REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS

CEJA Report 14-A-25

Subject: Achieving Gender-Neutral Language in the AMA *Code of Medical Ethics*

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At the 2024 Annual Meeting of the House of Delegates, Resolution 009, "Updating Language Regarding Families and Pregnant Persons" was adopted as a directive to take action. Resolution 009 contains one resolve which states that the American Medical Association (AMA) "review and update the language used in AMA policy and other resources and communications to ensure that the language used to describe families and persons in need of obstetric and gynecologic care is inclusive of all genders and family structures."

Additionally, at the 2023 Annual Meeting of the House of Delegates, Resolution 602, "Supporting the Use of Gender-Neutral Language" was adopted as House Policy, H-65.942, "Supporting the Use of Gender-Neutral Language." H-65.942 states that the AMA "will recognize the importance of using gender-neutral language such as gender neutral pronouns, terms, imagery, and symbols in respecting the spectrum of gender identity" and that the AMA "will prospectively amend all current AMA policy, where appropriate, to include gender-neutral language by way of the reaffirmation and sunset processes."

RECONCILIATIONS

In response to the House's directives of Resolution 009 and H-65.943, the Council on Ethical and Judicial Affairs (CEJA) has searched the *AMA Code of Medical Ethics* for all *Code* opinions that contain the following non-gender neutral terms: obstetric, pregnant, pregnancy, mother, father, he, she, him, her, his, man, men, woman, and women and have applied appropriate alternate language for these terms. Ongoing review of gendered language should continue prospectively as policy states.

Where changes to *Code* language will be made, additions are shown with underscore and deletions are shown with strikethrough in red font. Given the length of many of the policies, only the affected portions are reproduced.

- Appendix A includes relevant portions of *Code* opinions that contain gendered language and the alternative gender-neutral language.
- Appendix B contains other *Code* opinions with gendered language that is relevant to the intent of the opinion and would substantively change the opinion if replaced with gender neutral language. Therefore, the following policies will be retained as written.

The policy changes reflected in this report do not reset the sunset clock and will be implemented when this report is filed.

Fiscal Note: Less than $500

Appendix A – Alternative gender-neutral language

Code Opinion	Alternative Language
1.1.2 Prospective Patients	Meeting the medical needs of the prospective patient could seriously compromise the physician's ability to provide the care needed by ~~his or her~~their other patients.
1.1.3 Patient Rights	To courtesy, respect, dignity, and timely, responsive attention to ~~his or her~~their needs.
2.1.2 Decisions for Adult Patients Who Lack Capacity	Physicians should engage patients whose capacity is impaired in decisions involving their own care to the greatest extent possible, including when the patient has previously designated a surrogate to make decisions on ~~his or her~~their behalf. how the patient constructed ~~his or her~~their life story;
2.1.6 Substitution of Surgeon	A surgeon who allows a substitute to conduct a medical procedure on ~~his or her~~their patient without the patient's knowledge or consent risks compromising the trust-based relationship of patient and physician.
2.2.2 Confidential Health Care for Minors	Explore the minor patient's reasons for not involving ~~his or her~~their parents (or guardian) and try to correct misconceptions that may be motivating the patient's reluctance to involve parents. Encourage the minor patient to involve ~~his or her~~their parents and offer to facilitate conversation between the patient and the parents.
2.2.3 Mandatory Parental Consent to Abortion	Strongly encourage the patient to discuss the pregnancy with ~~her~~their parents (or guardian). Explore the minor patient's reasons for not involving her parents (or guardian) and try to correct misconceptions that may be motivating the patient's reluctance to involve parents. If the patient is unwilling to involve ~~her~~their parents, encourage ~~her~~them to seek the advice and counsel of adults in whom ~~she has~~they have confidence, including professional counselors, relatives, friends, teachers, or the clergy. Not feel or be compelled to require a minor patient to involve ~~her~~their parents before ~~she decides~~they decide whether to undergo an abortion.
2.2.4 Treatment Decisions for Seriously Ill Newborns	Decision makers must also assess whether the choice made for the newborn will abrogate a choice the future individual would want to make for ~~him or herself~~themself,

