

# REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS

CEJA Report 8-A-06

Subject: The Judicial Function of the Council on Ethical and Judicial Affairs – Applicant and Member Screening

Presented by: Priscilla Ray, MD, Chair

---

1 In recent years, the Council on Ethical and Judicial Affairs has undertaken a careful review of its  
2 judicial function and related procedures.<sup>1</sup> This report describes changes in one aspect of the  
3 Council’s membership review process regarding physicians who apply for, or renew as active  
4 direct members.

5

## 6 RELEVANT AMA BYLAWS

7

8 The following sections of the AMA Bylaws are most relevant to this report:

9

10 1.121 Admission. Active direct members are admitted to membership upon application to the  
11 Executive Vice President of the American Medical Association, provided that there is no  
12 disapproval by the Council on Ethical and Judicial Affairs. The Council may consider information  
13 pertaining to the character, ethics, professional status and professional activities of the applicant....

14

15 1.20 Maintenance of Membership.... Membership may be retained only as long as the member  
16 complies with the provisions of the Constitution and Bylaws and *Principles of Medical Ethics* of  
17 the AMA.

18

19 1.621 All Other Members. The Council on Ethical and Judicial Affairs, after due notice and  
20 hearing, may censure, suspend or expel any active direct [...] of the AMA for an infraction of the  
21 Constitution or these Bylaws, for a violation of the *Principles of Medical Ethics*, or for unethical or  
22 illegal conduct.

23

## 24 DESCRIPTION OF CEJA’S REVIEW ACTIVITIES

25

26 The Bylaws specifically require that CEJA ascertain the suitability of active direct members based  
27 on “character, ethics, professional status and professional activities.” At its 1987 Annual Meeting,  
28 the House of Delegates adopted Board of Trustees Report II, which states:

---

<sup>1</sup> In June 2003, the HOD accepted the informational report titled “Professional Self-Regulation and the Judicial Function of the Council on Ethical and Judicial Affairs,” which primarily described the categories of physicians whose ethical conduct may be investigated (AMA members and applicants for membership); the evidence CEJA considers; and the types of membership sanctions CEJA can impose. It also included a tabulation of CEJA’s judicial activities for the year. Similar tabulations have been presented every subsequent year. The Council provided additional descriptions of its judicial function in CEJA Report 2, I-04, “Discipline of Impaired Physicians by CEJA.”

1 The AMA has developed the following criteria for identifying physicians who should be  
2 immediately expelled from the Association, subject to the notice and hearing procedures set  
3 forth in the Rules of the Council on Ethical and Judicial Affairs:  
4

5 --Physicians with convictions for fraud or a felony involving professional misconduct or  
6 moral turpitude by a court of law or other tribunal with acknowledged jurisdiction;  
7

8 --Physicians who have had a license revoked or have been forced to surrender a license for  
9 reasons relating to incompetence or unprofessional conduct;

10  
11 --Physicians who have been discharged from the armed forces or government employ for  
12 reasons related to and based on a finding of incompetence or unprofessional conduct.  
13

14 The BOT Report also identified other intermediate sanctions, such as probation or suspension,  
15 which are imposed for a wide range of conducts that can warrant review.  
16

17 Accordingly, forms for active direct membership began including the following three “Membership  
18 Qualification Questions,” preceded by a short preamble, as follows:  
19

20 Members of the AMA abide by the Principles of Medical Ethics. To assist us in upholding  
21 these standards, please provide the answers to the following questions. Then sign and date  
22 this application...  
23

- | <b>Yes</b>               | <b>No</b>                |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | 1. Have you been convicted of fraud or a felony within the last 5 years?   |
| <input type="checkbox"/> | <input type="checkbox"/> | 2. Has any action, in any jurisdiction, been taken regarding your license to practice medicine within the last five years or extending to within the last five years? This includes actions involving revocation, suspension, limitation, probation, reprimand or any other sanctions or conditions imposed upon a license |
| <input type="checkbox"/> | <input type="checkbox"/> | 3. Have you been the subject of any disciplinary action by any medical society or hospital staff within the last 5 years?  |

24  
25 If a physician answered yes to any question, he or she was requested to provide supplemental  
26 information. Finally, the physician was asked to sign a statement attesting that the information was  
27 true and complete.  
28

29 *Evidence that Triggers Membership Review*  
30

31 According to the Council’s rules, membership review is triggered whenever evidence of improper  
32 conduct is brought to the Council’s attention. In practice, review of an applicant or a member most  
33 often is triggered when the AMA’s physician database has a record that the physician has

1 previously been sanctioned by a licensing board.<sup>2</sup> On occasion, review could arise when a  
2 physician answered one of the three Membership Qualification Questions affirmatively.

3  
4 However, upon re-examination of all the print and online options by which physicians can apply  
5 for or renew their membership, it became apparent that the Membership Qualification Questions  
6 were not always included. Rather, only a small proportion of applicants were asked these  
7 questions. It also appeared that all print and online applications were not reviewed to determine  
8 whether a physician had provided an affirmative answer. More significantly, the review of this  
9 system revealed that affirmative answers on applications almost always were duplicates of  
10 information contained in the AMA's physician database.

11  
12 Therefore, to institute a more universal process for all applicants and renewing members,  
13 membership forms now include a statement of representation that addresses the previous  
14 qualification questions. The statement reads:

15  
16 Unless otherwise disclosed to the AMA Office of General Counsel, **by submitting your**  
17 **application you confirm you have not:**

18  
19 (i) been convicted of a fraud or a felony within the last five years;

20  
21 (ii) had any action taken against you in any jurisdiction within the last five years (or  
22 extending to within the last five years) regarding your license to practice medicine  
23 (including actions involving revocation, suspension, limitation, probation, or any other  
24 sanctions or conditions imposed upon your license); or

25  
26 (iii) been the subject of any disciplinary action by any medical society, hospital staff,  
27 federal or state government within the last five years.

28  
29 The Council's rules state clearly that any misrepresentation constitutes cause for review.  
30 Therefore, if the AMA physician database indicates that a physician has been sanctioned, but the  
31 physician has not communicated this information directly to the AMA, the Council may undertake  
32 proceedings to review the physician's membership.

### 33 34 CONCLUSION

35  
36 Overall, this change helps ensure that all active direct members will be presented with the same  
37 application or renewal form. It does not affect the grounds that may trigger membership review. It  
38 is the Council's hope that this statement could also be used for active constituent members, such  
39 that all AMA members, irrespective of their membership category, would be presented with the  
40 same information pertaining to membership qualifications. The Council will endeavor to extend  
41 the use of the representation statement through work with the AMA's Membership Group and the  
42 Board of Trustees' Membership Task Force.

---

<sup>2</sup> Records may also indicate that a physician has been found liable by, or pleaded guilty before, a governmental tribunal, such as a criminal court or a court martial, or before a governmental agency, such as the Federal Drug Enforcement Agency or the United States Department of Health and Human Services.