Reports of medical procedures done without consent must be investigated

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What’s the news: The AMA is calling on the U.S. Department of Homeland Security (DHS) and its Office of the Inspector General (OIG) to thoroughly investigate complaints about detained immigrants’ substandard living conditions and improper health care—including reported allegations of medical procedures performed on individuals without their properly obtained informed consent.

“The AMA believes every individual, regardless of immigration status or national origin, deserves timely, accessible, quality health care,” AMA Executive Vice President and CEO James L. Madara, MD, wrote in a letter to U.S. Immigration and Customs Enforcement (ICE) senior official Tony Pham, acting Homeland Security Secretary Chad Wolf, and DHS Inspector General Joseph Cuffari.

Dr. Madara noted reports that the inspector contracted by ICE is ill-equipped to successfully identify these critical deficiencies, so the AMA is asking that DHS and the OIG—rather than the ICE contractor—conduct a thorough inspection regarding these allegations.

“We also urge ICE to ensure the medical standards governing the conditions of confinement at its detention facilities meet those set by the National Commission on Correctional Health Care,” the letter states. “Moreover, we ask ICE to confirm that it has carefully tracked and fully investigated complaints related to substandard health care, including but not limited to medical, mental health and dental care.”

Why it’s important: Informed consent to medical treatment is fundamental in both ethics and law, states the AMA Code of Medical Ethics opinion 2.1.1. Informed consent involves noncoercive communication between a patient and physician that results in the patient’s authorization or agreement to undergo a specific medical intervention.

“It is the duty of ICE to ensure the bodily integrity of those within its detention facilities and that those individuals do not have medical procedures performed on them without their properly obtained
informed consent,” Dr. Madara wrote.

Obtaining proper informed consent involves physicians ensuring that the patient can understand the information being provided—especially if there is a language barrier.

A physician must also assess the patient’s ability to understand information about the implications of treatment, alternatives, and about the diagnosis, nature and purpose of recommended interventions. They must also understand the burdens, risks, and expected benefits of all options—including forgoing treatment, according to the ethical opinion.

This conversation and the patient’s decision must then be documented in the patient’s medical record.

“The AMA urges DHS and OIG to uphold these principles to ensure that all patients have timely access to health care services, proper informed consent and adequate living conditions,” Dr. Madara’s letter states.

Learn more: The AMA has been, and continues to be, deeply committed to ensuring the health and safety of all individuals regardless of immigration status.

The AMA previously wrote Wolf and Cuffari in April urging them to investigate reports that pregnant women seeking asylum have been denied timely access to care by U.S. Customs and Border Protection agents.

Read about AMA advocacy regarding conditions at immigrant detention centers on the Southern border and for the health and safety of all immigrants.