2.2.5 Genetic Testing of Children	Decisions to test must balance multiple considerations, including likely benefits, the risks of knowing genetic status (including abrogating the child's opportunity to make the choice about knowing genetic status ~~him- or herself~~themself as an adult),
3.2.1 Confidentiality	the patient will seriously harm ~~him/herself~~themself;
3.3.1 Management of Medical Records	This obligation encompasses not only managing the records of current patients, but also retaining old records against possible future need, and providing copies or transferring records to a third party as requested by the patient or the patient's authorized representative when the physician leaves a practice, sells ~~his or her~~their practice, retires, or dies. to the succeeding physician or other authorized person when the physician discontinues ~~his or her~~their practice (whether through departure, sale of the practice, retirement, or death);
3.3.3 Breach of Security in Electronic Medical Records	The degree to which an individual physician has an ethical responsibility to address inappropriate disclosure depends in part on ~~his or her~~their awareness of the breach, relationship to the patient(s) affected, administrative authority with respect to the records, and authority to act on behalf of the practice or institution.
4.2.3 Therapeutic Donor Insemination	Therapeutic donor insemination using sperm from a ~~woman's partner~~prospective patient or a third-party donor can enable a ~~woman~~patient or couple who might not otherwise be able to do so to fulfill the important life choice of becoming a parent (or parents). However, the procedure also raises ethical considerations about safety for the ~~woman~~patient and potential offspring, donor privacy, and the disposition of frozen semen, as well as the use of screening to select the sex of a resulting embryo.
4.2.4 Third-Party Reproduction	Third-party reproduction is a form of assisted reproduction in which a ~~woman~~person agrees to bear a child on behalf of and relinquish the child to an individual or couple who intend to rear the child. They can also raise concerns about the voluntariness of the gestational carrier's participation and about possible psychosocial harms to those involved, such as distress on the part of the gestational carrier at relinquishing the child or on the part of the child at learning of the circumstances of ~~his or her~~their birth. Third-party reproduction can also carry potential to depersonalize carriers, exploit economically

	disadvantaged ~~women~~persons, and commodify human gametes and children.
5.1 Advance Care Planning	Incorporate notes from the advance care planning discussion into the medical record. Patient values, preferences for treatment, and designation of surrogate decision maker should be included in the notes to be used as guidance when the patient is unable to express ~~his or her~~their own decisions. If the patient has an advance directive document or written designation of proxy, include a copy (or note the existence of the directive) in the medical record and encourage the patient to give a copy to ~~his or her~~their surrogate and others to help ensure it will be available when needed. Periodically review with the patient ~~his or her~~their goals, preferences, and chosen decision maker, which often change over time or with changes in health status. Update the patient's medical records accordingly when preferences have changed to ensure that these continue to reflect the individual's current wishes. If applicable, assist the patient with updating ~~his or her~~their advance directive or designation of proxy forms. Involve the patient's surrogate in these reviews whenever possible.
5.2 Advance Directives	Ascertain whether the patient has an advance directive and if so, whether it accurately reflects ~~his/her~~their current values and preferences.
5.3 Withholding or Withdrawing Life-Sustaining Treatment	Decisions to withhold or withdraw life-sustaining interventions can be ethically and emotionally challenging to all involved. However, a patient who has decision-making capacity appropriate to the decision at hand has the right to decline any medical intervention or ask that an intervention be stopped, even when that decision is expected to lead to ~~his or her~~their death and regardless of whether or not the individual is terminally ill.
5.4 Orders Not to Attempt Resuscitation (DNAR)	Physicians should address the potential need for resuscitation early in the patient's course of care, while the patient has decision-making capacity, and should encourage the patient to include ~~his or her~~their chosen surrogate in the conversation. Before entering a DNAR order in the medical record, the physician should: When the patient cannot express preferences regarding resuscitation or does not have decision-making capacity and has not previously indicated ~~his or her~~their preferences, the physician has an ethical responsibility to:

