

Religion as a Controlling Interference in Medical Decision Making by Mature(?) Minors

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It is well settled that an adult, one over the age of eighteen, is legally permitted to refuse life-saving medical treatment, and a great deal of literature exists on the ability of adult Jehovah's Witnesses to refuse blood transfusions in accordance with their religious beliefs. But it is equally well settled that adults may not refuse life-saving blood transfusions on behalf of their children. As the Supreme Court noted in *Prince v. Massachusetts*, "[p]arents may be free to become martyrs themselves. But it does not follow they are free . . . to make martyrs of their children."

Because parents cannot make this decision for their children, in cases involving adolescents and religious refusals, the argument is often asserted that the decision is being made by the minors themselves. And several jurisdictions have adopted the so-called mature minor doctrine, which, in effect, creates a rebuttable presumption as to the legal incompetence of those under the age of eighteen. Theoretically speaking, competence goes hand in hand with the principle of respect for autonomy; competent individuals are thought to make decisions based on adequate understanding while remaining free from controlling interference that would prevent autonomous choice.

But there is a gap in the existing literature regarding what role religion ought to play in evaluating the competence of adolescents refusing life-saving medical treatment based on their asserted religious beliefs. After all, religion plays almost no role when assessing medical decisions made by adults. This paper offers an answer to that normative question. When adolescents seek to refuse medical treatment based on religious beliefs, the determination of whether such adolescents have rebutted the presumption of incompetence must include an assessment of whether religion is posing a controlling interference that prevents autonomous choice.

Anecdotes abound of courts allowing teenagers to refuse life-saving medical treatment based on their asserted religious beliefs. Courts seem satisfied that these decisions have been made by competent minors after careful consultation with their parents and religious leaders. But often, these teenagers are isolated from friends and family who are not associated with the given religion. It is not surprising that these minors make medical decisions in line with their parents (who, again, cannot make the decision for their children), and in accordance with the only religious beliefs to which they have been exposed. Religious beliefs, as in the case of the Jehovah's Witness Faith, which might eschew individual autonomy in favor of deference to church authority.

Adults have the ability to choose with which religion(s) to associate. They also have the constitutional right to raise their children in accordance with those beliefs. Minors often have no choice in the matter; though all is well until such minors are presented with life and death decisions regarding medical treatment. In these situations the law must enforce a mechanism pursuant to which it can be determined whether these minors are making decisions based on a controlling interference associated with that religion.