

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES (I-18)

Report of Reference Committee on Amendments to Constitution and Bylaws

Todd M. Hertzberg, MD, Chair

Your Reference Committee recommends the following consent calendar for acceptance:

RECOMMENDED FOR ADOPTION

1. Board of Trustees Report 15 – Specialty Society Representation in the House of Delegates – Five-Year Review
2. Council on Ethical and Judicial Affairs Report 1 – Competence, Self-Assessment and Self-Awareness
3. Council on Ethical and Judicial Affairs Report 3 – Amendment to E-2.2.1, “Pediatric Decision Making”
4. Council on Ethical and Judicial Affairs Report 5 – Physicians’ Freedom of Speech
5. Resolution 002 – Protecting the Integrity of Public Health Data Collection

RECOMMENDED FOR ADOPTION AS AMENDED

6. Board of Trustees Report 14 – Protection of Physician Freedom of Speech
7. Resolution 001 – Support of a National Registry for Advance Directives
8. Resolution 003 – Mental Health Issues and Use of Psychotropic Drugs for Undocumented Immigrant Children
9. Resolution 004 – Opposing the Detention of Migrant Children
10. Resolution 005 (Late Resolution 1001) – Affirming the Medical Spectrum of Gender

RECOMMENDED FOR REFERRAL

11. Council on Ethical and Judicial Affairs Report 2 – Study Aid-in-Dying as End-of-Life Option / The Need to Distinguish “Physician-Assisted Suicide” and “Aid-in-Dying”

RECOMMENDED FOR NOT ADOPTION

12. Council on Ethical and Judicial Affairs Report 4 – CEJA Role in Implementing H-140.837, “Anti-Harassment Policy”

(1) BOARD OF TRUSTEES REPORT 15 – SPECIALTY
SOCIETY REPRESENTATION IN THE HOUSE OF
DELEGATES – FIVE-YEAR REVIEW

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends
that the recommendations in Board of Trustees Report 15
be adopted and the remainder of the report be filed.

Board of Trustees Report 15 presents the completed review of the specialty organizations seated in the House of Delegates (HOD) that were scheduled to submit information and materials for the 2018 American Medical Association (AMA) Interim Meeting in compliance with the five-year review process established by the House of Delegates in Policy G-600.020, "Summary of Guidelines for Admission to the House of Delegates for Specialty Societies," and AMA Bylaw 8.5, "Periodic Review Process." The Board of Trustees recommends that the following be adopted and the remainder of this report be filed: That the American Academy of Allergy, Asthma & Immunology, American Academy of Ophthalmology, Inc., American Academy of Orthopaedic Surgeons, American Academy of Otolaryngology-Head and Neck Surgery, American Academy of Pain Medicine, American Academy of Pediatrics, American Academy of Physical Medicine & Rehabilitation, American Association of Neurological Surgeons, and the Society of Nuclear Medicine and Molecular Imaging retain representation in the American Medical Association House of Delegates.

Board of Trustees Report 15 was introduced by the Board of Trustees, and no further testimony was offered. Your Reference Committee recommends that Board of Trustees Report 15 be adopted.

(2) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
REPORT 1 – COMPETENCE, SELF-ASSESSMENT AND
SELF-AWARENESS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends
that the recommendations in Council on Ethical and Judicial
Affairs Report 1 be adopted and the remainder of the report
be filed.

Council on Ethical and Judicial Affairs Report 1 examines physicians' ethical responsibility of commitment to competence and is concerned with a broader notion of competence that deals with a physician's wisdom and judgment about their own ability to provide safe, high-quality care "in the moment." The report notes certain influences on clinical reasoning such as heuristics, habits of perception and overconfidence can lead to problems in effective reasoning. Hence, it is important for physicians to develop an informed self-assessment that leads to self-awareness of a physician's own ability to practice safely in the moment and develop a "mindful practice" over the course of their lifetime to ethically maintain competence. The report proposes guidance to this end.

