Your Reference Committee recommends the following consent calendar for acceptance:

**RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED**

1. Resolution 1 - Negligent Credentialing Actions Against Hospitals
2. Resolution 2 - Impact on the Medical Staff of the Success or Failure in Generating Savings of Hospital Integrated System ACOs
3. Resolution 3 - Preservation of the Patient-Physician Relationship
4. Resolution 4 - E-Cigarettes, Revisited

**RECOMMENDED FOR REFERRAL**

7. Governing Council Report B - Emeritus Membership Category
RESOLUTION 1 - NEGLIGENT CREDENTIALING

ACTIONS AGAINST HOSPITALS

RECOMMENDATION A:

Mr. Chair, your Reference Committee recommends that Resolution 1 be amended by addition and deletion on lines 19-22 and 25-27 to read as follows:

RESOLVED, That our American Medical Association recognize that “negligent credentialing” causes of action undermine the overall integrity of the credentialing process and a physician’s ability to maintain independence or otherwise exercise professional medical judgment, potentially resulting in adverse impacts to patient access and quality of care (New HOD Policy); and be it further

RESOLVED, That our AMA actively oppose state legislation and court action recognizing “negligent credentialing” as a cause of action that would allow for patients to sue a medical staff hospital based on the theory that the hospital negligently granted a physician’s clinical privileges (Directive to Take Action); and be it further

RESOLVED, That our AMA work with state medical societies and medical specialty associations in those states that recognize the tort of negligent credentialing to advocate that such claims should place the highest standard of proof on the plaintiff. (Direct to Take Action)

RECOMMENDATION B:

Mr. Chair, your Reference Committee recommends that Resolution 1 be adopted as amended and transmitted to the AMA House of Delegates for consideration at the 2018 Interim Meeting.

Resolution 1 asks the AMA to (1) recognize that “negligent credentialing” causes of action undermine the overall integrity of the credentialing process and a physician’s ability to maintain independence or otherwise exercise professional medical judgment, potentially resulting in adverse impacts to patient access and quality of care; (2) actively oppose state legislation and court action recognizing “negligent credentialing” as a cause of action that would allow for patients to sue a hospital based on the theory that the hospital negligently granted a physician’s clinical privileges; and (3) work with state medical societies and medical specialty associations in those states that recognize the tort of negligent credentialing to advocate that such claims should place the highest standard of proof on the plaintiff.

Your Reference Committee heard mixed testimony on Resolution 1. While there was testimony that expressed concerns over the legal nuances and complexities surrounding
this issue, there was overwhelming testimony that supported the intent of Resolution 1, as well as AMA Litigation Center advocacy efforts that align with the resolve clauses in this resolution. Noting that Resolution 1 is largely based on legal precedent, and that testimony highlighted the time-sensitive nature of this important issue, your Reference Committee recommends that Resolution 1 be adopted as amended and transmitted to the AMA House of Delegates for consideration at the 2018 Interim Meeting.

(2) RESOLUTION 2 - IMPACT ON THE MEDICAL STAFF OF THE SUCCESS OR FAILURE IN GENERATING SAVINGS OF HOSPITAL INTEGRATED SYSTEM ACOs

Mr. Chair, your Reference Committee recommends that the following substitute resolution be adopted in lieu of Resolution 2 and transmitted to the AMA House of Delegates for consideration at the 2018 Interim Meeting:

IMPACT ON THE MEDICAL STAFF OF THE SUCCESS OR FAILURE IN GENERATING SAVINGS OF HOSPITAL INTEGRATED SYSTEM ACOs

RESOLVED, That our American Medical Association study: (1) the effect of hospital integrated system ACOs’ failure to generate savings on downsizing of the medical staff and further consolidation of medical practices; and (2) the root causes for failure to generate savings in hospital integrated ACOs, as compared to physician-owned ACOs, and report back at the 2019 Interim Meeting.

