

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS*

CEJA Report 1, June 2020

Subject: CEJA's Sunset Review of 2010 House Policies—Updated

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Referred to: Reference Committee F and Amendments to Constitution and Bylaws
(Ann R. Stroink, MD, Chair)

1 At its 1984 Interim Meeting, the House of Delegates (HOD) established a sunset mechanism for
2 House policies (Policy G-600.110). Under this mechanism, a policy established by the House
3 ceases to be viable after 10 years unless action is taken by the House to retain it.

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5 The objective of the sunset mechanism is to help ensure that the American Medical Association
6 (AMA) policy database is current, coherent, and relevant. By eliminating outmoded, duplicative,
7 and inconsistent policies, the sunset mechanism contributes to the ability of the AMA to
8 communicate and promote its policy positions. It also contributes to the efficiency and
9 effectiveness of HOD deliberations.

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11 At its 2012 Annual Meeting, the House modified Policy G-600.110 to change the process through
12 which the policy sunset review is conducted. The process now includes the following steps:
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- 14 • Each year the House policies that are subject to review under the policy sunset mechanism
15 are identified.
- 16 • Policies are assigned to appropriate Councils for review.
- 17 • For the Annual Meeting of the House, each Council develops a separate policy sunset
18 report that recommends how each policy assigned to it should be handled. For each policy
19 it reviews, a Council may recommend one of the following actions: (a) retain the policy;
20 (b) sunset the policy; (c) retain part of the policy; d) reconcile the policy with more recent
21 and like policy. A justification must be provided for the recommended action to retain a
22 policy.
- 23 • A policy will typically sunset after ten years unless action is taken by the House of
24 Delegates to retain it. A reaffirmation or amendment to policy by the House of Delegates
25 resets the sunset clock, making the reaffirmed or amended policy viable for another 10
26 years.

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28 Although the policy sunset review mechanism may not be used to change the meaning of AMA
29 policies, minor editorial changes can be accomplished through the sunset review process.

* Reports of the Council on Ethical and Judicial Affairs are assigned to the reference committee on Amendments to Constitution and Bylaws. They may be adopted, not adopted, or referred. A report may not be amended, except to clarify the meaning of the report and only with the concurrence of the Council.

1 2010 POLICIES

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3 In this report, the Council on Ethical and Judicial Affairs (CEJA) presents its recommendations
4 regarding the disposition of 2010 House policies that were assigned to or originated from CEJA.

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6 DUPLICATIVE POLICIES

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8 On the model of the Council on Long Range Planning & Development (CLRPD)/CEJA Joint
9 Report I-01 and of subsequent reports of CEJA's sunset review of House policies, this report
10 recommends the rescission of House policies issued since June 2010. As noted previously, the
11 intent of this process is the elimination of duplicative ethics policies from PolicyFinder. The
12 process does not diminish the substance of AMA policy in any sense. Indeed, CEJA Opinions are a
13 category of AMA policy.

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15 MECHANISM TO ELIMINATE DUPLICATIVE ETHICS POLICIES

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17 The Council continues to present reports to the HOD. If adopted, the recommendations of these
18 reports continue to be recorded in PolicyFinder as House policy. When a CEJA Opinion
19 responding to a resolution from the House of Delegates is issued, the corresponding House policy
20 is rescinded.

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22 The Appendix provides recommended actions and their rationale on House policies from 2010, as
23 well as on duplicate policies.

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25 RECOMMENDATION

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27 The Council on Ethical and Judicial Affairs recommends that the House of Delegates policies that
28 are listed in the Appendix to this report be acted upon in the manner indicated and the remainder of
29 this report be filed. (Directive to Take Action)

Fiscal Note: Less than \$500.