1 Your Reference Committee heard testimony that was largely supportive of Council on
2 Ethical and Judicial Affairs Report 1. Hesitations were raised regarding circumstances in
3 which physicians no longer possess the self-awareness to accurately assess their own
4 competence, such as in the case of impairment. Testimony argued that impaired
5 physicians should not be considered to be acting unethically. While your Reference
6 Committee is sensitive to these concerns, its judgment is that these issues are duly
7 addressed both by section (f) in the recommendations of this report as well as Opinion E-
8 9.3.2 "Physician Responsibilities to Impaired Colleagues". Therefore, your Reference
9 Committee recommends that Council on Ethical and Judicial Affairs Report 1 be adopted
10 as written.

11
12 (3) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
13 REPORT 3 – AMENDMENT TO E-2.2., "PEDIATRIC
14 DECISION MAKING"

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16 RECOMMENDATION:

17
18 Madam Speaker, your Reference Committee recommends
19 that the recommendations in Council on Ethical and Judicial
20 Affairs Report 3 be adopted and the remainder of the report
21 be filed.

22
23 This report provides ethics guidance for physicians in relation to the concerns expressed
24 in Resolution 3-A-16, "Supporting Autonomy for Patients with Differences in Sex
25 Development (DSD)," responding to Board of Trustees Report 7-I-16 of the same title, and
26 Resolution 13-A-18, "Opposing Surgical Sex Assignment of Infants with Differences of
27 Sex Development. Council on Ethical and Judicial Affairs Report 3 recommends that
28 Opinion E-2.2.1, "Pediatric Decision Making," be amended in lieu of Resolution 3-A-16
29 and 13-A-18, and provides guidance to physicians on providing compassionate, humane
30 care to all pediatric patients, while negotiating with parents/guardians to develop a shared
31 understanding of the patient's medical and psychosocial needs and interests in the context
32 of family relationships and resources. The report considers the continuum of pediatric
33 decision-making between interventions about which there is consensus in the professional
34 community, whose benefits are significant and significantly outweigh the risks they pose,
35 and decisions that carry significant risks of harm or about which currently available
36 evidence suggests offer little prospect of clinical benefit or cannot be reasonably expected
37 to achieve the intended goal. The report also considers whether decisions about DSD
38 should be different from other decisions, and advises seeking a shared understanding of
39 goals for care in creating treatment plans that respect the unique needs, values and
40 preferences of pediatric patients and their families.

41
42 Testimony on Council on Ethical and Judicial Affairs Report 3 was largely supportive.
43 Critical testimony noted that much of the language of the report was satisfactory, but felt
44 that it lacked adequate language addressing the care of intersex patients. Testimony
45 suggested that the bulleted points on pages 5 and 6 of the report on the topic of decision-
46 making in these circumstances would assuage concerns if it was adopted in the
47 recommendation. All other groups and individuals who testified were satisfied with this
48 report. Additionally, there were several personal testimonies of individuals and families
49 directly affected by congenital adrenal hyperplasia (CAH). These individuals felt that their
50 experiences with shared decision-making were the right choice for them and that surgical

1 treatment decisions were created together with their medical team in contrast to
2 considering such surgeries to be “medically sanctioned violence.” Your Reference
3 Committee noted the majority of testimony was in support of this report and that the report
4 created a very balanced and appropriately broad view of pediatric decision making, one
5 that is applicable beyond those issues related only to intersex and DSD. Therefore, your
6 Reference Committee recommends that Council on Ethical and Judicial Affairs Report 3
7 be adopted and the remainder of the report be filed.

8
9 (4) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
10 REPORT 5 – PHYSICIANS’ FREEDOM OF SPEECH

11
12 RECOMMENDATION:

13
14 Madam Speaker, your Reference Committee recommends
15 that the recommendations in Council on Ethical and Judicial
16 Affairs Report 5 be adopted and the remainder of the report
17 be filed.

