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)

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

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

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

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

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

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

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

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

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

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