APPENDIX - RECOMMENDED ACTIONS

Policy No.	Title	Recommended Action & Rationale
<u>D-140.991</u>	Continuing Efforts to Exclude Physicians from State Executions Protocols	Reaffirm.
<u>D-235.989</u>	<p>Strengthening Medicare Requirements on Self-Governance</p> <p>Our AMA will take all appropriate steps to (1) seek federal regulatory and/or statutory changes to strengthen a medical staff's right to self-governance to ensure that the medical staff as a whole is responsible for the patient care, patient safety, and the quality of care delivered in the hospital;</p> <p>(2) seek federal statutory and/or regulatory changes as necessary to ensure that the Medicare program has the ability to, and does in fact, enforce Medicare conditions of participation relating to the organized medical staff. (2008)</p>	<p>Rescind.</p> <p>Duplicative and outdated. Policy is largely incorporated into other newer provisions at this time.</p>
<u>D-235.994</u>	Medical Staff Autonomy and Self-Governance	Reaffirm.
<u>D-255.995</u>	Discrimination Against IMGs in Classified Advertising	Reaffirm
<u>D-35.999</u>	Non Physicians' Expanded Scope of Practice (Laboratory Testing and Test Interpretation)	Reaffirm.
<u>H-140.854</u>	Responsible Biomedical and Bioethics Journalism	Reaffirm.
<u>H-215.985</u>	Child Care in Hospitals	Reaffirm.
<u>H-215.999</u>	<p>Denial of Hospital Service Resultant from Labor Discord</p> <p>Our AMA encourages hospitals to take all reasonable measures to resolve labor disputes expeditiously so that citizens of the community are not deprived of essential medical service. (1975)</p>	<p>Rescind.</p> <p>Policy is duplicative of E-1.2.10 Political Action by Physicians. E-1.2.10 also discusses the rationale of this guidance.</p>
<u>H-235.965</u>	Physician Involvement in Hospital or Health Care Corporate Compliance Committees Concerning Fraud and Abuse	Reaffirm.
<u>H-265.993</u>	<p>Peer Review of Medical Expert Witness Testimony</p> <p>AMA policy is that: (1) the giving of medico-legal testimony by a physician expert witness be considered the practice of medicine, and (2) all medico-legal expert witness testimony given by a physician should be subject to peer review. (1997)</p>	Reaffirm.
<u>H-265.995</u>	<p>Guidelines for Expert Witness</p> <p>The AMA supports (1) continued study of the various state and specialty society expert witness guidelines that are available, and (2) again disseminating its model state legislation establishing expert witness guidelines and working with the American Bar Association to achieve passage of the guidelines embodied therein. (1991)</p>	Reaffirm.

<u>H-275.951</u>	Mandatory Acceptance of Patient's Group Plan It is the policy of the AMA that the sole purpose of medical licensure is to assure the competence of physicians to practice medicine.	Rescind. Policy is outdated; "group plan" is no longer relevant terminology.
<u>H-280.968</u>	Do Not Hospitalize Orders	Reaffirm.
<u>H-295.996</u>	Psychological Testing Without Informed Consent	Reaffirm.
<u>H-295.998</u>	<p>Due Process</p> <p>(1) Our AMA reaffirms its 1974 approval of the policy adopted by the Liaison Committee on Medical Education, which states: "A medical school should develop and publicize to its faculty and students a clear definition of its procedures for the evaluation, advancement, and graduation of students. Principles of fairness and 'due process' must apply when considering actions of the faculty or administration which will adversely affect the student to deprive him of his valuable rights."</p> <p>(2) In addition, to clarify and protect the rights of medical students, the AMA recommends that: (a) Each school develop and publish in its catalog, student handbook or similar publication the institutional policies and procedures both for evaluation of academic performance (promotion, graduation, dismissal, probation, remedial work, and the like) and for nonacademic disciplinary decisions. (b) These policies and procedures should define the responsible bodies and their function and membership, provide for timely progressive verbal and written notification to the student that his/her academic/nonacademic performance is in question, and provide an opportunity for the student to learn why it has been questioned. (c) These policies and procedures should also ensure that when a student has been notified of recommendations by the responsible committee for nonadvancement or dismissal, he/she has adequate notice and the opportunity to appear before the decision-making body to respond to the data submitted and introduce his/her own data. (d) The student should be allowed to be accompanied by a student or faculty advisor. (e) The policies and procedures should include an appeal mechanism within the medical school. (f) The student should be allowed to continue in the academic program during the proceedings unless extraordinary circumstances exist, such as physical threat to others.(1979)</p>	<p>Reaffirm.</p> <p>NOTE: LCME language has been updated. H-295.998 should be edited as follows:</p> <p>Due Process</p> <p>(1) Our AMA reaffirms its 1974 approval of the policy adopted by the Liaison Committee on Medical Education, which states: <u>"A medical school should develop and publicize to its faculty and students a clear definition of its procedures for the evaluation, advancement, and graduation of students. Principles of fairness and 'due process' must apply when considering actions of the faculty or administration which will adversely affect the student to deprive him of his valuable rights."</u></p> <p><u>"The faculty of a medical school establish criteria for student selection and develop and implement effective policies and procedures regarding, and make decisions about, medical student application, selection, admission, assessment, promotion, graduation, and any disciplinary action. The medical school makes available to all interested parties its criteria, standards, policies, and procedures regarding these matters."</u></p>
<u>H-30.970</u>	The Use of AMA Funds for the Purchase of Alcohol	Reaffirm
<u>H-315.970</u>	Personal Health Records	Reaffirm
<u>H-315.971</u>	Patient Information in the Electronic Medical Record	Rescind.