Resolution 2 asks the AMA to (1) assess the effect of hospital integrated system ACOs failure to generate savings on downsizing of the medical staff and further consolidation of medical practices; and (2) assess the root causes for failure to generate savings in hospital integrated ACOs, as compared to physician-owned ACOs. Such organizations may include a broader range of services, differences in the cost of facility charges, higher utilization of expensive services, overhead due to HIT, administration, practice acquisitions, and the more the complex infrastructure necessary to create and manage an ACO.

Testimony unanimously supported the intent of Resolution 2. We agree with testimony that suggested minor editorial changes and recommend adoption of a substitute resolution that we have drafted to further simplify and concisely address this issue.
RESOLUTION 3 - PRESERVATION OF THE PATIENT-PHYSICIAN RELATIONSHIP

RECOMMENDATION:

Mr. Chair, your Reference Committee recommends that the following substitute resolution be adopted in lieu of Resolution 3 and transmitted to the AMA House of Delegates for consideration at the 2018 Interim Meeting:

RESOLUTION OF THE PATIENT-PHYSICIAN RELATIONSHIP

RESOLVED, That our American Medical Association, in an effort to improve professional satisfaction among physicians while also enhancing patient care, conduct a study to identify healthcare work environment factors that impact a physician's ability to deliver high quality patient care, including but not limited to: (1) the use versus non-use of electronic devices during the clinical encounter; and (2) the presence or absence of an electronic scribe during the patient-physician encounter, and report back at the 2020 Interim Meeting.

Resolution 3 asks the AMA to conduct a study, with report back at the 2020 Annual Meeting, from the perspective of both the patient and the physician to access the perceived quality of the patient-physician relationship in regards to: (1) adequacy of the time spent during the clinical encounter; (2) the engagement of each participant in terms of eye contact, attention given, and the sense of caring; (3) the impact of the use of electronic devices during the clinical encounter (if they were used); and (4) the impact of the presence of another individual such as a “scribe” during the patient-physician encounter.

Your Reference Committee heard testimony unanimously supporting the intent of Resolution 3. However, it was noted that the issues raised by the resolution are already covered by existing AMA policy and/or ongoing efforts by AMA. We therefore recommend substitute language that we believe clarifies the author’s intent and narrows the scope of the resolution to that which makes it unique.
(4) RESOLUTION 4 - E-CIGARETTES, REVISITED

RECOMMENDATION:

Mr. Chair, your Reference Committee recommends that the following substitute resolution be adopted in lieu of Resolution 4 and transmitted to the AMA House of Delegates for consideration at the 2018 Interim Meeting:

E-CIGARETTES, REVISITED

RESOLVED, That our American Medical Association recognize the use of e-cigarettes and vaping as an urgent public health crisis and actively work with the Food and Drug Administration and other relevant stakeholders to counteract the marketing and use of addictive e-cigarette and vaping devices, including but not limited to bans and strict restrictions on marketing to minors under the age of 21.

Resolution 4 asks the AMA to expedite processes to come out forcefully and soon against e-cigarette devices, and to push back against the marketing, pushing, and strategic forces trying to gain acceptance for addicting e-cigarette devices. Resolution 4 further asks that the AMA’s efforts around counteracting e-cigarettes include a broad range of countermeasures, from bans to strict regulations, at least equal to treating them as cigarettes, as equivalent addicting agents and as harmful to the public.

Your Reference Committee heard overwhelming and impassioned testimony in support of Resolution 4. We agree with testimony that recognized the disturbing and accelerating trajectory of e-cigarette and vaping usage by teenage minors—and ultimately, the resulting path to addiction. We therefore recommend adoption of a substitute resolution that we believe further clarifies the need for immediate AMA action.

