AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES (A-17)

Report of Reference Committee on Amendments to Constitution and Bylaws

Michael B. Hoover, MD, Chair

Your Reference Committee recommends the following consent calendar for acceptance:

RECOMMENDED FOR ADOPTION

1. Board of Trustees Report 2 – New Specialty Organizations Representation in the House of Delegates
2. Board of Trustees Report 15 – No Compromise on Anti-Female Genital Mutilation Policy
4. Council on Ethical and Judicial Affairs Report 1 – Amendment to E-2.3.2, “Professionalism in Social Media”
8. Resolution 009 – Commercial Exploitation and Human Trafficking of Minors
9. Resolution 010 – Access to Basic Human Services for Transgender Individuals
10. Resolution 013 – Gender Identity Inclusion and Accountability in REMS
12. Resolution 018 – Patient and Physician Rights Regarding Immigration Status

RECOMMENDED FOR ADOPTION WITH CHANGE IN TITLE

13. Resolution 019 – Who Owns Our Patient’s Data?

RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED

17. Resolution 001 – Participation of Physicians on Healthcare Organization Boards
18. Resolution 002 – Care of Women and Children in Family Immigration Detention
19. Resolution 003 – Medical Spectrum of Gender
20. Resolution 012 – Promoting the AMA Model Medical Staff Code of Conduct and its Application to Employed Physicians
21. Resolution 017 – Improving Medical Care in Immigrant Detention Centers
RECOMMENDED FOR REFERRAL

22. Council on Ethical and Judicial Affairs Report 2 – Competence, Self-Assessment and Self-Awareness
23. Council on Ethical and Judicial Affairs Report 3 – Ethical Physician Conduct in the Media
24. Resolution 007 – Healthcare as a Human Right
25. Resolution 014 – The Need to Distinguish Between Physician Assisted Suicide and Aid in Dying
26. Resolution 015 – Appropriate Placement of Transgender Prisoners
27. Resolution 020 – Recognition of Physician Orders for Life Sustaining Treatment (POLST) Forms

RECOMMENDED FOR NOT ADOPTION


RECOMMENDED FOR REAFFIRMATION IN LIEU OF

29. Resolution 008 – Promoting the Use of Appropriate LGBTQIA Language in Medical Documentation

RECOMMENDED FOR FILING

30. Council on Ethical and Judicial Affairs Opinion 1 – Collaborative Care

Note: Existing policy was reaffirmed in lieu of the following resolutions via the Reaffirmation Consent Calendar: Resolution 005
(1) BOARD OF TRUSTEES REPORT 2 - NEW SPECIALTY ORGANIZATIONS REPRESENTATION IN THE HOUSE OF DELEGATES

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that the recommendations in Board of Trustees Report 2 be adopted and the remainder of the report be filed.

Board of Trustees Report 2 recommends that our AMA grant representation in the House of Delegates to the American Society of Hematology, the American Society of Transplant Surgeons, and the International Society of Hair Restoration Surgery. The report outlines guidelines for representation in the House of Delegates pertaining to National Specialty Societies, which includes a description of responsibilities for these organizations, and finds the aforementioned groups have met these criteria.

Limited testimony was offered following the introduction of this report. However, all of those who spoke did so in support of adoption. Therefore, your Reference Committee recommends that Board of Trustees Report 2 be adopted.

(2) BOARD OF TRUSTEES REPORT 15 - NO COMPROMISE ON ANTI-FEMALE GENITAL MUTILATION POLICY

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that the recommendations in Board of Trustees Report 15 be adopted and the remainder of the report be filed.

Board of Trustees Report 15 recommends that the AMA conform its “Expansion of AMA Policy on Female Genital Mutilation,” including a “nicking” procedure. The report gives a background of a previous resolution for a no-compromise policy, which raised concerns over labiaplasty, gender reassignment surgery, and the respect for strongly held cultural beliefs. The report ends by listing some strategies for addressing Female Genital Mutilation and ultimately reaffirms the position as laid out in Policy H-525.980 (“Expansion of AMA Policy on Female Genital Mutilation.”)

Testimony was unanimously in favor of the adoption of this report. The author of the resolution generating the report noted that it captured the spirit and intent of opposing the controversial subject of female genital mutilation. All agreed with this sentiment. Your Committee recommends that Board of Trustees Report 15 be adopted.
Council on Constitution and Bylaws Report 2 recommends that a variety of amendments to the AMA Bylaws be adopted in relation to delegate representation for specialty societies. The report proposes apportionment of one AMA delegate for each one thousand specialty society members who are also AMA members, and adjusting the total number of delegates apportioned to national medical specialty societies to be equal to the total number of delegates apportioned to constituent societies.

