

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 005
(I-17)

Introduced by: American Academy of Pain Medicine

Subject: Protection of Physician Freedom of Speech

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(Edmund R. Donoghue, Jr., MD, Chair)

- 1 Whereas, Physicians have a First Amendment right to express their good faith views on medical
2 therapies and other medical issues; and
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4 Whereas, Physicians' rights to express their good faith views on medical issues should not be
5 lost because those views are expressed at seminars or other programs at which the physicians
6 are paid by the sponsor; and
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8 Whereas, Physicians have been, and increasingly are being, sued for doing nothing more than
9 expressing their views on such topics as use of opioids in treating chronic pain and use of
10 marijuana for medical treatment purposes; and
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12 Whereas, Lawsuits challenging the expression of a physician's opinion on medical issues are
13 often directed against key opinion leaders in the particular medical specialty; and
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15 Whereas, The defense of cases in which physicians are sued for expressing their good faith
16 views on medical issues can be very expensive, can cost more than the available insurance
17 coverage, can cause significant anxiety, and can divert the defendant physicians from their
18 practices; and
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20 Whereas, The mere bringing of these types of suits will exert a chilling effect on the willingness
21 of physicians to speak out in good faith on such controversial issues as a woman's right to
22 choose termination of pregnancy, treatment of Attention Deficit Disorder, the role of marijuana in
23 medical treatment, use of opioids to treat chronic pain, and the efficacy of annual mammograms
24 and PSA screening; therefore be it
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26 RESOLVED, That our American Medical Association strongly oppose litigation challenging the
27 exercise of a physician's First Amendment right to express good faith opinions regarding
28 medical issues (New HOD Policy); and be it further
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30 RESOLVED, That our AMA's House of Delegates encourage the AMA Litigation Center to
31 provide such support to a constituent or component medical society whose members have been
32 sued for expressing good faith opinions regarding medical issues as the Litigation Center
33 deems appropriate in any specific case. (New HOD Policy)

Fiscal Note: Minimal - less than \$1,000.

Received: 10/11/17

References:

Luberda v. Purdue Frederick Corp Civil Action No 4:13-cv-00897 S District Court D. So Carolina, Florence Division, filed 4/3/13 (physicians expressing their views on the utilization of opioid medications in the treatment of chronic pain)

County of Suffolk v PurduePharma et al, State of New York Supreme Court Index# 613760/2016; filed 8/31/16 and numerous similar cases brought separately by different counties in New York (physicians expressing their views on the utilization of opioid medications in the treatment of chronic pain)

City of Lorain (Ohio) v. PurduePharma et al, Ohio Northern District Court Case #: 1:17-cv-01639, filed 8/4//17 (physicians expressing their views on the utilization of opioid medications in the treatment of chronic pain)

Conant v. Walters, 309 F.3d 629 (9th Cir. 2002), filed 9/7/00 (advocacy of use of marijuana for medical treatment purposes).