18
19 Council on Ethical and Judicial Affairs Report 5 responds to referred Resolution 6-I-17,
20 “Physician’s Freedom of Speech,” which asks the AMA to amend Opinion E-1.2.10,
21 “Political Action by Physicians.” This report references Opinions within the *Code of*
22 *Medical Ethics* that provide guidance with respect to physicians’ rights to express
23 themselves on matters of social and political importance and underscores physicians’
24 rights to due process when their conduct is subjected to disciplinary review. The report
25 also notes that constitutional protection for “freedom of speech” does not apply to private
26 places of employment, and that private employers generally have the power to terminate
27 an employee because of the employee’s speech. The Council views the situation of
28 physicians who express personal views on political and social issues online like that of
29 physicians who participate professionally in the media; physicians should recognize that
30 even when they speak personally, they are likely to be viewed by the public through the
31 lens of their professional status and relationships with health care institutions. The report
32 recommends that Resolution 6-I-17 not be adopted.

33
34 The only testimony heard on Council on Ethical and Judicial Affairs Report 5 was given
35 by the authors of the original resolution, who suggested referral. Your Reference
36 Committee concluded that resolution 6-I-17 is calling for an amendment to ethics policy
37 by making an argument grounded on concerns of First Amendment constitutional rights,
38 which your Reference Committee believes to be a constitutional issue rather than an
39 ethical issue. Further, the resolution’s recommendation is one framed as a constitutional
40 issue of “Freedom of Speech,” but more accurately reflects employment law as the
41 grievance described is one between physicians and their employers and not one of
42 government restrictions of physician speech. Therefore, your Reference Committee
43 recommends that CEJA Report 3 be adopted, but if the authors of Resolution 6-I-17 wish
44 to create House policy, they may submit a new resolution.

(5) RESOLUTION 002 – PROTECTING THE INTEGRITY OF
PUBLIC HEALTH DATA COLLECTION

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends
that Resolution 002 be adopted.

Resolution 002 asks that our AMA advocate for the inclusion of demographic data inclusive of sexual orientation and gender identity in national and state surveys, surveillance systems and health registries. The resolution also asks that our AMA advocate against the removal of such demographic data from these registries without plans for updating measures of these data.

Your Reference Committee heard testimony that unanimously supported Resolution 002. Speakers noted that such data collection is essential to providing high-quality care according to evidence-based medicine, and that efforts to develop guidelines and determine best practices depend on the availability of data about the populations being treated. Your Reference Committee recommends that Resolution 002 be adopted.

(6) BOARD OF TRUSTEES REPORT 14 – PROTECTION OF
PHYSICIAN FREEDOM OF SPEECH

RECOMMENDATION A:

Madam Speaker, your Reference Committee recommends
that recommendation 1 in Board of Trustees Report 14 be
amended by addition and deletion to read as follows:

1. That our American Medical Association ~~strongly oppose~~
support ~~litigation challenging the exercise of~~ a physician's
First Amendment right to express opinions ~~regarding~~
relating to medical issues (New HOD Policy)

RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends
that Board of Trustees Report 14 be adopted as amended
and the remainder of the report be filed.

Board of Trustees Report 14 responds to Resolution 5-I-17, "Protection of Physician Freedom of Speech," which asks that our AMA strongly oppose litigation challenging the exercise of a physician's First Amendment right to express opinions regarding medical issues. The report recommends that AMA policy H-460.895, "Free Speech Applies to Scientific Knowledge," be reaffirmed. The report recommends against the use of the term "good faith" in AMA policy regarding physician opinions on medical issues, as there is no simple test as to whether an opinion has been made in good faith or bad faith. Additionally, the report notes that the AMA Litigation Center is already aware of the possibility that physician members of medical societies may be sued for expressing opinions on medical

1 issues and is committed to taking appropriate steps to assist these societies and their
2 members in the event of litigation.