There was considerable testimony about how the recommendations in the report would function, with some confusion as to how AMA members in specialty societies will be counted and how representation in the House of Delegates is to be determined. Some speakers noted that the report would result in parity within the House. In addition, some testimony focused on Bylaw 2.2.2 and the problems unified membership may create for parity. Although the Reference Committee is receptive to the concerns regarding Bylaw 2.2.2, it believes amendment or deletion of Bylaw 2.2.2 are beyond the scope of this report and could be more effectively accomplished through the resolution process. Therefore, your Reference Committee recommends that Council on Constitution and Bylaws Report 2 be adopted.

Council on Ethical and Judicial Affairs Report 1 recommends that E-2.3.2 “Professionalism in The Use of Social Media” be amended. Since the opinion’s writing in 2010, other uses of social media have appeared and there is now potential for improving patient education and supporting professional advocacy with ethically appropriate social media use. The report outlines a guideline for physicians maintaining an online presence.
The testimony on this report was mixed. Those speaking in favor of the amendment proffered in the report stated that it adequately addresses an ongoing problem of inappropriate social media use, particularly in plastic surgery. Some, however, took issue with terminology in the existing opinion. Because the words deemed ambiguous by some were not a part of the amended language presented in the report, and because the amended language presented as business was universally supported, your Reference Committee recommends that Council on Ethical and Judicial Affairs Report 1 be adopted.

(5) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS REPORT 4 - CEJA'S SUNSET REVIEW OF 2007 HOUSE POLICIES

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that the recommendation in Council on Ethical and Judicial Affairs Report 4 be adopted as amended by CEJA to read as follows:

The Council on Ethical and Judicial Affairs recommends that the House of Delegates policies that are listed in the Appendix to this report be acted upon in the manner indicated, with the exception of Policy D-250.990, which should be retained, and the remainder of this report be filed.

Council on Ethical and Judicial Affairs Report 4 presents the annual sunset report of House policies. This report reviewed House policies from 2007. This report recommends that the House of Delegates policies that are listed in the Appendix to this report be sunset.

Testimony was heard regarding the importance of specifically supporting Israel's membership in the World Medical Association. No other testimony was heard, and your Reference Committee agrees that Israel is a valued member of the World Medical Association. The Council on Ethical and Judicial Affairs concurred with this change. Your Reference Committee recommends that CEJA Report 4 be adopted with this one policy retained.

(6) COUNCIL ON LONG RANGE PLANNING AND DEVELOPMENT REPORT 1 - DELEGATE ALLOCATION FOR SPECIALTY SOCIETIES

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Council on Long Range Planning and Development Report 1 be adopted and the remainder of the report be filed.

Council on Long Range Planning and Development Report 1 recommends that Policy G-600.027, “Designation of Specialty Societies for Representation in the House of Delegates” be amended. If adopted, the current specialty society delegation allocation system will be discontinued and the specialty delegate allocation in the House of Delegates will be determined based on the guidelines presented in the report.
Testimony about this report was limited, with most of the discussion focused on offering clarification about when membership numbers are counted and finalized for representation within the House of Delegates by AMA membership staff. A member of the Council on Long Range Planning and Development clarified that the report does not change that process. Your Reference Committee recommends that Council on Long Range Planning and Development Report 1 be adopted.

(7) RESOLUTION 006 - INCREASING ACCESS TO HEALTHCARE INSURANCE FOR REFUGEE POPULATIONS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 006 be adopted.

Resolution 006 addresses the need for greater availability and access to health care insurance within the refugee populations, as these groups are typically at a higher risk for chronic and psychiatric conditions. Further, these populations are more likely to have other barriers to accessing health care including, but not limited to, linguistic and cultural challenges and unfamiliarity with health programs and the application process. This resolution asks that our AMA support a variety of programs that help promote education about available low-cost health-care plans and to remove existing language barriers in order to minimize gaps in health-care for the refugee population.

Testimony for Resolution 006 was mixed. While some discussed at length the health care challenges faced by refugee populations, others raised concerns about the unforeseen burdens that may be placed on rural communities where health care infrastructure may be precarious. However, your Reference Committee believes that the resolution as worded only asks that our AMA support existing programs and thus does not place an additional burden on any particular community. Thus, your Reference Committee recommends that Resolution 006 be adopted.

(8) RESOLUTION 009 - COMMERCIAL EXPLOITATION AND HUMAN TRAFFICKING OF MINORS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 009 be adopted.

Resolution 009 examines commercial sexual exploitation and sex trafficking of minors, recognizing the role that physicians can play in mitigating this issue. The resolution requests that our AMA advocate for the development of laws and policies that utilize a public health framework to address the commercial sexual exploitation and sex trafficking of minors by promoting care and services for victims instead of arrest and prosecution.

