific circumstances or changes in medical standards of care?
- (4) In making decisions about counseling and treatment among evidence-based options, the patient's values are paramount, although the physician is not required to violate standards of medical care or ethics, fundamental personal values, or the law. Patients should not be required to undergo tests or interventions, especially invasive and potentially harmful interventions, that violate the patient's values, are not medically necessary, and are not supported by scientific evidence on clinical effectiveness, or could expose the patient to unnecessary risk, and physicians should not be required to provide such services.
- (5) Medical practice should reflect current scientific evidence and medical knowledge, which may evolve over time. Physicians should be guided by evidence-based clinical guidelines that allow flexibility to adapt to individual patient circumstances. Statutory and regulatory standards of care may become "set in concrete" and not reflect the latest evidence and applicable medical knowledge.
- (6) Laws governing medical practice must be revised as needed and regulatory rules should offer a process for timely appeal in an interval appropriate to the nature of the condition being treated.
- (7) Regulatory requirements should not create undue burdens that have the consequence of limiting access to needed care or unnecessarily divert from the precious time that physicians have to spend with patients.

For More Information

This issue brief is a summary of *Statement of Principles on the Role of Governments in Regulating the Patient-Physician Relationship*. The full paper is available at http://www.acponline.org/advocacy/where_we_stand/policy/statement_of_principles.pdf.