Physicians object to court-ordered use of ivermectin for COVID-19

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When COVID-19 forced his uncle to go on a ventilator, a Wisconsin man who was losing hope began doing research on the internet. He came across ivermectin.

Allen Gahl found a doctor who was not credentialed at the hospital where his uncle was being treated to write a prescription for the drug and he wanted his uncle to receive it. Aurora Medical Center-Summit staff and administrators refused to administer the ivermectin—a drug that leading medical experts advise against using to treat COVID-19 because studies show it’s ineffective and can, in fact, be harmful to patients.

Gahl sued on behalf of his uncle, John J. Zingsheim, who ultimately cleared the COVID-19 and was released, to force the hospital to administer ivermectin. Now, the Wisconsin Supreme Court will determine whether a court can compel the hospital to provide the treatment—a ruling that would have implications well beyond this one case.

The Litigation Center of the American Medical Association and State Medical Societies and Wisconsin Medical Society (WisMed) filed an amicus brief to urge Wisconsin’s highest court to affirm the appellate court ruling that found the law doesn’t give “a patient or a patient’s agent the right to force” private hospitals or physicians to administer a particular treatment that they conclude is below the standard of care.

“Holding otherwise would allow courts to compel treatments that the medical consensus finds to be substandard,” the brief (PDF) tells the court in the case, Gahl v. Aurora Health. “That outcome forces Wisconsin physicians to choose between the law and their ethical duties, potentially exposing patients to harm and physicians to liability.”

Against the standard of care

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Wisconsin law does not require physicians to provide a treatment that medical evidence suggests won’t benefit patients and may harm them, the brief says. And ivermectin is not within the standard of care when it comes to treating COVID-19.

The Centers for Disease Control and Prevention and the Food and Drug Administration issued advisories that ivermectin is not authorized or approved to treat COVID-19. The National Institutes of Health, World Health Organization and the drug’s manufacturer, Merck, all say there is insufficient evidence to support using ivermectin to treat COVID-19.

“This cautionary guidance is well-founded. The overwhelming majority of studies investigating ivermectin find it is not an effective COVID-19 treatment. The few dissenting studies that exist have ‘substantially evaporated under close scrutiny,’” the brief says.

Learn more about why ivermectin should not be used to prevent or treat COVID-19.

**Against ethical obligations**

Before the appellate court ruling, the Waukesha County Circuit Court judge ruled that the hospital had to administer the ivermectin, and ultimately ordered Gahl to supply the medication and a physician who could administer it to his uncle.

The brief said that placed an “unworkable burden” on physicians who would be forced to choose between complying with a court order or their medical ethical principles of beneficence, nonmaleficence and autonomy.

A physician’s obligation to respect a patient’s autonomy requires them to inform patients about viable options and respect a patient’s “decision to accept or refuse any recommended medical intervention.” It doesn’t “require them to ‘do whatever patients ask of them,’” the brief says.

Physicians explained to Zingsheim, through Gahl, what the treatment plan was and he had the opportunity to refuse a recommended treatment, remdesivir. Physicians also explained why they objected to administering the ivermectin prescription.

“Gahl does not argue otherwise; he simply disagrees with Aurora’s medical judgment,” the brief says.

**Creating liability for physicians**
If the Wisconsin Supreme Court compels the hospital to administer ivermectin or to credential an outside physician to do so, physicians in Wisconsin will be left with an impossible choice: ignore a court order or their ethical obligation, the AMA Litigation Center and WisMed brief says.

It concludes by telling the court that “even if compelled by a court and requested by a patient, ethical breaches, like providing substandard care, expose physicians to possible administrative sanction for ‘unprofessional conduct,’ including license revocation, and civil liability. The court should relieve Wisconsin’s physicians of that perilous dilemma by affirming the Court of Appeals.”

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