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HOD ACTION: DISCLAIMER

The following is a preliminary report of actions taken by the House of Delegates at its 2018 Interim Meeting and should not be considered final. Only the Official Proceedings of the House of Delegates reflect official policy of the Association.

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES (I-18)

Report of Reference Committee on Amendments to Constitution and Bylaws

Todd M. Hertzberg, MD, Chair

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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 (1) BOARD OF TRUSTEES REPORT 15 – SPECIALTY
2 SOCIETY REPRESENTATION IN THE HOUSE OF
3 DELEGATES – FIVE-YEAR REVIEW
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5 RECOMMENDATION:
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7 Madam Speaker, your Reference Committee recommends
8 that the recommendations in Board of Trustees Report 15
9 be adopted and the remainder of the report be filed.

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11 **HOD ACTION: Board of Trustees Report 15 adopted and**
12 **the remainder of the report filed.**
13

14 Board of Trustees Report 15 presents the completed review of the specialty organizations
15 seated in the House of Delegates (HOD) that were scheduled to submit information and
16 materials for the 2018 American Medical Association (AMA) Interim Meeting in compliance
17 with the five-year review process established by the House of Delegates in Policy G-
18 600.020, “Summary of Guidelines for Admission to the House of Delegates for Specialty
19 Societies,” and AMA Bylaw 8.5, “Periodic Review Process.” The Board of Trustees
20 recommends that the following be adopted and the remainder of this report be filed: That
21 the American Academy of Allergy, Asthma & Immunology, American Academy of
22 Ophthalmology, Inc., American Academy of Orthopaedic Surgeons, American Academy of
23 Otolaryngology-Head and Neck Surgery, American Academy of Pain Medicine,
24 American Academy of Pediatrics, American Academy of Physical Medicine &
25 Rehabilitation, American Association of Neurological Surgeons, and the Society of
26 Nuclear Medicine and Molecular Imaging retain representation in the American Medical
27 Association House of Delegates.
28

29 Board of Trustees Report 15 was introduced by the Board of Trustees, and no further
30 testimony was offered. Your Reference Committee recommends that Board of Trustees
31 Report 15 be adopted.
32

33 (2) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
34 REPORT 1 – COMPETENCE, SELF-ASSESSMENT AND
35 SELF-AWARENESS
36

37 RECOMMENDATION:
38

39 Madam Speaker, your Reference Committee recommends
40 that the recommendations in Council on Ethical and Judicial
41 Affairs Report 1 be adopted and the remainder of the report
42 be filed.
43

44 **HOD ACTION: Council on Ethical and Judicial Affairs**
45 **Report 1 referred.**
46

47 Council on Ethical and Judicial Affairs Report 1 examines physicians’ ethical responsibility
48 of commitment to competence and is concerned with a broader notion of competence that
49 deals with a physician’s wisdom and judgment about their own ability to provide safe, high-
50 quality care “in the moment.” The report notes certain influences on clinical reasoning such
51 as heuristics, habits of perception and overconfidence can lead to problems in effective

1 reasoning. Hence, it is important for physicians to develop an informed self-assessment
2 that leads to self-awareness of a physician's own ability to practice safely in the moment
3 and develop a "mindful practice" over the course of their lifetime to ethically maintain
4 competence. The report proposes guidance to this end.
5

6 Your Reference Committee heard testimony that was largely supportive of Council on
7 Ethical and Judicial Affairs Report 1. Hesitations were raised regarding circumstances in
8 which physicians no longer possess the self-awareness to accurately assess their own
9 competence, such as in the case of impairment. Testimony argued that impaired
10 physicians should not be considered to be acting unethically. While your Reference
11 Committee is sensitive to these concerns, its judgment is that these issues are duly
12 addressed both by section (f) in the recommendations of this report as well as Opinion E-
13 9.3.2 "Physician Responsibilities to Impaired Colleagues". Therefore, your Reference
14 Committee recommends that Council on Ethical and Judicial Affairs Report 1 be adopted
15 as written.
16

17 (3) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
18 REPORT 3 – AMENDMENT TO E-2.2., "PEDIATRIC
19 DECISION MAKING"
20

21 RECOMMENDATION:
22

23 Madam Speaker, your Reference Committee recommends
24 that the recommendations in Council on Ethical and Judicial
25 Affairs Report 3 be adopted and the remainder of the report
26 be filed.
27

28 **HOD ACTION: Council on Ethical and Judicial Affairs**
29 **Report 3 adopted and the remainder of the report filed.**
30

