
WMA RESOLUTION ON THE RESPONSIBILITY OF PHYSICIANS IN THE DOCUMENTATION AND DENUNCIATION OF ACTS OF TORTURE OR CRUEL OR INHUMAN OR DEGRADING TREATMENT

Adopted by the 54th WMA General Assembly, Helsinki, Finland, September 2003
and amended by the 58th WMA General Assembly, Copenhagen, Denmark, October 2007

The World Medical Association,

1. Considering the Preamble to the United Nations Charter of 26 June 1945 solemnly proclaiming the faith of the people of the United Nations in the fundamental human rights, the dignity and value of the human person,
2. Considering the Preamble to the Universal Declaration of Human Rights of 10 December 1948 which states that disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind,
3. Considering Article 5 of that Declaration which proclaims that no one shall be subjected to torture or cruel, inhuman or degrading treatment,
4. Considering the American Convention on Human Rights, which was adopted by the Organization of American States on 22 November 1969 and entered into force on 18 July 1978, and the Inter-American Convention to Prevent and Punish Torture, which entered into force on 28 February 1987,
5. Considering the Declaration of Tokyo, adopted by the World Medical Association in 1975, which reaffirms the prohibition of any form of medical involvement or presence of a physician during torture or inhuman or degrading treatment,
6. Considering the Declaration of Hawaii, adopted by the World Psychiatric Association in 1977,
7. Considering the Declaration of Kuwait, adopted by the International Conference of Islamic Medical Associations in 1981,
8. Considering the Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the United Nations General Assembly on 18 December 1982, and particularly Principle 2, which states: "It is a gross contravention of medical ethics... for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment..."

Denunciation of Acts of Torture

9. It is too early to assess the likelihood of success in any specific therapy and the place of stem cells amongst a variety of forms of treatments.
10. Considering the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted by the United Nations General Assembly on December 1984 and entered into force on 26 June, 1987,
11. Considering the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, which was adopted by the Council of Europe on 26 June 1987 and entered into force on 1 February 1989,
12. Considering the Resolution on Human Rights adopted by the World Medical Association in Rancho Mirage, in October 1990 during the 42nd General Assembly and amended by the 45th, 46th and 47th General Assemblies,
13. Considering the Declaration of Hamburg, adopted by the World Medical Association in November 1997 during the 49th General Assembly, calling on physicians to protest individually against ill-treatment and on national and international medical organizations to support physicians in such actions,
14. Considering the Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), adopted by the United Nations General Assembly on 4 December 2000,
15. Considering the Convention on the Rights of the Child, which was adopted by the United Nations on 20 November 1989 and entered into force on 2 September 1990, and
16. Considering the World Medical Association Declaration of Malta on Hunger Strikers, adopted by the 43rd World Medical Assembly Malta, November 1991 and amended by the WMA General Assembly, Pilanesberg, South Africa, October, 2006,

RECOGNIZING

1. That careful and consistent documentation and denunciation by physicians of cases of torture and of those responsible contributes to the protection of the physical and mental integrity of victims and in a general way to the struggle against a major affront to human dignity,
2. That physicians, by ascertaining the sequelae and treating the victims of torture, either early or late after the event, are privileged witnesses of this violation of human rights,
3. That the victims, because of the psychological sequelae from which they suffer or the pressures brought on them, are often unable to formulate by themselves complaints against those responsible for the ill-treatment they have undergone,
4. That the absence of documenting and denouncing acts of torture may be considered as a form of tolerance thereof and of non-assistance to the victims,
5. That nevertheless there is no consistent and explicit reference in the professional codes of medical ethics and legislative texts of the obligation upon physicians to document,

report or denounce acts of torture or inhuman or degrading treatment of which they are aware,

RECOMMENDS THAT NATIONAL MEDICAL ASSOCIATIONS

1. Attempt to ensure that detainees or victims of torture or cruelty or mistreatment have access to immediate and independent health care. Attempt to ensure that physicians include assessment and documentation of symptoms of torture or ill-treatment in the medical records using the necessary procedural safeguards to prevent endangering detainees.
2. Promote awareness of the Istanbul Protocol and its Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment. This should be done at country level using different methods of information dissemination; including trainings, publications and web documents.
3. Disseminate to physicians the Istanbul Protocol.
4. Promote training of physicians on the identification of different modes of torture, in recognizing physical and psychological symptoms following specific forms of torture and in using the documentation techniques foreseen in the Istanbul Protocol to create documentation that can be used as evidence in legal or administrative proceedings.
5. Promote awareness of the correlation between the examination findings, understanding torture methods and the patients' allegations of abuse;
6. Facilitate the production of high-quality medical reports on torture victims for submission to judicial and administrative bodies;
7. Attempt to ensure that physicians observe informed consent and avoid putting individuals in danger while assessing or documenting signs of torture and ill-treatment;
8. Attempt to ensure that physicians include assessment and documentation of symptoms of torture or ill-treatment in the medical records using the necessary procedural safeguards to prevent endangering detainees.
9. Support the adoption in their country of ethical rules and legislative provisions:
 - 1) aimed at affirming the ethical obligation on physicians to report or denounce acts of torture or cruel, inhuman or degrading treatment of which they are aware; depending on the circumstances, the report or denunciation would be addressed to medical, legal, national or international authorities, to non-governmental organizations or to the International Criminal Court. Doctors should use their discretion in this matter, bearing in mind paragraph 68 of the Istanbul Protocol.
 - 2) establishing, to that effect, an ethical and legislative exception to professional confidentiality that allows the physician to report abuses, where possible with the subject's consent, but in certain circumstances where the victim is unable to express him/herself freely, without explicit consent.

- 3) cautioning physicians to avoid putting individuals in danger by reporting on a named basis a victim who is deprived of freedom, subjected to constraint or threat or in a compromised psychological situation
10. Place at their disposal all useful information on reporting procedures, particularly to the national authorities, nongovernmental organizations and the International Criminal Court.

Istanbul Protocol, paragraph 68: "In some cases, two ethical obligations are in conflict. International codes and ethical principles require the reporting of information concerning torture or maltreatment to a responsible body. In some jurisdictions, this is also a legal requirement. In some cases, however, patients may refuse to give consent to being examined for such purposes or to having the information gained from examination disclosed to others. They may be fearful of the risks of reprisals for themselves or their families. In such situations, health professionals have dual responsibilities: to the patient and to society at large, which has an interest in ensuring that justice is done and perpetrators of abuse are brought to justice. The fundamental principle of avoiding harm must feature prominently in consideration of such dilemmas. Health professionals should seek solutions that promote justice without breaking the individual's right to confidentiality. Advice should be sought from reliable agencies; in some cases this may be the national medical association or non-governmental agencies. Alternatively, with supportive encouragement, some reluctant patients may agree to disclosure within agreed parameters."