Testimony was in unanimous support of the resolution. Some spoke of their professional experience in working with survivors of human trafficking, and relayed the trauma experienced by these survivors. Others discussed the need to address human trafficking as an important goal of public health. Your Reference Committee recommends that Resolution 009 be adopted.
RESOLUTION 010 - ACCESS TO BASIC HUMAN SERVICES
FOR TRANSGENDER INDIVIDUALS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that
Resolution 010 be adopted.

Resolution 010 asks that our AMA oppose policies preventing transgender individuals from
accessing basic human services and public facilities in line with one’s gender identity, including,
but not limited to, the use of restrooms. In addition, the resolution requests that the AMA
advocate for the creation of policies that promote social equality and safe access to basic
human services and public facilities for transgender individuals according to one’s gender
identity.

Testimony on this resolution was limited but unanimous in support of adoption. Those speaking
in favor of the resolution noted the tremendous levels of discrimination faced by the transgender
community, and that concerted efforts must be launched to protect this population’s access to
basic human services such as housing, employment, and public restroom access. Your
Reference Committee recommends that Resolution 010 be adopted.

RESOLUTION 013 - GENDER IDENTITY INCLUSION AND
ACCOUNTABILITY IN REMS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that
Resolution 013 be adopted.

Resolution 013 addresses the categorization of participants in Risk Evaluation and Mitigation
Strategies (REMS) programs, which are designed to prevent fetal exposure to highly teratogenic
drugs. Currently, the categorization model effectively prohibits some transgendered individuals
from registering in REMS programs by linking the labels of female and child-bearing potential,
as individuals who identify as male but retain child-bearing potential are unable to participate in
such programs. The lack of gender-neutral categorization in programs where only child-bearing
potential matters in a clinical sense creates a barrier to care and promotes cultural insensitivity.
The resolution asks that our AMA work with the United States Food and Drug Administration to
develop a gender-neutral patient categorization model in Risk Evaluation and Mitigation
Strategies programs, focusing exclusively on child-bearing potential rather than gender identity.

Testimony in support of this resolution was unanimous. Testimony focused on the point of
determining the reproductive potential of patients in REMS regardless of their gender identity.
Testimony explained that the resolution supported the activities that will help in achieving this
goal. Further, focusing only on child-bearing potential (while eliminating gender categorization)
reduces administrative burdens. Your Reference Committee recommends that Resolution 013
be adopted.
(11) RESOLUTION 016 - CONSIDERATION OF THE HEALTH AND
WELFARE OF U.S. MINOR CHILDREN IN DEPORTATION
PROCEEDINGS AGAINST THEIR UNDOCUMENTED PARENTS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that
Resolution 016 be adopted.

Resolution 016 asks our AMA to support the mental and physical health and welfare of U.S.
minor children in deportation proceedings against their undocumented parents, recognizing the
negative effects that the risk of deportation and detention of parents has on their citizen
children. The resolution also requests that our AMA work with state and local medical societies
in providing care for this population.

The support for Resolution 016 was strong. As with other resolutions that tapped into the
personal experiences of physicians working with immigrant patients, this resolution prompted
moving accounts of children whose parents have been removed from the country because of
their immigration status. Your Reference Committee recommends that Resolution 016 be
adopted.

(12) RESOLUTION 018 - PATIENT AND PHYSICIAN RIGHTS
REGARDING IMMIGRATION STATUS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that
Resolution 018 be adopted.

Resolution 018 asks that our AMA support protections that prohibit U.S. Immigration and
Customs Enforcement, U.S. Customs and Border Protection, or other law enforcement agencies
from utilizing information from medical records to pursue immigration enforcement actions
against patients who are undocumented.

Testimony for this resolution was unanimous in its support. Several speakers offered personal
accounts of the continuing challenges immigration enforcement actions pose for physicians and
their patients, and called for continued opposition to any practices that could place the safety
and well-being of immigrant patients in jeopardy. Your Reference Committee recommends that
Resolution 018 be adopted.

(13) RESOLUTION 019 - WHO OWNS OUR PATIENTS’ DATA?

RECOMMENDATION A:

Madam Speaker, your Reference Committee recommends that
Resolution 019 be adopted.
RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends that the title be changed to read as follows:

OWNERSHIP OF PATIENT DATA

Resolution 019 asks our AMA undertake a study of the use and misuse of patient information by hospitals, corporations, insurance companies, or big pharma, including the impact on patient safety, quality of care and access to care when a patient’s data is withheld from his or her physician. The resolution asks for report back at the 2018 Annual Meeting.

The testimony on this resolution was unanimously in favor of adoption. Those who spoke discussed the many challenges posed to accessing patient data and medical records by physicians, and agreed that a study is needed to better identify these obstacles and begin exploring solutions to the use and misuse of patient information. Your Reference Committee recommends that Resolution 019 be adopted with a change in title.

