

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS

CEJA Report 7-A-08

Subject: Protection of Medical Staff Members' Personal Proprietary Financial Information

Presented by: Mark A. Levine, MD, Chair

1 At its 2007 Annual Meeting, the American Medical Association House of Delegates adopted
2 Resolution 22, "Protection of Medical Staff Members' Personal Proprietary Financial
3 Information." This resolution asks that the AMA consider expanding CEJA Opinion E-5.07,
4 "Confidentiality: Computers," to include the confidentiality of medical staff members' personal
5 proprietary financial information. After discussion with the sponsors of the resolution (the
6 Organized Medical Staff Section) and for reasons set forth below, CEJA has decided that its
7 current policy meets the concerns raised by the resolution.*

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9 Resolution 22 intends to address inappropriate disclosure and use of physician financial
10 information and the extent to which that information may be used to demonstrate a conflict of
11 interest. However, the specific Opinion that the resolution asks be expanded, E-5.07,
12 "Confidentiality: Computers," is not the appropriate venue for these concerns. This Opinion
13 primarily applies to the confidentiality of patient records in electronic formats. As the opening of
14 the Opinion illustrates, "the utmost effort and care must be taken to protect the confidentiality of all
15 medical records, including computerized medical records." Confidentiality of physician financial
16 information is not encompassed by this Opinion and its inclusion would dilute the meaning and
17 application of E-5.07.

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19 This is not to say that the issues raised by Resolution 22 are unimportant. On the contrary, another
20 current Opinion in the *Code of Medical Ethics*, E-4.07, "Staff Privileges," encompasses privileging
21 decisions. Specifically, it states:

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23 Decisions regarding hospital privileges *should be based upon the training, experience, and*
24 *demonstrated competence of candidates*, taking into consideration the availability of
25 facilities and the overall medical needs of the community, the hospital, and especially
26 patients. Privileges should not be based on numbers of patients admitted to the facility or
27 the economic or insurance status of the patient. Personal friendships, antagonisms,
28 jurisdictional disputes, or fear of competition should not play a role in making these
29 decisions. *Physicians who are involved in the granting, denying, or termination of hospital*
30 *privileges have an ethical responsibility to be guided primarily by concern for the welfare*
31 *and best interests of patients in discharging this responsibility.*

32 This Opinion indicates that economic concerns, including both the financial status of patients *and*
33 the investment interests of physicians, should not be primary considerations for hospital privileges.

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35 Understandably, Resolution 22 seeks to protect physicians from unreasonable "conflict of interest"
36 programs. However, crafting policy specifically regarding the confidentiality of physicians'

* Please note that Board of Trustees Report 20, which will also be considered at this meeting, responds to another Resolve of Resolution 22 (A-07).

1 proprietary financial information is not within CEJA's purview. The Council believes that its
2 current Opinion E-4.07, though not promulgated explicitly to address this issue, has the effect of
3 protecting physician confidentiality and therefore provides sufficient ethical guidance.