(5) GOVERNING COUNCIL REPORT A - OMSS HANDBOOK REVIEW

RECOMMENDATION A:

Mr. Chair, your Reference Committee recommends that Recommendation 4 of Governing Council Report A be amended by addition and deletion on page 2, lines 41-41 to read as follows:

4. Resolution 221 Regulatory Relief from Burdensome CMS "HPI" EHR Requirements

The Governing Council recommends that the OMSS Delegate be instructed to support the intent seek referral for decision of Resolution 221.
RECOMMENDATION B:

Mr. Chair, your Reference Committee recommends that Recommendation 5 of Governing Council Report A be amended by addition on page 3, lines 19-20 to read as follows:

5. Resolution 225 – “Surprise” Out of Network Bills
The Governing Council recommends that the OMSS Delegate be instructed to support the intent of Resolution 225, and seek amendment by deletion of the words “and apply to ERISA plans not subject to state regulation” in the first resolve clause.

RECOMMENDATION C:

Mr. Chair, your Reference Committee recommends that Recommendation 8 of Governing Council Report A be amended by addition and deletion on page 5, lines 15-16 to read as follows:

8. CME Report 1 – Competency of Senior Physicians
The Governing Council recommends that the OMSS Delegate be instructed to support the intent of CME Report 1 as written, and recommend that the AMA develop specific guidelines for competency in practice, with report back at I-19.

RECOMMENDATION D:

Mr. Chair, your Reference Committee recommends that Recommendation 9 of Governing Council Report A be amended by addition on page 5, lines 31-32 to read as follows:

9. Resolution 957 – Board Certifying Bodies
The Governing Council recommends that the OMSS Delegate be instructed to support the intent of the first resolve of Resolution 957, and seek amendment by deletion of the second resolve.
RECOMMENDATION E:

Mr. Chair, your Reference Committee recommends that Recommendation 14 of Governing Council Report A be amended by addition and deletion on page 8, lines 40-41 to read as follows:

14. Resolution 820 – Ensuring Quality Health Care for Our Veterans
The Governing Council recommends that the OMSS Delegate be instructed to support oppose the intent of Resolution 820 as written.

RECOMMENDATION F:

Mr. Chair, your Reference Committee recommends that Governing Council Report A be amended by addition of a new Recommendation 15:

15. Resolution 604 – Physician Health Policy Opportunity
The Governing Council recommends that the OMSS Delegate be instructed to support the intent of Resolution 604.

RECOMMENDATION G:

Mr. Chair, your Reference Committee recommends that Governing Council Report A be amended by addition of a new Recommendation 16:

The Governing Council recommends that the OMSS Delegate be instructed to support the intent of Resolution 902. The Delegate’s testimony should highlight the importance of and need for access, training, and resources in this area.

RECOMMENDATION H:

Mr. Chair, your Reference Committee recommends that Governing Council Report A be adopted as amended.

Governing Council Report A identifies resolutions and reports relevant to medical staffs that have been submitted for consideration by the House of Delegates at the 2018 Interim Meeting. This report is submitted to the Assembly to facilitate the instruction of the OMSS Delegate and Alternate Delegate regarding the positions they should take in representing the Section in the HOD.
Your Reference Committee heard extensive testimony on Report A, which we outline below:

While supportive, testimony on Resolution 221, Regulatory Relief from Burdensome CMS "HPI" EHR Requirements, suggested that the recently finalized CMS payment rule would have a substantial effect on this issue, and that immediate action is warranted. We therefore agree with testimony suggesting that OMSS seek referral for decision of Resolution 221 so that the AMA can act quickly on this important matter.

Testimony supported Resolution 225, "Surprise" Out of Network Bills, but sought to ensure that the proposed federal legislation apply to all health plans. We agree and recommend an amendment that would facilitate OMSS enunciation of this position in the House of Delegates.

Your Reference Committee heard testimony suggesting that Resolution 227, CMS Proposal to Consolidate Evaluation and Management Services, be referred for decision given the recent issuance of the CMS payment rule and so that the AMA can act more quickly on this matter. Noting that the CMS rule will not be implemented until 2021, we do not see the need to seek referral of this item and instead recommend that the original recommendation to simply support the intent of Resolution 227 be maintained.