31 This report provides ethics guidance for physicians in relation to the concerns expressed
32 in Resolution 3-A-16, "Supporting Autonomy for Patients with Differences in Sex
33 Development (DSD)," responding to Board of Trustees Report 7-I-16 of the same title, and
34 Resolution 13-A-18, "Opposing Surgical Sex Assignment of Infants with Differences of
35 Sex Development. Council on Ethical and Judicial Affairs Report 3 recommends that
36 Opinion E-2.2.1, "Pediatric Decision Making," be amended in lieu of Resolution 3-A-16
37 and 13-A-18, and provides guidance to physicians on providing compassionate, humane
38 care to all pediatric patients, while negotiating with parents/guardians to develop a shared
39 understanding of the patient's medical and psychosocial needs and interests in the context
40 of family relationships and resources. The report considers the continuum of pediatric
41 decision-making between interventions about which there is consensus in the professional
42 community, whose benefits are significant and significantly outweigh the risks they pose,
43 and decisions that carry significant risks of harm or about which currently available
44 evidence suggests offer little prospect of clinical benefit or cannot be reasonably expected
45 to achieve the intended goal. The report also considers whether decisions about DSD
46 should be different from other decisions, and advises seeking a shared understanding of
47 goals for care in creating treatment plans that respect the unique needs, values and
48 preferences of pediatric patients and their families.
49

1 Testimony on Council on Ethical and Judicial Affairs Report 3 was largely supportive.
2 Critical testimony noted that much of the language of the report was satisfactory, but felt
3 that it lacked adequate language addressing the care of intersex patients. Testimony
4 suggested that the bulleted points on pages 5 and 6 of the report on the topic of decision-
5 making in these circumstances would assuage concerns if it was adopted in the
6 recommendation. All other groups and individuals who testified were satisfied with this
7 report. Additionally, there were several personal testimonies of individuals and families
8 directly affected by congenital adrenal hyperplasia (CAH). These individuals felt that their
9 experiences with shared decision-making were the right choice for them and that surgical
10 treatment decisions were created together with their medical team in contrast to
11 considering such surgeries to be “medically sanctioned violence.” Your Reference
12 Committee noted the majority of testimony was in support of this report and that the report
13 created a very balanced and appropriately broad view of pediatric decision making, one
14 that is applicable beyond those issues related only to intersex and DSD. Therefore, your
15 Reference Committee recommends that Council on Ethical and Judicial Affairs Report 3
16 be adopted and the remainder of the report be filed.

17
18 (4) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
19 REPORT 5 – PHYSICIANS’ FREEDOM OF SPEECH

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21 RECOMMENDATION:

22
23 Madam Speaker, your Reference Committee recommends
24 that the recommendations in Council on Ethical and Judicial
25 Affairs Report 5 be adopted and the remainder of the report
26 be filed.

27
28 **HOD ACTION: Council on Ethical and Judicial Affairs**
29 **Report 5 adopted and the remainder of the report filed.**

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

45
46 The only testimony heard on Council on Ethical and Judicial Affairs Report 5 was given
47 by the authors of the original resolution, who suggested referral. Your Reference
48 Committee concluded that resolution 6-I-17 is calling for an amendment to ethics policy
49 by making an argument grounded on concerns of First Amendment constitutional rights,
50 which your Reference Committee believes to be a constitutional issue rather than an

1 ethical issue. Further, the resolution's recommendation is one framed as a constitutional
2 issue of "Freedom of Speech," but more accurately reflects employment law as the
3 grievance described is one between physicians and their employers and not one of
4 government restrictions of physician speech. Therefore, your Reference Committee
5 recommends that CEJA Report 3 be adopted, but if the authors of Resolution 6-I-17 wish
6 to create House policy, they may submit a new resolution.

7
8 (5) RESOLUTION 002 – PROTECTING THE INTEGRITY OF
9 PUBLIC HEALTH DATA COLLECTION

10
11 RECOMMENDATION:

12
13 Madam Speaker, your Reference Committee recommends
14 that Resolution 002 be adopted.

15
16 **HOD ACTION: Resolution 002 adopted.**

17
18 Resolution 002 asks that our AMA advocate for the inclusion of demographic data
19 inclusive of sexual orientation and gender identity in national and state surveys,
20 surveillance systems and health registries. The resolution also asks that our AMA
21 advocate against the removal of such demographic data from these registries without
22 plans for updating measures of these data.

