OPINIONS OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS

The following opinions, 1–2, were presented by H. Rex Greene, MD, Chair:

1. PHYSICIAN RESPONSIBILITIES FOR SAFE PATIENT DISCHARGE FROM HEALTH CARE FACILITIES

Ethical opinion; no reference committee hearing.

HOUSE ACTION: FILED
See Opinion E-9.141.

INTRODUCTION

At the 2012 Annual Meeting, the American Medical Association House of Delegates adopted the recommendations of Council on Ethical and Judicial Affairs Report 5-A-12, "Physician Responsibilities for Safe Patient Discharge from Health Care Facilities." The Council issues this Opinion, which will appear in the next version of AMA PolicyFinder and the next print edition of the *Code of Medical Ethics*.

E-9.141 Physician Responsibilities for Safe Patient Discharge from Health Care Facilities

Physicians' primary ethical obligation to promote the well-being of individual patients encompasses an obligation to collaborate in a discharge plan that is safe for the patient. As advocates for their patients, physicians should resist any discharge requests that are likely to compromise a patient's safety. The discharge plan should be developed without regard to socioeconomic status, immigration status, or other clinically irrelevant considerations. Physicians also have a long-standing obligation to be prudent stewards of the shared societal resources with which they are entrusted. That obligation may require physicians to balance advocating on behalf of an individual patient with recognizing the needs of other patients.

To facilitate a patient's safe discharge from an inpatient unit, physicians should:
(a) Determine that the patient is medically stable and ready for discharge from the treating facility; and
(b) Collaborate with those health care professionals and others who can facilitate a patient discharge to establish that a plan is in place for medically needed care that considers the patient's particular needs and preferences.

If a medically stable patient refuses discharge, physicians should support the patient's right to seek further review, including consultation with an ethics committee or other appropriate institutional resource. (I, II, VIII)

2. PHYSICIAN STEWARDSHIP OF HEALTH CARE RESOURCES

Ethical opinion; no reference committee hearing.

HOUSE ACTION: FILED
See Opinion E-9.0652.

INTRODUCTION

At the 2012 Annual Meeting, the American Medical Association House of Delegates adopted the recommendations of Council on Ethical and Judicial Affairs Report 1-A-12, "Physician Stewardship of Health Care Resources." The Council issues this Opinion, which will appear in the next version of AMA PolicyFinder and the next print edition of the *Code of Medical Ethics.*

E-9.0652 Physician Stewardship of Health Care Resources

Physicians' primary ethical obligation is to promote the well-being of individual patients. Physicians also have a long-recognized obligation to patients in general to promote public health and access to care. This obligation requires physicians to be prudent stewards of the shared societal resources with which they are entrusted. Managing health care resources responsibly for the benefit of all patients is compatible with physicians' primary obligation to serve the interests of individual patients.

To fulfill their obligation to be prudent stewards of health care resources, physicians should:

(a) Base recommendations and decisions on patients' medical needs;
(b) Use scientifically grounded evidence to inform professional decisions when available;
(c) Help patients articulate their health care goals and help patients and their families form realistic expectations about whether a particular intervention is likely to achieve those goals;
(d) Endorse recommendations that offer reasonable likelihood of achieving the patient's health care goals;
(e) Choose the course of action that requires fewer resources when alternative courses of action offer similar likelihood and degree of anticipated benefit compared to anticipated harm for the individual patient, but require different levels of resources;
(f) Be transparent about alternatives, including disclosing when resource constraints play a role in decision making; and
(g) Participate in efforts to resolve persistent disagreement about whether a costly intervention is worthwhile, which may include consulting other physicians, an ethics committee, or other appropriate resource.

Physicians are in a unique position to affect health care spending. But individual physicians alone cannot and should not be expected to address the systemic challenges of wisely managing health care resources. Medicine as a profession must create conditions for practice that make it feasible for individual physicians to be prudent stewards by:

(h) Encouraging health care administrators and organizations to make cost data transparent (including cost accounting methodologies) so that physicians can exercise well-informed stewardship;
(i) Ensuring that physicians have the training they need to be informed about health care costs and how their decisions affect overall health care spending; and
(j) Advocating for policy changes, such as medical liability reform, that promote professional judgment and address systemic barriers that impede responsible stewardship. (I, V, VII, VII, IX)

REPORTS OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS

The following reports, 1–2, were presented by H. Rex Greene, MD, Chair:

1. AMENDMENT TO OPINION E-9.011, "CONTINUING MEDICAL EDUCATION"

Reference committee hearing: see report of Reference Committee on Amendments to Constitution and Bylaws.

