REPORT OF THE BOARD OF TRUSTEES

B of T Report 23-A-18

Subject: Health Care as a Human Right (Resolution 7-A-17)

Presented by: Gerald E. Harmon, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Peter H. Rheinstein, MD, JD, MS, Chair)

INTRODUCTION

At the 2017 Annual Meeting, the House of Delegates referred Resolution 7-A-17, “Health Care as a Human Right.” This resolution was introduced by the Minority Affairs Section and asked that our AMA:

1. recognize that a basic level of health care is a fundamental human right;
2. support the United Nations’ Universal Declaration of Human Rights and its encompassing International Bill of Rights as guiding principles fundamental to the betterment of public health; and
3. advocate for the United States to remain a member of the World Health Organization.

HEALTH CARE AS A HUMAN RIGHT

Human rights are ethical demands that create duty to safeguard underlying freedoms of significant social importance. This duty may be legal, e.g., through statute or international treaty, or moral in its foundation. Depending on context, human rights can be thought of as legal, philosophical, or sometimes aspirational. All these concepts of human rights are interrelated; indeed, human rights are conceived through ethical reasoning drawing on experience, beliefs, and theories of justice.

The philosophical underpinning of creating an ethical human right is largely that of justice, which may be described as fairness in equitable distribution of primary social goods such as liberty, opportunity, and income. From this concept of fairness comes the ethical demand to create a human right, which may then be extended to health care, because by keeping people healthy, people’s ability to participate in political, social, and economic life is promoted and preserved. A right to health care does not give individuals a basic right either to be healthy or to have all their health care needs met.

However, a right to health care will broadly encompass access to care. Access means that health care facilities, goods, and services must be available to everyone in [a defined] jurisdiction without discrimination, [and must be] affordable, physically accessible, and within a reasonable distance for all people. If people are denied access to a basic level of services adequate to protect normal functioning, an injustice is done to them. Indeed, the concept of accessibility as a core principle of human rights to health care is widely recognized and supported.
Although it does not directly support a “right to health care,” Principle IX of the AMA Principles of Medical Ethics states: “A physician shall support access to medical care for all people.”

Equitable access to medical care is a core component of the right to health care, and Opinion 11.1.1, of the Code of Medical Ethics, “Defining Basic Health Care,” is derived from this principle. The Opinion maintains that health care is “a fundamental human good because it affects our opportunity to pursue life goals, reduces our pain and suffering, helps prevent premature loss of life, and provides information needed to plan for our lives. Society has an obligation to make access to an adequate level of care available to all its members, regardless of ability to pay.”

Further, Opinion 11.1.4, “Financial Barriers to Health Care Access,” explains: “As professionals, physicians individually and collectively have an ethical responsibility to ensure that all persons have access to needed care regardless of their economic means.”

Other policies of the AMA House of Delegates also support access to healthcare. For example, it is AMA policy that “no one shall be denied necessary medical care because of inability to pay for that care” (Policy H-160.987, “Access to Medical Care”). Policy H-160.975, “Planning and Delivery of Health Care Services,” explains that “both the public and private sectors should be encouraged to donate resources to improve access to health care services. Where appropriate, incentives should be provided for those in the private sector who give care to those who otherwise would not have access to such care. In addition, existing shortcomings in the current public system for providing access need to be addressed.”

SUPPORTING THE UNITED NATIONS’ DECLARATION OF HUMAN RIGHTS AND THE WORLD HEALTH ORGANIZATION

Resolution 7-A-17 also asks that our AMA support the United Nations’ Universal Declaration of Human Rights and the International Bill of Rights as guiding principles fundamental to the betterment of public health. The Declaration consists of 30 articles affirming an individual’s rights that, although not legally binding in themselves, have been elaborated in subsequent international treaties, economic transfers, regional human rights instruments, national constitutions, and other laws. The Declaration was the first step in the process of formulating the International Bill of Human Rights, which was completed in 1966, and came into force in 1976.

The United Nations (UN) is an intergovernmental organization made up of 193 member nations. The World Health Organization (WHO) is the directing and coordinating authority on international health within the UN system. The objective of WHO is the attainment by all peoples of the highest possible level of health. Governance takes place through the World Health Assembly (WHA), which is made up of representatives from the health ministries of these national governments, and is the supreme decision-making body. The Executive Board gives effect to the decisions and policies of the Health Assembly. The organization is headed by the Director-General, who is appointed by the WHA on the nomination of the Executive Board. The WHO collaborates with the UN system to position health in the debates and decisions of UN intergovernmental bodies; contributes to a coherent and effective UN system at global, regional, and country levels; provides leadership in health-related humanitarian efforts, and promotes alliances and interagency approaches to address health issues.

By contrast, the WMA is a non-governmental international organization representing physicians. The organization was created to ensure the independence of physicians and to work for the highest possible standards of ethical behavior and care by physicians at all times. The AMA is a founding member of the WMA, which has always been an independent confederation of free professional
associations and has grown to include 114 national medical association members. Our main role at
the WMA is to develop policy and advocacy agendas in line with AMA policies.

The WMA is in “Official Relations” with the WHO and seeks to advise and influence the work of
this intergovernmental body. WMA’s cooperation with the WHO is very broad and covers nearly
all areas of medicine and health. As a commitment to our international interests, AMA officers
have regularly attended the WHA, either as non-governmental advisors to the United States
Delegation or as Delegates to the Assembly from the WMA.

AMA Policy H-250.986, “AMA and Public Health in Developing Countries,” outlines a
circumscribed strategy for AMA participation in international policy and advocacy issues mainly
by our involvement in the WMA and, to a lesser degree, in our advisory capacity at the WHA. For
this and other reasons, our AMA does not take positions on treaties, such as the United Nations’
Universal Declaration of Human Rights, but works through established channels to effect
supportable outcomes.

In addition, AMA Policy H-250.999, “World Health Organization,” expresses AMA’s direct
support of the WHO as an institution and the United States’ involvement with it; this support is
ongoing. AMA Policy H-250.992, “World Health Organization,” affirms support for the WHO and
urges the United States to provide full funding for the organization. This policy also encourages the
WMA to develop cooperative work plans with the WHO.

CONCLUSION

The Board of Trustees appreciates that Resolution 7-A-17 expresses the desire to ensure that all
people have access to a basic level of health care. Our AMA has long advocated for equitable
access to health care through policy, advocacy, and a targeted strategy of active international
policymaking through the WMA and the WHO. The Board of Trustees believes that existing policy
adequately supports that intention.

RECOMMENDATION

The Board of Trustees therefore recommends that AMA Policies H-160.987, “Access to Medical
Care;” H-160.975, “Planning and Delivery of Health Care Services;” H-250.986, “AMA and
Public Health in Developing Countries;” H-250.992, “World Health Organization;” and H-250.999, “World Health Organization,” be reaffirmed in lieu of Resolution 7-A-17 and that the
remainder of the report be filed. (Reaffirm HOD Policy)

Fiscal Note: Less than $500

REFERENCES

2 Gostin LO. Public Health, Ethics, and Human Rights: A tribute to the late Jonathan Mann. The Journal of
Law, Medicine & Ethics. 2001; 29:121-130.
338.
5 Kinney ED. The International Human Right to Health: What Does This Mean for our Nation and World?
6 McGill M, MacNaughton G. The Struggle to Achieve the Human Right to Health Care in the United States.