

REPORT OF THE BOARD OF TRUSTEES

B of T Report 11-A-19

Subject: Policy and Economic Support for Early Child Care
(Resolution 416-A-17)

Presented by: Jack Resneck, Jr., MD, Chair

Referred to: Reference Committee D
(Diana Ramos, MD, MPH, Chair)

1 INTRODUCTION

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3 At the 2017 Annual Meeting of the House of Delegates (HOD), Resolution 416-A-17 was referred.
4 Introduced by the New England Delegation and the Minority Affairs Section, Resolution 416-A-17
5 asked that our American Medical Association (AMA) advocate for: (1) improved social and
6 economic support for paid family leave to care for newborns, infants and young children; and
7 (2) federal tax incentives to support early child care and unpaid child care by extended family
8 members. Board of Trustees Report 27 was submitted to the HOD at the 2018 Annual Meeting.
9

10 Reference Committee D received testimony that supported the general policy intent of the original
11 resolution and also the recommendations in BOT Report 27-A-18. Testimony was also received
12 pointing out that that smaller employers (including small practices) could face potential challenges
13 in running their businesses if they were required to comply with new time off policies that may be
14 more appropriate for larger employers as was pointed out in the original Board Report. There was
15 further testimony and suggestions that the House go back to the original language in Resolution
16 416-A-17. The HOD referred BOT 27-A-18 back to the Board for additional study.
17

18 This report addresses the recommendations of Reference Committee D, and discusses the language
19 in the original resolution, and any new developments in additional research. It also adopts by
20 reference the analysis and recommendations of the original BOT Report 27-A-18 and provides
21 additional recommendations.
22

23 The Background, policy discussion, research and legislative activities noted below are from the
24 original BOT Report 27-A-18 and are considered still relevant to the issue today. New information
25 in response to the testimony and referral from Reference Committee D is in italics in the discussion
26 and recommendation portion of this Board Report.
27

28 BACKGROUND (From: BOT Report 27-A-18)

29
30 Increases in paid parental leave were associated with decreases in perinatal, neonatal, post-
31 neonatal, infant, and child mortality in a sample of 18 Organization for Economic Co-operation and
32 Development countries.¹
33

34 Unpaid maternal leave provided through the Family and Medical Leave Act of 1993 (FMLA) in the
35 US was associated with decreases in neonatal, post-neonatal, and infant mortality, but only among

women who were married and had graduated from college, suggesting that women of lower socioeconomic position were unable to benefit from unpaid leave.

Although the FMLA requires larger employers to provide unpaid job-protected time off, there is no current federal law that requires employers to provide paid time off for the birth or care of children. About 38 percent of employers offer paid parental leave for employees who are new parents.² Paid parental leave is distinct from other paid-leave programs such as short-term disability, sick days, and government-funded disability or insurance payments.³ Smaller employers in particular are less likely to provide meaningful paid time off beyond generic vacation or sick time. Further, much of the time off that is provided as it relates to children is oriented toward the period surrounding the birth of a child and typically does not extend to infants and young children as contemplated by Resolution 416-A-17. What success there has been in providing paid parental leave has been primarily at the state and local level and with a small number of high profile employers. For example, IBM offers 20 weeks of paid maternity leave to both salaried and hourly workers who are birth mothers and offers 12 weeks of paid paternity leave for all other parents.⁴ A few states have enacted paid medical and family leave laws – California, New Jersey, New York and Rhode Island. Additionally, a number of cities have enacted paid leave policies but most are oriented toward paid sick leave. While upwards of 20 other states have proposed their own paid leave laws, none have yet enacted a law. Regarding tax incentives to support early child care, tax law changes for 2018 raised child care tax credits up to a maximum of \$2000 per child. The amount of the credit is indexed by income level. The credits do not differentiate between medically-related child care and general day care. This provision of the tax code already allows amounts paid to certain extended family members to be considered in the tax credit calculation under certain circumstances. For instance, if a child was sick at home and both parents had to work, a grandmother could provide care and if paid, the expense could be considered in the credit calculation, but the expenses are still subject to the maximums.

