

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS*

CEJA Report 2 - I-05

Subject: Ethics of Physician Participation in Reality Television for Entertainment
(Resolution 607, I-04)

Presented by: Priscilla Ray, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Charles J. Hickey, MD, Chair)

1 At its Interim 2004 Meeting, the American Medical Association’s House of Delegates adopted
2 Resolution 607, “Ethics of Physician Participation in Reality Television for Entertainment.” The
3 Resolution called for the Council on Ethical and Judicial Affairs (CEJA) “to prepare an opinion on
4 physician participation in television entertainment programs.” Concurrently, at its December Open
5 Forum, CEJA addressed concerns arising from television programs’ influence on patient
6 expectations regarding medical care and the need for standards to guide physicians’ participation in
7 such programs.

8 9 BACKGROUND

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11 Over the course of the last decade, a growing number of reality and dramatized television shows
12 have featured physicians – actual or portrayed – and depicted medical procedures. A surge in
13 televised plastic surgery competitions has raised new questions regarding the appropriate role of
14 physicians vis-à-vis contestants who wish to undergo procedures, such as “complete makeovers.”
15

16 Among the considerations that participating physicians must consider are challenges to traditional
17 norms of medical privacy and confidentiality due to cameras accompanying patients before, during
18 and even after the surgical procedure. The voluntary nature of patients’ medical decision making
19 may be brought into question by the prospect of extravagant rewards for which participants are
20 vying. Prizes have the potential to become a determining factor in patients’ medical determinations
21 rather than anticipated risks and benefits. Moreover reality-based and other television shows may
22 create false expectations among viewers, through creatively edited narratives. This concern is
23 validated by findings, for example, that the portrayal of cardiopulmonary resuscitation on
24 television fosters significant overestimation of survival rates.¹

25 26 RELEVANT ETHICS POLICIES

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28 The American Medical Association’s Code of Medical Ethics already includes general standards
29 on privacy, confidentiality, and informed consent that should guide physicians in their encounters
30 with patients regardless of the context. Especially pertinent are notions that physicians must seek

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1 to protect patient privacy in all its forms and the confidentiality of information disclosed during the
2 course of the patient-physicians relationship (Principle IV; Opinions E-5.059, “Privacy in the
3 Context of Health Care” and E-5.05, “Confidentiality,” AMA Policy Database).

4
5 Moreover, “the physician has an ethical obligation to help the patient make choices from among
6 the therapeutic alternatives consistent with good medical practice” (Opinion E-8.08, “Informed
7 Consent”).

8
9 Other guidelines in the Code are useful in considering questions raised by medical entertainment
10 on television. In relation to physicians’ obligation to be honest in all professional interactions
11 (Principle II), Opinion E-5.015, “Direct to Consumer Advertisements of Prescription Drugs,”
12 emphasizes the importance of upholding ethical standards of informed consent, especially when
13 patients request treatment options that would not be suitable. It further states that “physicians must
14 remain vigilant to assure that direct-to-consumer advertising does not promote false expectations.”
15 Similarly, Opinion E-5.02, “Advertising and Publicity,” warns against deceptive practices in
16 advertisement, stating that “aggressive, high pressure advertising and publicity should be avoided if
17 they create unjustified medical expectations or are accompanied by deceptive claims.”

18
19 These policies caution physicians to present information regarding their skills, as well as the
20 possible outcomes of medical interventions, truthfully. They also encourage physicians to correct
21 medically-related misperceptions that patients may develop from television programs.

22
23 Opinion E-5.045 “Filming Patients in Health Care Settings” pertains specifically to filming patients
24 with the intent of broadcast for public viewing. These guidelines are intended to protect the rights
25 of patients in this particular context, especially with regard to privacy and confidentiality.
26 Moreover the Opinion notes potential conflicts of interest and recommends that physicians “ not
27 allow financial or promotional benefit to the health care institution to influence their advice to
28 patients regarding participation in filming.”