(14) BOARD OF TRUSTEES REPORT 19 - CEJA AND HOUSE OF DELEGATES COLLABORATION

RECOMMENDATION A:

Madam Speaker, your Reference Committee recommends that Recommendation 2 in Board of Trustees Report 19 be amended by substitution to read as follows:

2. That, consistent with Bylaw 2.13.1.1, the Speakers consider convening additional sessions of the Reference Committee on Amendments to Constitution and Bylaws when appropriate and feasible to accommodate CEJA business. (New HOD Policy)

RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends that the recommendations in Board of Trustees Report 19 be adopted as amended.

Board of Trustees Report 19 recommends that the Council on Ethical and Judicial Affairs is supported in carrying forward proposals to increase transparency and opportunity for input. It is also recommended that Speakers are encouraged to convene a separate reference committee for recommendations of the Council on Ethical and Judicial Affairs when appropriate, and formalizing the candidate nomination process prior to the House confirming the candidate. The report details the review of the Code of Medical Ethics and CEJA’s collaboration with the House of Delegates concerning the Code of Medical Ethics, including issues concerning oversight and independence of Ethics from the political climate.

The Council on Constitution and Bylaws testified that existing Recommendation 2 conflicts with Bylaw 2.13.1.1 which provides that all matters pertaining to the Principles of Medical Ethics be referred to the Reference Committee on Amendments to Constitution and Bylaws. Furthermore, another Bylaw (2.13.1.2, Additional Reference Committees) speaks to the need to refer all
business on a particular subject to the same reference committee. To avoid the need for a bylaw change, the Council proposed substitute language to accommodate a large volume of CEJA business but obviate the need for an additional reference committee that would require additional reference committee members and staff. Your Reference Committee agrees with this change and heard no testimony to the contrary, and thus recommends that the recommendations of Board of Trustees Report 19 be adopted as amended.

(15) BOARD OF TRUSTEES REPORT 25 – SPECIALTY SOCIETY REPRESENTATION IN THE HOUSE OF DELEGATES – FIVE-YEAR REVIEW

RECOMMENDATION A:

Madam Speaker, your Reference Committee recommends that Recommendation 1 in Board of Trustees Report 25 be amended by addition to read as follows:


RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends that Recommendation 3 of Board of Trustees Report 25 be amended by deletion to read as follows:

2. Having failed to meet the requirements for continued representation in the AMA House of Delegates as set forth in AMA Bylaw B-8.5 after a year’s grace period to increase membership, the American Association of Hip and Knee Surgeons and American Society of Neuroimaging not retain representation in the House of Delegates. (Directive to Take Action)

RECOMMENDATION C:

Madam Speaker, your Reference Committee recommends that the recommendations in Board of Trustees Report 25 be adopted as amended and the remainder of the report be filed.

Board of Trustees Report 25 recommends that the American Society for Reproductive Medicine, American Thoracic Society, College of American Pathologists, Congress of Neurological Surgeons, Contact Lens Association of Ophthalmologists, Inc., International College of
Surgeons – US Section, Society for Cardiovascular Angiography and Interventions, Society for Investigative Dermatology, Inc., Society of Interventional Radiology, and United States and Canadian Academy of Pathology retain representation in the AMA House of Delegates. It also recommends that since the Academy of Physicians in Clinical Research and the American Society of General Surgeons failed to meet the requirements for continued representation in the AMA HOD, they be placed on probation and be given one year to increase their AMA membership. Finally, the report recommends that since the American Association of Hip and Knee Surgeons and American Society of Neuroimaging failed to meet the requirements for continued representation after a year's grace period to increase membership, that they not retain representation in the House of Delegates.

Testimony supported maintaining the inclusion of the American Society of Neuroimaging and the American Association of Hip and Knee Surgeons in the House of Delegates. Testimony regarding both groups lauded their growth in membership and their participation within the AMA, and held that the loss of these societies would be detrimental to the AMA. Both societies presented materials to the Reference Committee outlining their considerable efforts to increase membership. Therefore, your Reference Committee recommends that the American Society of Neuroimaging and the American Association of Hip and Knee Surgeons retain representation in the American Medical Association House of Delegates, and that Board of Trustees Report 25 be adopted as amended.

(16) COUNCIL ON CONSTITUTION AND BYLAWS REPORT 1 - UPDATED BYLAWS - EMERGENCY BUSINESS

RECOMMENDATION A:

Madam Speaker, your Reference Committee recommends that the Recommendation 1 in Council on Constitution and Bylaws Report 1 be amended by addition and deletion to read as follows:

1. That the following amendments to the AMA Bylaws be adopted:

2.11.3.1.4 Emergency Resolutions. Resolutions of an emergency nature may be presented by a delegate any time after the opening session of the House of Delegates is recessed. Emergency resolutions will be accepted as business only upon a three-fourths vote of delegates present and voting, and if accepted shall be presented to the House of Delegates without consideration by a reference committee. A two-thirds simple majority vote of the delegates present and voting shall be required for adoption.

RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends that the recommendations in Council on Constitution and Bylaws Report 1 be adopted as amended and the remainder of the report be filed.
Council on Constitution and Bylaws Report 1 recommends that several amendments to the AMA Bylaws be adopted. These include restricting the regular business hours to no later than the House of Delegates’ opening session, implementing a requirement for a two-thirds vote of delegates present as required for adoption of emergency resolutions and clarifying that “emergency business” are items of business presented after the recess of opening session.

While testimony largely spoke in favor of the report as a whole, considerable disagreement arose over the thresholds for the acceptance and adoption of emergency items of business within the House of Delegates. In particular, testimony focused on the voting threshold for the adoption of emergency resolutions. Many desired establishing a high bar for the acceptance of emergency items as business, but noted that an additional high bar for adoption would be unwarranted. While maintaining a three-fourths vote of present and voting delegates for the acceptance of emergency resolutions as business of the House is suitable, your Reference Committee believes that emergency resolutions should be adopted by a simple majority vote. Based on the testimony heard, your Reference Committee recommends that Council on Constitution and Bylaws Report 1 be adopted as amended.

(17) RESOLUTION 001 - PARTICIPATION OF PHYSICIANS ON HEALTHCARE ORGANIZATION BOARDS

RECOMMENDATION A:

Madam Speaker, your Reference Committee recommends that the first resolve of Resolution 001 be amended by deletion to read as follows:

RESOLVED, That our American Medical Association advocate for and promote the membership of actively practicing physicians on the boards of healthcare organizations including, but not limited to, acute care providers; insurance entities; medical device manufacturers; and health technology service organizations (New HOD Policy); and be it further

RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends that the third resolve of Resolution 001 be amended by addition and deletion to read as follows:

RESOLVED, That our AMA provide existing healthcare boards with resources that increase their awareness of the value of physician participation in governance matters. (Directive to Take Action)

RESOLVED, That our AMA provide physicians, the public, and health care organizations information on the positive impact of physician leadership. (Directive to Take Action)

RECOMMENDATION C:
Madam Speaker, your Reference Committee recommends that Resolution 001 be adopted as amended.

Resolution 001 addresses involvement and participation of physicians on healthcare organization boards, recognizing that involvement in these organizations can improve the quality of physician-hospital relationships and ultimately physician-patient relationships. The resolution requests that our AMA promote the membership of actively participating physicians on healthcare organization boards, and promote educational programs that allow physicians to effectively serve on health organization boards. The resolution also asks that our AMA allow existing healthcare boards to increase their awareness of physician participation by providing resources that would allow them to do so.

The testimony on this resolution was unanimous in its support. Two recommendations for amending the resolves were proffered. First, that “actively practicing” be stricken from the first Resolve in order to encompass a larger population of physicians. Second, that the third Resolve be revised to promote in a clearer way the positive impact of physician leadership on healthcare organization boards. Therefore, your Reference Committee recommends that Resolution 001 be adopted as amended.

(18) RESOLUTION 002 - CARE OF WOMEN AND CHILDREN IN FAMILY IMMIGRATION DETENTION

RECOMMENDATION A:

Madam Speaker, your Reference Committee recommends that Resolution 002 be amended by addition and deletion to read as follows:

RESOLVED, That our American Medical Association recognize the negative health consequences of oppose the detention of families seeking safe haven (New HOD Policy); and be it further

RESOLVED, That due to the negative health consequences of detention, our AMA oppose the expansion of family immigration detention in the United States (New HOD Policy); and be it further

RESOLVED, That our AMA oppose the separation of parents from their children who are detained while seeking safe haven (New HOD Policy); and be it further

RESOLVED, That our AMA advocate for access to comprehensive health care for women and children in immigration detention. (New HOD Policy)

RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends that Resolution 002 be adopted as amended.

Resolution 002 examines the lack of healthcare access for women and children in family immigration detention centers in the United States and the psychological impacts of separating
parent and child during detention. The resolution asks that our AMA oppose the detention of families seeking safe haven, the further expansion and development of these centers, and the separation of parents and children who are seeking safe haven. Further, the resolution asks that our AMA advocate for comprehensive health care access for women and children in immigration detention.

