

Adopted by the American Medical Association in December, 1986

REPORT OF THE BOARD OF TRUSTEES

Report: JJ
(I-86)

Subject: Religious Exemptions in Child Abuse Legislation

Presented by: Alan R. Nelson, M.D., Chairman

Referred to: Reference Committee B
(M.T. Jenkins, M.D., Chairman)

1 Board of Trustees Report H (A-86) was adopted in lieu of
2 Resolution 100 (A-85). Resolution 100 called for the AMA to
3 encourage state medical associations to seek expungement of
4 religious immunity clauses in child abuse and neglect laws, and to
5 encourage physicians to continue to advocate that no exception be
6 made to child abuse and neglect laws and regulations, at any level
7 of government, which would permit failure to provide medical care to
8 a child not to be reported or prosecuted on the basis that the
9 parent's religious beliefs preclude medical treatment. Report H
10 outlined the legislative status of religious exemptions in child
11 abuse laws, summarized the activity of the courts in intervention,
12 and reported that the Council on Legislation is continuing to meet
13 with representatives of the American Academy of Pediatrics (AAP) to
14 discuss the issue.

15
16 The Council on Legislation has now advised the Board that it has
17 reviewed this subject at length with representatives of AAP, and
18 finds that there are increasing concerns about serious problems of
19 children not receiving medical treatment because of the religious
20 beliefs of their parents.

21
22 The Board recognizes that the constitutional guarantee of
23 freedom of religion is a cherished right, but it agrees with the
24 Council and AAP that its preservation does not sanction harm to
25 others. In these cases helpless children become the innocent
26 victims. State statutes should not expand the ability of persons
27 claiming freedom of religion to deprive children in their control of
28 necessary medical care. The Board is aware that in many cases
29 where religious grounds are asserted for denial of care the courts
30 will protect the interests of minor children and order that
31 necessary medical treatment be provided. Nevertheless, the Board

Past House Action: A-86:38-39; A-85:278

1 and the Council on Legislation, together with AAP, are concerned
2 that the very presence of religious exemption provisions in child
3 abuse laws may encourage delays in providing care by parents or in
4 intervention by others.

5
6 In view of the foregoing, the Board concurs with the
7 recommendation of the Council on Legislation that adoption of the
8 following statement would respond to the interests of all concerned:

9

10 That the AMA continue to support appropriate child
11 abuse laws providing needed medical care for
12 children involved in abuse or neglect situations;

13
14 That the AMA support the repeal of religious
15 exemption provisions from child abuse laws;

16
17 That laws enacted to protect and provide for the
18 medical needs of children should be fashioned so as
19 to protect the constitutional rights of both
20 parents and children; and

21
22 That the AMA encourage compliance by health care
23 personnel and others with the reporting provisions
24 of state child abuse and neglect laws.

25
26 The Board of Trustees believes that this statement accords
27 proper weight to the medical and physical needs of children--which
28 may even be of a life-saving nature--while retaining for the parents
29 the opportunity of asserting their constitutional rights concerning
30 these issues.