

AAPL and Sociopolitical Policy

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It has been part of the role of medical organizations in Western nations to develop position statements on various sociopolitical issues. Both the American Psychiatric Association and the American Medical Association have established position statements related to social policy, including capital punishment. In 2001, AAPL endorsed a moratorium on capital punishment. Recent calls for AAPL to endorse a recommendation to abolish the death penalty have produced further discussion and a diversity of opinion. The absence of a clear process to develop policy within AAPL complicates both the nature and the resolution of the discussions. Three questions are posed that will help AAPL shape this debate: (1) Do we have anything to contribute? (2) Is there a position consistent with our values? (3) Would a position promote or harm the goals and mandate of the organization?

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Medical organizations in all Western nations have developed position and policy statements on sociopolitical issues. Review of the major medical and psychiatric organizations of the United States, United Kingdom, Canada, and Australia- New Zealand reveals the development of a wide range of official policy statements that evolve from the interface between medical knowledge and social issues. Policy statements generally can be seen as a continuum from a strictly medical domain, such as public health education, to a combination of medical and social policy issues (for example, violence prevention that calls for a shift in social policy to direct more resources to a particular problem). At the far end of the continuum are policies speaking more directly to social issues that may involve physicians—for example, the American Psychiatric Association's position paper recommending a moratorium on capital punishment¹ or a position on medical participation in capital punishment.²

Organized medicine's role in sociopolitical advocacy is well established. It is arguably a moral duty for organizations such as AAPL to advocate for improvement in health care. Other medical associations, including the American Medical Association³ and the American Psychiatric Association,⁴ have endorsed the Declaration of Professional Responsibility: Medicine's Social Contract with Humanity that commits

to nine principles to “combat actual and man made assaults on the health and well-being of humankind.” Included within the principles are two articles committing physicians to involve themselves in social policy issues. These are: VII: “educate the public and polity about present and future threats to the health of humanity”; and VIII: “advocate for social, economic, educational and political changes that ameliorate suffering and contribute to human well-being.” The nine principles affirm the values shared by most physicians, but they are shallow unless accompanied by meaningful action.

At the 1998 AAPL annual meeting, a motion to endorse a moratorium on capital punishment thrust the organization into the debate on whether to formulate sociopolitical policy. The enthusiastic debate that followed not only focused on the merits of the motion, but also questioned whether AAPL should engage in any sociopolitical debate. On one side, it was argued that AAPL's primary mandate was education for the members and not advocacy for any political purpose. Others argued that it was not only appropriate but also desirable for AAPL to engage in public debate on controversial social issues. While it was acknowledged that spirited debates at an annual meeting are central to a democratic process, it was also recognized that a minority of members were present, resulting in concerns that any position adopted at the annual meeting may not reflect the wishes of the majority. To access the views of members not in attendance, a motion was passed to submit a question to a nonbinding referendum. Relatively few members responded to the referendum.

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Those who did respond were equally divided on the question. Subsequently, the Council passed the motion to support a moratorium on the death penalty until adequate due process safeguards were in place.⁵

The death penalty question arose again at the 2002 Annual Meeting. A motion from the floor sought to instruct AAPL's delegate to the American Medical Association to support a potential motion to recommend abolishing the death penalty. The debate raised questions similar to those debated in 1998. Again, the Council was asked to canvass the general membership through a nonbinding referendum. Sixty percent of the 552 members who responded were in favor of the motion. Many members supporting or opposing the motion, however, expressed their opinion that AAPL should not comment on political issues not directly related to the practice of forensic psychiatry. Further, members were concerned that such comment may compromise the objectivity of AAPL or cause the members embarrassment if they were to be involved in a criminal case in which capital punishment was a possible outcome. The Council recognized the potential impact this would have on members and was concerned that the issue was so divisive that it had the potential to damage the organization. As a result of this concern, the Council chose not to alter the previous position recommending a moratorium on the death penalty. It was also recognized that AAPL needed to develop an effective process to address the potential development of future position statements.

