

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS*

CEJA Report 2 - A-04

Subject: Professional Courtesy to Physicians and Their Families,
(Resolution 1, A-03)

Presented by: Michael S. Goldrich, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Mary W. Geda, MD, Chair)

1 Resolution 1 (A-03), “ Professional Courtesy to Physicians and Their Families” was presented by
2 the New Jersey delegation at the 2003 Annual Meeting. It directed the AMA to establish guidelines
3 for professional courtesy for physicians’ offices and hospitals, to disseminate those guidelines to
4 hospital medical staffs and all elements of the Federation, and to advocate for the repeal of the
5 current federal anti-kickback statute.

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7 The resolution was referred in part on the basis that there already exists AMA policy that addresses
8 professional courtesy. It also was noted that any extension of such policy raises legal concerns.
9 This report addresses primarily existing policy related to professional courtesy. Upon consulting
10 with the AMA’s Advocacy Group, it does not appear feasible for the AMA to advocate a repeal of
11 the federal anti-kickback statute, which addresses practices beyond professional courtesy. Moreover,
12 repeal of the entire federal anti-kickback statute is an overly broad proposal to resolve concerns that
13 result from the application of a limited and specific portion of the statute.

14 15 AMA POLICY

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17 Opinion E-6.13 (AMA Policy Database), “Professional Courtesy,” issued in 1994, refers to
18 professional courtesy as a long-standing tradition in the medical profession. However, it is not an
19 ethical requirement. Physicians may decide to waive or reduce fees when treating fellow colleagues
20 (including medical students) or their families according to their own judgment.

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22 However, Opinion E-6.13 does not stand alone. Rather, it cautions that accepting insurance
23 payments while waiving co-payments may violate Opinion E-6.12, “Forgiveness or Waiver of
24 Insurance Co-payments.” This latter Opinion explains that many health insurance policies are
25 designed to make patients more conscious of the cost of their medical care through co-payments. It
26 further warns that a waiver of the co-payment may violate such policies, or may constitute fraud
27 under the law.

* Reports of the Council on Ethical and Judicial Affairs are assigned to the reference committee on
Constitution and Bylaws. They may be adopted, not adopted, or referred. A report may not be amended,
except to clarify the meaning of the report and only with the concurrence of the Council.

1 Legal issues were reviewed in detail in BOT Report 18 - A-98, "Professional Courtesy," including
2 the legal risks of extending professional courtesy to a physician-patient who is in a position to make
3 referrals. A summary of these issues is available online at [http://www.ama-
5](http://www.ama-
4 assn.org/ama/pub/category/4615.html)

6 As a distinct but related matter, it is important to recognize that the AMA's Code of Medical Ethics
7 calls upon physicians to provide medical care to those in need, irrespective of their ability to pay or
8 their insurance status. Therefore, professional courtesy extended on the basis of financial need is
9 ethically justifiable on the basis of altruism.

10 11 CONCLUSION

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13 Guidelines for professional courtesy are already included in the AMA's Code of Medical Ethics;
14 they acknowledge that the practice is long-standing, but warn physicians to respect laws that may
15 affect professional courtesy as well as health insurance policies that prohibit waivers of co-
16 payments. Similar caution was urged in a previous report from the Board of Trustees. Therefore,
17 the AMA already has adequate guidance for physicians who wish to extend professional courtesy in
18 the current healthcare environment.

19 20 RECOMMENDATION

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22 The Council on Ethical and Judicial Affairs recommends the following be adopted and the
23 remainder of this report be filed:

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25 That Policies H-140.938, D-140.997, D-140.999 and E-6.13 be reaffirmed in lieu of Resolution
26 1, A-03. (Reaffirm HOD/CEJA Policy)

Fiscal Note: Less than \$500.00

Appendix

H-140.938 Professional Courtesy

The AMA reaffirms a physician's right (consistent with Council on Ethical and Judicial Affairs Opinion E-6.13) to provide professional courtesy. (Sub. Res. 4, I-97; Reaffirmation I-98; Reaffirmed: Res. 5, I-02)

D-140.997 Professional Courtesy

Our AMA will disseminate the AMA's and CMS's current positions regarding professional courtesy to the physicians in this country. (Res. 6, A-99)

D-140.999 Preservation of Professional Courtesy

Our AMA will petition CMS, the U.S. Attorney General and the U.S. Congress to reverse the unreasonable and intrusive policy of considering professional courtesy among physicians fraud. (Res. 6, I-98)

E-6.13 Professional Courtesy

Professional courtesy refers to the provision of medical care to physician colleagues or their families free of charge or at a reduced rate. While professional courtesy is a long-standing tradition in the medical profession, it is not an ethical requirement. Physicians should use their own judgment in deciding whether to waive or reduce their fees when treating fellow physicians or their families. Physicians should be aware that accepting insurance payments while waiving patient co-payments may violate Opinion 6.12. (II, IV) Issued June 1994.