The testimony on Resolution 002 was passionately divided. While several speakers argued that the resolution be supported as written, others found the first two resolves of the resolution to be overtly political and outside the scope of the AMA’s purview. Additional changes to the existing resolves suggested “comprehensive” be stricken from the fourth Resolve and that “women and children” be changed to “individuals” in that same resolve. Arguing against any changes to the resolution’s language, supporters of the resolution spoke about the unique health needs of this vulnerable population, and the importance of focusing on their treatment within detention centers. The Reference Committee found each side of the debate to have valid points worth incorporating into its recommendation for the final language of the resolution. Therefore, your Reference Committee recommends that Resolution 002 be adopted as amended.

RESOLUTION 003 - MEDICAL SPECTRUM OF GENDER

RECOMMENDATION A:
Madam Speaker, your Reference Committee recommends that Resolution 003 be amended by addition and deletion to read as follows:

RESOLVED, That our American Medical Association partner work with appropriate medical organizations and community based organizations to inform and educate the medical community and the public on the medical spectrum of gender identity as a complex interplay of gene expressions and biologic development.

(Directive to Take Action)

RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends that Resolution 003 be adopted as amended.

Resolution 003 explains that an individual’s genotypic sex, phenotypic sex, sexual orientation, gender and gender identity are not always aligned or indicative of the other. Because the AMA has many policies supporting LGBT issues and recognizes the health care disparities that this population faces, this resolution urges the AMA to help eliminate these disparities by partnering with appropriate medical organizations and community based organizations to inform and educate the medical community and the public on the medical spectrum of gender identity as a complex interplay of gene expressions and biologic development.

Testimony on this resolution was resoundingly in favor of adoption with amendments. Those offering amendments suggested that “partner with” be changed to “work with,” and that the language following “gender identity” be stricken entirely. Based on these recommendations, your Reference Committee recommends that Resolution 003 be adopted as amended.
RECOMMENDATION A:

Madam Speaker, your Reference Committee recommends that the second resolve of Resolution 012 be amended by addition and deletion to read as follows:

RESOLVED, That our AMA advocate that, as participating members of their medical staffs, “employed physicians” be afforded the same right of review as non-employed physicians as regards an accusation that their conduct has been characterized as “disruptive, intimidating or inappropriate.” (New HOD Policy)

RESOLVED, That our AMA advocate for the separation between the terms of employment contracts and medical staff privileges. This separation includes an ongoing right of review for all physicians regardless of employment status with the organization. This right of review may include a physician’s good faith conduct that has been characterized as “disruptive, intimidating, or inappropriate.” (New HOD Policy)

RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends that Resolution 012 be adopted as amended.

Resolution 012 requests that our AMA actively educate state and specialty medical societies about the AMA Medical Staff Code of Conduct and promote its use. In addition, the resolution requests that the AMA advocate for employed physicians to be afforded the same right of review as non-employed physicians in accusations where conduct is characterized as “disruptive, intimidating or inappropriate.”

The resolution received unanimous support. Testimony focused on the distinction between employed and non-employed physicians, and how the rights of both categories of physicians should be treated equally with respect to medical staff privileges. The Reference Committee heard lengthy testimony about the distinction between contract rights and medical privilege credentialing, and how the credentialing of medical staff should remain separate from the rights employed physicians obtain/lose through employment contracts. Your Reference Committee recommends that Resolution 012 be adopted as amended.
RECOMMENDATION A:

Madam Speaker, your Reference Committee recommends that Resolution 017 be amended by deletion to read as follows:

RESOLVED, That our American Medical Association issue a public statement urging U.S. Immigration and Customs Enforcement Office of Detention Oversight to 1) revise its medical standards governing the conditions of confinement at detention facilities to meet or exceed those set by the National Commission on Correctional Health Care, 2) take necessary steps to achieve full compliance with these standards, and 3) create a system to track complaints related to substandard healthcare quality filed by detainees (Directive to Take Action); and be it further

RECOMMENDATION B:

Madam Speaker, your Reference Committee recommends that Resolution 017 be amended by the addition of a third Resolve to read as follows:

RESOLVED, That our AMA advocate for access to health care for individuals in immigration detention. (New HOD Policy)

RECOMMENDATION C:

Madam Speaker, your Reference Committee recommends that Resolution 017 be adopted as amended.

Resolution 017 asks that our AMA examine the medical care in immigration detention centers, recognizing that immigrant and refugee populations often have specialized healthcare needs that are not met in these facilities. This resolution requests that our AMA make a public statement that urges U.S. Immigration and Customs to increase the quality of healthcare provided to detainees. The resolution also asks that U.S. Customs refrains from partnership with private organizations for immigration detention centers.