The question of whether AAPL should develop positions on sociopolitical issues was effectively answered when AAPL adopted the position to seek a moratorium on the death penalty until adequate due process is assured. The debate now becomes what future issues should AAPL address and what process should be developed to address them? In considering these questions, both philosophical and practical questions must be considered.

In practical terms, AAPL is a relatively small organization and must always consider the cost of producing position papers in terms of financial and human resources. A position paper evolving from medical science and knowledge requires extensive research to ensure accuracy and balance to prevent potential embarrassment. Further, oversight is necessary to ensure that the undertaking is within budget and the final product meets the expectations of the organization. Review of any proposed position paper

should entail a cost-benefit analysis to determine if the product will justify the costs or if our efforts are better spent in educational activities consistent with our primary mandate.

Position papers focusing more on purely sociopolitical topics generally require much less scientific research but involve greater efforts to canvass the views of the membership. This generally demands forums for open debate separate from the limited time available in the general meetings. The recent experience utilizing a referendum to vote on controversial social issues was relatively successful in eliciting opinions from the membership. At this point, however, AAPL has yet to develop a clear process for formulating position statements. Other medical organizations have noted the value in development of positions on sociopolitical matters and have evolved mechanisms to create, review, and approve policies. It is a challenge, however, to develop procedures that are neither cumbersome nor time-consuming while also encouraging the democratic process.

Philosophically, three questions help shape the debate. The first is whether we have anything to contribute to a specific sociopolitical debate. The second is whether the position is consistent with our values. The third is whether the position may promote or harm the goals and mandate of AAPL.

AAPL's potential contribution to sociopolitical debates can be assessed by comparison to other medical organizations' contributions. In general, position papers submitted by medical organizations are restricted to those areas of interface between medical knowledge and social policy. The authority and credibility of any medical position is based on the level of skill and knowledge underlying the opinion. While many members of AAPL possess wide-ranging expertise in a variety of psychiatric interests, AAPL as an organization is restricted to forensic psychiatry. Correspondingly, other medical organizations with members who share interests in forensic psychiatry do not have forensic psychiatry as their primary mandate. AAPL has a unique if somewhat restricted role based on specific expertise in dealing with the interface between psychiatry and legal matters. AAPL possesses the necessary knowledge and is arguably the best poised organization to make substantial contributions to public education and social policy within the field of forensic psychiatry. The Task Force on the Insanity Defense is an example of a public education document with benefits for our members as

well as members of the legal community. Potential future education and policy documents include a wide variety of forensic topics that would make substantial contributions to social policy. A brief list might include use of questionable science or methodology in forensic testimony, improvements in assessment and treatment of mentally disordered offenders, and improvements in social policy in the management of young offenders.

The closer a medical organization clings to its underlying science, the easier it is to formulate and justify its position. As one proceeds along the continuum from a strictly medical domain toward more clearly social issues, the underlying scientific authority diminishes, and organizations must be much more cautious in developing positions. At this point, the final two questions must be addressed.

What are AAPL's values? In psychiatric practice, the general medical values of beneficence are embraced. Psychiatrists share the values of caring for the ill, relieving suffering, avoiding harm, and showing respect for persons. Forensic psychiatrists, however, are frequently required to subordinate partially the values of beneficence to those of justice.⁶ To be of assistance to the legal process, advocacy must be avoided. It is recognized that the duty of objectivity and honesty may produce opinions and testimony that harm the interests of the person being evaluated. The justification for such a position is founded on the role of expert witness working within the legal context for legal, not medical, values. To accomplish this role appropriately, the forensic psychiatrist is expected to provide neutral and unbiased testimony based on underlying psychiatric knowledge and science. Any compromise of this neutrality may in turn compromise the function of forensic psychiatrists within the court.

Position papers based on clear medical evidence would potentially be of assistance in accomplishing the goals of honest, objective, and neutral opinion. In contrast, positions on sociopolitical matters not directly linked to medical evidence may hamper the ability to provide neutral scientifically based evidence. An example of such a situation is found in the debate on capital punishment.