3
4 Limited testimony supported the premise of the recommendations in Board of Trustees
5 Report 14. Some concern was expressed about the inclusion of the phrase, "regarding
6 medical issues," in Recommendation 1 as it could be seen as unnecessarily restrictive or
7 confusing. Your Reference Committee agrees that our AMA should support physicians'
8 right to express opinions relating to medical issues, but believes that the positive
9 framework as amended, as opposed to opposition of litigation, more appropriately
10 expresses the AMA's role in these matters. Therefore, your Reference Committee
11 recommends that Board of Trustees Report 14 be adopted as amended.

12
13 (7) RESOLUTION 001 – SUPPORT OF A NATIONAL
14 REGISTRY FOR ADVANCE DIRECTIVES

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16 RECOMMENDATION A:

17
18 Madam Speaker, your Reference Committee recommends
19 that Resolution 001 be amended by addition to read as
20 follows:

21
22 RESOLVED, that our American Medical Association
23 advocate for the development of model legislation and the
24 establishment and maintenance of a national, no-charge,
25 confidential and secure method for the storage and retrieval
26 of advance directive documents by authorized agents. (New
27 HOD Policy)

28
29 RECOMMENDATION B:

30
31 Madam Speaker, your Reference Committee recommends
32 that Resolution 001 be adopted as amended.

33
34 Resolution 001 asks that our AMA advocate for the establishment and maintenance of a
35 national, no-charge, confidential and secure method for the storage and retrieval of
36 advance directive documents by authorized agents. The resolution notes that Advanced
37 Care Planning (ACP) improves the respect of end-of-life wishes, improves patient and
38 family satisfaction, and is cost-effective, but also that ACP documentation varies by state
39 and region and is often difficult to locate, as no central database for such documentation
40 is readily available for health care providers.

41
42 Your Reference Committee heard testimony that largely supported Resolution 001.
43 Speakers emphasized the importance of honoring patients' preferences for end of life
44 care, and the difficulty often faced when attempting to access this documentation across
45 state lines or even between systems in the same geographic area. It was noted that while
46 a number of states currently have advance directive registries, electronic health record
47 interoperability would be essential for an effective national directory. Some concerns were
48 raised concerning financial and legal challenges involved in creating such a directory,
49 safeguarding the security and integrity of information within it, and ensuring that patients
50 would be given the opportunity, if at all possible, to confirm or change advance directives

1 at the point of care. Your Reference Committee agreed that the development of model
2 legislation would aid in accomplishing the goal of the resolution. Thus, your Reference
3 Committee recommends that Resolution 001 be adopted as amended.

4
5 (8) RESOLUTION 003 – MENTAL HEALTH ISSUES AND USE
6 OF PSYCHOTROPIC DRUGS FOR UNDOCUMENTED
7 IMMIGRANT CHILDREN

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9 RECOMMENDATION A:

10
11 Madam Speaker, your Reference Committee recommends
12 that the first Resolve in Resolution 003 be amended by
13 addition and deletion to read as follows:

14
15 RESOLVED, That our American Medical Association
16 officially object to policies separating undocumented
17 immigrant parents ~~and/or~~ guardians from children, as well
18 as allowing policies that prohibit unaccompanied
19 undocumented minors access to the U.S. (New HOD
20 Policy); and be it further

21
22 RECOMMENDATION B:

23
24 Madam Speaker, your Reference Committee recommends
25 that the second Resolve in Resolution 003 be amended by
26 addition and deletion to read as follows:

27
28 RESOLVED, That our AMA ~~condemn~~ only support the
29 practice of administering psychotropic drugs to immigrant
30 children ~~without~~ when there has been evaluation by
31 appropriate medical personnel, and with parental or
32 guardian consent or court order except in the case of
33 imminent danger to self or others (New HOD Policy); and be
34 it further

35
36 RECOMMENDATION C:

