

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS*

CEJA Report 5-A-24

Subject: CEJA’s Sunset Review of 2014 House Policies

Presented by: David A. Fleming, MD, Chair

Referred to: Reference Committee on Amendments to Constitution and Bylaws

1 Policy G-600.110, “Sunset Mechanism for AMA Policy,” calls for the decennial review of
2 American Medical Association (AMA) policies to ensure that our AMA’s policy database is
3 current, coherent, and relevant. This policy reads as follows, laying out the parameters for review
4 and specifying the needed procedures:

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6 1. As the House of Delegates adopts policies, a maximum ten-year time horizon shall exist. A
7 policy will typically sunset after ten years unless action is taken by the House of Delegates
8 to retain it. Any action of our AMA House that reaffirms or amends an existing policy
9 position shall reset the sunset “clock,” making the reaffirmed or amended policy viable for
10 another 10 years.
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12 2. In the implementation and ongoing operation of our AMA policy sunset mechanism, the
13 following procedures shall be followed: (a) Each year, the Speakers shall provide a list of
14 policies that are subject to review under the policy sunset mechanism; (b) Such policies
15 shall be assigned to the appropriate AMA councils for review; (c) Each AMA council that
16 has been asked to review policies shall develop and submit a report to the House of
17 Delegates identifying policies that are scheduled to sunset; (d) For each policy under
18 review, the reviewing council can recommend one of the following actions: (i) retain the
19 policy; (ii) sunset the policy; (iii) retain part of the policy; or (iv) reconcile the policy with
20 more recent and like policy; (e) For each recommendation that it makes to retain a policy in
21 any fashion, the reviewing council shall provide a succinct, but cogent justification (f) The
22 Speakers shall determine the best way for the House of Delegates to handle the sunset
23 reports.
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25 3. Nothing in this policy shall prohibit a report to the HOD or resolution to sunset a policy
26 earlier than its 10-year horizon if it is no longer relevant, has been superseded by a more
27 current policy, or has been accomplished.
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29 4. The AMA councils and the House of Delegates should conform to the following guidelines
30 for sunset: (a) when a policy is no longer relevant or necessary; (b) when a policy or
31 directive has been accomplished; or (c) when the policy or directive is part of an
32 established AMA practice that is transparent to the House and codified elsewhere such as

* 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 the AMA Bylaws or the AMA House of Delegates Reference Manual: Procedures, Policies
2 and Practices.

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4 5. The most recent policy shall be deemed to supersede contradictory past AMA policies.

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6 6. Sunset policies will be retained in the AMA historical archives.

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8 RECOMMENDATION

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

Fiscal Note: Less than \$500.

APPENDIX – RECOMMENDED ACTIONS

Policy Number	Title	Text	Recommendation
H-140.898	Medical Profession Opposition to Physician Participation in Execution	Our AMA strongly reaffirms its opposition to physician participation in execution.	Retain; remains relevant.
H-140.950	Physician Participation in Capital Punishment	<p>Evaluations of Prisoner Competence to be Executed; Treatment to Restore Competence to be Executed: Our AMA endorses the following:</p> <p>(1) Physician participation in evaluations of a prisoner's competence to be executed is ethical only when certain safeguards are in place. A physician can render a medical opinion regarding competency which should be merely one aspect of the information taken into account by the ultimate decision maker, a role that legally should be assumed by a judge or hearing officer. Prisoners' rights to due process at the competency hearings should be carefully observed.</p> <p>(2) When a condemned prisoner has been declared incompetent to be executed, physicians should not treat the prisoner to restore competence unless a commutation order is issued before treatment begins.</p> <p>(3) If the incompetent prisoner is undergoing extreme suffering as a result of psychosis or any other illness, medical intervention intended to mitigate the level of suffering is ethically permissible. It will not always be easy to distinguish these situations from treatment for the purpose of restoring the prisoner's competence, and in particular, to determine when treatment initiated to reduce suffering should be stopped. However, there is no alternative at this time other than to rely upon the treating physician to exercise judgment in deciding when and to what extent treatment is necessary to reduce extreme suffering. The cumulative experience of physicians applying these principles over time may lead to future refinements. Treatment should be provided in a properly-secured, general medical or psychiatric facility, not in a cell block. The task of re-evaluating the prisoner's competence to be executed should be performed by an independent physician examiner.</p> <p>(4) Given the ethical conflicts involved, no physician, even if employed by the state, should be compelled to participate in the process of establishing a prisoner's competence to be executed if such activity is contrary to the physician's personal beliefs. Similarly, physicians</p>	Retain; remains relevant.

		who would prefer not to be involved with treatment of an incompetent, condemned prisoner should be excused or permitted to transfer care of the prisoner to another physician.	
H-140.963	Secrecy and Physician Participation in State Executions	The AMA opposes any and all attempts either in state laws or in rules and regulations that seek to enable or require physician participation in legal executions and/or which protect from disclosure the identity of physicians participating or performing direct or ancillary functions in an execution.	Retain; remains relevant.
H-140.999	Our AMA and Bioethics	Our AMA requests official representation on any federal advisory committee or commission dealing with ethical issues of interest to medicine.	Retain; remains relevant.
H-140.963	Secrecy and Physician Participation in State Executions	The AMA opposes any and all attempts either in state laws or in rules and regulations that seek to enable or require physician participation in legal executions and/or which protect from disclosure the identity of physicians participating or performing direct or ancillary functions in an execution.	Retain; remains relevant.
H-265.992	Expert Witness Testimony	Our AMA: (1) encourages each state medical society to work with its state licensing board toward the development of effective disciplinary measures for physicians who provide fraudulent testimony; (2) provides legal and advocacy support to those medical and specialty organizations who seek to devise programs designed to discipline physicians for unprofessional conduct relative to expert witness testimony; (3) continues to study and work with interested organizations to address the inherent difficulties in conducting the peer review of physicians who provide expert witness testimony; (4) continues to educate physicians about ethical guidelines and professional responsibility regarding the provision of expert witness testimony; (5) encourages each state medical society to work with its state licensing board to grant any out-of-state expert witness physician a temporary license at a nominal fee or at no cost for the express purpose of expert testimony on a per case basis, such that the expert witness is subject to the peer review process. (6) encourages each state medical society to assist its state licensing board in the peer review process of expert witnesses by providing an expert witness committee program similar to the one in the state of Florida; (7) works with the Federation of State Medical Boards to address problems regarding out-of-state expert witnesses; and	Retain; remains relevant.

		(8) acts as a clearinghouse for advice and support as the state medical associations develop their own expert witness committee programs.	
H-270.961	Medical Care Must Stay Confidential	Our AMA will strongly oppose any federal legislation requiring physicians to establish the immigration status of their patients.	Retain; remains relevant.
H-405.958	Physician Right to Conscience	Our AMA supports high standards of civility and respect among physicians amidst differing political beliefs, aspects of conscience and ethical views because debate and expression of disagreement is healthy and essential to the improvement of medicine, and physicians should communicate any differences in a civil and professional manner.	Retain; remains relevant.
H-65.997	Human Rights	Our AMA endorses the World Medical Association's Declaration of Tokyo which are guidelines for medical doctors concerning torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment.	Retain; remains relevant.