29 30 MANAGING PATIENTS’ EXPECTATIONS

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32 Physicians’ participation in medical entertainment on commercial television – and reality-based
33 programs in particular – also should respect Principle VIII: physicians should offer advice in
34 accord with patients’ best *medical* interest, and independent of any reward for which patients are
35 competing. Medical advice also should not be influenced by the potential outcome of the contest,
36 and its reflection on physicians’ professional reputation. Therefore, physicians remain obligated to
37 convey accurately treatments’ risks, benefits, and alternatives to an audience of prospective
38 patients. They also should refuse to participate in programs that foster misperceptions or are
39 otherwise misleading, and generally should be prepared to correct false expectations that
40 prospective patients may have formed from such television programs.

41
42 Beyond the responsibilities of individual physicians who choose to be featured in medical
43 entertainment programs, the medical profession also has a role to play in preventing misleading
44 information from reaching the public. Independent peer groups, such as specialty societies, can
45 help prevent misleading information from reaching the public by making themselves available to
46 assess the accuracy of content before it airs and by intervening as necessary in instances of
47 misrepresentation.

1 CONCLUSION

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3 The Council believes that when acting in any capacity that relies on their medical training and
4 practice, physicians should be guided by the profession's ethical obligations. To guide physicians'
5 participation in reality television medical entertainment and physicians' response to the
6 expectations patients may form from these programs, the Council proposes amendments to its
7 Opinion on "Filming Patients in Health Care Settings."

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9 RECOMMENDATIONS

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11 In lieu of Resolution 607 (I-04), the Council on Ethical and Judicial Affairs recommends that
12 amendments to Opinion E-5.045, "Filming Patients in Health Care Settings," be filed at the 2006
13 Annual Meeting and the remainder of the report be filed. (Directive to Take Action)

APPENDIX

PROPOSED AMENDMENTS TO OPINION E-5.045 (CLEAN)

1 E-5.045, “Filming Patients for Public Broadcast”

2 The use of any medium to film, videotape, or otherwise record (hereafter film) patient
3 interactions with health care providers requires the utmost respect for the privacy and
4 confidentiality of the patient. The following guidelines are offered to help ensure that the rights
5 of patients are protected when filming occurs. These guidelines specifically address filming
6 with the intent of broadcast for public viewing. As such, they consider physicians’ role in
7 striving to deliver information to the public that is both complete and accurate. They do not
8 address other uses such as filming for medical education, forensic or diagnostic filming, or the
9 use of security cameras.

10 (1) Educating the public about the health care system should be encouraged, and filming of
11 patients may be one way to accomplish this. This educational objective can be achieved
12 ethically by filming only patients who can consent.

13 (2) Filming patients without consent is a violation of the patient’s privacy. Consent is therefore
14 an ethical requirement for both initial filming and subsequent broadcast for public viewing.
15 Because filming cannot benefit a patient medically and also may cause harm, filming
16 should be done only if the patient being filmed can explicitly consent. When patients
17 cannot consent, dramatic reenactments utilizing actors should be considered instead of
18 violating patient privacy.

19 Consent by a surrogate medical decision-maker is not an ethically appropriate substitute
20 for consent by the patient because the role of such surrogates is to make medically
21 necessary decisions, and whether to film for public broadcast is not a medical decision. A
22 possible exception exists when the person in question is permanently or indefinitely
23 incapacitated (e.g.: a patient in a persistent vegetative state) or is a minor child, in which
24 case the consent of a parent or legal guardian (who has the authority to make non-medical
25 decisions) should be sought.

26 (a) Patients should have the right to have filming stopped upon request at any time and the
27 film crew removed from the area. Also, persons involved in the direct medical care of
28 the patient who feel that the filming may jeopardize patient care should request that the
29 film crew be removed from the patient care area.