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38 Madam Speaker, your Reference Committee recommends
39 that the third Resolve in Resolution 003 be amended by
40 addition and deletion to read as follows:

41
42 ~~RESOLVED, That our AMA support a position whereby~~
43 ~~federal immigration officials would become more aware of~~
44 ~~the emotional decompensation in this immigrant population,~~
45 ~~with the establishment of policies designed to decrease~~
46 ~~stress and emotional trauma. (New HOD Policy)~~

47
48 RESOLVED, That our AMA (1) support education for
49 immigration officials regarding increased risk of sexual
50 assault and sexual trauma amongst unaccompanied minor

immigrant children, as well as the emotional
decompensation in this immigrant population due to these
abuses and other traumas, and (2) encourage policies
designed to decrease incidence of sexual assault, increase
reporting and timely access to treatment services, and
decrease stress and emotional trauma.

RECOMMENDATION D:

Madam Speaker, you Reference Committee recommends
that Resolution 003 be adopted as amended.

Resolution 003 asks that our AMA officially object to policies separating undocumented immigrant parents/guardians from their children, as well as allowing unaccompanied minors access to the United States. The resolution also urges our AMA to condemn the practice of administering psychotropic drugs to immigrant children without parental or guardian consent or court order, except in cases of imminent danger to self or others. In addition, the resolution asks our AMA to support a position whereby federal immigration officials become more aware of emotional decompensation in this immigrant population with the establishment of policies designed to decrease stress and emotional trauma.

Testimony reflected almost unanimous support of the spirit of Resolution 003, with speakers emphasizing the trauma experienced by both parents and children when the family is separated. Amendments were offered to clarify the intent of the first and second Resolve clauses, particularly regarding the necessity of medical evaluation in cases when immigrant children are administered psychotropic drugs. Your Reference Committee also heard significant testimony regarding sexual trauma and felt that combining this into the third Resolve clause effectively addressed

the intent of the original third Resolve as well as these additional concerns. Your Reference Committee recommends that Resolution 003 be adopted as amended.

(9) RESOLUTION 004 – OPPOSING THE DETENTION OF
MIGRANT CHILDREN

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends
that the third Resolve in Resolution 004 be amended by
addition and deletion to read as follows:

RESOLVED, That our AMA urge ~~that continuity of care for~~
~~all migrant children released from such detention facilities.~~
~~be provided with indicated follow-up health care to ensure~~
~~their welfare following these experiences.~~ (New HOD
Policy)

Resolution 004 asks that our AMA oppose the separation of migrant children from their families and any effort to end or weaken the Flores Settlement, which requires the U.S. government to release undocumented children “without unnecessary delay” when

1 detention is not required for the protection and safety of that child, and that those children
2 that remain in custody must be placed in the “least restrictive setting” possible. The
3 resolution also asks our AMA to support the humane treatment of all undocumented
4 children by advocating for regular, unannounced auditing of the medical conditions and
5 services at all detention facilities by a non-governmental third party with medical expertise
6 in the care of vulnerable children. Additionally, the resolution requests that our AMA urge
7 that all children released from such detention be provided with indicated follow-up health
8 care to ensure their welfare following these experiences.

9
10 Your Reference Committee heard widespread support for Resolution 004, focusing on the
11 goal of ensuring quality health care for all patients in confined settings and the scrutiny of
12 detention centers in general. A suggestion for referral was made in light of the complexity
13 of the treatment of migrant children. However, due to the urgent nature of the Flores
14 Settlement currently being threatened, your Reference Committee developed amended
15 language in lieu of referral. Therefore, your Reference Committee recommends that
16 Resolution 004 be adopted as amended.

