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Title: Referral Obligation for Physicians Exercising Conscientious Objection

Introduced by: Cheryl Farmer, MD

Original Authors: Cheryl Farmer, MD, Michael Simon, MD, Lauren Smith, MD, and Jason Adam Wasserman, PhD

Referred to: Reference Committee A

House Action: **DISAPPROVED**

Whereas, the obligation to provide care to patients represents the highest priority for the profession of medicine and physicians have both an ethical and legal responsibility to provide appropriate care, and

Whereas, the laws in many states, including Michigan¹, have recently expanded the latitude of health care workers to conscientiously object, not only to participation in procedures, but also counseling, testing, and diagnosis such that patients may not even be informed of their conditions or potential options for treatment, and

Whereas, those patients not only have a right to access approved treatments that fall within established standards of care, but a right to, and often urgent need for, testing and diagnosis, and

Whereas, physicians’ rights to object to participation in health care services ought not impede the ability of patients to access those services, and

Whereas, referral for services, defined as a formal process of transferring care following the processes established within one’s practice system, constitutes an essential component of access within the current health care system, and

Whereas, the American Medical Association’s guidance on physician exercise of conscience² does not articulate an obligation for conscientiously objecting physicians to refer patients to other providers, and

Whereas, patients often depend on physicians to help them navigate a complex and daunting health care system in order to access needed tests and treatments; therefore be it

RESOLVED: That MSMS believes that physicians who invoke a conscientious objection to participate in the provision of health care services have a moral obligation to make a reasonable, good faith effort to refer those patients to other providers who they believe have a reasonable likelihood of providing that care, when the needed services fall within the standard of care; and be it further

RESOLVED: That the Michigan Delegation to the American Medical Association (AMA) ask our AMA to amend the AMA Code of Ethics to include a statement that physicians who invoke a conscientious objection to participate in the provision of health care services have a moral obligation to make a reasonable, good faith effort to refer those patients to other providers who they believe have a reasonable likelihood of providing that care, when the needed services fall within the standard of care.

Relevant MSMS Policy:

AMA Principles of Medical Ethics

MSMS supports the AMA Principles of Medical Ethics:

“PREAMBLE: The medical profession has long subscribed to a body of ethical statements developed primarily for the benefit of the patient. As a member of this profession, a physician must recognize responsibility to patients first and foremost, but also as well as to society, to other health professionals, and to self.

“The following Principles adopted by the American Medical Association are not laws, but standards of conduct, which define the essentials of honorable behavior for the physician.

“I. A physician shall be dedicated to providing competent medical care with compassion and respect for human dignity and rights.

“II. A physician shall uphold the standards of professionalism, be honest in all professional interactions, and strive to report physicians deficient in character or competence, or engaging in fraud or deception, to appropriate entities.

“III. A physician shall respect the law and also recognize a responsibility to seek changes in those requirements which are contrary to the best interests of the patient.

“IV. A physician shall respect the rights of patients, colleagues, and other health professionals, and shall safeguard patient confidences and privacy within the constraints of the law.

“V. A physician shall continue to study, apply and advance scientific knowledge, maintain a commitment to medical education, make relevant information available to patients, colleagues and the public, obtain consultation, and use the talents of other health professionals when indicated.

“VI. A physician shall, in the provision of appropriate patient care except in emergencies, be free to choose whom to serve, with whom to associate, and the environment in which to provide medical care.

“VII. A physician shall recognize a responsibility to participate in activities contributing to the improvement of the community and the betterment of public health.

“VIII. A physician shall, while caring for a patient, regard responsibility to the patient as paramount.

“IX. A Physician Shall Support Access To Medical Care For All People.”

(AMA Current Opinions, 2001) (Prior to 1990)

– Reaffirmed 1998

– Reaffirmed (Res30-14)

– Edited 2016

Relevant AMA Policy:

1.1.7 Physician Exercise of Conscience

Physicians are expected to uphold the ethical norms of their profession, including fidelity to patients and respect for patient self-determination. Yet physicians are not defined solely by their profession. They are moral agents in their own right and, like their patients, are informed by and committed to diverse cultural, religious, and philosophical traditions and beliefs. For some physicians, their professional calling is imbued with their foundational beliefs as persons, and at times the expectation

that physicians will put patients' needs and preferences first may be in tension with the need to sustain moral integrity and continuity across both personal and professional life.

Preserving opportunity for physicians to act (or to refrain from acting) in accordance with the dictates of conscience in their professional practice is important for preserving the integrity of the medical profession as well as the integrity of the individual physician, on which patients and the public rely. Thus physicians should have considerable latitude to practice in accord with well-considered, deeply held beliefs that are central to their self-identities.

Physicians' freedom to act according to conscience is not unlimited, however. Physicians are expected to provide care in emergencies, honor patients' informed decisions to refuse life-sustaining treatment, and respect basic civil liberties and not discriminate against individuals in deciding whether to enter into a professional relationship with a new patient.

In other circumstances, physicians may be able to act (or refrain from acting) in accordance with the dictates of their conscience without violating their professional obligations. Several factors impinge on the decision to act according to conscience. Physicians have stronger obligations to patients with whom they have a patient-physician relationship, especially one of long standing; when there is imminent risk of foreseeable harm to the patient or delay in access to treatment would significantly adversely affect the patient's physical or emotional well-being; and when the patient is not reasonably able to access needed treatment from another qualified physician.

In following conscience, physicians should:

- (a) Thoughtfully consider whether and how significantly an action (or declining to act) will undermine the physician's personal integrity, create emotional or moral distress for the physician, or compromise the physician's ability to provide care for the individual and other patients.
- (b) Before entering into a patient-physician relationship, make clear any specific interventions or services the physician cannot in good conscience provide because they are contrary to the physician's deeply held personal beliefs, focusing on interventions or services a patient might otherwise reasonably expect the practice to offer.
- (c) Take care that their actions do not discriminate against or unduly burden individual patients or populations of patients and do not adversely affect patient or public trust.
- (d) Be mindful of the burden their actions may place on fellow professionals.
- (e) Uphold standards of informed consent and inform the patient about all relevant options for treatment, including options to which the physician morally objects.
- (f) In general, physicians should refer a patient to another physician or institution to provide treatment the physician declines to offer. When a deeply held, well-considered personal belief leads a physician also to decline to refer, the physician should offer impartial guidance to patients about how to inform themselves regarding access to desired services.
- (g) Continue to provide other ongoing care for the patient or formally terminate the patient-physician relationship in keeping with ethics guidance.

¹ Michigan State Law HB 5006 (2003), "Conscientious Objector Policy Act"
<http://legislature.mi.gov/doc.aspx?2003-HB-5006>

² AMA Code of Ethics (2016), Section 1.1.7, "Physician Exercise of Conscience."