The Jehovah’s Witnesses Society is best known to outsiders for its refusal of blood products, even when such a refusal may result in death. Since the introduction of the blood ban in 1945, Jehovah’s Witness (JW) parents have fought for their rights to refuse blood on behalf of their children, based on religious beliefs and their right to raise children as they see fit. Adolescent JWs have also sought to refuse blood products based on their beliefs, regardless of the views of their parents. Adult JWs have fought to protect their autonomy when making both contemporaneous and advance treatment refusal. The refusal of blood products by JWs raises ethical and legal dilemmas that are not easily answered. Do an individual’s rights (namely bodily control, right to privacy, right to decide about life/death issues, right to religious freedom) outweigh society’s rights (namely the preservation of life, the prevention of suicide, the protection of innocent third parties, and the maintenance of the ethical integrity of the medical profession)? Does the right to choose outweigh the value of human life? For doctors, conflict occurs between the desire to respect patient autonomy and the need to provide good medical care. The Watchtower Society (the JW governing body) imposes a strict code of moral standards among its members, and it is unlikely that individual JWs are making truly autonomous decisions about blood transfusions. While young children and adolescents are protected by the courts and conscious adults are afforded autonomy, dilemmas still arise in the emergency situation. This article examines the rights of young children, adolescents, and adults, focusing in the latter half on adults in the emergency situation.

ADOLESCENTS
The situation regarding the ability of mature minors to refuse medical treatment is not as straightforward. In Canada, despite pre-1996 court decisions15 supporting the notion of adolescent autonomy, adolescents may not refuse medical treatment.14 In the USA, three states recognise the "mature minor" concept17 but elsewhere adolescents rely on parental decision making. In England and Wales, mature minors may consent to, but may not necessarily be able to refuse, treatment. In Scotland, although not specifically referred to, the Age of Legal Capacity Act18 implies that a competent child may refuse, as well as accept, treatment.

The debate commenced in 1985 with Gillick v West Norfolk.19 The majority of the House of Lords were clear that if a child under 16 years could demonstrate sufficient understanding and intelligence to fully understand the treatment proposed they could give their consent to treatment.20 Unfortunately this case did not address the issue of treatment refusal. Subsequent cases21 may possibly be seen as undermining the ability of minors to make decisions about the refusal of medical treatment, as in each case the court has exercised its right to overrule the decisions of minors "in the best interests" of the child. In all cases concerning adolescent JWs,21 the courts have allowed transfusion, with the judges expressing concern about the child’s ability to make a fully informed

Abbreviations: JW, Jehovah’s Witnesses; WTS, Watchtower Society
decision because of their sheltered upbringing and the influence of the JW faith.

ADULTS

Although the state has an interest in the preservation of life, that interest is not absolute. Individuals have the right to control their own person and part of that autonomy is the “right to make choices pertaining to one’s health, including the right to refuse unwanted medical treatment”.

What, therefore, should doctors do in the emergency situation? In an emergency, treatment that is in the patient’s best interests may be given under the doctrine of necessity. However, this doctrine assumes that “under the circumstances, a reasonable person would consent, and thus the probabilities are that the patient would consent”. This doctrine is unlikely to apply to JWs, as most, if conscious, would object to treatment.

Unfortunately, the two leading legal cases considering unconscious JWs offering conflicting advice. In Dorone, the Supreme Court upheld a decision to allow transfusion, whereas in Malette, the physician was found liable for battery. The standard in Dorone essentially precludes application of any form of advance directive. Conversely, the court in Malette accepted the undated, unwitnessed card at face value. The latter approach is not ideal; the decision was retrospective and it would be impossible to know whether the pre-printed wishes still reflected the patient’s views.

REFERENCES

2. Anonymous. “A patient in hospital may be fed through the mouth, through the nose or through the veins. When sugar solutions are given intravenously, it is called intravenous feeding. So the hospital’s own terminology recognizes as...”

THE EMERGENCY SITUATION

Unconscious JWs, with signed blood refusal cards, a form of an advance directive, create medical, ethical, and legal dilemmas for healthcare professionals. English law is clear and unequivocal. Patients have the right to refuse medical treatment “for reasons which are rational or irrational or for no reason” and “even in circumstances where she is...certain to die in the absence of treatment”. This absolute principle is applicable to a competent patient’s anticipatory refusal of consent in the form of an “advance directive” or “living will”. Anticipatory refusal cards is inherently revocable… The burden of proof is on those who seek to establish the existence and continuing validity and applicability of an advance directive… If there is doubt, that doubt falls to be resolved in favour of the preservation of life.”

Therefore, in the emergency situation, if doubt exists about the validity of a blood refusal card, physicians should aim to preserve life and administer the necessary blood products.

CONCLUSION

JWs presenting to the ED continue to cause concern. However, the law regarding young children, adolescents, and adults (in the non-emergency situation) is clear: parents may not refuse blood on their children’s behalf if such a refusal is deemed unreasonable, adolescents cannot necessarily refuse blood, and competent adults can refuse unwanted treatment.

In an emergency, the situation is more complex, particularly as there are concerns about how informed individual JWs are about the risks/benefits of blood. Physicians should provide the necessary information for an individual to make an informed choice and where this is not possible, physicians should administer blood products in life threatening situations, if any doubt exists about the validity of a blood refusal card.

Competing interests: none declared
feeding the process of putting nutrition into one’s system via the veins. Hence the attendant administering the transfusion is feeding the patient blood through the veins. The attendant receiving it is eating his veins. *(The Watchtower)* 1951 July 415.


5. CTPA 1933, sections (1) and (2)(a) but liability here is not as a parent but as a person over 16 having the ‘custody, charge or care’ of a child under 16.


15. In re Brown 478 So.2d 1033 (MS 1985).


17. Public Health Trust v Wons 800 So. 2d 679 Public Health Trust v Wons aff’d 541 So. 2d 96 (Fla. 1989), In re Duran 769 A 2d 497 (Sup. Ct. Penn 2001).

18. Sidway v Board of Governors of the Bethlem Royal Hospital and the Maudsley Hospital 1985; AC 871, 904F.


28. In re Estate of Darrell Dorane 534 A 2d 452 (Pa. 1987), ‘The emergency exception applies when immediate treatment is required to preserve life or prevent... serious impairment... but consent cannot be obtained from a patient... and there is no indication that the treatment would be refused were the patient able to make his or her wishes known’.


31. In re Estate of Darrell Dorane 534 A 2d 452 (Pa. 1987). *“The emergency exception applies when immediate treatment is required to preserve life or prevent... serious impairment... but consent cannot be obtained from a patient... and there is no indication that the treatment would be refused were the patient able to make his or her wishes known”*.

32. Malette v Shulman 72 O R 2d 417 “the doctor could administer blood transfusions without incurring liability... if he had no reason to believe that the patient, if she had the opportunity to consent, would decline... if he knows that the patient has refused to consent to the proposed procedure, he is not empowered to overrule the patient’s decision by substituting his decision for hers even though he, and most others, may think hers a foolish or unreasonable decision.”


35. www.emjonline.com