

WMA STATEMENT ON BODY SEARCHES OF PRISONERS

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1. The World Medical Association adopts this statement for the purpose of providing guidance for National Medical Associations as they develop guidelines for their members.
2. Physician participation in body cavity searches for purposes of law enforcement or public safety involves complex issues of patient rights, informed consent, physicians' fiduciary obligations (dual loyalty matters) and their responsibilities to contribute to public health. A request to conduct a body cavity search puts the physician in the untenable position of potentially violating the ethical standards of his/her profession. Physician participation should be in exceptional cases only.
3. There are several types of searches of prisoners carried out within the detention system. These will include searches for contraband and searches for items immediately dangerous to the prisoner and those around him/her. Searches range from the least invasive "pat-down" searches to the most invasive strip searches (including examination of the mouth) and body cavity searches.
4. The prison systems in many countries mandate body cavity searches of prisoners. Such searches, which include rectal and pelvic (vaginal) examination, may be performed when an individual initially enters the prison population and thereafter whenever the individual is permitted to have direct personal contact with someone outside the prison population. They may also be undertaken when there is a reason to believe a breach of security or of prison regulations has occurred. For example, when a prisoner is taken to Court for a hearing, or to the hospital for treatment, or to work outside the prison, the prisoner, upon returning to the institution, may be subjected to a body cavity search that will include all body orifices. Where prisoners have direct contact with visitors – family members or otherwise – prison rules may also require body cavity searches. The purpose of the search is primarily security-related, to prevent contraband, such as weapons or drugs, from entering the prison.
5. These searches are performed for security reasons and not for medical or health-related reasons. They should only be done by someone with appropriate training. In most cases this will mean someone working within the detention system who has been trained to perform safely such searches. This person should not be a physician except under unusual and specific circumstances.
6. A physician's obligation to provide medical care to the prisoner can be compromised by an obligation to participate in the prison's security system. A physician should seek to be as far removed from performing body searches as possible. Any directive to search should be separated from the physician's broad general medical care duties in order to protect the patient/physician relationship.
7. In exceptional cases the detaining authority, may indicate that a search be performed by a physician. The physician, will decide whether medical participation is necessary, and act accordingly and ethically.
8. If the search could, if carried out by someone with lesser skills, cause harm, for example if the prisoner is a pregnant, or has severe haemorrhoids, then this non-medical procedure may be performed by a physician to protect the prisoner from harm. In such a case the physician should explain this to the prisoner. The physician should also explain to the prisoner that s/he is performing this search not as a physician caring for the patient, but for patient safety and as required by the detention authorities for which the normal patient/doctor relationship does not exist. The physician should inform the prisoner that the usual conditions of medical confidentiality do not apply during this procedure and the results of the search will be revealed to the authorities. If a physician is properly mandated by an authority and agrees to perform a body cavity search on a prisoner for reasons of patient safety, the authority should be informed that it is necessary for this procedure to be done in a humane manner.
9. If the search is conducted by a physician, it should not be done by any physician who will subsequently provide medical care to the prisoner.
10. Forced examinations are not ethically acceptable, and physicians must not perform them. If the prisoner acquiesces to a search, the doctor, or other individual carrying out the body cavity search, should ensure that the prisoner is fully aware of what will be done, including the facilities in which the search will be performed.

11. Searches should be performed humanely, and, where possible, in a private, confidential setting respecting the prisoner. The person performing the search should be of the same gender as the prisoner being searched. When applicable, transgender persons should be asked first with which gender they identify.

12. The World Medical Association urges all governments and public officials with responsibility for public safety to recognize that invasive searches are serious assaults on a person's privacy and dignity, and they also carry some risk of physical and psychological injury. The World Medical Association urges that, to the extent feasible without compromising public security, the following recommendations be followed:

- Alternate methods be used for routine screening of prisoners, including ultrasound and other scans, and body cavity searches be used only as a last resort;
- Squatting over mirrors to examine the anus while making the prisoner bear down, a degrading procedure with questionable reliability, must be banned;
- If a body cavity search must be conducted, the responsible public official must ensure that the search is conducted humanely by personnel who are of the same gender as the prisoner and who possess sufficient medical and skills to safely perform the search;
- The same responsible authority must ensure that the individual's privacy and dignity be guaranteed.
- Physician participation in body cavity searches should be in exceptional cases only. In these cases, the duty to search should be separated from the physician's delivery of medical care.

13. Finally, the World Medical Association urges all governments and responsible public officials to provide body searches that are performed by a qualified physician whenever warranted by the individual's physical condition. A specific request by a prisoner for a physician shall be respected, so far as possible.

14. In specific cases, it may be the detaining authority, which requires a search be performed by a physician, for the well-being of this prisoner. The physician, in such a case, will decide whether medical participation is indeed necessary, and act accordingly and ethically.