HOUSE ACTION: RECOMMENDATIONS ADOPTED AS EDITORIALLY CORRECTED BY THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS AND REMAINDER OF REPORT FILED
See Opinion E-9.011.

Ethics policy relating to continuing medical education (CME), Opinion E-9.011, "Continuing Medical Education," was last updated in 1996. Since then, CME has evolved substantially, as have standards for the conduct of CME providers, such as those of the Accreditation Council on Continuing Medical Education. In addition, CEJA Report 1-A-11, "Financial Relationships with Industry in Continuing Medical Education," adopted in June 2011 and subsequently Opinion E-9.0115 of the same title bears on these matters.

In light of these developments, the Council on Ethical and Judicial Affairs has reviewed prior policy and concluded that E-9.011 should be updated.

KEY REVISIONS

The Council reviewed E-9.011 with the goal of ensuring consistency among Opinions in the *Code of Medical Ethics*, avoiding unnecessary repetition of guidance set out in AMA policies and other standards for CME, and providing succinct ethical guidance that physicians can readily apply across the evolving spectrum of CME. Revisions, developed in consultation with the Council on Medical Education, are directed toward clearly focusing on ethical guidance for physician-attendees of certified CME activities and eliminating ethical guidance specifically directed to other audiences.

Guidelines for physician-attendees (section one of current E-9.011) have been edited for clarity, including replacing cross-references to E-8.061, "Gifts to Physicians from Industry," with explicit guidance regarding subsidies for expenses of attending CME activities.

Guidelines for faculty (section two of current E-9.011) overlap with requirements established elsewhere, including:

- Opinion E-9.0115, Financial Relationships with Industry in Continuing Medical Education;
- Accreditation Criteria, Standards for Commercial Support and related policies of the Accreditation Council on Continuing Medical Education;
- Guidance on industry-supported educational activities from the U.S. Food and Drug Administration; and
- Code on Interactions with Healthcare Professionals of Pharmaceutical Research and Manufacturers of America.

The guidelines in this section, including specific references to guidance from other entities, have therefore been removed from the opinion.

Similarly, guidelines for sponsors (section three of current E-9.011) overlap with requirements established in other policy, including:

- Opinion E-9.0115, Financial Relationships with Industry in Continuing Medical Education;
- Accreditation Criteria, Standards for Commercial Support and related policies of the Accreditation Council on Continuing Medical Education;
- Code for Interactions with Companies from the Council of Medical Specialty Societies;
- Guidance on industry-supported educational activities from the U.S. Food and Drug Administration; and
- Code on Interactions with Healthcare Professionals of Pharmaceutical Research and Manufacturers of America.

The guidelines in this section, including specific references to guidance from other entities, have therefore been removed from the opinion.

RECOMMENDATION

Given these considerations, the Council recommends that E-9.011, "Continuing Medical Education" as set forth in appendix attached hereto, be amended by substitution as follows and that the remainder of this report be filed:

Physicians should strive to further their medical education throughout their careers, to ensure that they serve patients to the best of their abilities and live up to professional standards of excellence.

Participating in certified continuing medical education (CME) activities is critical to fulfilling this professional commitment to lifelong learning. As attendees of CME activities, physicians should:
(a) Select activities that are of high quality and are appropriate for the physician's educational needs.
(b) Choose activities that are carried out in keeping with ethical guidelines and applicable professional standards.
(c) Claim only the credit commensurate with the extent of participation in the CME activity.
(d) Decline any subsidy offered by a commercial entity other than the physician's employer to compensate the physician for time spent or expenses of participating in a CME activity.

APPENDIX - E-9.011, "Continuing Medical Education" (*Issued December 1993. Updated June 1996.*)

Physicians should strive to further their medical education throughout their careers, for only by participating in continuing medical education (CME) can they continue to serve patients to the best of their abilities and live up to professional standards of excellence.
Fulfillment of mandatory state CME requirements does not necessarily fulfill the physician's ethical obligation to maintain his or her medical expertise.

Attendees. Guidelines for physicians attending a CME conference or activity are as follows:
(1) The physician choosing among CME activities should assess their educational value and select only those activities which that are of high quality and appropriate for the physician's educational needs. When selecting formal CME activities, the physician should, at a minimum, choose only those activities that
    (a) are offered by sponsors accredited by the Accreditation Council for Continuing Medical Education (ACCME), the American Academy of Family Physicians (AAFP), or a state medical society;
    (b) contain information on subjects relevant to the physician's needs;
    (c) are responsibly conducted by qualified faculty;
    (d) conform to Opinion 8.061, "Gifts to Physicians from Industry."
(2) The educational value of the CME conference or activity must be the primary consideration in the physician's decision to attend or participate. Though amenities unrelated to the educational purpose of the activity may play a role in the physician's decision to participate, this role should be secondary to the educational content of the conference.
(3) Physicians should credit commensurate with only the actual time spent attending a CME activity or in studying a CME enduring material.
(4) Attending promotional activities put on by industry or their designees is not unethical as long as the conference conforms to Opinion 8.061, "Gifts to Physicians from Industry," and is clearly identified as promotional to all participants.

