

## WMA STATEMENT ON PATIENT ADVOCACY AND CONFIDENTIALITY

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### PREAMBLE

Medical practitioners have an ethical duty and a professional responsibility to act in the best interests of their patients without regard to age, gender, sexual orientation, physical ability or disability, race, religion, culture, beliefs, political affiliation, financial means or nationality.

This duty includes advocating for patients, both as a group (such as advocating on public health issues) and as individuals.

Occasionally, this duty may conflict with a physician's other legal, ethical and/or professional duties, creating social, professional and ethical dilemmas for the physician.

Potential conflicts with the physician's obligation of advocacy on behalf of his or her patient may arise in a number of contexts:

1. Conflict between the obligation of advocacy and confidentiality - A physician is ethically and often legally obligated to preserve in confidence a patient's personal health information and any information conveyed to the physician by the patient in the course of his or her professional duties. This may conflict with the physician's obligation to advocate for and protect patients where the patients may be incapable of doing so themselves.
2. Conflict between the best interest of the patient and employer or insurer dictates - Often there exists potential for conflict between a physician's duty to act in the best interest of his or her patients, and the dictates of the physician's employer or the insurance body, whose decision may be shaped by economic or administrative factors unrelated to the patient's health. Examples of such might be an insurer's instructions to prescribe a specific drug only, where the physician believes a different drug would better suit a particular patient, or an insurer's denial of coverage for treatment that a physician believes is necessary.
3. Conflict between the best interests of the individual patient and society - Although the physician's primary obligation is to his or her patient, the physician may, in certain circumstances, have responsibilities to a patient's family and/or to society as well. This may arise in cases of conflict between the patient and his or her family, in the case of minor or incapacitated patients, or in the context of limited resources.

4. Conflict between the patient's wishes and the physician's professional judgment or moral values - Patients are presumed to be the best arbiters of their best interests and, in general, a physician should advocate for and accede to the wishes of his or her patient. However, in certain instances such wishes may be contrary to the physician's professional judgment or personal values.

### RECOMMENDATION

1. The duty of confidentiality must be paramount except in cases where the physician is legally or ethically obligated to disclose such information in order to protect the welfare of the individual patient, third parties or society. In such cases, the physician must make a reasonable effort to notify the patient of the obligation to breach confidentiality, and explain the reasons for doing so, unless this is clearly inadvisable (such as where telling the patient would exacerbate a threat). In certain cases, such as genetic or HIV testing, physicians should discuss with their patients, prior to performing the test, instances in which confidentiality might need to be breached.  
A physician should breach confidentiality in order to protect the individual patient only in cases of minor or incompetent patients (such as certain cases of child or elder abuse) and only where alternative measures are not available. In all other cases, confidentiality may be breached only with the specific consent of the patient or his/ her legal representative or where necessary for the treatment of the patient, such as in consultations between medical practitioners.  
Whenever confidentiality must be breached, it should be done so only to the extent necessary and only to the relevant party or authority.
2. In all cases where a physician's obligation to his or her patient conflicts with the administrative dictates of the employer or the insurer, a physician must strive to change the decision of the employing/insuring body. His or her ultimate obligation must be to the patient.  
Mechanisms should be in place to protect physicians who wish to challenge decisions of employers/insurers without jeopardizing their jobs, and to resolve disagreements between medical professionals and administrators with regard to allocation of resources.  
Such mechanisms should be embodied in medical practitioners' employment contracts. These employment contracts should acknowledge that medical practitioners' ethical obligations override purely contractual obligations related to employment.
3. A physician should be aware of and take into account economic and other factors before making a decision regarding treatment. Nonetheless, a physician has an obligation to advocate on behalf of his or her patient for access to the best available treatment. In all cases of conflict between a physician's obligation to the individual patient and the obligation to the patient's family or to society, the obligation to the individual patient should typically take precedence.

4. Competent patients have the right to determine, on the basis of their needs, values and preferences, what constitutes for them the best course of treatment in any given situation.

Unless it is an emergency situation, physicians should not be required to participate in any procedures that conflict with their personal values or professional judgment. In such non-emergency cases, the physician should explain to the patient his or her inability to carry out the patient's wishes, and the patient should be referred to another physician, if required.

RESCINDED