We heard impassioned and at times mixed testimony on CME Report 1, Competency of Senior Physicians. We agree with the prevailing sentiment that AMA ought to develop specific guidelines for assessing competency in practice to ensure that such guidelines are evidence-based and fair to all physicians, and we recommend that OMSS support this position in the House of Delegates.

Testimony generally supported the intent of Resolution 957, Board Certifying Bodies. However, it was noted that the second resolve clause “puts the cart before the horse” in that it asks the AMA to create model legislation, the content of which should be supported by the findings of the study called for in the first resolve. We therefore recommend that OMSS seek amendment of Resolution 957 by deletion of the second resolve.

We heard testimony in support of the intent of Resolution 807, but we note that this position would be in conflict with Medicaid expansion programs that already require co-payments. We therefore recommend that the OMSS oppose Resolution 807 for the reasons stated in the original recommendation and that the Delegate’s testimony should suggest that, rather than restricting access to care, a better approach to the problem of ED overuse is to increase patient access to outpatient primary care by increasing Medicaid payment rates.

Testimony overwhelmingly opposed Resolution 820, Ensuring Quality Health Care for Our Veterans, and we therefore recommend that OMSS oppose the intent of this resolution as written.

Testimony broadly supported the addition of a recommendation that OMSS support the intent of Resolution 604, Physician Health Policy Opportunity. We agree and recommend inclusion.
Testimony also supported the addition of a recommendation that OMSS support the intent of Resolution 902, Increasing Patient Access to Sexual Assault Nurse Examiners, and that the Delegate be further instructed to highlight the importance of and need for access, training, and resources in this area. We agree and recommend inclusion.

For clarity, we have included below the complete recommendations of Report A, including our proposed amendments:

1. CEJA Report 1 – Competence, Self-Assessment and Self-Awareness
   The Governing Council recommends that the OMSS Delegate be instructed to support the intent of CEJA Report 1.

2. BOT Report 8 – 340B Drug Discount Program
   The Governing Council recommends that the OMSS Delegate be instructed to support the intent of BOT Report 8.

3. Resolution 201 – Reimbursement for Services Rendered During Pendency of Physician’s Credentialing Application
   The Governing Council recommends that the OMSS Delegate be instructed to support the intent of Resolution 201.

4. Resolution 221 - Regulatory Relief from Burdensome CMS "HPI" EHR Requirements
   The Governing Council recommends that the OMSS Delegate be instructed to support the intent and seek referral for decision of Resolution 221.

5. Resolution 225 – “Surprise” Out of Network Bills
   The Governing Council recommends that the OMSS Delegate be instructed to support the intent of Resolution 225, and seek amendment by deletion of the words “not subject to state regulation” in the first resolve clause.

6. Resolution 226 – Support for Interoperability of Clinical Data
   The Governing Council recommends that the OMSS Delegate be instructed to support the intent of Resolution 226.

7. Resolution 227 – CMS Proposal to Consolidate Evaluation and Management Services
   The Governing Council recommends that the OMSS Delegate be instructed to support the intent of Resolution 227.

8. CME Report 1 – Competency of Senior Physicians
   The Governing Council recommends that the OMSS Delegate be instructed to support oppose the intent of CME Report 1 as written, and recommend that the AMA develop specific guidelines for competency in practice, with report back at I-19.

9. Resolution 957 – Board Certifying Bodies
   The Governing Council recommends that the OMSS Delegate be instructed to support the intent of the first resolve of Resolution 957, and seek amendment by deletion of the second resolve.
10. CMS Report 4 – The Site-of-Service Differential
   The Governing Council recommends that the OMSS Delegate be instructed to
   support the intent of CMS Report 4, so long as such policy would not reduce
   payments for services in outpatient settings.

11. Resolution 807 – Emergency Department Copayments for Medicaid Beneficiaries
   The Governing Council recommends that the OMSS Delegate be instructed to
   oppose the intent of Resolution 807. The Delegate’s testimony should suggest
   that, rather than restricting access to care, a better approach to the problem of
   ED overuse is to increase patient access to outpatient primary care by increasing
   Medicaid payment rates.

