



European Deontological Recommendations

Refusal of Treatment

*European Council of Medical Ordres
Conseil Européen des Ordres des Médecins*

**Dr. R. KERZMANN – Mme. A-S. STURBOIS – Dr. P. HECQUARD – Dr. F.
ALBERTI**

Working Group on Deontological Recommendations

Luxembourg 12 June 2015



Refusal of Treatment

The physician's primary mission is to care, relieve, and... If possible... To cure.

That is what is highlighted in all professional codes:

Germany :	§ 2-1	Italy :	art. 3
Austria :	Preamble	Luxembourg :	art.58
Belgium :	art. 3	Portugal :	Preamble.
Cyprus :	art. 1	Czech Republic :	art. 2
Spain:	art. 5-2	Romania :	art 30
France :	art.7,	United Kingdom :	GMP 1,
Greece :	art.2,9	Slovenia :	art. 1,
Holland :	art. 1 et 2	Suisse :	art.2
Ireland :	art. 4-1		

Refusal of Treatment

Can a physician refuse to take care of a person who is asking for medical treatment?

1 – Licit refusal

2 – Illicit refusal

2/1 Explicit refusal

2/2 Implicit or indirect refusal

Refusal of Treatment

Licit refusal → Deontological Code Article / Legislation

- Clause of conscience
 - Competence limits
 - Refusal to harm one's physical integrity
 - Refusal of use of intensive medication
 - Unjustified risk
 - Choice of transplantation recipient
 - Disaster medicine
 - Regulatory texts (e. g. Medically-assisted procreation)
 - Respect of patient's will
 - Freedom not to accept a mandate for a therapy



Refusal of Treatment

2 – Illicit refusal

2/1 Direct refusal:

The physician refuses to take care of a person asking for medical treatment.

Reasons for the refusal:

- **Linked to the person who is asking for medical treatment:**
 - behavior
 - socio-economic situation
 - religious or sexual orientation
- **Not linked to the patient's person:**
 - disagreement between health practitioners
 - alleged administrative issues
 - strike



Refusal of Treatment

2 – Illicit refusal

2/2 Indirect refusal:

The physician does not refuse explicitly to take care of a person asking for medical treatment, but...

Implicit refusal, several possible reasons:

- Refusal of means of payment
 - Complex and discouraging administrative procedures
 - Extremely high cost of medical treatment
 - Refusal from an institution to allow a patient in a specific service

Refusal of Treatment

Deontological texts on licit refusal of treatment:

Germany:	§ 7	Italy:	art. 13, 22
<i>Austria:</i>		Luxembourg:	art.58,
Belgium:	art. 28, 29	Portugal:	art 37 41, 42.
Cyprus:	art.8	Czech Republic:	art. 2
Spain:	art.32	Romania:	art. art 32, 125
France:	18, 47	United Kingdom:	GMP 8
Greece:	30-5	Slovenia:	7, 42
Holland:	II-17	Switzerland:	art.3, 5
Ireland:	art. 9 et 10		



Refusal of Treatment

Convention for the Protection of Human Rights and Fundamental Freedoms*

Article 14 – Prohibition of discrimination:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

*Rome 4/ix/1950 as amended by Protocols n°11 and n°14 (CETS n° 194) as from the date of its entry into force on 1 June 2010.



Refusal of Treatment

European Charter of Medical Ethics (Kos 2011)

Principle 1

The physician defends human physical and mental health. He/She relieves suffering while respecting the life and dignity of the person concerned with no discrimination, of any kind, in peace and in war.

Principle 2

The physician agrees to give priority to the interest of the patient's health.

Principle 3

The physician gives the patient the most essential and appropriate care, without any discrimination.

Principle 13

When a physician decides to take part in a joint organized refusal to provide care, he is not released from his ethical obligations towards the patients to whom he guarantees emergency treatment and care needed for patients in treatment.

Principle 14

The physician is not required to satisfy requests for treatment which he does not approve. However, medical practice involves respect of the life, moral autonomy and freedom of choice of the patient.



Refusal of Treatment

Deontological Recommendation Proposal

*Given the Convention for the Protection of Human Rights and Fundamental Freedoms, art, 14,
Given the European Charter of Medical Ethics, principles 1, 2, and 3, 13, 14,*

CEOM members recommend:

Except in emergency cases and when he/she fails to fulfill his/her duties of humanity, a physician may refuse his care for professional or personal reasons.

A refusal of medical treatment has to be grounded on regulatory or deontological texts.

A refusal of medical treatment, either explicit or implicit, may under certain circumstances be considered as discriminatory conduct by the physician.

The physician who finds himself/herself obliged to licitly refuse to treat a patient has to explain the reasons of the refusal to the patient, and seek the most appropriate solutions to the situation of the person, especially concerning the continuity of care.