

Thesis: *If a doctor believes that the benefits of a treatment do not justify the risks, then it is morally wrong for the doctor to administer treatment to a patient, even though that treatment will not lead to harm to others and the patient has given morally relevant consent.*

Part 1

Here, saying that the benefits of a treatment do not justify the risks refers to the situation where a doctor believes that administering a treatment will most likely result in an overall worse health outcome for the patient. You might raise an objection to the subjectivity from one doctor to the next regarding how each will weigh potential risks and benefits. I would argue that much of medicine must have some degree of subjectivity. Doctors must make judgment calls all the time no matter how much we try to standardize medicine. For instance, emergency room physicians see many patients with the comorbidity of hypertension, and they must decide whether or not the patient can be safely discharged with higher than normal blood pressure. Some people have lived with hypertension for so long that it would be dangerous to lower their blood pressure to normal limits, while for some people the opposite is true. Completely standardizing medicine would not allow for unique differences in treatment for each patient. Therefore, I argue that some subjectivity is inherent in the practice of medicine, so it is up to each doctor to balance the risks and the benefits of treatment in each individual case. **This is a good point about subjectivity.**

One main worry that should be addressed is doctors who make bad or irrational decisions – not just subjective ones, but ones based on lack of consideration of available evidence, or prejudices, etc. This is something that happens in the real world. So, imagine a doctors who thinks, irrationally, that a treatment is not good for the patient; this paper would also need to explain why it would be wrong for such a doctor to give this treatment (which really is good) to the patient.

The question remains of why it would be morally wrong for a doctor to administer therapy that will result in worse outcomes, if that is what the patient asked for. In this situation one person is knowingly doing something that will harm another with consent, which while questionable, does not raise serious moral questions. However, a doctor acting in a professional capacity is not just another person. A doctor is morally obligated to do what they can with medicine so that their patients arrive at a better state of health than where they began, and consciously harming a patient would be the exact opposite. This obligation is proven by what is inherently expected of the medical profession. I argue that people who enter into the profession must understand that the expectations of the role are to maintain or improve patients' health. People see doctors because they're ill or injured, and they don't have the medical expertise to treat themselves. It's plausible to say that when people seek medical treatment, they are hoping to end up in a better state than before, and I argue that doctors are fully aware of this expectation. Consider for instance the profession of an elementary school teacher. Teachers are expected to educate their students to the best of their ability, so you would be justified in saying that a teacher who knowingly teaches his students incorrectly would be acting immorally. As in the teacher analogy, for a doctor to knowingly cause harm to his patient and act in opposition to the expectations of his profession would be a violation of the moral duty vested in a doctor, regardless of whether or not it was asked for. **This is a very interesting idea, and I think it is a good argument that, quite often, doctors do have an obligation to act in their patient's interests. However, some patients do go to doctors in order to receive treatment that they (the patient) want, and not just what doctors see as in their interest. This should be discussed. Perhaps one might argue that, even so, they still want the doctor to do what is best for them, and there is just disagreement and what is best for them.**

For example, suppose a patient goes to see his doctor for a skin infection that should be treated with steroids. The doctor correctly diagnoses the patient and prescribes a topical steroid cream. However, the patient mistakenly believes that all infections must be treated with an antibiotic and demands a prescription for antibiotics despite the doctor explaining why the steroid should be used. The doctor knows that using the antibiotic instead of the steroid would allow the infection to go untreated, resulting in a worse health outcome for the patient. It's intuitive to say here that it would be morally wrong for the doctor to give the antibiotic because it's goes against the moral obligations of a doctor and actually harms the patient. **This is a good example.** But you can object here that there may also be more complex cases, where the doctor unknowingly refuses to administer a treatment that would actually be more beneficial

than risky for the patient. This goes back to what was discussed in class about how the simple act of knowing changes the moral implications of an action. If the doctor genuinely believed that administering a certain treatment would result in the patient being in a worse health state, he would not be morally wrong in refusing to give the treatment, even if the treatment would have actually resulted in a better outcome. To say otherwise would mean for instance that a hotel would be held morally responsible for housing an escaped criminal even if they didn't know and probably couldn't know that one of their many guests was a criminal. **Nice response.** That is clearly not the case in today's society. **This is where I wonder again about cases where the doctor's belief is not reasonable.**