AMA POLICY

AMA policy supports voluntary employer policies that provide employees with reasonable job security and continued availability of health plan benefits in the event leave becomes necessary due to documented medical conditions (Policy H-420.979). The AMA recognizes the public health benefits of paid sick leave and other paid time off, although mandatory paid sick leave is not specifically endorsed by the AMA. Council on Medical Service (CMS) Report 3-A-16 provided a comprehensive review of sick leave and paid leave policies. The HOD adopted the recommendations in the report, which established policy supporting employer policies that provide employees with unpaid sick days to care for themselves or a family member (Policy H-440.823).

As it relates specifically to physician practices, AMA Policies for Parental, Family and Medical Necessity Leave (Policy H-405.960) established guidelines that encourage medical group practices to incorporate and/or encourage development of leave policies, including parental, family, and medical leave policies, as part of the physician's standard benefit agreement.

Existing AMA policy also includes Policy H-405.954, "Parental Leave." BOT Report 9-I-17 was written and filed as an informational report, primarily to address possible expansion of the FMLA, but also made reference to paid parental leave. Policy H-405.954 states that the AMA will: "(1) encourage the study of the health implications among patients if the United States were to modify one or more of the following aspects of the Family and Medical Leave Act (FMLA) (a) a reduction in the number of employees from 50 employees; (b) an increase in the number of covered weeks from 12 weeks; (c) creating a new benefit of paid parental leave; and (2) study the effects of FMLA expansion on physicians in varied practice environments."

1 RESEARCH AND LEGISLATIVE ACTIVITIES

2
3 Currently, federal law does not require employers to provide paid family or parental leave. The
4 FMLA requires employers of a certain size to provide medically-related unpaid time off.

5
6 The most recent effort at the federal level to provide a broad paid parental leave approach is
7 currently stalled. The Family and Medical Insurance Leave Act (“FAMILY Act,” H.R. 947/S. 337)
8 was introduced in Congress in 2017. The bill would, among other things, provide paid family and
9 medical leave to individuals who meet certain criteria. It would be financed through a tax on every
10 individual and employer, and all self-employment income. Thus far, the bill has been supported by
11 Democratic members of Congress and has seen little action since introduction. The bill as
12 originally drafted would:

- 13
- 14 • Create a national program to provide all workers, regardless of company size, with up to 12
- 15 weeks of partially paid leave; and
- 16 • Enable workers to receive up to 66 percent of their monthly wages, up to a capped amount,
- 17 during their time of leave.
- 18

19 The AMA has not taken a position on this bill. In 2016 the Society for Human Resources
20 Management (SHRM) partnered with the Families and Work Institute to conduct a National Study
21 of Employers (NSE) practices on workplace benefits, and paid parental leave was part of that
22 study.⁵ The study seems to be the most recent and relevant broad-based employer analysis of what
23 policies are in place today for parental leave as well as trends for the future.

24
25 The NSE’s surveys have been conducted five times since 2005, providing both snapshots in time
26 and current trends in employer practices and attitudes. The 2016 study samples 920 employers with
27 more than 50 employees, with a blend of for-profit and non-profit as well as single and multi-cite
28 locations. Note that the findings cited below all relate to employers with more than 50 employees.

29
30 The NSE noted that despite announcements of expanded parental leave benefits from Netflix,
31 Amazon, Microsoft, Johnson & Johnson, Ernst & Young and a few others, “The media blitz over
32 the past few years regarding paid parental leave was not representative of the majority of U.S.
33 employers with 50 or more employees in 2016.”⁵ It also noted that the average maximum number
34 of weeks of parental and caregiving leaves did not change significantly between 2012 and 2016,
35 and in fact the average number of weeks provided had slightly declined when looking back to pre-
36 recession 2005. 2016 data showed that employers seemed to be more supportive of easing the
37 transition of a parent back into the workforce upon the birth of child (81% of employers), and more
38 supportive of work from home options (40 percent of employers), but the percentage of employers
39 allowing at least some employees to take time off during the workday for family or personal needs
40 without loss of pay had declined from 87 percent to 81 percent.

