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Title: Oppose Physician Participation in Court-Initiated Castration

Introduced by: Kaitlyn Dobesh for the Medical Student Section

Original Author: Kaitlyn Dobesh

Referred to: Reference Committee E

House Action: **DISAPPROVE**

Whereas, nine states including California, Florida, Georgia, Iowa, Louisiana, Montana, Oregon, and Wisconsin currently allow persons convicted of certain sexual crimes to be sentenced to forcible chemical castration^{1,2,3,4,5,6,7,8,9}, and

Whereas, in 1998, the American Medical Association’s (AMA) Council on Ethical and Judicial Affairs (CEJA) filed a report titled *Court-Initiated Medical Treatments in Criminal Cases*, which recommended a series of criteria for physician participation in court-initiated medical treatments, including chemical castration¹⁰, and

Whereas, the AMA Code of Medical Ethics Opinion 2.065 states that, for a physician to participate in court-initiated treatment involving in-patient therapy, surgical intervention, or pharmacological treatment, “diagnosis can be made initially by the physician who will do the treatment, but must then be confirmed by an independent physician or a panel of physicians not responsible to the state,”¹¹ and

Whereas, the AMA Code of Medical Ethics Opinion 2.065 also states, “The physician . . . must be able to conclude, in good conscience and to the best of his or her professional judgment, that the informed consent was given voluntarily to the extent possible, recognizing the element of coercion that is inevitably present,” and

Whereas, compliance with the informed consent provision is difficult to impossible in states where chemical castration is either left to the discretion of the judge or mandated by statute^{1,2,3,4,5,6,7,8,9}, and

Whereas, the AMA Code of Medical Ethics Opinion 2.065 additionally requires independent panel confirmation that the informed consent was given within the parameters stated above, and

Whereas, the Preamble to the AMA Code of Medical Ethics and the Principles of Medical Ethics, Article 8, both state that the physician’s responsibility to the patient is always the primary interest^{12,13}, and

45 Whereas, the U.S. Food and Drug Administration (FDA) only approves
46 medroxyprogesterone acetate (MPA), a progesterone derivative that inhibits the secretion of
47 gonadotrophins, as a contraceptive in women under the trade name Depo-Provera CI¹⁴, and
48

49 Whereas, MPA should be administered intramuscularly as a contraceptive in 150 mg
50 doses every three months for no longer than two years due to significant bone mineral density
51 loss; yet, chemical castration regimens aimed at reducing free testosterone levels utilize weekly
52 injections (typically 100-500 mg), often for over two years^{14,15}, and
53

54 Whereas, aside from the significant reduction in bone density, metabolic changes after
55 androgen deprivation lead to weight gain and put patients at higher risk for diabetes, metabolic
56 syndrome, and atherosclerosis¹⁶, and
57

58 Whereas, the majority of persons with pedophilic disorder experience another mental
59 health issue (e.g., anxiety) or antisocial personality disorder unrelated to sexual drive¹⁷, and
60

61 Whereas, recidivism rates (often poorly measured due to high study dropout rates) from
62 chemical castration range from 0 percent to 83 percent and may be equivalent to those from
63 cognitive-behavioral therapy alone¹⁸, and
64

65 Whereas, reduced recidivism depends on sustained androgen deprivation, and removal
66 of MPA, either due to non-adherence or treatment cessation, leads to increased recidivism¹⁵,
67 and
68

69 Whereas, the Principles of Medical Ethics, Article 3, of the AMA Medical Code of Ethics
70 states, "A physician shall respect the law and also recognize a responsibility to seek changes in
71 those requirements which are contrary to the best interests of the patient"¹⁹; therefore be it
72

73 RESOLVED: That the Michigan Delegation to the American Medical Association (AMA)
74 as our AMA to study whether or not there is substantial compliance with the Medical Code of
75 Ethics Opinion 2.065, including but not limited to the use of independent physician or physician
76 panels not responsible to the state, compliance with the informed consent provisions, and the
77 pre-establishment of scientifically valid treatments for medically determined diagnoses in
78 chemical castration cases; and be it further
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80 RESOLVED: That MSMS opposes physician participation in court-initiated castration
81 treatments; and be it further
82

83 RESOLVED: That the Michigan Delegation to the American Medical Association (AMA)
84 ask our AMA to oppose physician participation in court-initiated castration treatments; and be
85 it further
86

87 RESOLVED: That the Michigan Delegation to the American Medical Association (AMA)
88 ask our AMA to amend the Medical Code of Ethics by adding a provision prohibiting physicians
89 from participating in forcible chemical castration as a sentencing mechanism for persons
90 convicted of criminal offenses; and be it further

91 RESOLVED: That MSMS supports the repeal of state laws allowing for persons convicted
92 of a crime to be sentenced to forcible chemical castration; and be it further

93

94 RESOLVED: That the Michigan Delegation to the American Medical Association (AMA)
95 ask our AMA to support repeal of state laws allowing for persons convicted of a crime to be
96 sentenced to forcible chemical castration.

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99 WAYS AND MEANS COMMITTEE FISCAL NOTE: NONE

¹ California Penal Code Sect. 645

² Florida Sect. 794.0235

³ Georgia Code 16-6-4

⁴ Iowa Code 903B.10

⁵ Louisiana Revised Statutes 15:538

⁶ Montana Code Annotated 45-5-512

⁷ Oregon Revised Statutes 144.62

⁸ Wisconsin Statutes Annotated 302.11

⁹ Scott, Charles L., M.D. and Holmberg, Trent, M.D. "Castration of Sex Offenders: Prisoners' Rights Versus Public Safety." *J Am Acad Psychiatry Law*. 31:504 (2003).

¹⁰ Council on Ethical and Judicial Affairs. "Court-Initiated Medical Treatments in Criminal Cases." CEJA Report 4-A-98 (1998).

¹¹ AMA Code of Medical Ethics. Opinion 2.065 (1998).

¹² AMA Code of Medical Ethics. Preamble (last revised June 2001).

¹³ AMA Code of Medical Ethics. Principles of Medical Ethics, Article 8 (last revised June 2001).

¹⁴ Pfizer, Inc. "Depo-Provera: Full Prescribing Information." (2010).

¹⁵ Thibaut, Florence, et al. "The World Federation of Societies of Biological Psychiatry (WFSBP) Guidelines for the biological treatment of paraphilias." *The World Journal of Biological Psychiatry*. 11 (2010): 604-655.

¹⁶ Gooren, Louis J. "Ethical and Medical Considerations of Androgen Deprivation Treatment of Sex Offenders." *Journal of Clinical Endocrinology and Metabolism*. 96.12 (2011): 3628-3637.

¹⁷ Hall, Ryan C. W., and Richard C. W. Hall. "A Profile of Pedophilia: Definition, Characteristics of Offenders, Recidivism, Treatment Outcomes, and Forensic Issues." *Mayo Clinic Proceedings*. 82.4 (2007): 457-471.

¹⁸ Stinneford, John F. "Incapacitation Through Maiming: Chemical Castration, the Eighth Amendment, and the Denial of Human Rights." *University of St. Thomas Law Journal*. 3.3 (2006): 559-599.

¹⁹ AMA Code of Medical Ethics. Principles of Medical Ethics, Article 3 (last revised June 2001).