Testimony was unanimously in favor of this resolution. Several personal accounts of the deplorable conditions found in immigrant detention centers highlighted the importance of improving care in these facilities. The resolve clauses of the resolution were largely supported, though some commented that the words “or exceeds” be removed from the second Resolve. Based on the testimony heard, the Reference Committee also felt that an additional resolve should be added to offer greater inclusivity over the populations this and other resolutions address. Your Reference Committee recommends that Resolution 017 be adopted as amended.
Council on Ethical and Judicial Affairs Report 2 examines what the commitment to competence means for an individual physician in day-to-day practice in order to develop ethics guidance for physicians. The ethical responsibility of competence encompasses more than medical knowledge and skill. Each phase of a medical career carries its own implications of what physicians should know and be able to do to practice safely. Physicians need to be able to recognize when they are and when they are not able to provide appropriate care for their patients. Therefore, CEJA recommends that the ethical responsibility of competence guidelines be adopted for physicians and physicians in training.

Testimony on CEJA Report 2 predominately called for referral. The reasoning for referral stemmed mostly from concerns about language within the report’s recommendations that might have unforeseen legal consequences. The word “promises” was considered too strong and may create legal obligations. The word “accountable” was deemed to be unclear. Your Reference Committee recommends that Council on Ethical and Judicial Affairs Report 2 be referred.

Council on Ethical and Judicial Affairs Report 3 addresses professional ethical obligations of physicians in the media. In an increasing media marketplace, physicians must carefully delineate who they are and how they want to be perceived. It is important that the role of a physician be distinct from a journalist, commentator, or media personality.
CEJA Report 3 received mixed testimony, largely favoring referral. Those in support of the report praised its clarity on the topic of physicians in the media. Concerns about the report remained, however. Some found recommendation (e) to be particularly onerous, which would prevent physicians from speaking on any number of topics that may not be their primary area of expertise but on which they may have applicable insight. Based on the testimony heard, your Reference Committee recommends that Council on Ethical and Judicial Affairs Report 3 be referred.

(24) RESOLUTION 007 - HEALTHCARE AS A HUMAN RIGHT

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 007 be referred.

Resolution 007 addresses the need for the universal right of basic standard of living including a basic level of health care. In accordance with the World Health Organization, the United Nations, and the World Medical Association, the resolution examines the need of continued participation of these groups in order to further the development of easily accessible health care. The resolution asks that our AMA recognize that a basic level of health-care is an essential human right. Further, the resolution asks that our AMA support the United Nations’ Universal Declaration of Human Rights and its encompassing International Bill of Rights. Finally, it asks that our AMA support the United Nations’ Universal Declaration of Human rights and advocate for the United States to remain in the United Nations.

Testimony on this resolution was ideologically rich but robustly divided. The testimony addressed constitutional rights, civil liberties, and the fundamental human rights underpinning health care access. Although important points were made on a variety of related issues, the Reference Committee feels that this is an important and complex topic that requires careful thought and conversation beyond the confines of the hearing and this meeting. Your Reference Committee looks forward to the ongoing conversation initiated by this resolution, and recommends that Resolution 007 be referred.

(25) RESOLUTION 014 - THE NEED TO DISTINGUISH BETWEEN PHYSICIAN ASSISTED SUICIDE AND AID IN DYING

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 014 be referred.

Resolution 014 requests that our AMA when referring to what it currently defines as ‘Physician Assisted Suicide’ avoid any replacement with the phrase ‘Aid in Dying’ when describing what has been understood as ‘Physician Assisted Suicide.’ In addition, the resolution asks that our AMA develop definitions and a clear distinction between what is meant when the AMA uses the phrase ‘Physician Assisted Suicide’ and the phrase ‘Aid in
Further, our AMA requests that these definitions and distinction be fully utilized by our AMA in organizational policy, discussions, and position statements regarding both ‘Physician Assisted Suicide’ and ‘Aid in Dying.’

Testimony on this resolution was mixed, with much of the discussion focusing on the complex topic of physician aid in dying. A considerable amount of testimony attempted to distinguish the meaning of “suicide” and argued that its usage is inappropriate in the contemporary debate about aid in dying. Others pointed to the fact that the Council on Ethical and Judicial Affairs is currently reexamining the AMA’s current stance on physician aid in dying, and that the definitional challenges noted in the resolution should be discussed upon the presentation of that report. Your Reference Committee recommends that Resolution 014 be referred.

(26) RESOLUTION 015 - APPROPRIATE PLACEMENT OF TRANSGENDER PRISONERS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 015 be referred.

Resolution 015 discusses the fact that transgender individuals sentenced to jail or prison are often placed in facilities based on birth gender, unless they have undergone complete surgical transition. According to statistics, this practice has lead to higher levels of violence and abuse. This resolution requests that our AMA establish policy supporting the ability of transgender prisoners to be placed in facilities that are reflective of their affirmed gender status regardless of surgical status, if they so choose.