17
18 (10) RESOLUTION 005 (LATE RESOLUTION 1001) –
19 AFFIRMING THE MEDICAL SPECTRUM OF GENDER
20

21 RECOMMENDATION A:

22
23 Madam Speaker, your Reference Committee recommends
24 that the second resolve in Resolution 005 be amended by
25 addition and deletion to read as follows:

26
27 ~~RESOLVED, That our AMA oppose any effort to prohibit the~~
28 ~~reassignment of an individual's sex. (New HOD Policy)~~

29
30 RESOLVED, That our AMA oppose any efforts to deny an
31 individual's right to determine their stated sex marker or
32 gender identity. (New HOD Policy)

33
34 RECOMMENDATION B:

35
36 Madam Speaker, your Reference Committee recommends
37 that Resolution 005 be adopted as amended.

38
39 Resolution 005 asks that AMA Policy D-295.312, “Medical Spectrum of Gender,” be
40 amended. The resolution asks our AMA to educate state and federal policymakers and
41 legislators on and advocate for policies addressing the medical spectrum of gender
42 identity to ensure access to quality health care. The resolution also asks that our AMA
43 affirm that an individual’s genotypic sex, phenotypic sex, sexual orientation, gender and
44 gender identity are not always aligned or indicative of the other, and that gender for many
45 individuals may differ from the sex assigned at birth.

46
47 Testimony for Resolution 005 offered nearly unanimous support, with speakers noting the
48 ongoing difficulties faced by transgender individuals and how an improved social and
49 structural support system might ameliorate some of those difficulties. Testimony
50 suggested that any proposal to limit or narrow the definition of sex would lead to public

1 health consequences, and that it is essential to acknowledge that gender is fluid and that
2 gender identity does not always match sex at birth. Some speakers noted that the original
3 phrasing of the second resolve may have been problematic, and the above amendments
4 were offered and supported by subsequent speakers. Your Reference Committee
5 recommends that Resolution 005 be adopted as amended.

6
7 (11) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
8 REPORT 2 – STUDY AID-IN-DYING AS END-OF-LIFE
9 OPTION / THE NEED TO DISTINGUISH “PHYSICIAN-
10 ASSISTED SUICIDE” AND “AID-IN-DYING”

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12 RECOMMENDATION:

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14 Madam Speaker, your Reference Committee recommends
15 that Council on Ethical and Judicial Affairs Report 2 be
16 referred.

17
18 Council on Ethical and Judicial Affairs Report 2 responds to Resolution 15-A-15, “Study
19 Aid-in-Dying as End-of-Life Option,” and Resolution 14- A-17, “The Need to Distinguish
20 between ‘Physician-Assisted Suicide’ and ‘Aid in Dying’.” Resolution 15-A-15 asks that the
21 Council on Ethical and Judicial Affairs study medical aid-in-dying and make a
22 recommendation regarding the AMA taking a neutral stance; Resolution 14-A-17 asks that
23 AMA define and clearly distinguish “physician assisted suicide” and “aid in dying” for use
24 in all AMA policy and position statements. This report holds that the terms ‘aid in dying’
25 and ‘physician-assisted suicide’ reflect different ethical perspectives. The Council finds
26 “physician assisted suicide” to be the most precise term and urges that it be used by the
27 AMA. Importantly, the report explains that there are irreducible differences in moral
28 perspectives regarding the issue of physician-assisted suicide, such that both sides share
29 common commitment to “compassion and respect for human dignity and rights” (see
30 Principle I of the AMA Principles of Medical Ethics), but draw different moral conclusions
31 from these shared commitments. The report considers the risks of unintended
32 consequences of physician-assisted suicide, noting that there is debate about the
33 available data. The report argues that where physician-assisted suicide is legal,
34 safeguards can and should be improved to mitigate risk. The report further notes that too
35 often physicians and patients do not have the conversations they should about death and
36 dying and that physicians should be skillful in engaging in these difficult conversations and
37 knowledgeable about the options available to terminally ill patients. The report concludes
38 that in existing opinions on physician-assisted suicide and the exercise of conscience, the
39 *Code of Medical Ethics* offers sufficient guidance to support physicians and the patients
40 they serve in making well-considered, mutually respectful decisions about legally available
41 options for care at the end of life while respecting the intimacy of a patient-physician
42 relationship. Thus, the report recommends that the *Code* not be amended, and that
43 Resolutions 15-A-16 and 14-A-17 not be adopted.