Faculty. Guidelines for physicians serving as presenters, moderators, or other faculty at a CME conference are as follows:
(1) Physicians serving as presenters, moderators, or other faculty at a CME conference should ensure that
    (a) research findings and therapeutic recommendations are based on scientifically accurate, up-to-date information and are presented in a balanced, objective manner;
    (b) the content of their presentation is not modified or influenced by representatives of industry or other financial contributors, and they do not employ materials whose content is shaped by industry. Faculty may, however, use scientific data generated from industry-sponsored research, and they may also accept technical assistance from industry in preparing slides or other presentation materials, as long as this assistance is of only nominal monetary value and the company has no input in the actual content of the material.
(2) When invited to present at non-CME activities that are primarily promotional, faculty should avoid participation unless the activity is clearly identified as promotional in its program announcements and other advertising.
(3) All conflicts of interest or biases, such as a financial connection to a particular commercial firm or product, should be disclosed by faculty members to the activity's sponsor and to the audience. Faculty may accept reasonable honoraria and reimbursement for expenses in accordance with Opinion 8.061, "Gifts to Physicians from Industry."

Sponsors. Guidelines for physicians involved in the sponsorship of CME activities are as follows:
(1) Physicians involved in the sponsorship of CME activities should ensure that

(a) the program is balanced, with faculty members presenting a broad range of scientifically supportable viewpoints related to the topic at hand;
(b) representatives of industry or other financial contributors do not exert control over the choice of moderators, presenters, or other faculty, or modify the content of faculty presentations. Funding from industry or others may be accepted in accordance with Opinion 8.061, "Gifts to Physicians from Industry."

(2) Sponsors should not promote CME activities in a way that encourages attendees to violate the guidelines of the Council on Ethical and Judicial Affairs, including Opinion 8.061, "Gifts to Physicians from Industry," or the principles established for the AMA's Physician Recognition Award. CME activities should be developed and promoted consistent with guideline 2 for Attendees.
(3) Any non-CME activity that is primarily promotional must be identified as such to faculty and participants, both in its advertising and at the conference itself.
(4) The entity presenting the program should not profit unfairly or charge a fee which is excessive for the content and length of the program.
(5) The program, content, duration, and ancillary activities should be consistent with the ideals of the AMA CME program.

2. NOMINATION FOR AFFILIATE MEMBERSHIP

No reference committee hearing; adopted unanimously during general session Sunday, November 11.

HOUSE ACTION: RECOMMENDATION ADOPTED AND REMAINDER OF REPORT FILED

In keeping with Bylaw 1.12, Affiliate Members, the Council on Ethical and Judicial Affairs recommends the following individual for affiliate membership in the American Medical Association (AMA):

Individuals Who Have Attained Distinction in Their Field of Endeavor

Barbara Resnick, PhD, CRNP, FAAN, FAANP

Dr. Resnick, recently reappointed to the Sonya Liporkin Gershowitz Endowed Chair in Gerontology at the University of Maryland School of Nursing, has made extensive and significant contributions to the health of elders during her more than 30-year career. Her research and clinical activities have been directed toward improving health outcomes for older patients with multiple morbidities. An internationally distinguished researcher, she has received funding for numerous studies from the National Institute on Aging; National Heart, Lung and Blood Institute; National Institute of Nursing Research; the Agency for Healthcare Research and Quality; the Robert Wood Johnson Foundation; and the Erikson Foundation. She has published widely on gerontology, prevention, motivation, and patient activation in the *Journal of Gerontology, Geriatric Nursing, American Journal of Nursing, Family Medicine, and Rehabilitation Nursing,* among others. Immediate past president and member of the board of the American Geriatrics Society, Dr. Resnick also serves as a member of the board of the American Medical Directors Association, both of which organizations are members of the Federation of Medicine. Dr. Resnick has also chaired the Health Science Committee of the Gerontological Society of America. She is a member of the working group on preventive care and screening of the AMA-convened Physician Consortium for Performance Improvement. In addition to her academic and research activities, Dr. Resnick is a geriatric nurse practitioner at Roland Park Place, a continuing care retirement community in Baltimore, Maryland.

Dr. Resnick's application is supported by Med Chi, the Maryland State Medical Association.