

SUBJECT TO RESOLUTION COMMITTEE REVIEW

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 613
(N-21)

Introduced by: Mississippi, District of Columbia, New Jersey, Oklahoma, South Carolina, Tennessee

Subject: Due Process at our AMA

Referred to: Reference Committee F

Whereas, Most Americans assume the US Constitution guarantees due process before the government may deprive someone of "life, liberty, or property," particularly as stated in the Fifth and Fourteenth Amendments to the United States Constitution, including notice, opportunity for hearing, confrontation and cross-examination, discovery, basis of decision, and availability of counsel in the United States" (quote from the Library of Congress at Congress.gov, Amt5.4.1 "The Right to Due Process: Overview); and

Whereas, Since 1980 the AMA has supported the right of physician due process and has adopted general guidelines for due process to be adapted in each instance to suit the circumstances and conditions of health care organizations (Guidelines for Due Process H-265.998); and

Whereas, Most American physicians believe that AMA members deserve the right to due process before any adverse action may be taken against them by the Council on Ethical and Judicial Affairs (CEJA), the Conduct Liaison or Committee on Conduct at AMA Meetings and Events (CCAM) pursuant to the Policy on Conduct at AMA Meetings and Events H-140.837, or the AMA Speakers office, or the Speakers Elections Committee, or the AMA House of Delegates staff office; therefore be it

RESOLVED, That any American Medical Association member accused of any offense internal to AMA, such as a complaint on/to the AMA Code of Conduct Hotline at 800-398-1496 ([AMA Code of Conduct for meeting attendees and employees | American Medical Association \(ama-assn.org\)](http://ama-assn.org)) be entitled to due process based on principles of fundamental fairness before any adverse action may be taken against such AMA member as a result of any such complaint, including but not limited to notice of complaint and opportunity to be heard coincident with any AMA based investigation (New HOD Policy); and be it further

RESOLVED, That our AMA prohibit inappropriate usage of AMA public or private media platforms and take reasonable steps to enforce the existing Digital Code of Conduct ([Code of Conduct | American Medical Association \(ama-assn.org\)](http://ama-assn.org)) including but not limited to prompt and thorough investigation of alleged violations of the Digital Code of Conduct as if the complaint were formally filed on the Code of Ethics Hotline. (New HOD Policy)

Fiscal Note: Not yet determined

Received: 10/11/21

AUTHORS STATEMENT OF PRIORITY

Due process is important to ALL physicians and particularly at our AMA. We need to act NOW to avoid further damage from our rampant recent ill-behaviors on AMA sponsored social media platforms and the Complaint Hotline. We all agree that fairness and diversity are now viewed as among our CORE AMA VALUES. We need NEW policy to rein in abuses seen over the last 12 months or so. The HOD action will obviously have positive impact and only the AMA can act on this important and timely internal action.

Reference: from the above AMA web page
Digital Code of Conduct

By accessing and using this website you agree to the following Code of Conduct. If you do not agree to the Code of Conduct, [Terms of Use](#), and [Privacy Policy](#), you must immediately terminate use of this site.

To help the American Medical Association (AMA) maintain dialogue that is relevant and respectful of the rights of others, you understand that when you submit comments, posts or images on AMA's digital platforms, you will not:

- Spread false and/or defamatory information.
- Include content that is discriminatory, abusive, vulgar, hateful, harassing, obscene, profane, sexually oriented, threatening, invasive of a person's privacy or right to publicity, or otherwise violative of any law.
- Infringe on copyrights, trademarks or trade secrets.
- Post content that includes private and/or personal information, such as home phone numbers and email addresses.
- Seek medical advice (consult your personal physician) or disclose personal health information.
- Promote commercial services and products or causes.
- Post in manner that would constitute spamming (e.g., posting with such frequency or repetitiveness that others may be discouraged from posting, posts that are irrelevant to the topic and/or the AMA's mission, and "follow me" posts) or trolling (defined as comments that appear intended to send the discussion in a fruitless direction).

RELEVANT AMA POLICY**Guidelines for Due Process H-265.998**

While it is not possible to develop universal guidelines for due process, voluntary utilization of the following general guidelines for due process, adapted in each instance to suit the circumstances and conditions of the health care organization and within the requirements of the applicable laws of the jurisdiction, should assist in providing the type of hearing which the law in each jurisdiction requires.

- (1) The physician should be provided with a statement, or a specific listing, of the charges made against him or her.
- (2) The physician is entitled to adequate notice of the right to a hearing and a reasonable opportunity of no less than 30 days to prepare for the hearing.
- (3) It is the duty and responsibility of the hearing officer to conduct a fair, objective, expeditious and independent hearing pursuant to established rules.
- (4) The rules of procedure should clearly define the extent to which attorneys may participate in the hearing.
- (5) The physician against whom the charges are made should have the opportunity to be present at the hearing and hear all of the evidence against him or her.
- (6) The physician is entitled to the opportunity to present a defense to the charges against him or her.
- (7) To the extent feasible, the hearing panel should evaluate the issues and evidence presented related to the proposed corrective action while blinded to the patient outcome.
- (8) The hearing panel should render a decision based on the evidence produced at the hearing.
- (9) The hearing panel should include in its decision the conclusions reached and actions recommended and, as an important focus if feasible, remedial steps for the physician and for the health care facility itself. When feasible, the hearing panel should include terms that permit measurement and validation of the completed remediation process.
- (10) The hearing panel should endeavor to state its findings, the clinical basis and support for its findings, its recommendations, and actions as clearly as possible.

(11) Within 10 days of the receipt of the hearing panel's decision, the physician, medical executive committee or health care organization, if it brought the correction action, has the right to request an appellate review. The written request for an appellate review shall include an identification of the grounds for appeal and a clear and concise statement of the facts and/or evidence in support of the appeal. The grounds for an appeal of the decision shall be: (a) substantial non-compliance with the procedures required in the medical staff bylaws; or (b) the decision is against the manifest weight of the evidence. If an appellate review is to be conducted, the appeal board shall schedule the appellate review and provide notice to the physician, medical executive committee and the health care organization. The MEC shall appoint an appeal board consisting of members of the medical staff who did not sit on the original hearing panel, or, at the request of the MEC, the governing body or at least three members thereof may sit as the appeal board. The appeal board shall consider the record of the hearing before the hearing panel. If the appeal board determines that significant relevant evidence, which could bear on the outcome of the proceeding, was not entertained by the hearing panel, it may refer the matter back to the hearing panel for further deliberation or, at the appeal board's discretion, it may receive and consider the new evidence. Similarly, if the appeals board determines that there was not substantial compliance with the hearing procedures in the medical staff bylaws, the appeal board may refer the matter back to the hearing body or, at the appeal board's discretion, it may convene additional hearings to correct any defect in the process. Upon completion of the appeal board's deliberations, the appeal board shall present its recommendation(s) to the governing body as to whether the recommendations(s) of the hearing body should be affirmed, modified, or reversed.

(12) In any hearing, the interest of patients and the public must be protected.

Citation: BOT Rep. II, A-80; Reaffirmed: Sunset Report, I-98; Amended: BOT Action in response to referred for decision BOT Rep. 23, A-05; Reaffirmed: Res. 12, A-06; Reaffirmed: BOT Rep. 06, A-16; Reaffirmed: Res. 235, I-18