Next I would like to address the issue of why doctors do have the right to refuse to administer treatment, given that the expectation is for doctors to medically treat patients. As discussed in class, it's uncontroversial to say that patients must be respected when they don't give morally relevant consent to treatment even if the doctor believes that not receiving treatment would bring the patient more risks than benefits. This is evidence of the intrinsic value of negative freedom that patients have for making decisions regarding their own bodies. Patients have the option of signing out of hospitals Against Medical Advice. The existence of this option speaks to the value that is vested in individuals having control over their medical decisions. Doctors undergo many years of medical training and know far more about medicine and human health than the average patient. When a patient refuses treatment, they are essentially putting their own judgment above the objectively better judgment of the doctor. While there could be other considerations such as financial reasons, patients also refuse treatment simply because they just believe they don't need it or should receive a different one. In these circumstances, the patient would most likely be better off if they received the prescribed treatment against their will, and yet forcing someone to receive treatment is also highly implausible. I would argue here that this is evidence of the intrinsic value of that freedom. Even if that freedom results in worse outcomes, it is still protected.

This is a freedom that is in balance between both the doctor and the patient. I argue that just as a patient does not have to undergo unwanted treatment, a doctor does not have to give a treatment that they don't want to administer. Morally relevant consent is often considered only from the perspective of the patient, but it also applies to the doctor. A patient must consent to receiving treatment, so a doctor also has the right to consent to giving treatment. After all, a doctor is the professional persona of a normal person and the same considerations afforded to the patient must be given to the doctor. Consider for instance the example of sex where if only one participant gives consent, the act is rape. An objection here might be that doctors will be morally allowed to refuse treatment without any reason other than the fact that they don't want to consent to giving treatment. I have argued that doctors have the added moral obligation to treat their patients if nothing medical prevents them from doing so, by virtue of their occupation. For instance, it would be just as implausible and immoral for a police officer to decline arresting a criminal because they simply don't want to. Therefore, just as a patient has a right to refuse treatment, a doctor has the right to refuse to give treatment in cases where the refusal has medical basis.

Between the doctor and the patient, there is an interplay of the patient's freedom to receive the treatment they want and the doctor's right to give only the treatment that they believe is not harmful to the patient. There will a cost to the patient's negative freedom to receive treatment they want. I would argue that we as a society have decided that the cost to freedom is worth the medical care patients receive in return. Imagine that if patients' freedom was the ultimate goal, then doctors would just be the tools by which patients receive whatever medical care they want. Like going to a spa, patients could go to the hospital, pick from a menu, and the doctor would administer the selected treatments without question. This seems highly implausible, but this would be the greatest protection of a patient's negative freedom to make their own medical choices, even the most harmful and irrational choices. This is obviously not the case in our society today. By the way society allows doctors to practice, we have accepted that doctors have the right to refuse to administer treatment based on medical reasoning. **This is very good – the paper is talking about exactly the sorts of objections it should be addressing.**

In class there was debate over what Davis had argued for, that people have the freedom to make their own choices, even if it is at a cost to what is in their best interests. However, I would claim that her argument does not counter my thesis. Nothing is preventing patients from trying to seek out whatever care

they think they need until it runs counter to the doctor's right to refuse to provide treatment when it would result in a worse outcome for the patient. I don't believe that Davis is advocating for freedom of choice that infringes upon the freedoms of others. Furthermore, my thesis isn't arguing for a protection of best interests or stating that treatment is only moral when it leads to the best outcome. The argument is that it would be immoral for doctors to provide treatment when the outcome would be worse than the status quo.