Capital punishment is incompatible with the medical ethic of beneficence. The American justice system, however, has accepted capital punishment as an appropriate sentence in certain circumstances. The due process safeguards give rise to the need for

psychiatric assessment to rule out mitigating factors or to determine competence to be executed. These evaluations demand objectivity and neutrality of the examiner consistent with the code of ethics for forensic psychiatry. Psychiatrists morally opposed to capital punishment must weigh their abilities to be objective and neutral, and their beliefs may be challenged by the prosecution as evidence of bias. If AAPL were to adopt a policy recommending abolition of the death penalty, any AAPL member testifying in a case in which capital punishment was an option would face challenges regarding potential bias, especially if his or her opinion were favorable to the defendant. This may result in the unintended consequence of negating the evidence that could have led to a sentence other than capital punishment.

In formulating positions on sociopolitical issues, AAPL must recognize the complexity and occasional conflicts in the values inherent in forensic psychiatry. Position papers should consider the potential impact on the role of forensic psychiatric testimony and be mindful that any position may have consequences that would be counterproductive to the values of our craft.

The goals of AAPL are to promote scientific and educational activities in forensic psychiatry. Achieving these goals requires a diverse group of forensic practitioners and educators working in various fields within forensic psychiatry to attend and participate regularly in educational activities and research. Diversity of the membership gives strength to the educational program, but also gives rise to diversity in values and sociopolitical beliefs. While positions rooted in medical knowledge and science are likely to achieve high concordance, positions that are derived from underlying moral or philosophical values predictably will lead to discord and divisiveness. Democratic organizations require open debate on issues that divide members. Adoption of any official position, however, requires consideration of how the resolution will affect the minority. A sociopolitical position that alienates a portion of the membership risks damaging the fundamental goals of the organization.

In response to the three questions, AAPL has the potential to make a major contribution by developing policy and position statements regarding the interface between forensic psychiatry and social policy. Forensic psychiatry has a clearly developed body of

knowledge that could assist policy makers. The closer the ties between the position statement and the underlying medical science, the greater the strength and authority of the position and the greater the likelihood that AAPL's values and goals will be supported. AAPL could and should advocate for policies that enhance the ability to provide treatment to those persons incarcerated in forensic facilities, prisons, and juvenile facilities. It should be advocating for improved forensic assessments and apply our knowledge to positions that reduce unscientific or questionable testimony. It should stand with other medical organizations in speaking out against misguided policies that are harmful to juvenile offenders by transferring them to adult facilities without benefit of appropriate evaluations and treatment. However, AAPL should be cautious in formulating sociopolitical positions that are not as firmly based on medical knowledge. The implications of such policies must be carefully

considered with respect to the potential impact on the work of forensic psychiatry.

References

1. The American Psychiatric Association: Moratorium on Capital Punishment in the United States, Position Statement of The American Psychiatric Association. APA Document Reference No. 200006. Washington, DC: Author, 2000
2. The American Psychiatric Association: Medical Participation in Capital Punishment, Position Statement of The American Psychiatric Association. APA Reference No. 800002. Washington, DC: Author, 1980
3. The American Medical Association: A Declaration of Professional Responsibility. Report of the Council on Ethical and Judicial Affairs No. 123, Washington DC: Author, 2001
4. The American Psychiatric Association. Declaration of Professional Responsibility: Medicine's Social Contract with Humanity, Endorsement by The American Psychiatric Association. APA Document Reference No. 200208. Washington, DC: Author, 2002
5. The American Academy of Psychiatry and the Law. Death Penalty: position statement of AAPL. Bloomfield, CT: The American Academy of Psychiatry and the Law, 2001. Available at <http://aapl.org/positions.htm>
6. Appelbaum P: A theory of ethics for forensic psychiatry. *J Am Acad Psychiatry Law*, 25:153-62, 1997