30 (b) The initial granting of consent does not preclude the patient from withdrawing consent
31 at a later time. After filming has occurred, patients who have been filmed should have
32 the opportunity to rescind their consent up until a reasonable time period before
33 broadcast for public viewing. The consent process should include a full disclosure of
34 whether the tape will be destroyed if consent is rescinded, and the degree to which the
35 patient is allowed to view and edit the final footage before broadcast for public
36 viewing.

- 1 (c) Due to the potential conflict of interest, informed consent should be obtained by a
2 disinterested third party, and not a member of the film crew or production team.
- 3 (3) Information obtained in the course of filming medical encounters between patients and
4 physicians is confidential. Persons who are not members of the health care team, but who
5 may be present for filming purposes, must demonstrate that they understand the
6 confidential nature of the information and are committed to respecting it. If possible, it is
7 desirable for stationary cameras or health care professionals to perform the filming.
- 8 (4) Physicians retain their responsibility to maintain professional standards whenever medical
9 or surgical encounters are filmed for public broadcast. They should be mindful that the
10 educational content of the finished product may become marginalized, potentially
11 distorting the portrayal of the patient-physician encounter and of the medical procedures.
12 Physicians should accurately convey the risks, benefits, and alternatives of treatments to an
13 audience of prospective patients, and should refuse to participate in programs that foster
14 misperceptions or are otherwise misleading.
- 15 Independent peer groups, such as medical specialty societies, also may help prevent
16 misleading information from reaching the public by making themselves available to
17 producers to assess the accuracy of program content. In the event of misinformation, they
18 may help dispel misperception by providing educational resources and, if necessary, taking
19 corrective or disciplinary action.
- 20 (5) As advocates for their patients, physicians should not allow the care they provide or their
21 advice to patients regarding participation in filming to be influenced by financial gain or
22 promotional benefit to themselves, their patients or their health care institutions.
- 23 (6) If a physician is compensated beyond services to the patient, the amount and conditions of
24 compensation must be disclosed to the patient.
- 25 (7) To protect the best interests of patients, physicians should participate in institutional review
26 of requests to film.
- 27 (8) Programs regarding various aspects of health care are commonly televised; therefore,
28 physicians should recognize that their patients may have preformed expectations from
29 public broadcasts that may need to be addressed. (I, IV, VII, VIII)

30 Issued December 2001 based on the report "Filming Patients in Health Care Settings," adopted
31 June 2001; updated December 2005.

PROPOSED AMENDMENTS TO OPINION E-5.045 (TRACKED)

1 E-5.045, “Filming Patients for Public Broadcast in Health Care Settings”

2
3 The use of any medium to film, videotape, or otherwise record (hereafter film) patient interactions
4 with ~~their~~ health care providers requires the utmost respect for the privacy and confidentiality of
5 the patient. The following guidelines are offered to ~~help assure~~ ensure that the rights of ~~the~~ patients
6 are protected when filming occurs. These guidelines specifically address filming with the intent of
7 broadcast for public viewing. As such, they consider physicians’ role in striving to deliver
8 information to the public that is both complete and accurate. They ~~and~~ do not address other uses
9 such as ~~in~~ filming for medical education, forensic or diagnostic filming, or the use of security
10 cameras.

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12 (1) Educating the public about the health care system should be encouraged, and filming of
13 patients may be one way to accomplish this. This educational objective can be achieved
14 ethically is not severely compromised by filming only patients who can consent; ~~when~~
15 ~~patients cannot consent, dramatic reenactments utilizing actors should be considered instead~~
16 ~~of violating patient privacy.~~
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18 (2) Filming patients without consent is a violation of the patient’s privacy. Consent is therefore an
19 ethical requirement for both initial filming and subsequent broadcast for public viewing.
20 Because filming cannot benefit a patient medically and also may cause harm, filming should
21 be done only if, and moreover has the potential of causing harm to the patient, it is appropriate
22 to limit filming to instances where the party patient being filmed can explicitly consent.
23 When patients cannot consent, dramatic reenactments utilizing actors should be considered
24 instead of violating patient privacy.

