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# When is it permissible to dismiss a family who refuses vaccines? Legal, ethical and public health perspectives

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Although immunization is one of the most important health interventions of the 20th century, cases of infectious disease continue to occur. There are parents who refuse immunization for their children, creating a dilemma for the primary care physician who must consider the best interest of the individual child as well as that of the community. Some physicians, when faced with parents who refuse immunization on behalf of their children, choose to dismiss these families from their practice. Given the existing shortage of primary care physicians across Canada, this decision to dismiss families based on vaccine refusal has far-reaching implications. The present article explores this issue in the Canadian context from a legal, ethical and public health perspective.

**Key words:** *Ethics; Health law; Patient dismissal; Public health; Vaccination*

## CASE SCENARIO

A six-month-old infant is brought in for a well-baby examination. The health record indicates that the baby has not yet received any immunizations because the mother requested a 'deferral' of the two- and four-month immunizations. On exploring the issue further, it becomes apparent that the mother is adamantly opposed to immunization and is resistant to any effort by you to educate her regarding the importance of vaccinating her baby. You are becoming increasingly uncomfortable with the situation and wonder whether you should dismiss this family from your practice given the mother's continued refusal to consent to immunization for her child.

Vaccination against infectious diseases has been hailed as one of the greatest public health initiatives of the 20th century. However, this success has contributed to the eradication from public memory of the potential devastating effects of many infectious agents. Child morbidity and mortality caused by vaccine-preventable diseases still occur in Canada more often in children of families who refuse

## Quand est-il acceptable d'exclure une famille qui refuse les vaccins? Les perspectives juridiques, éthiques et de santé publique

Bien que l'immunisation soit l'une des interventions de santé les plus importantes depuis le XX<sup>e</sup> siècle, on continue d'observer des cas reliés à des maladies infectieuses. Certains parents refusent de faire vacciner leurs enfants, ce qui soulève un dilemme pour le médecin de premier recours, qui doit tenir compte de l'intérêt de l'enfant et de celui de la collectivité. Devant des parents qui refusent la vaccination au nom de leurs enfants, certains médecins décident d'exclure ces familles de leur pratique. Étant donné la pénurie de médecins de premier recours au Canada, cette décision d'exclure les familles, fondée sur le refus de la vaccination, est lourde de conséquences. Le présent article porte sur cette question dans le contexte canadien, selon une perspective juridique, éthique et de santé publique.

vaccination (1). An article (2) and an editorial (3) published in an American paediatric journal have recently drawn attention to physicians who dismiss families from their practice if they refuse vaccination. Given that some families in Canada refuse vaccination, this issue requires examination in the Canadian context with respect to legal, ethical and public health considerations.

## LEGAL CONSIDERATIONS

Physicians contemplating family dismissal for vaccine refusal need to be concerned about both the liability in negligence and the disciplinary action that may be taken against them by their regulatory body. In negligence, a physician can be held liable for harm to a patient if the physician had a duty to the patient and if the failure to meet that duty resulted in harm to the patient (4). Under professional regulation, a physician can be found guilty of professional misconduct if the physician violated the professional code of ethics or other standards set by the regulatory body (5). A physician has a duty to continue to treat a patient once

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the physician-patient relationship has been formed, unless the patient has been successfully transferred to an alternative care provider or has been provided with reasonable notice of the 'dismissal' (6-8). It is not clear what would constitute reasonable notice in the case of the family refusing vaccines, but it would likely be determined with reference to both the physician's reason for transfer and the ability of the patient to find another physician. In the case of transfer based on disagreement about vaccination within the context of a severe shortage of primary care physicians, it is possible that a patient who was unable to find an alternate physician and was harmed by the lack of medical care would be able to make a case for liability.

Thus, it can be concluded that, while the law on dismissing families for vaccine refusal is not certain, it is possible that a physician who stopped treating a family on the basis of vaccine refusal before the family was successfully transferred to another physician would be liable in negligence for harm suffered by any family members caused by the lack of access to a primary care physician. It is also possible that the physician would face some form of sanction from his or her regulatory body even if no harm were suffered. Also worth noting is that, under the law, individuals are permitted to refuse vaccination for themselves and their children. However, vaccination without consent is legally prohibited.

### ETHICAL CONSIDERATIONS

Physician dismissal of patients based on refusal of immunizations raises ethical dilemmas at both the individual and the population levels.

At the individual or patient level, the ethics of physician dismissal of patients based on refusal of vaccination can be usefully analyzed with reference to several core values including autonomy, protection of the vulnerable and equity.

Autonomy refers to respecting the patient or surrogate decision-maker's right to make his or her own medical decisions. Making a decision that the doctor is not in agreement with, from an ethical view, should not preclude the patient or family from receiving other ongoing care.