	AMA Guidelines for Patient Access to Physicians' Electronic Medical Record Systems:	This policy is no longer relevant as it predates HIPAA. Further, confidentiality in this context is extensively discussed in more recent AMA policy.
<u>H-320.979</u>	Potential Breaches of Confidentiality Resulting from Third Party Payers' Requests for Patient Information	Rescind. This policy is no longer relevant as it predates HIPAA. Further, confidentiality is extensively discussed in more recent AMA policy.
<u>H-320.994</u>	Confidentiality	Rescind. This policy is no longer relevant as it predates HIPAA. Further, confidentiality is extensively discussed in more recent AMA policy.
<u>H-350.971</u>	AMA Initiatives Regarding Minorities	Reaffirm.
<u>H-350.975</u>	Improving Healthcare of Hispanic Populations in the United States	Reaffirm.
<u>H-375.960</u>	Protection Against External Peer Review Abuses	Reaffirm.
<u>H-375.961</u>	Protection of Performance Evaluations of Residents and Fellows During Litigation Our AMA opposes the utilization of resident and fellow performance evaluations: (1) for any purpose other than providing educational feedback; and (2) in connection with litigation. (BOT 29-A-10)	Reaffirm.
<u>H-40.984</u>	Physician Reservists	Reaffirm
<u>H-405.981</u>	Professional Autonomy	Reaffirm.
<u>H-405.985</u>	Truthful Specialty Information Our AMA: (1) reaffirms its policy that: (a) individual character, training, competence, experience and judgment be the criteria for granting privileges in hospitals; (b) physicians representing several specialties can and should be permitted to perform the same procedures if they meet these criteria; (c) a physician who acquires new skills as a result of additional education or training should be given individual evaluation and the same consideration as a new physician applying for privileges; and (2) believes that advertising by physicians should comply with ethical opinion 5.02 of the Council of Ethical and Judicial Affairs. (1989)	Reaffirm. NOTE: Ethical opinion cited has been updated and should be 9.6.1, as noted below: (2) believes that advertising by physicians should comply with ethical opinion <u>5.02</u> <u>9.6.1</u> of the Council of Ethical and Judicial Affairs.
<u>H-405.994</u>	Exemption of Physicians from Jury Service	Reaffirm
<u>H-405.998</u>	Opposition to the Concept of Withholding Medical Services	Rescind. This policy is duplicative of <u>E-1.2.10 Political Action by Physicians</u>

<u>H-406.996</u>	Use and Release of Physician-Specific Health Care Data	Reaffirm.
<u>H-460.945</u>	Physicians and Other Health Care Personnel as Targets of Threats, Harassment, and Violence Our AMA will: (1) develop educational materials to assist physicians in identifying the legal options available to protect them from targeted harassment, threats, and stalking; (2) support increased national, state, and local protection for physicians and other personnel providing health care services or engaged in biomedical research; and (3) develop model state legislation that defines "stalking" as a crime, and that includes adequate provisions relating to physicians and other health care personnel. (1993)	Rescind. The intent of this policy has been accomplished through <u>criminal stalking laws</u> which have been expanded to cover cyberstalking, a nonexistent threat at the time this policy was written. <u>This resource</u> also outlines both state and federal criminal and civil stalking laws, as well as military, & tribal policies.
<u>H-460.966</u>	Scientific Fraud and Misrepresentation	Reaffirm.
<u>H-475.982</u>	Surgical Safety Checklists	Reaffirm.
<u>H-478.999</u>	An International Code of Ethics for Internet Health Sites	Reaffirm.
<u>H-5.992</u>	Fetal Tissue Transplantation Research Our AMA (1) supports continued research employing fetal tissue obtained from induced abortion, including investigation of therapeutic transplantation; and (2) demands that adequate safeguards be taken to isolate decisions regarding abortion from subsequent use of fetal tissue, including the anonymity of the donor, free and non-coerced donation of tissue, and the absence of financial inducement. (1989)	Rescind. This policy has been superseded by <u>E- 7.3.5</u> Research Using Human Fetal Tissue and <u>E-6.2.1</u> Guidelines for Organ Transplantation from Deceased Donors
<u>H-5.994</u>	Use of Fetal Tissue for Legitimate Scientific Research The AMA supports (1) the concept of the use of fetal tissue for legitimate scientific research, including transplantation; and (2) continued federal funding for such research. (1988)	Rescind. This policy has been superseded by <u>E- 7.3.5</u> Research Using Human Fetal Tissue and <u>E-6.2.1</u> Guidelines for Organ Transplantation from Deceased Donors
<u>H-5.995</u>	Abortion	Reaffirm.
<u>H-65.970</u>	Punitive Mutilation	Reaffirm.