

RESOLUTION 29 - 2010

Subject: Medical Personnel Involvement In Torture

Introduced by: Edith A. McFadden, MD

Referred to: Quality and Clinical Outcomes

1 Whereas, It was reported April, 2009 in the New York Review of Books that the International
2 Committee of the Red Cross submitted a report in 2007 to the U.S. CIA which detailed medical
3 personnel involvement in monitoring and, in some instances, participating in torture of prisoners held
4 in secret CIA prisons; and

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6 Whereas, Torture is universally considered medically unethical and a violation of international law;
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9 Whereas, Physicians hold a unique, privileged position of respect in society; and

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11 Whereas, Organized medicine, representing physicians, is appropriately expected to speak out against
12 and censure unethical and/or criminal activities of physicians; therefore be it

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14 RESOLVED, That the Wisconsin Medical Society unequivocally condemns the involvement of
15 medical personnel in monitoring and/or participating in torture of any one, at any time, under any
16 circumstances.

Fiscal note: Within current budget.

Relevant Policies

Society:

IMP-002

Reporting Impaired, Incompetent or Unethical Colleagues: The Wisconsin Medical Society believes it is imperative that physicians continue their long history of assisting authorities by reporting impaired, incompetent and unethical colleagues. Physicians should make such reports to the appropriate entity or entities, which may be one or more of the following: Medical Examining Board, Statewide Physician Health Program, law enforcement authorities, hospital peer review committees, management staff of the facility or organization. While such reporting is important, it is also important to keep in mind that allegations are very different from findings of fact.

Physicians should support:

- Observation of the principles of due process during disciplinary hearings or other procedures involving physician participants at all levels;
- Maintaining the confidentiality of the reporting physician, to the extent possible within the constraints of the law, by entities engaged in review of physician behavior; and
- Laws that provide immunity to those who report impaired, incompetent or unethical conduct.

The medical profession should make known its commitment to protect the public from incompetent, impaired or unethical physicians by better communicating its efforts and initiatives at maintaining high ethical standards and quality assurance. (HOD, 0407)

AMA:

H-65.981 Human Rights and Health Professionals

The AMA opposes torture in any country for any reason; urges appropriate support for victims of torture; condemns the persecution of physicians and other health care personnel who treat torture victims. (Sub. Res. 615, A-97; Reaffirmed: Sub. Res. 12, A-04; Reaffirmed: Sub. Res. 10, A-05)

H-65.991 Persecution of Physicians for Political Reasons and Participation by Doctors in Violations of Human Rights

The AMA (1) reiterates its endorsement of the 1975 World Medical Association Declaration of Tokyo which provides guidelines for physicians in cases of torture and other cruel, inhuman or degrading treatment or punishment in relation to detention and imprisonment; (2) opposes participation by physicians in the torture or inhuman treatment or punishment of individuals in relation to detention and imprisonment; and (3) expresses its sympathy to those physicians who have been subject to imprisonment or torture because of their humanitarian efforts to improve the health of their patients. (Res. 91, A-86; Reaffirmed: Sunset Report, I-96; Reaffirmed: Sub. Res. 12, A-04; Reaffirmed: Sub. Res. 10, A-05)

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. (BOT Rep. M, I-78; Reaffirmed: CLRPD Rep. C, A-89; Reaffirmed: Sunset Report, A-00; Reaffirmed: Sub. Res. 12, A-04)

E-2.067 Torture

Torture refers to the deliberate, systematic, or wanton administration of cruel, inhumane, and degrading treatments or punishments during imprisonment or detainment.

Physicians must oppose and must not participate in torture for any reason. Participation in torture includes, but is not limited to, providing or withholding any services, substances, or knowledge to facilitate the practice of torture. Physicians must not be present when torture is used or threatened.

Physicians may treat prisoners or detainees if doing so is in their best interest, but physicians should not treat individuals to verify their health so that torture can begin or continue. Physicians who treat torture victims should not be persecuted. Physicians should help provide support for victims of torture and, whenever possible, strive to change situations in which torture is practiced or the potential for torture is great. (I, III) Issued December 1999.

Relevant Board Action:

BOARD REPORT BB - 2009

Referred to: Quality and Clinical Outcomes

- Medical Personnel Involvement in Torture

MEDICAL PERSONNEL INVOLVEMENT IN TORTURE

The Board discussed the recent CIA report which detailed medical personnel involvement in monitoring and, in some instances, participating in torture of prisoners held in secret CIA prisons and that torture is medically unethical and a violation of international law. Because of the complex issue the Board approved forwarding the issue to a Council for further research and discussion.

The Board affirms the AMA policy on torture as follows:

2.067 Torture

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2.068 Physician Participation in Interrogation

Interrogation is defined as questioning related to law enforcement or to military and national security intelligence gathering, designed to prevent harm or danger to individuals, the public, or national security. Interrogations are distinct from questioning used by physicians to assess the physical or mental condition of an individual. To be appropriate, interrogations must avoid the use of coercion--that is, threatening or causing harm through physical injury or mental suffering. In this Opinion, "detainee" is defined as a criminal suspect, prisoner of war, or any other individual who is being held involuntarily.

Physicians who engage in any activity that relies on their medical knowledge and skills must continue to uphold principles of medical ethics. Questions about the propriety of physician participation in interrogations and in the development of interrogation strategies may be addressed by balancing obligations to individuals with obligations to protect third parties and the public. The further removed the physician is from direct involvement with a detainee, the more justifiable is a role serving the public interest. Applying this general approach, physician involvement with interrogations during law enforcement or intelligence gathering should be guided by the following:

- (1) Physicians may perform physical and mental assessments of detainees to determine the need for and to provide medical care. When so doing, physicians must disclose to the detainee the extent to which others have access to information included in medical records. Treatment must never be conditional on a patient's participation in an interrogation.
- (2) Physicians must neither conduct nor directly participate in an interrogation, because a role as physician-interrogator undermines the physician's role as healer and thereby erodes trust in the individual physician-interrogator and in the medical profession.
- (3) Physicians must not monitor interrogations with the intention of intervening in the process, because this constitutes direct participation in interrogation.
- (4) Physicians may participate in developing effective interrogation strategies for general training purposes. These strategies must not threaten or cause physical injury or mental suffering and must be humane and respect the rights of individuals.
- (5) When physicians have reason to believe that interrogations are coercive, they must report their observations to the appropriate authorities. If authorities are aware of coercive interrogations but have not intervened, physicians are ethically obligated to report the offenses to independent authorities that have the power to investigate or adjudicate such allegations. (I, III, VII, VIII)

Report: Issued November 2006 based on the report "[Physician Participation in Interrogation.](#)" adopted June 2006.

The Board recommends the House approve the actions stated above.

House Action: Adopted with additional Resolved:

RESOLVED, That the Wisconsin Medical Society send a letter to the President of the United States in support of the AMA letter dated April 17, 2009 regarding participation of physicians in torture and coercive interrogation.