Immigration Reporting Laws: Ethical Dilemmas in Pediatric Practice

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ABSTRACT

Objectives. This study assessed the potential impact of immigration reporting requirements on pediatricians' referrals to child protective services.

Methods. A random sample of 200 Massachusetts pediatricians were surveyed. Chi-square and logistic regression analyses were performed.

Results. Asked whether potential deportation of the family would cause them to question or alter a decision to refer, 50% of the respondents said yes.

Conclusions. Pediatricians, as mandated reporters of child abuse, will face ethical dilemmas if laws requiring reporting of immigration status are enacted. (*Am J Public Health.* 1998;88:967–968)

Introduction

The current movement to restrict immigration into the United States has far-reaching implications for health care providers. The US Commission on Immigration Reform called for denial of benefits to undocumented immigrants.[1] Politicians have proposed that services such as health care be denied to undocumented immigrants.[2] Recent changes in federal entitlement programs exclude immigrants from benefits (e.g., HR 3734, the Personal Responsibility and Work Opportunity Act of 1996). In March 1996, Congress passed HR 2202, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, aimed at curbing immigration and restricting services, both to regulate illegal immigration and to reduce expenditures. The Bryant amendment would have required public health facilities to report immigrants' legal status to the US Immigration and Naturalization Service (INS). In 1994, California voters passed Proposition 187, excluding immigrants from public services and requiring some professionals to serve as proxies for immigration authorities.

These restrictions of services, particularly health insurance, are of major public health concern. Restricted access can be expected to reduce immigrants' health care use, with consequent adverse effects on their health status. Latino immigrants' insurance status is associated with differential access to health care. Undocumented immigrants are less likely to have insurance, with worse access to care, less use of preventive care, and more reliance on emergency care.[3,4] With the Proposition 187 campaign and increased tuberculosis rates,[5] undocumented immigrants in California, fearing trouble with the INS, delayed seeking care for tuberculosis and exposed an average of 10 contacts per patient during the delay.[6]

While immigrants may face the dilemma of jeopardizing their immigration status by seeking care, an analogous situation arises for health professionals, as some of the above-mentioned measures not only deny services to immigrants but require authorities to report suspected undocumented immigrants to the INS. Another such measure was offered by the governor of Massachusetts, who proposed in 1995 that state social workers be required to report suspected undocumented immigrants to the INS. A Massachusetts law (Mass Gen L, ch 119, §51A) mandates that health professionals report suspected child abuse and neglect to state child protection agencies and stipulates a fine of up to $1000 for failure to comply. We attempted to assess how INS reporting laws could affect pediatricians' intentions to report children to child protective services.

Methods

Immediately following the governor's proposal, we surveyed 200 Massachusetts pediatricians who regularly practice pediatric medicine and who were randomly selected from the American Academy of Pediatrics membership directory.[7] Nonresponders received a second mailing. We performed bivariate chi-square and multivariate logistic regression analyses of descriptive variables and the dependent variable, which was the response to the primary question: "If you felt you should refer or report a family to state social services, would a law placing your patient and his/her family at risk for deportation cause you to alter or question your decision to refer?"

Results

The response rate was 67%; 59% of the responders were male. Almost three fourths (73%) practiced primary care. Forty percent had been practicing for 10 years or less. Forty-five percent categorized their practices as suburban or rural and 47% as

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urban. Fifty-four percent reported that the majority of their patients had private health maintenance organization (HMO) insurance; 24%, Medicaid; and 7%, private fee-for-service. One percent reported that the majority of their patients were uninsured. Forty percent said fewer than 10% of their patients were immigrants. Ninety percent had previously reported suspected abuse.

In response to the primary question, 22% answered definitely yes; 28%, probably yes; 25%, probably no; and 11%, definitely no. Twelve percent were unsure, and many of these respondents indicated that specific circumstances would influence their decision. Multivariate analysis of all responses for independent variables with the dependent variable dichotomized as yes or not yes revealed no statistically significant associations for practice years, primary care, practice setting, proportion of immigrants among patients, or previous referrals to the department of social services. The odds ratio for a yes response by pediatricians whose patients mainly have Medicaid or no insurance, compared with pediatricians with a minority of such patients, was 4.9 (95% confidence interval = 1.4, 16.3).

Discussion

Half of the practicing pediatricians in this Massachusetts sample would consider violating child abuse laws if reporting could result in the family's deportation. Thus, pediatricians will have to decide whether the child's circumstances are serious enough to warrant reporting despite reservations about deportation. If deported (or unreported), abused children of undocumented immigrants could go without state protection, clearly not the intent of child protection laws.

Although we measured intention, not behavior, it appears that INS reporting laws will create ethical dilemmas. However, knowledge often does not translate into behavior.[8,9] Social norms, behavioral attitudes, personal beliefs in the action's efficacy, and knowledge influence the formation of behavioral intention. The strengths of these factors will dictate whether intention becomes action.[10]

Pediatricians will have to weigh the implications of INS reporting laws against the specifics of abusive situations, the expectations of their patients and communities, and their own beliefs in the utility of child protection systems. If one pediatrician alters a referral, a possibly abused child will remain without protective services. It would be tragic if abuse reporting were limited to the most severe cases.

Another aspect of such proposals is infringement on medical neutrality and the physician-patient relationship. Medical neutrality is a concept derived from the Geneva Conventions and now encompasses political independence for medical care providers in various settings beyond warfare. The 1949 Convention mandates care "without adverse distinction founded on . . . nationality, religion, political opinions. . . ."[11] Protocol I prohibits requiring medical personnel from performing tasks "not compatible with their humanitarian mission."[12] This moral and ethical context, which is echoed in contemporary works on medical ethics, as well as the central principle of medical care, *primum non nocere,* confronts physicians with an imperative superseding politics that affect medicine for reasons other than public health.[13]

Most INS reporting proposals have been defeated or stalled through judicial challenges. If anti-immigrant sentiment continues, legislators will likely propose such measures without consideration for medical practice. Asch et al. demonstrated that fear of immigration authorities caused undocumented immigrants to avoid seeking health care.[6] This research supports anecdotes of adverse outcomes due to similar fears.[14,15] Furthermore, concerns about the health, growth, and development of immigrant children have been expressed by nonpartisan organizations and merit investigation.[1,16] Such experience must inform debates on immigration so that policymakers will consider the potential impacts of legislation on seemingly unrelated areas. □

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