

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS

CEJA Report 4-I-07

Subject: Amendment to Opinion E-2.23, "HIV Testing"

Presented by: Mark A. Levine, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Jane C.K. Fitch, MD, Chair)

The following recommendations were adopted as AMA Ethics Policy at the 2007 Interim Meeting of the AMA House of Delegates. The full report may be available online at <http://www.ama-assn.org/go/cejareports> or upon request by calling (312) 464-4823.

RECOMMENDATION

The Council on Ethical and Judicial Affairs recommends that the following be adopted and the remainder of the report be filed.

E-2.23 HIV Testing

Physicians' duties to promote patients' welfare and to improve the public's health are fostered by routinely testing their adult patients for HIV. Physicians must balance these obligations with their concurrent duties to their individual patients' best interest by following the guidelines below:

- (1) Physicians should support routine HIV testing procedures in order to protect patients, avoid injury to third parties, and promote public health.
- (2) While medical and social advances may have minimized the need for specific written consent prior to HIV testing, physicians should continue to seek patients' informed consent to undergo any form of medical treatment, including HIV testing. However, patients' consent does not need to be documented in writing. It is justifiable to test patients without prior consent only in limited cases where the harms to individual autonomy are offset by significant benefits to known third parties. Such exceptions include testing for the protection of occupationally-exposed health care professionals or patients.
- (3) Physicians must work to ensure that patients identified as being HIV positive receive appropriate follow-up care and counseling.
- (4) Physicians must comply with all applicable disease reporting laws while taking appropriate measures to safeguard the confidentiality of patients' medical information to the extent possible.

- (5) Physicians must honor their obligation to promote the public's health by working to prevent HIV-positive individuals from infecting third parties within the constraints of the law. If an HIV-positive individual poses a significant threat of infecting an identifiable third party, the physician should: (1) notify the public health authorities, if required by law; (2) attempt to persuade the infected patient to cease endangering the third party; and (3) if permitted by state law, notify the endangered third party without revealing the identity of the source person.

Issued March 1992 based on the report "Ethical Issues Involved in the Growing AIDS Crisis," adopted December 1987 (JAMA. 1988; 259: 1360-61); Updated June 1994 and November 2008 based on the report "HIV Testing."

(New HOD/CEJA Policy)