

11.3.3 Interest & Finance Charges

Financial obstacles to medical care can directly affect patients' well-being and may diminish physicians' ability to use their knowledge and skills on patients' behalf. Physicians should not be expected to risk the viability of their practices or compromise quality of care by routinely providing care without compensation. Patients should make reasonable efforts to meet their financial responsibilities or to discuss financial hardships with their physicians.

To preserve patients' dignity and help sustain the patient-physician relationship, physicians should be candid about financial matters and:

- (a) Clearly notify patients in advance about policy and practice with respect to delinquent accounts, including under what circumstances:
 - (i) payment will be requested at the time of service;
 - (ii) interest or finance charges may be levied;
 - (iii) a past due account will be sent to a collection agency.
- (b) Ensure that no bills are sent to collection without the physician's knowledge.
- (c) Use discretion and compassion in hardship cases, in keeping with ethics guidance regarding financial barriers to health care access.

AMA Principles of Medical Ethics: II,VI,IX

Opinion 11.3.3 Interest & Finance Charges reorganizes content from guidance originally issued without background reports and the following:

CEJA Report 3-A-16 Modernized *Code of Medical Ethics*

Report of the Judicial Council A-A-81 Charging interest on over-due accounts: finance charges

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 - (i) payment will be requested at the time of service;
 - (ii) interest or finance charges may be levied;
 - (iii) *a past due account will be sent to a collection agency. [new content addresses gap in current guidance]*
- (b) Ensure that no bills are sent to collection without the physician's knowledge.
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REPORTS OF JUDICIAL COUNCIL

The following reports, A and B, were presented by John H. Burkhart, M. D., Chairman:

**A. CHARGING INTEREST ON OVER-DUE ACCOUNTS; FINANCE CHARGES
(RESOLUTIONS 45 AND 94, A-81)
(Reference Committee on Amendments to Constitution and Bylaws, page 246)**

HOUSE ACTION: ADOPTED IN LIEU OF RESOLUTIONS 45 AND 94 (A-81)

Resolution 45 (A-81), asking the Judicial Council to review its statement on penalties for over-due accounts in view of current economic conditions, was referred to the Judicial Council by the House of Delegates. Resolution 94 (A-81), asking that the AMA adopt the policy position that the use of finance charges on unpaid bills or notes be left to the determination of county or state medical societies and that patients be notified in advance of the existence of finance or service charges on unpaid bills, was also referred to the Judicial Council. The resolutions were considered together by the Judicial Council in reviewing its current statements on the charging of interest on over-due accounts and finance or service charges on unpaid bills.

Section 6.07 of "Current Opinions of the Judicial Council - 1981" states:

It is not in the best interest of the public or the profession to charge interest on an unpaid bill or note, or to charge a penalty on fees for professional services not paid within a prescribed period of time, or to charge a patient a flat collection fee if it becomes necessary to refer the account to an agency for collection.

It is not improper, however, for a physician to add a service charge, equal to the actual administrative cost of rebilling, on accounts not paid within a reasonable time. The patient must be notified in advance of the existence of this practice.

The supporters of Resolutions 45 and 94 (A-81) believe that changes in economic and business practices warrant a review of Section 6.07 by the Judicial Council. The Judicial Council has completed that review. The Judicial Council is aware that the practice of medicine is not immune from the economic rigors of contemporary society. Adapting efficient business practices to a professional practice may be advantageous, but it is sometimes difficult.

When the House of Delegates considered interest charges and service charges for rebillings in 1974 and 1978, the Judicial Council statement was reaffirmed. Current high interest rates and increasing cash-flow problems have renewed the concerns of physicians who believe that the business practices prevalent in any community should be equally applicable to the billing and collection practices in the professions. There are, however, additional concerns that are applicable to the provision of essential medical services and public perceptions relating to the high cost of such services.

The Judicial Council would also like to point out that certain legal concerns govern the use by physicians of interest or finance charges for delinquent accounts. The patient must be informed sufficiently in advance of receiving services that such charges are a part of the contractual agreement between the physician and the patient. Otherwise, the additional charges are not enforceable as a part of that contract.

Physicians who wish to add interest or finance charges to billing statements of delinquent accounts need to become familiar with any applicable requirements in the Federal Truth in Lending Act and in state usury statutes, if any, and comply with such requirements. Disclosure statements must be included on the billing statement in order to comply with the Federal Truth in Lending Act under some circumstances. If the physician discusses his or her charges in advance with each patient, exceptions should be made for hardship cases or when appropriate if the patient asks to defer payment.

(Judicial Council – A)

The Judicial Council believes that interest or finance charges should not be billed if a second billing statement goes out because of a delay in receipt of third-party payment that is not the fault of the patient. A patient should not have to pay interest or finance charges due to delayed payment practices of an insurance carrier, for example.

After reviewing these issues, the Judicial Council agrees that Section 6.07 of “Current Opinions of the Judicial Council” should be revised to read:

Although harsh or commercial collection practices are discouraged in the practice of medicine, a physician who has experienced problems with delinquent accounts may properly choose to request that payment be made at the time of treatment or add interest or other reasonable charges to delinquent accounts. The patient must be notified in advance of the interest or other reasonable finance or service charges by such means as the posting of a notice in the physician’s waiting room, the distribution of leaflets describing the office billing practices and appropriate notations on the billing statement. The physician must comply with state and federal laws and regulations applicable to the imposition of such charges. The Judicial Council encourages physicians who choose to add an interest or finance charge to accounts not paid within a reasonable time to make exceptions in hardship cases.

The Judicial Council believes that this revised statement is responsive to the concerns expressed in Resolutions 45 and 94 (A-81) and asks that it be adopted in lieu of the resolutions.