12. Resolution 812 – ICD Code for Patients Harm From Payer Interference
   The Governing Council recommends that the OMSS Delegate be instructed to
   support the intent of Resolution 812.

   The Governing Council recommends that the OMSS Delegate be instructed to
   support the intent of Resolution 814.

14. Resolution 820 – Ensuring Quality Health Care for Our Veterans
   The Governing Council recommends that the OMSS Delegate be instructed to
   support oppose the intent of Resolution 820 as written.

15. Resolution 604 – Physician Health Policy Opportunity
   The Governing Council recommends that the OMSS Delegate be instructed to
   support the intent of Resolution 604.

   The Governing Council recommends that the OMSS Delegate be instructed to
   support the intent of Resolution 902. The Delegate’s testimony should highlight
   the importance of and need for access, training and resources in this area.
GOVERNING COUNCIL REPORT AA - OMSS POSITION
ON BOARD OF TRUSTEES REPORT 9-I-18: HOSPITAL
CLOSURES AND PHYSICIAN CREDENTIALING

RECOMMENDATION A:

Mr. Chair, your Reference Committee recommends that the recommendation in Governing Council Report AA be amended by addition:

That our AMA: (a) continue to monitor the development and implementation of physician credentialing repository databases that track hospital affiliations, including prospectively tracking hospital closures, as well as how and where these closed hospitals are storing physician credentialing information; and (b) explore the feasibility of developing a universal clearinghouse that centralizes the verification of credentialing information as it relates to physician practice and affiliation history, and report back to the House of Delegates at the 2019 Interim Meeting.

RECOMMENDATION B:

Mr. Chair, your Reference Committee recommends that the recommendation in Governing Council Report AA be adopted as amended.

Governing Council Report AA recommends that the OMSS Delegate be instructed to support the intent of the recommendations of BOT Report 9-I-18, Hospital Closures and Physician Credentialing.

Testimony generally supported Board of Trustees Report 9. We agree with testimony suggesting that the AMA, in its continued monitoring of credentialing repository databases, should focus on prospectively tracking hospital closures, including collecting data on how and where closed hospitals store physician credentialing information.

GOVERNING COUNCIL REPORT B - EMERITUS
MEMBERSHIP CATEGORY

RECOMMENDATION:

Mr. Chair, your Reference Committee recommends that Governing Council Report B be referred for report back at the 2019 Annual Meeting.

Governing Council Report B recommends that the following be adopted in lieu of Resolution 1-A-18, and that the remainder of the report be filed: (1) That our Organized Medical Staff Section (OMSS) Governing Council pursue amendment of the AMA Bylaws and OMSS Internal Operating Procedures as necessary to establish a new category of Section membership as follows:
Unaffiliated members of the Organized Medical Staff Section

1. Membership criteria -- An unaffiliated member of the OMSS must:
   a. Be a member of the AMA;
   b. Have previously served as an OMSS representative;
   c. Be fully retired from medical practice; and
   d. Have no formal membership on any medical staff.

2. Membership rights -- An unaffiliated member of the OMSS shall have the right to speak and debate, but shall not have the right to introduce business, make motions, vote, or run for election to the OMSS Governing Council.

Your Reference Committee heard extensive testimony on Report B. There was substantial confusion about which physicians would or should be included in the proposed new membership category, as well as disagreement about the appropriate name for this category. We agree that this proposal needs further refinement and therefore recommend that Report B be referred to the Governing Council for report back at the 2019 Annual Meeting.
Mr. Speaker, this concludes the report of the OMSS Reference Committee. I would like to thank Nancy Fan, MD, Chris Gribbin, MD, Woody Jenkins, MD, Nita Shumaker, MD, and all those who testified before the Committee.

Nancy Fan, MD

Nita Shumaker, MD

Chris Gribbin, MD

Vimal Nanavati, MD

Chair

Woody Jenkins, MD