41
42 Another finding demonstrated that employer support for flexible work arrangements had dropped
43 dramatically from 31 percent in 2005 to 14 percent in 2016. While definitive research was not
44 available to explain this change, it may be that many employers had narrowed benefit offerings
45 during the prolonged period of economic difficulty that began in 2008. While the study tended to
46 focus more on whether employers provided time off, it did note that of those employers providing
47 at least some pay to women during maternity leave, most (78 percent) did so by providing some
48 type of short term disability pay. The survey also indicated that for those employers that do offer
49 pay, 6 percent of employers offered full pay, 39 percent offered partial pay, and 11 percent said it
50 depends on the situation. Forty-two percent of the employers responding offered no pay at all.
51 However, in contrast to those findings, the same report indicated that 39 percent of employers

1 allowed employees to take time off (at least 5 days) to care for *mildly ill* children without having to
2 use vacation days or losing pay. The implication of this particular data is that employer policies on
3 paid time off lack consistency.

4
5 As articulated in Board of Trustees Report 9-I-17, there is an abundance of literature about the
6 benefits of employee access to medical leave provided under existing law, much of which was
7 summarized in CMS Report 3-A-16.⁶ Paid sick leave has been increasing throughout the United
8 States whether by state or local law mandates or decisions by employers. However, paid leave to
9 care for others outside of paid vacation, PTO (generic paid time off), or paid sick leave is still not
10 prevalent in the US.

11
12 Given that only a handful of states have enacted paid parental leave programs, research on their
13 effectiveness is limited. However, what little research there is has demonstrated generally neutral to
14 positive feedback from employers. In particular, BOT Report 9-I-17 noted California's experience:

15
16 In California, for example, the Paid Family Leave program provides employees with up
17 to six weeks of paid leave to care for a new child or ill family member. The program is
18 funded by employee payroll contributions, so while employers do not face financial
19 burden as a result of the law, they are faced with ensuring the employees' workload is
20 covered and that gaps in staffing are filled. The program in California, however, does not
21 assure job protection during leave, provides wage replacement at only 55 percent, and
22 does not cover care for grandparents, grandchildren, parents-in-law, or siblings. A 10-
23 year review of California's expansion demonstrated that the Paid Family Leave benefit
24 promoted family well-being, improved family economic security, equalized access to
25 leave across occupations and income levels, and bolstered businesses by reducing
26 workforce turnover. It was also noted that overall awareness of the program among those
27 most likely to utilize it was low, implying that utilization rates could be higher if
28 education and outreach were improved upon. Similar outcomes have been reported for
29 other cities and states.⁷⁻⁹

30
31 An analysis published by IMPAQ International, Inc. and the Institute for Women's Policy Research
32 summarizes a simulation of five paid family and medical leave model programs based on working
33 programs in three states and a federal proposal, all applied to the national workforce. The findings
34 suggest that expansion of FMLA laws, through covering more eligible workers, replacing a larger
35 percentage of usual earnings, and offering more weeks of paid leave would increase costs. If based
36 on any of the five models in the simulation, the cost for benefits would range from \$31 billion to
37 \$43 billion. This report also projects that a national paid family and medical leave policy,
38 depending on the type of expansion, would increase the amount of leave taken by 6 to 11 percent
39 annually.¹⁰

40
41 Some employer groups claim paid leave policies or policies that provide coverage for more
42 employees may burden and negatively impact employer operations.

43
44 When predicting employer reactions to programs, policies and benefits related to caregiving leaves
45 and child and elder care, the NSE research articulated four primary factors: (1) the demographics of
46 their workplace; (2) the demographics of the workforce; (3) financial health of the employer; and
47 (4) human resources issues such as the difficulty or ease of attracting and retaining employees as
48 well as the costs of employee benefits.

49
50 The attitude and approach of employers is fundamental to progress on a broad national approach to
51 paid parental leave. It is not atypical for employers to consider all four of these factors when

1 considering what benefits to offer their employees. As it relates to paid time off, some employers
2 are specific about how that time can be used (vacation, sick time). Other employers are more
3 flexible (“paid time off”), wherein the employer provides a bank of paid time off that employees
4 can use for any purpose. Employers typically review benefits offerings every year, with time off
5 being only one of a myriad of benefits being evaluated.

6
7 As noted above, recent changes in the federal tax code increased the child care tax credit up to
8 \$2000 per child. While it may be debatable whether the increase goes far enough, it is a positive
9 step forward toward the intent of Resolution 416 and supporting the child care efforts of people
10 with lower economic status.

11
12 While there has been recent publicity about proposals to have some type of child care financial
13 assistance by allowing people to draw down future Social Security benefits, it does not seem at
14 present that such proposals will receive meaningful consideration in Congress.