Part 2

Consider a counterexample to this thesis. Cancer patients who have failed to respond to first-line and second-line therapies have significantly decreased chances of survival, and may turn to clinical trials or experimental therapies. By virtue of being experimental and still in clinical trial phases, these treatments are inherently riskier, and the outcomes and side effects may not be as well understood. The patient in this counterexample has late-stage metastatic lung cancer, which according to the Mayo Clinic has a 5-year survival rate of 4%. It's plausible to say that the patient probably does not have many years left and prolonged survival is unlikely. The doctor believes based on his experience with patients like this that the patient has virtually no chance of living beyond these five years. The patient however, has not given up and tells his doctor that he would like to try an experimental drug whose side effects are largely unknown and whose efficacy has also not been demonstrated. In the doctor's sincere medical opinion, he believes that the chance of debilitating side effects is too high and there is not enough evidence that the drug will have any effect in treating the cancer. Given high risk of decreased health status for the patient and the very slim chance that the drug will in any way treat the metastatic cancer, the doctor has decided that the risks of the experimental drug outweigh the benefits. Therefore, according to the thesis, it would be morally wrong for the doctor to administer this experimental treatment because it will most likely result in a worse outcome for the patient even though the patient has asked for the treatment and consented to it. However, in this case it could also be argued that the patient has the right to take whatever necessary action in order to live, given that it does not bring harm to anyone else. The doctor does not have the right to essentially condemn the patient to death by refusing to give this treatment, no matter how small the chance is of success. Therefore, it would be morally wrong for the doctor to refuse to administer the treatment and deny the patient a chance at life **This has the potential to be a strong counterexample, but for it to actually go against the thesis the paper needs to say that it would be permissible to administer treatment, not that it would be wrong to not treat.**

Part 3

Given this plausible counterargument, I would argue that the thesis is still relevant because the consequent here still holds true. Regardless of whether or not the patient is dying and grasping at the last straws, it would still be morally wrong for the doctor to consciously administer treatment that he knows will result in a worse outcome for his patient. But the doctor must also not deny the cancer patient his experimental therapy. While giving a patient clearly harmful therapy is wrong, so is denying a patient potentially life-saving treatment, and in this case I argue that the doctor has a greater moral duty to give the patient every chance of survival. Giving the treatment goes against the doctor's best judgment but when the alternative is the likely chance of death, the doctor must administer the treatment anyway.

This can be considered as a *prima facie* duty. The thesis being proven here is that doctors must not administer treatment that they believe will bring more a worse health outcome to the patient. Therefore, doctors have a *prima facie* duty to treat the patient in such a way that they will be in a better state of health than before the treatment. However, doctors have a stronger *prima facie* duty to help the patient live if that is what they desire. A point of contention here may be whether or not a doctor's ultimate duty is to save a patient's life. Perhaps the patient currently has no quality of life and even if the experimental therapy is effective, his life would only be extended and not improved. Perhaps the patient is even existing in a state of excruciating pain that the experimental therapy has no chance of remedying so that prolonging his life would only be prolonging his suffering. Here, treating the patient would result in the patient being in an arguably worse state than he would have been. The question would be whether or not the doctor must really place saving a patient's life as a moral duty above other considerations. I argue that saving the life of a patient who wants to live is the most important duty. The alternative would be that doctors have the right to decide the life or death of their patients and whether that life is worth living.

Even if the doctor would have done the beneficial thing for the patient by letting him die and ending his suffering, the power over life and death is not something that any one person has over another. Therefore, above the other moral considerations in this case, the doctor must administer the therapy. **Here the paper is again talking about whether it is wrong to not administer this treatment, not whether it is wrong to administer it. But the thesis is only about the latter, not the former.**

In this counterexample, by giving the experimental therapy to the patient, the doctor would be doing something morally wrong in giving treatment against his best judgment. This is superseded by the moral duty of the doctor to save the patient's life if the patient wants to live. In this case, the counterexample does not disprove the thesis because the consequent of the counterargument is still in line with what the thesis argues.

While the paper makes an extremely plausible point, it is extremely problematic in the context of this paper. It is not always wrong to violate *prima facie* duties; a duty is *prima facie* if it is usually a duty but can be permissibly violated in certain cases [this is something we covered in that class earlier in the semester]. When the paper says here that it is just a *prima facie* duty to not give treatments that the doctor is opposed to, it is saying that it is only usually wrong to do so, not that it is always wrong. But the thesis says that it is always wrong for a doctor to administer treatments that they are opposed to. So this section is not really defending the thesis.

Works Cited

Mayo Clinic Staff. "Diseases and Conditions." *Cancer Survival Rate: A Tool to Understand Your Prognosis*. Mayo Clinic, 6 Apr. 2011. Web. 05 Mar. 2014.