23
24 Your Reference Committee heard testimony that unanimously supported Resolution 002.
25 Speakers noted that such data collection is essential to providing high-quality care
26 according to evidence-based medicine, and that efforts to develop guidelines and
27 determine best practices depend on the availability of data about the populations being
28 treated. Your Reference Committee recommends that Resolution 002 be adopted.
29

1 (6) BOARD OF TRUSTEES REPORT 14 – PROTECTION OF
2 PHYSICIAN FREEDOM OF SPEECH
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4 RECOMMENDATION A:
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6 Madam Speaker, your Reference Committee recommends
7 that recommendation 1 in Board of Trustees Report 14 be
8 amended by addition and deletion to read as follows:
9

10 1. That our American Medical Association ~~strongly oppose~~
11 support litigation challenging the exercise of a physician's
12 First Amendment right to express opinions ~~regarding~~
13 relating to medical issues (New HOD Policy)
14

15 RECOMMENDATION B:
16

17 Madam Speaker, your Reference Committee recommends
18 that Board of Trustees Report 14 be adopted as amended
19 and the remainder of the report be filed.
20

21 **HOD ACTION: Board of Trustees Report 14 adopted as**
22 **amended and the remainder of the report filed.**
23
24

25 Board of Trustees Report 14 responds to Resolution 5-I-17, "Protection of Physician
26 Freedom of Speech," which asks that our AMA strongly oppose litigation challenging the
27 exercise of a physician's First Amendment right to express opinions regarding medical
28 issues. The report recommends that AMA policy H-460.895, "Free Speech Applies to
29 Scientific Knowledge," be reaffirmed. The report recommends against the use of the term
30 "good faith" in AMA policy regarding physician opinions on medical issues, as there is no
31 simple test as to whether an opinion has been made in good faith or bad faith. Additionally,
32 the report notes that the AMA Litigation Center is already aware of the possibility that
33 physician members of medical societies may be sued for expressing opinions on medical
34 issues and is committed to taking appropriate steps to assist these societies and their
35 members in the event of litigation.
36

37 Limited testimony supported the premise of the recommendations in Board of Trustees
38 Report 14. Some concern was expressed about the inclusion of the phrase, "regarding
39 medical issues," in Recommendation 1 as it could be seen as unnecessarily restrictive or
40 confusing. Your Reference Committee agrees that our AMA should support physicians'
41 right to express opinions relating to medical issues, but believes that the positive
42 framework as amended, as opposed to opposition of litigation, more appropriately
43 expresses the AMA's role in these matters. Therefore, your Reference Committee
44 recommends that Board of Trustees Report 14 be adopted as amended.
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46 (7) RESOLUTION 001 – SUPPORT OF A NATIONAL
47 REGISTRY FOR ADVANCE DIRECTIVES
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49 RECOMMENDATION A:

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

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

RECOMMENDATION B:

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

HOD ACTION: Resolution 001 adopted as amended.

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

Your Reference Committee heard testimony that largely supported Resolution 001. Speakers emphasized the importance of honoring patients' preferences for end of life care, and the difficulty often faced when attempting to access this documentation across state lines or even between systems in the same geographic area. It was noted that while a number of states currently have advance directive registries, electronic health record interoperability would be essential for an effective national directory. Some concerns were raised concerning financial and legal challenges involved in creating such a directory, safeguarding the security and integrity of information within it, and ensuring that patients would be given the opportunity, if at all possible, to confirm or change advance directives at the point of care. Your Reference Committee agreed that the development of model legislation would aid in accomplishing the goal of the resolution. Thus, your Reference Committee recommends that Resolution 001 be adopted as amended.

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

RECOMMENDATION A:

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

1
2 ~~RESOLVED, That our American Medical Association~~
3 ~~officially object to policies separating undocumented~~
4 ~~immigrant parents and/or guardians from children, as well~~
5 ~~as allowing policies that prohibit unaccompanied~~
6 ~~undocumented minors access to the U.S. (New HOD~~
7 ~~Policy); and be it further~~
8

9 RESOLVED, That our AMA object to policies separating
10 undocumented, immigrant parents or guardians from
11 children (New HOD Policy); and be it further
12

13 RECOMMENDATION B:

14
15 Madam Speaker, your Reference Committee recommends
16 that the second Resolve in Resolution 003 be amended by
17 addition and deletion to read as follows:
18