Patients and families dismissed for vaccine refusal and unable to find a new physician may become marginalized from health care and thus vulnerable. Similarly, the lack of access to care increases health inequities. These issues may become more prevalent as new vaccines are introduced for infectious diseases that are not well known nor understood by the public. This will become even more complex when vaccine efficacy against the targeted disease, duration of protection and potential benefits for unique populations (immunocompromised) are unknown (eg, with human papillomavirus vaccines).

Distinct ethical challenges at the population public health levels are related to the individual issues. Protection of the public's health and solidarity are key ethical values of public health. A high level of immunization in a population is a critical component for protection of the health of the

population. As observed in the United Kingdom when measles-mumps-rubella vaccine rates declined and measles outbreaks occurred (9), and in Ontario, when a rubella outbreak occurred in nonimmunized individuals within an underimmunized population (10), diminishing levels of vaccine uptake can result in significant outbreaks with serious outcomes. Therefore, decreasing population immunization rates is an ethical issue with public health repercussions (eg, 'protection of the vulnerable'). Many vaccinees are not exposed to vaccine-preventable organisms and thus do not benefit personally. Still, for many vaccine-preventable diseases, immunizations enhance herd immunity and help confer population-wide protection to those who cannot be immunized due to age, immunosuppression, underlying disease, allergy or other factors – an example of public health ethical solidarity.

A major concern in Canada is the lack of ethical frameworks for population and public health decisions. Guidelines for health care practitioners in the face of population and public health issues, such as patient and/or family vaccine refusal, need to be discussed and developed. If all opportunities to discuss vaccination have been exhausted and the parent still refuses to have his or her child vaccinated, the primary care physician may need to effect transfer to another provider who is more compatible with the family's goals. Carefully developed guidelines should include recommendations as to how this transfer may be accomplished, as well as reference to whose responsibility it is to find an alternate care provider. The competing values and interests of the patient, physician, family, community and society at large must be considered, and family dismissal should be strongly discouraged until a mutually beneficial solution can be found.

### PUBLIC HEALTH CONSIDERATIONS

The public health mandate of federal and provincial governments of Canada is to optimize the promotion and protection of the health of the population (11).

Physicians, as a major source of vaccine information for parents and patients, have an important role to play in helping to ensure high uptake of vaccines (12). They are a key link in a strong public health vaccine program.

Differences of opinion frequently exist between physicians and their patients on a variety of issues. However, dismissing a patient because of vaccine refusal effectively prevents any ongoing attempts to keep the lines of communication open and eliminates any possibility that a solution may be negotiated. When vaccine preferences are negatively polarized, physicians must work to suspend judgement and promote collaboration and an exchange of ideas in an atmosphere of mutual trust and respect. They are in a privileged position to communicate the far-reaching implications of vaccine refusal for the individual, the family and the population; to explain the public health ethical principles of solidarity and protection of the vulnerable; as well as being able to respond effectively to vaccine concerns and questions (13).

Mutual exploration of values in a search for common ground can sometimes lead to new solutions. Helping patients assess the impact of alternative decisions through ongoing vaccine education and communication can be a factor in assisting them to construct preferences, which have the potential to change over time. The family that refuses vaccination should receive the same supportive and compassionate management as other patients who show hesitancy toward specific medical advice. Dismissing the family will neither get the child vaccinated nor provide for preventive counselling in the event of exposure to a vaccine-preventable disease. To sever these lines of communication by dismissing the patient from care eliminates any possibility for subsequent discussion, and may lead to mistrust of the 'medical system' and to the patient dropping out of formal health care. Thus, dismissal serves neither the best interest of the patient nor that of the public and is, thus, an unacceptable strategy from a public health perspective.

### CONCLUSION

The present article has attempted to elucidate some of the complex legal, ethical and public health issues that the physician in our case scenario must consider when contemplating the decision whether to dismiss this family

from his or her practice. Although there is anecdotal evidence that primary care physicians are facing this dilemma in Canada, there are no data on which to estimate the problem burden, nor is there a legal precedent that may help guide physicians in their response. More research is needed to determine what is happening in Canada when differences of opinion exist among physicians, public health practitioners, and patients and families concerning immunization. If patients are being dismissed from care, it is fair to say that, given the current shortage of primary care physicians, referrals to other physicians may not be possible. If this is indeed the case, then dismissing a patient due to a clash in values has significant legal implications, raises ethical issues at the individual and population levels, and has negative population health implications. While there is no perfect solution, educating physicians about the value of mediating disagreements through communication that is respectful of the patient's perspective may preserve the integrity of the relationship and allow further exploration of options regarding vaccination.

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