
Highlights of the Code of Medical Ethics of the American Medical Association

Section E-9.00: Opinions on Professional Rights and Responsibilities

The very notion of professionalism lies at the core of this section of the American Medical Association's *Code of Medical Ethics*. Professionals, as beholders of expert knowledge, are entrusted to provide a service that is highly valued by society with limited external oversight so long as they self-regulate by establishing and enforcing their own standards. While many physicians may believe that this ideal of professional autonomy disappeared from medicine with the intrusion of public and private third party payers, it continues to inspire patient trust. Therefore, the guidance offered in this section, which counter-balances physicians' individual freedom to choose whom to serve, remains crucial when fostering trust in medicine.

In particular, three broad topics will be examined: physicians' autonomy and freedom to choose whom to serve and their obligations to treat patients in a just manner; means to address misconduct; and professional responsibilities regarding medical knowledge and innovation.

Choice and Fairness

The AMA has long supported physicians' professional autonomy in terms of their individual freedom to choose with whom to enter into a relationship, whether it is a therapeutic relationship or a professional one. In 1957, Section 5 of the Principles stated: "A physician is free to choose whom he will serve," whereas Section 6

stated: "A physician should not dispose of his services under conditions that make it impossible to render adequate service to his patients...."

Today's Principle VI combines those two notions, stating: "A physician shall, in the provision of appropriate patient care, except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical care." Opinion 9.06, "Free Choice," expands on this freedom, making it reciprocal, such that patients also can choose their physicians. The Opinion does acknowledge certain practical limitations, such as emergencies. Interestingly, the 1847 *Code*, which directed physicians to "be ever ready to obey the calls of the sick," considered obligation to treat as more of an absolute than a matter of choice.

While the *Code* recognizes the importance of free choice in medicine, the obligation to provide care to the less fortunate is discussed in Opinion 9.065 "Caring for the Poor," which stresses that charity care should be a regular part of individual physicians' practice. Whether physicians offer care at no cost in their offices or volunteer their services at free clinics, they are required to help improve access to health care for those in the community who are impoverished.

In exercising their right to choose whom to serve, physicians are cautioned that certain conduct could constitute discrimination. For example, Opinion 9.12, "Patient-Physician Relationship: Respect for Law and Human Rights," warns that "... Physicians who offer their services to the public may not decline to accept patients because of race, color, religion, national origin, sexual orientation, or any other basis that would constitute invidious discrimination." Since the onset of the AIDS epidemic, non-dis-

crimination has been expanded to protect HIV patients in Opinion 9.13 "HIV-Infected Patients and Physicians." The *Code's* concern for fairness is also captured in Opinions 9.121 "Racial Disparities in Health Care" and 9.122 "Gender Disparities in Health Care," which remind physicians not to let their medical judgment be unduly influenced by patient characteristics such as race or gender.

The *Code* also recognizes that discrimination may exist among colleagues in the medical profession. Opinion 9.03 "Civil Rights and Professional Responsibility" maintains that physicians should not be denied professional opportunities because of personal characteristics and Opinion 9.035 "Gender Discrimination in the Medical Profession" emphasizes that male and female physicians should be afforded equal opportunity and compensation.

Compromised Physicians and the Requirement of Self-Regulation in Medicine

Self-regulation, as opposed to government or other third party oversight, may be viewed as a privilege that is granted to a profession, but it is in fact a defining characteristic of a profession. To this end, several Opinions in Section 9 describe how physicians should, consistent with Principle II, "report physicians deficient in character or competence, or engaging in fraud or deception."

The notion of accountability appeared in the original 1847 *Code*, albeit in a different form, emphasizing honest self-appraisal and purity of character. In 1957, when the *Code* underwent an important reorganization, an entire section was devoted to addressing physicians' responsibility to regulate the profession.

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Today, Opinion 9.031 “Reporting Impaired, Incompetent, or Unethical Colleagues” proposes a range of reporting mechanisms according to the nature of the conduct and the potential impact on patient welfare. Opinion 9.04, “Discipline and Medicine,” supplements a physician’s individual obligation to expose unfit colleagues with a similar obligation on the part of medical associations. It also emphasizes the importance of due process, which is also elaborated upon under Opinion 9.05, “Due Process.” Finally, these two Opinions identify important protections including immunity for reporting physicians and confidentiality of the information regarding physicians whose conduct is being reviewed.

Opinion 9.10, “Peer Review,” describes another form of self-regulation, which although it may be perceived as interfering with absolute professional autonomy, should be recognized as necessary and ethical, so long as it balances physicians’ right to independent medical judgment with their obligation to uphold standards of the profession.

With its focus on “Physicians with Disruptive Behavior,” Opinion 9.045 is directed toward less severe behavior that nonetheless could interfere with patient care and therefore, also requires appropriate reporting and review mechanisms.

Finally, recognizing the unique power differentials that may exist in an educational setting, the *Code* addresses instances where a medical trainee has a complaint against a medical supervisor separately. Opinion 9.055 “Disputes between Medical Supervisors and Trainees” also emphasizes due process, noting, “retaliatory or punitive actions against those who raise complaints are unethical.”

Physician Responsibility toward Medical Innovation and Progress

Medical expertise, another fundamental characteristic related to professionalism in medicine is covered in this section of the *Code*, building on Principle V, which calls upon physicians to remain dedicated to life-long learning and the sharing of knowledge. The first duty is reflected in Opinions 9.011 “Continuing Medical Edu-

cation” whereas physicians’ obligation to share their innovations is discussed variably in several other Opinions. Similar concerns with regard to the use and commercialization of innovations arise elsewhere in the *Code*, as illustrated in Opinions 2.08 “Commercial Use of Human Tissue” and 2.105 “Patenting Human Genes.” Overall, Opinions in Section 9 discourage the patenting of medical procedures and praise the sharing of knowledge, although they also recognize the availability of patent protections for certain innovations.

Conclusion

Section 9, “Opinions on Professional Rights and Responsibilities,” can help physicians identify the unique characteristics that shape medicine into a profession. More specifically, Section 9 addresses the need to balance professional autonomy with fairness and compassion; mechanisms that will help ensure self-regulation, and the importance of disseminating medical knowledge through education and innovation. While at times this section relies on important legal concepts, they each can be linked to more fundamental ethical notions, echoing the relationship between law and ethics discussed in Section 1 of the *Code*. Moreover, Section 9 sets the stage for the last section of the *Code*, where medical ethics and professionalism are examined in the context of the unique characteristics of the therapeutic alliance that joins patients and physicians. ♦

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