# COUNCIL OF MEDICAL SPECIALTY SOCIETIES

*COMMITTED TO EXCELLENCE IN PROFESSIONALISM, EDUCATION AND QUALITY OF CARE*

230 E. Ohio St., Suite 400, Chicago, IL 60611
(312) 224-2585 Telephone • (312) 644-8557 Fax
www.cmss.org


Regina M. Benjamin MD, Chair June 8, 2009
Council on Ethical and Judicial Affairs

Daniel W. Van Heeckeren MD, Chair
Reference Committee on Constitution and Bylaws

American Medical Association

Dear Drs. Benjamin and VanHeeckeren,

The Council of Medical Specialty Societies (CMSS) appreciates the opportunity to comment on CEJA Report 1-A-09, "Financial Relationships with Industry in Continuing Medical Education." We would like to recognize and applaud the fine work performed by the Council and by staff in reviewing this complex subject. CMSS agrees with the majority of the finding s and recommendations of this report. Three modifications, however, would, in our opinion, be important to strengthening the report.

<u>Continued inappropriate mixing of two issues: commercial support of CME and direct gifts and payments to physicians:</u>

In the Executive Summary, paragraph 5, and in the report, page 2, lines 38-41, commercial support of CME is linked in the same sentence, and in the same construct, with direct gifts and payments to physicians. These two issues, while seemingly related, are actually separate, with very different evidence bases, different guidelines which govern them, and different impact on the perception and reality of industry influence of the profession.

The evidence basis for industry influence from direct gifts and payments to physicians is, in our opinion, overwhelming and incontrovertible. It is inappropriate, however, for CEJA to use a few studies from an era predating the profession's voluntary self-regulation through the ACCME Standards for Commercial Support to base its conclusions regarding industry influence in CME. The evidence is lacking, in the era of the ACCME Standards for Commercial Support, that adherence to those standards results in industry influence of CME. Indeed, in the report, page 4, lines 17-20, CEJA recognizes that "these data by no means demonstrate conclusively that commercial funding unduly biases continuing professional education…."

These findings, then, do not seem to lead to the conclusion that it is "ethically preferable that CME providers accept funding only from sources that have no direct financial interest in a physician's clinical recommendations." Rather, these findings demand that the profession prioritize its strict attention to the three major ethical tenets of Professionalism: altruism, voluntary self-regulation and transparency. Through strict adherence to the ACCME SCS, the profession voluntarily self-regulates in a manner which transparently prioritizes patient outcomes over provider incomes.

<u>Management and Resolution of Disclosed Conflicts of Interest:</u>

Recommendation 2 creates an "ethically preferable" scenario in which recusal is the preferred option for physicians who disclose relationships which are perceived to create a conflict of interest. In a potential internal inconsistency, recommendation 4, however, permits such physicians to participate in CME in the context of full disclosure and when "steps are taken to eliminate or mitigate the potential influence of those interests." Yet CEJA does not delineate such steps.

Fortunately, the AMA Council on Medical Education, in its report 17, "Conflict of Interest and Bias in Continuing Medical Education", on page 10 of its report, lines 9-21, delineates six steps providers can and do use to successfully "eliminate and mitigate the potential influence" of disclosed conflicts of interest among physicians whose expertise is critical for CME. These six strategies should be included in the CEJA report.

<u>Ethically Preferable and/or Ethically Permissable:</u>

We question the basic assumption of CEJA report 1-A-09, that there is an "ethical ideal" (page 5, line 15), below which "less ethical" behavior is "permissible." Are we, as a profession, intending to communicate that physicians are not expected to meet an ethical ideal, and therefore we should tolerate the reality and perception of less than ideal ethical behavior?

We hypothesize that CEJA may have fallen into this uncomfortable trap by trying to compromise between extremes of perception and opinion that, on the one hand:

- only separation and recusal from industry can communicate to the public that physicians are not, nor is the profession of medicine, influenced;

while on the other hand:

- transparent voluntary self-regulation fulfills the ethical obligation of the profession to keep itself from being, or being perceived to be influenced.

We suggest that CEJA, the AMA, medical and specialty societies, CME providers, and the profession fulfill the ethical tenets of professionalism, prioritizing:

- Altruism (putting patients' interests continually first, in process and in outcomes),
- Voluntary self-regulation (direct gifts and payments to physicians should be governed by practically implementable AMA CEJA Ethical Opinions, while commercial support of CME should be governed by strict adherence to the ACCME Standards for Commercial Support: Standards to Ensure the Independence of CME Activities), and
- Transparency (at the level of the AMA, medical and specialty societies, CME providers, and physicians).

We recommend that CEJA replace the concepts of "Ethical Ideal", Ethically Preferable" and "Ethically Permissable", with a focus on the ethical tenets of Professionalism as described in the previous paragraph.

Thank you for your continued attention to this critical and timely challenge to the ethics of Professionalism.

Norman Kahn MD
Executive Vice-President and CEO
Council of Medical Specialty Societies

MEMBERS

*American Academy of Allergy, Asthma & Immunology • American Academy of Dermatology • American Academy of Family Physicians • American Academy of Neurology
American Academy of Ophthalmology • American Academy of Orthopaedic Surgeons • American Academy of Otolaryngology—Head and Neck Surgery • American Academy of Pediatrics
American Academy of Physical Medicine and Rehabilitation • American College of Cardiology• American College of Emergency Physicians • American College of Medical Genetics
American College of Obstetricians and Gynecologists • American College of Occupational and Environmental Medicine • American College of Physicians • American College of Preventive Medicine
American College of Radiology • American College of Surgeons • American Medical Informatics Association • American Psychiatric Association • American Society for Clinical Pathology
American Society for Reproductive Medicine • American Society for Therapeutic Radiology and Oncology • American Society of Anesthesiologists • American Society of Clinical Oncology
American Society of Colon and Rectal Surgeons • American Society of Plastic Surgeon s • American Urological Association • Society of Critical Care Medicine
Society of Neurological Surgeons • Society of Nuclear Medicine • Society of Thoracic Surgeons*

ASSOCIATE MEMBERS

*Accreditation Council For Continuing Medical Education • Accreditation Council For Graduate Medical Education
Alliance For Continuing Medical Education • American Board Of Medical Specialties
Association Of American Medical Colleges • Federation Of State Medical Boards
National Board Of Medical Examiners*