

Recently organized groups of physicians have begun to voice their objection to clauses commonly contained in contracts prepared by Health Maintenance Organizations (HMO's) that they say limit their ability to talk freely with patients about policies of the HMO concerning covered treatments and payment policies. One typical clause, for example, found in the contract of Choice Care, in Cincinnati, says "Physicians shall take no action nor make any communication which undermines or could undermine the confidence of enrollees, their employers, plan sponsors, or the public in Choice Care or in the quality of care which Choice Care enrollees receive." Dr. Daniel A Gregorie of Choice Care defended this clause by saying, "Physicians are angry, frustrated, and to some extent depressed because the world as they've known it is changing rapidly and radically." "They should not, however," said Dr. Gregorie, "take out that frustration in a non-constructive way by sharing it with patients."

Is it ethically justifiable for HMO's to insist that physicians accept a contract clause, such as the one in the Choice Care contract, as a condition of affiliating with an HMO network? If so, why? If not, why not?

MODERATOR'S ANSWER: It is morally unjustifiable for HMO's to insist that physicians accept a contract clause, such as the one in the Choice Care contract, as a condition of affiliating with an HMO network. The contract clause seriously tends to undermine the relationship between physicians and patients. This is because a patient's trust in her physician's advice will begin to diminish if she perceives this advice as not based entirely upon a medical assessment of her best interests. Furthermore, even though the clause does not forbid physicians from communicating critical comments to administrators in the HMO, it would tend to have a chilling effect upon such communication, thereby depriving the organization of needed input. Dr. Gregorie's concern is understandable that a physician not take out her frustration by criticizing in the presence of patients the HMO with which she is affiliated. Nonetheless, as a medical organization, an HMO has the same ethical obligations as individual physicians to put the patients' interests first. The clause at issue in this question would appear not to do so.

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