44
45 Your Reference Committee heard extensive mixed testimony regarding Council on Ethical
46 and Judicial Affairs Report 2. There was broad agreement that the Council had written a
47 strong report that thoroughly examines the issues under consideration, including focusing
48 on the shared values of care, compassion, respect, and dignity. Testimony offered a great
49 deal of support for keeping the current *Code* unchanged. However, your Reference
50 Committee also heard a significant amount of testimony questioning whether the

1 conclusions of the report were supported by its body, specifically urging reexamination of
2 opinion E-5.7, which states that, “physician-assisted suicide is fundamentally incompatible
3 with the physician’s role as healer” in order to acknowledge that physicians have other
4 roles beyond healer that may be incongruent with each other. Your Reference Committee
5 therefore recommends that Council on Ethical and Judicial Affairs Report 2 be referred.

6
7 (12) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
8 REPORT 4 – CEJA ROLE IN IMPLEMENTING H-140.837,
9 “ANTI-HARASSMENT POLICY”

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11 RECOMMENDATION:

12
13 Madam Speaker, your Reference Committee recommends
14 that the recommendations in Council on Ethical and Judicial
15 Affairs Report 4 not be adopted.

16
17 Council on Ethical and Judicial Affairs Report 4 recommends that provision (3) of AMA
18 Policy H-140.837, “Anti-Harassment Policy,” be rescinded and that the process for
19 implementing the AMA’s anti-harassment policy be referred to the Board of Trustees for
20 further study. At the 2018 Annual Meeting, the House of Delegates adopted with
21 amendment Board of Trustees Report 20-A-18, “Anti-Harassment Policy,” giving the
22 Council on Ethical and Judicial Affairs the authority and responsibility to take disciplinary
23 action regarding allegations of harassment during meetings associated with the AMA. The
24 report notes that the Council on Ethical and Judicial Affairs believes promoting safe
25 engagement among all attendees during professional meetings affiliated with the AMA is
26 an urgent organizational responsibility. However, the responsibility to adjudicate
27 allegations of harassment is qualitatively different from the Council on Ethical and Judicial
28 Affairs’ normal judicial function and demands a different set of skills. The Council also
29 expressed doubt that it possessed the resources or flexibility necessary to carry out this
30 new role effectively, and is concerned that such a role could undermine confidence in the
31 Council, to the detriment of both its judicial and policy work.

32
33 Your Reference Committee heard generally negative testimony on Council on Ethical and
34 Judicial Affairs Report 3. Speakers suggested that the judicial function assigned to the
35 Council on Ethical and Judicial Affairs in AMA Policy H-140.837 is not unreasonable given
36 the Council’s role as outlined in AMA Bylaws. Testimony also questioned the Council’s
37 concern about a potential investigatory role, noting that such activities would be conducted
38 by the Human Resources of the AMA, with adjudication appropriately being handled by
39 the Council. Your Reference Committee acknowledges the Council on Ethical and Judicial
40 Affairs’ significant concerns about their ability and resources to effectively carry out the
41 role outlined in AMA policy as written, and strongly urges our Board of Trustees to further
42 examine the process. However, since adoption of this report would eliminate the only
43 current AMA process regarding adjudication of harassment claims at AMA meetings, your
44 Reference Committee recommends that Council on Ethical and Judicial Affairs Report 4
45 not be adopted.

1

1 Madam Speaker, this concludes the report of Reference Committee on Amendments to
2 Constitution and Bylaws. I would like to thank Mark Ard, MD, Jayne Courts, MD, Keith
3 E. Davis, MD, Sean Figy, MD, Dionne Hart, MD, Spiro Spanakis, DO, and all those who
4 testified before the Committee.

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