19 RESOLVED, That our AMA ~~condemn~~ only support the
20 practice of administering psychotropic drugs to immigrant
21 children ~~without~~ when there has been evaluation by
22 appropriate medical personnel, and with parental or
23 guardian consent or court order except in the case of
24 imminent danger to self or others (New HOD Policy); and be
25 it further
26

27 RECOMMENDATION C:

28
29 Madam Speaker, your Reference Committee recommends
30 that the third Resolve in Resolution 003 be amended by
31 addition and deletion to read as follows:
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33 ~~RESOLVED, That our AMA support a position whereby~~
34 ~~federal immigration officials would become more aware of~~
35 ~~the emotional decompensation in this immigrant population,~~
36 ~~with the establishment of policies designed to decrease~~
37 ~~stress and emotional trauma. (New HOD Policy)~~
38

39 RESOLVED, That our AMA (1) support education for
40 immigration officials regarding increased risk of sexual
41 assault and sexual trauma amongst unaccompanied minor
42 immigrant children, as well as the emotional
43 decompensation in this immigrant population due to these
44 abuses and other traumas, and (2) encourage policies
45 designed to decrease incidence of sexual assault, increase
46 reporting and timely access to treatment services, and
47 decrease stress and emotional trauma.
48

49 **HOD ACTION: Resolution 003, Recommendations**
50 **A-C adopted as amended.**

1
2 RECOMMENDATION D:
3

4 Madam Speaker, your Reference Committee recommends
5 that Resolution 003 be amended by addition of a fourth
6 Resolve to read:

7
8 RESOLVED, That our AMA object to policies prohibiting
9 unaccompanied, undocumented minors access to the
10 United States. (New HOD Policy)

11
12 **HOD ACTION: Resolution 003, Recommendation D**
13 **referred for decision.**

14
15 RECOMMENDATION E:

16
17 Madam Speaker, your Reference Committee recommends
18 that Resolution 003 be adopted as amended.

19
20 **HOD ACTION: Resolution 003 Recommendations A-**
21 **C adopted as amended; Recommendation D**
22 **referred for decision.**

23
24 Resolution 003 asks that our AMA officially object to policies separating undocumented
25 immigrant parents/guardians from their children, as well as allowing unaccompanied
26 minors access to the United States. The resolution also urges our AMA to condemn the
27 practice of administering psychotropic drugs to immigrant children without parental or
28 guardian consent or court order, except in cases of imminent danger to self or others. In
29 addition, the resolution asks our AMA to support a position whereby federal immigration
30 officials become more aware of emotional decompensation in this immigrant population
31 with the establishment of policies designed to decrease stress and emotional trauma.

32
33 Testimony reflected almost unanimous support of the spirit of Resolution 003, with
34 speakers emphasizing the trauma experienced by both parents and children when the
35 family is separated. Amendments were offered to clarify the intent of the first and second
36 Resolve clauses, particularly regarding the necessity of medical evaluation in cases when
37 immigrant children are administered psychotropic drugs. Your Reference Committee also
38 heard significant testimony regarding sexual trauma and felt that combining this into the
39 third Resolve clause effectively addressed

40
41 the intent of the original third Resolve as well as these additional concerns. Your
42 Reference Committee recommends that Resolution 003 be adopted as amended.
43

1 (9) RESOLUTION 004 – OPPOSING THE DETENTION OF
2 MIGRANT CHILDREN
3

4 RECOMMENDATION:
5

6 Madam Speaker, your Reference Committee recommends
7 that the third Resolve in Resolution 004 be amended by
8 addition and deletion to read as follows:
9

10 RESOLVED, That our AMA urge ~~that~~ continuity of care for
11 all migrant children released from such detention facilities.
12 ~~be provided with indicated follow-up health care to ensure~~
13 ~~their welfare following these experiences.~~ (New HOD
14 Policy)
15

16 **HOD ACTION: Resolution 004 adopted as amended.**
17

18 Resolution 004 asks that our AMA oppose the separation of migrant children from their
19 families and any effort to end or weaken the Flores Settlement, which requires the U.S.
20 government to release undocumented children “without unnecessary delay” when
21 detention is not required for the protection and safety of that child, and that those children
22 that remain in custody must be placed in the “least restrictive setting” possible. The
23 resolution also asks our AMA to support the humane treatment of all undocumented
24 children by advocating for regular, unannounced auditing of the medical conditions and
25 services at all detention facilities by a non-governmental third party with medical expertise
26 in the care of vulnerable children. Additionally, the resolution requests that our AMA urge
27 that all children released from such detention be provided with indicated follow-up health
28 care to ensure their welfare following these experiences.
29