25
26 Consent by a surrogate medical decision-maker is not an ethically appropriate substitute for
27 consent by the patient because the role of such surrogates is to make medically necessary
28 decisions, and whether to film for public broadcast is not a medical decision ~~in the best~~
29 ~~interest of the patient.~~ A possible exception exists when the person in question is permanently
30 or indefinitely incapacitated incompetent (eg, a patient in a persistent vegetative state) or is a
31 minor child), in which case the consent of ~~in such circumstances, if a parent or legal guardian~~
32 (who has the authority to make non-medical decisions) should be sought ~~provides consent,~~
33 ~~filming may occur.~~

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35 (a) Patients should have the right to have filming stopped upon request at any time and the
36 film crew removed from the area. Also, persons involved in the direct medical care of the
37 patient who feel that the filming may jeopardize patient care should request that the film
38 crew be removed from the patient care area.
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40 (b) The initial granting of consent does not preclude the patient from withdrawing consent at
41 a later time. After filming has occurred, patients who have been filmed should have the
42 opportunity to rescind their consent up until a reasonable time period before broadcast
43 for public viewing. The consent process should include a full disclosure of whether the
44 tape will be destroyed if consent is rescinded, and the degree to which the patient is
45 allowed to view and edit the final footage before broadcast for public viewing.
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- 1 (c) Due to the potential conflict of interest, informed consent should be obtained by a
2 disinterested third party, and not a member of the film crew or production team.
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- 4 (3) Information obtained in the course of filming medical encounters between patients and
5 physicians is confidential. Persons who are not members of the health care team, but who may
6 be present for filming purposes, must demonstrate that they understand the confidential nature
7 of the information and are committed to respecting it. ~~Where~~ If possible, it is desirable for
8 stationary cameras or health care professionals to perform the filming.
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- 10 (4) Physicians retain their responsibility to maintain professional standards whenever medical or
11 surgical encounters are filmed for public broadcast. They should be mindful that the
12 educational content of the finished product may become marginalized, potentially distorting
13 the portrayal of the patient-physician encounter and of the medical procedures. Physicians
14 should accurately convey risks, benefits, and alternatives of treatments to an audience of
15 prospective patients, and should refuse to participate in programs that foster misperceptions or
16 are otherwise misleading.
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- 18 Independent peer groups, such as medical specialty societies, also may help prevent
19 misleading information from reaching the public by making themselves available to producers
20 to assess the accuracy of program content. In the event of misinformation, they may help
21 dispel misperception by providing educational resources and, if necessary, taking corrective or
22 disciplinary action.
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- 24 (5) ~~Physicians, as~~ As ~~advocates for their patients, physicians should not allow the care they~~
25 ~~provide or their advice to patients regarding participation in filming to be influenced by~~
26 ~~financial gain or promotional benefit to themselves, their patients or their the health care~~
27 ~~institutions to influence their advice to patients regarding participation in filming.~~
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- 29 (6) If a physician is compensated beyond services to the patient, the amount and conditions of
30 compensation must be disclosed to the patient. ~~Because physician compensation for~~
31 participation in filming may cause an undue influence to recruit patients, physicians should
32 not be compensated directly.
33
- 34 (7) To protect the best interests of patients, physicians should participate in institutional review of
35 requests to film.
36
- 37 (8) Programs regarding various aspects of health care are commonly televised; therefore,
38 physicians should recognize that their patients may have preformed expectations from public
39 broadcasts that may need to be addressed. (I, IV, VII, VIII)
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41 Issued December 2001 based on the report "Filming Patients in Health Care Settings," adopted
42 June 2001; updated December 2005.

REFERENCES

¹Diem, SJ, Lantos, JD and Tulsky, JA. Cardiopulmonary resuscitation on television. Miracles and misinformation. *N Engl J Med* 1996;334(24):1578-82.