6.1.1 Transplantation of Organs from Living Donors	Secure agreement from all parties to the prospective donation in advance so that, should the donor withdraw, ~~his or her~~their reasons for doing so will be kept confidential.
6.1.5 Umbilical Cord Blood Banking	Physicians who provide obstetrical care should be prepared to inform pregnant ~~women~~individuals of the various options regarding cord blood donation or storage and the potential uses of donated samples. Encourage ~~women~~people who wish to donate umbilical cord blood to donate to a public bank if one is available when there is low risk of predisposition to a condition for which umbilical cord blood cells are therapeutically indicated:
6.2.2 Directed Donation of Organs for Transplantation	Refuse to participate in any transplant that ~~he or she believes~~they believe to be ethically improper and respect the decisions of other health care professionals should they choose not to participate on ethical or moral grounds.
7.1.2 Informed Consent in Research	For these reasons, no person may be used as a subject in research against ~~his or her~~their will. The participant gives ~~his or her~~their assent to participation, where possible. Physicians should respect the refusal of an individual who lacks decision-making capacity.
7.1.4 Conflicts of Interest in Research	Ensure that the research protocol includes provision for funding participants' medical care in the event of complications associated with the research. A physician should not double-bill a third-party payer for additional expenses related to conducting the trial if ~~he or she has~~they have already received funds from a sponsor for those expenses.
7.2.3 Patents & Dissemination of Research Products	A patent grants the holder the right, for a limited time, to prevent others from commercializing ~~his or her~~their inventions.
7.3.2 Research on Emergency Medical Interventions	The prospective participant lacks the capacity to give informed consent at the time ~~he or she~~they must be enrolled due to the emergency situation and requirements of the research protocol and it would not have been feasible to obtain
7.3.4 Maternal-Fetal Research	Maternal-fetal research, i.e., research intended to benefit pregnant ~~women~~individuals and/or their fetuses, must balance the health and safety of the ~~woman~~individual who participates and the well-being of the fetus with the desire to develop new and innovative therapies. One challenge in such research is that pregnant ~~women~~individuals may face external pressure or expectations to enroll from partners, family members, or

	others that may compromise their ability to make a fully voluntary decision about whether to participate. Physicians engaged in maternal-fetal research should demonstrate the same care and concern for the pregnant ~~woman~~individual and fetus that they would in providing clinical care. Enroll a pregnant ~~woman~~individual in maternal-fetal research only when there is no simpler, safer intervention available to promote the well-being of the ~~woman~~individual or fetus. Obtain the informed, voluntary consent of the pregnant ~~woman~~individual. Minimize risks to the fetus to the greatest extent possible, especially when the intervention under study is intended primarily to benefit the pregnant ~~woman~~individual.
7.3.5 Research Using Human Fetal Tissue	However, the use of fetal tissue for research purposes also raises a number of ethical considerations, including the degree to which an ~~woman's~~individual's decision to have an abortion might be influenced by the opportunity to donate fetal tissue. Concerns have also been raised about potential conflict of interest when there is possible financial benefit to those who are involved in the retrieval, storage, testing, preparation, and delivery of fetal tissues. To protect the interests of pregnant ~~women~~individuals as well as the integrity of science, physicians who are involved in research that uses human fetal tissues should: In all instances, obtain the ~~woman's~~individual's voluntary, informed consent in keeping with ethics guidance, including when using fetal tissue from a spontaneous abortion for purposes of research or transplantation. Informed consent includes a disclosure of the nature of the research including the purpose of using fetal tissue, as well as informing the ~~woman~~ individual of a right to refuse to participate. the ~~woman's~~ individual's decision to terminate the pregnancy is made prior to and independent of any discussion of using the fetal tissue for research purposes; decisions regarding the technique used to induce abortion and the timing of the abortion in relation to the gestational age of the fetus are based on concern for the safety of the pregnant ~~woman~~individual.

9.4.4 Physicians with Disruptive Behavior	Establish a process to notify a physician that ~~his or her~~their behavior has been reported as disruptive, and provide opportunity for the physician to respond to the report.
9.6.1 Advertising & Publicity	There are no restrictions on advertising by physicians except those that can be specifically justified to protect the public from deceptive practices. A physician may publicize ~~him or herself~~themself as a physician through any commercial publicity or other form of public communication
10.2 Physician Employment by a Nonphysician Supervisee	If maintaining an employment relationship with a midlevel practitioner contributes significantly to the physician's livelihood, the personal and financial influence that employer status confers creates an inherent conflict for a physician who is simultaneously an employee and a clinical supervisor of ~~his or her~~their employer.
10.3 Peers as Patients	Provide information to enable the physician-patient to make voluntary, well-informed decisions about care. The treating physician should not assume that the physician-patient is knowledgeable about ~~his or her~~their medical condition.
10.6 Industry Representatives in Clinical Settings	The representative has agreed to abide by the policies of the health care institution governing ~~his or her~~their presence and clinical activities. The representative does not exceed the bounds of ~~his or her~~their training, is adequately supervised, and does not engage in the practice of medicine.
11.3.1 Fees for Medical Services	Charge only for the service(s) that are personally rendered or for services performed under the physician's direct personal observation, direction, or supervision. If possible, when services are provided by more than one physician, each physician should submit ~~his or her~~their own bill to the patient and be compensated separately.

Appendix B - Policies retained as currently written

4.1.2. Genetic Testing for Reproductive Decision Making	Genetic testing to inform reproductive decisions was once recommended only for women/couples whose family history or medical record indicated elevated risk for a limited set of genetically mediated conditions.