30 Your Reference Committee heard widespread support for Resolution 004, focusing on the
31 goal of ensuring quality health care for all patients in confined settings and the scrutiny of
32 detention centers in general. A suggestion for referral was made in light of the complexity
33 of the treatment of migrant children. However, due to the urgent nature of the Flores
34 Settlement currently being threatened, your Reference Committee developed amended
35 language in lieu of referral. Therefore, your Reference Committee recommends that
36 Resolution 004 be adopted as amended.
37

1 (10) RESOLUTION 005 (LATE RESOLUTION 1001) –
2 AFFIRMING THE MEDICAL SPECTRUM OF GENDER
3

4 RECOMMENDATION A:
5

6 Madam Speaker, your Reference Committee recommends
7 that the second resolve in Resolution 005 be amended by
8 addition and deletion to read as follows:
9

10 ~~RESOLVED, That our AMA oppose any effort to prohibit the~~
11 ~~reassignment of an individual's sex. (New HOD Policy)~~
12

13 RESOLVED, That our AMA oppose any efforts to deny an
14 individual's right to determine their stated sex marker or
15 gender identity. (New HOD Policy)
16

17 RECOMMENDATION B:
18

19 Madam Speaker, your Reference Committee recommends
20 that Resolution 005 be adopted as amended.
21

22 **HOD ACTION: Resolution 005 adopted as amended.**
23

24 Resolution 005 asks that AMA Policy D-295.312, “Medical Spectrum of Gender,” be
25 amended. The resolution asks our AMA to educate state and federal policymakers and
26 legislators on and advocate for policies addressing the medical spectrum of gender
27 identity to ensure access to quality health care. The resolution also asks that our AMA
28 affirm that an individual's genotypic sex, phenotypic sex, sexual orientation, gender and
29 gender identity are not always aligned or indicative of the other, and that gender for many
30 individuals may differ from the sex assigned at birth.
31

32 Testimony for Resolution 005 offered nearly unanimous support, with speakers noting the
33 ongoing difficulties faced by transgender individuals and how an improved social and
34 structural support system might ameliorate some of those difficulties. Testimony
35 suggested that any proposal to limit or narrow the definition of sex would lead to public
36 health consequences, and that it is essential to acknowledge that gender is fluid and that
37 gender identity does not always match sex at birth. Some speakers noted that the original
38 phrasing of the second resolve may have been problematic, and the above amendments
39 were offered and supported by subsequent speakers. Your Reference Committee
40 recommends that Resolution 005 be adopted as amended.
41

1 (11) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
2 REPORT 2 – STUDY AID-IN-DYING AS END-OF-LIFE
3 OPTION / THE NEED TO DISTINGUISH “PHYSICIAN-
4 ASSISTED SUICIDE” AND “AID-IN-DYING”
5

6 RECOMMENDATION:
7

8 Madam Speaker, your Reference Committee recommends
9 that Council on Ethical and Judicial Affairs Report 2 be
10 referred.
11

12 **HOD ACTION: Council on Ethical and Judicial Affairs**
13 **Report 2 referred.**
14

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

42 Your Reference Committee heard extensive mixed testimony regarding Council on Ethical
43 and Judicial Affairs Report 2. There was broad agreement that the Council had written a
44 strong report that thoroughly examines the issues under consideration, including focusing
45 on the shared values of care, compassion, respect, and dignity. Testimony offered a great
46 deal of support for keeping the current *Code* unchanged. However, your Reference
47 Committee also heard a significant amount of testimony questioning whether the
48 conclusions of the report were supported by its body, specifically urging reexamination of
49 opinion E-5.7, which states that, “physician-assisted suicide is fundamentally incompatible
50 with the physician’s role as healer” in order to acknowledge that physicians have other

1 roles beyond healer that may be incongruent with each other. Your Reference Committee
2 therefore recommends that Council on Ethical and Judicial Affairs Report 2 be referred.

3
4 (12) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
5 REPORT 4 – CEJA ROLE IN IMPLEMENTING H-140.837,
6 “ANTI-HARASSMENT POLICY”
7

8 RECOMMENDATION:
9

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

13
14 **HOD ACTION: Council on Ethical and Judicial Affairs**
15 **Report 4 not 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.

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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.

Mark Ard, MD
California

Sean Figy, MD
Resident & Fellow Section

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