Support for this resolution was evenly divided. While those in favor of adoption discussed the few protections in place for transgender prisoners, others recognized the complexities of this issue and agreed that more information and research on the subject are necessary. Your Reference Committee agrees that this issue requires more study, and recommends that Resolution 015 be referred.

(27) RESOLUTION 020 - RECOGNITION OF PHYSICIAN ORDERS FOR LIFE SUSTAINING TREATMENT (POLST) FORMS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 020 be referred.

Resolution 020 asks that our AMA advocate with appropriate government, legislative and regulatory bodies to recognize Physician Orders for Life Sustaining Treatment forms completed in one state as valid and enforceable in other states. In addition, the resolution asks that our AMA create a universal Physician Order for Life Sustaining Treatment form that would be valid and enforceable in all states.
Testimony on this resolution was unanimous in support of the intent of this resolution. Those speaking highlighted the challenge of respecting the medical care orders of patients when they cross the jurisdictional boundaries of states. However, because POLST is one of many frameworks in use in the United States, some speakers noted problems with the second Resolve. Your Reference Committee also discussed the myriad problems with a universal POLST form, specifically noting that several issues, including hierarchy of decision making systems, vary from state to state. These differences in legislation, along with other issues, make adoption of this resolution untenable. However, your Reference Committee does recognize that reciprocity of physician orders regarding medical care between state lines is an important issue, and recommends that model state legislation be crafted in order for this to be accomplished in a way that can realistically be implemented. Therefore, your Reference Committee recommends that Resolution 020 be referred.

(28) RESOLUTION 011 - REVISION OF RESEARCHER CERTIFICATION AND INSTITUTIONAL REVIEW BOARD PROTOCOLS

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Resolution 011 be not adopted.

Resolution 011 asks our AMA to study existing Collaborative Institutional Training Initiative Standards, Institutional Review Board Protocols and create recommendations that would simultaneously protect patients and permit physicians to easily participate in the dissemination of medical knowledge. The resolution requests that the AMA report back to the House of Delegates at the 2017 Interim Meeting.

No testimony was offered regarding this resolution outside of its introduction. Despite the absence of testimony, the Reference Committee discussed at length the critically important topic of ethics training and certification for physicians in this area, as well as the evolving regulatory environment of human subject research protections in the United States, including the upcoming changes to IRB oversight protocols. From this discussion, your Reference Committee recommends that Resolution 011 not be adopted.

(29) RESOLUTION 008 - PROMOTING THE USE OF APPROPRIATE LGBTQIA LANGUAGE IN MEDICAL DOCUMENTATION

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Policy H-315.967 be reaffirmed in lieu of Resolution 008.

Resolution 008 explores the proper use of LGBTQIA language, specifically in medical documentation, as information beyond the binary “male” or “female” options can have
implications for further health-care. The resolution requests that our AMA support inclusion of a variety of identifiers including biological sex, gender identity, preferred gender pronouns, and sexual orientation. The resolution also asks that this is provided in a culturally sensitive manner.

Testimony was in favor of this resolution and recognized many reasons for having these identifiers in the medical record. However, the resolve of this resolution is covered almost verbatim in Policy H-315.967 “Promoting Inclusive Gender, Sex, and Sexual Orientation Options on Medical Documentation,” which states that our AMA (1) supports the voluntary inclusion of a patient’s biological sex, current gender identity, sexual orientation, and preferred gender pronoun(s) in medical documentation and related forms, including in electronic health records, in a culturally-sensitive and voluntary manner; and (2) will advocate for collection of patient data that is inclusive of sexual orientation/gender identity for the purposes of research into patient health. Therefore, your Reference Committee recommends that Policy H-315.967 be reaffirmed in lieu of Resolution 008.

(30) COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS
OPINION 1 - COLLABORATIVE CARE

RECOMMENDATION:

Madam Speaker, your Reference Committee recommends that Council on Ethical and Judicial Affairs Opinion 1 be filed.

Council on Ethical and Judicial Affairs Opinion 1 files the opinion on Collaborative Care, which was adopted at the 2016 Interim Meeting of the House of Delegates.

Only testimony by the delegate who extracted this item was heard. Concern was raised that the opinion doesn’t make clear that the physician should be the clinical leader in a collaborative environment. However, your Reference Committee believes that the second paragraph of this opinion clearly describes the physician as a clinical leader. Furthermore, this opinion was adopted by the HOD at the 2016 Interim Meeting. Therefore, your Reference Committee recommends that Council on Ethical and Judicial Affairs Opinion 1 be filed.
Madam Speaker, this concludes the report of Reference Committee on Amendments to Constitution and Bylaws. I would like to thank Luis M. Alvarado, MD, Rebecca W. Brendel, MD, Kyle P. Edmonds, MD, Lynn Parry, MD, March Seabrook, MD, Barry Wall, MD, and all those who testified before the Committee.

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