15 16 DISCUSSION

17
18 The Board’s review of existing research has demonstrated that despite positive health outcomes for
19 children being cared for by their parents, meaningful progress on national policy mandating paid
20 parental leave is unlikely in the near term. The necessary broad-based support of employers to
21 support such policy is simply not present at this point in time. Additionally, the anti-regulatory
22 views of the current Administration and political climate in Washington DC may not be ripe for
23 federal policy or action on paid family leave.

24
25 The first resolve of Resolution 416-A-17 asked the AMA to advocate for improved social and
26 economic support for paid family leave to care for newborns, infants and young children. The
27 Board of Trustees believes that there would be considerable challenges to pursuing a public policy
28 that would require employers to provide paid parental leave. Nevertheless, the Board believes that
29 HOD policy supporting paid parental leave for the care of children is good public policy. Policy H-
30 440.823 does support employer policies that allow employees to accrue paid time off and to use
31 such time to care for themselves or a family member. As noted earlier in this report, approximately
32 38 percent of employers currently offer paid parental leave for employees who are new parents.
33 Accordingly, the Board of Trustees also supports encouraging employers to offer and/or to expand
34 these types of policies. The Board believes that state medical associations should also be
35 encouraged to work with their state legislatures to establish and promote parental leave policies.

36
37 The second resolve of Resolution 416-A-17 asked the AMA to advocate for federal tax incentives
38 to support early child care and unpaid child care by extended family members. As previously noted
39 in this report, recent changes to Federal tax law have raised child care tax credits to a maximum of
40 \$2000 per child, beginning in 2018. The expense of paying extended family members to perform
41 child care can be considered in the calculation of this credit under certain circumstances.

42
43 *As noted in prior Board reports on paid parental leave proposals, there are several primary*
44 *sources that influence progress. The first is the general proposition that such policies are, in and of*
45 *themselves, the right thing to do for the betterment of public health as noted in the original*
46 *Resolution 416-A-17. The second and third would be governmental action at the state or federal*
47 *level either requiring or encouraging via incentives compliance with potentially new law or*
48 *regulations. The fourth is action by employers in making decisions on benefit offerings to their*
49 *employees.*

1 *It should be noted that there is little new additional research available to inform these issues*
2 *beyond that articulated in Board Report 27-A-18. However, at the federal level several new bills*
3 *have been introduced new Congress. The FAMILY Act, originally introduced in both the House*
4 *and Senate in 2017 has been reintroduced, but as of yet has support only from Democrats. HR*
5 *1185 has been introduced in the House with 178 Democratic co-sponsors. S 463 has been*
6 *introduced in the Senate with 34 Democratic cosponsors. No hearings have yet been scheduled on*
7 *any of the bills and none of them yet seem to have traction with Republicans.*

8
9 *Given that testimony at Reference Committee D suggested the possibility of going back to the*
10 *original language of Resolution 416 A-17, and the fact that there are competing proposals in*
11 *Congress the Board believes it prudent to support the original resolutions but also restate portions*
12 *of the Board's recommendations from BOT Report 27-A-18 and continue to study and monitor*
13 *developments as more specifics be available.*

14 15 RECOMMENDATIONS

16
17 Therefore, the Board of Trustees recommends that the following be adopted in lieu of Resolution
18 416-A-17 and the remainder of this report be filed.

- 19
20 1. That our AMA reaffirm Policy H-440.823, which recognizes the public health benefits of paid
21 sick leave and other discretionary paid time off, and supports employer policies that allow
22 employees to accrue paid time off and to use such time to care for themselves or a family
23 member. (Reaffirm HOD Policy)
24
25 2. That our AMA encourage employers to offer and/or expand paid parental leave policies. (New
26 HOD Policy)
27
28 3. That our AMA encourage state medical associations to work with their state legislatures to
29 establish and promote paid parental leave policies. (New HOD Policy).
30
31 4. *That our AMA advocate for improved social and economic support for paid family leave to*
32 *care for newborns, infants and young children (New HOD Policy).*
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34 5. *That our AMA advocate for federal tax incentives to support early child care and unpaid child*
35 *care by extended family members (New HOD Policy).*

Fiscal Note: Less than \$500.

REFERENCES

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