AMERICAN MEDICAL ASSOCIATION ORGANIZED MEDICAL STAFF SECTION (A-19)

Report of the OMSS Reference Committee

James Guo, MD, Chair

Your Reference Committee recommends the following consent calendar for acceptance:

RECOMMENDED FOR ADOPTION

1. Resolution 3 – EHR-Integrated PDMP Rapid Access
2. Resolution 6 – Gender Equity in Hospital Medical Staff Bylaws

RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED

3. Resolution 1 – Patient Medical Marijuana Use in Hospitals
4. Resolution 2 – Military Physician Reintegration into Civilian Practice
5. Resolution 4 – Restrictive Covenants of Large Health Care Systems
6. Resolution 5 – Abuse of Volume Based Metrics
7. Resolution 7 – Sensible Appropriate Use Criteria In Medicare
8. Governing Council Report A – OMSS Handbook Review: House of Delegates Resolutions & Reports
9. Governing Council Report AA – OMSS Position on Board of Trustees Report 13-A-19: Employed Physician Bill of Rights and Basic Practice Professional Standards
10. Governing Council Report BB – OMSS Position on Board of Trustees Report 32-A-19: Impact of High Capital Costs of Hospital EHRs on the Medical Staff
11. Governing Council Report CC – OMSS Position on Council on Medical Education Report 6-A-19: Study of Medical Student, Resident, and Physician Suicide
12. Governing Council Report DD – OMSS Position on Council on Medical Service Report 8-A-19: Group Purchasing Organizations and Pharmacy Benefit Manager Safe Harbor

(1) RESOLUTION 3 – EHR-INTEGRATED PDMP RAPID ACCESS

RECOMMENDATION:

Mister Speaker, your Reference Committee recommends that Resolution 3 be adopted and transmitted to the AMA House of Delegates for consideration at the 2019 AMA Annual Meeting.

Resolution 3 asks that our AMA advocate, at the state and national levels, to promote Prescription Drug Monitoring Program (PDMP) integration/access within Electronic Health Record workflows (of all developers/vendors) at no cost to the physician or other authorized health care provider.

Your Reference Committee heard limited testimony, all in support of Resolution 3. We therefore recommend that Resolution 3 be adopted and transmitted to the AMA House of Delegates for consideration at the 2019 Annual Meeting.

(2) RESOLUTION 6 – GENDER EQUITY IN HOSPITAL MEDICAL STAFF BYLAWS

RECOMMENDATION:

Mister Speaker, your Reference Committee recommends that Resolution 6 be adopted and transmitted to the AMA House of Delegates for consideration at the 2019 AMA Annual Meeting.

Resolution 6 asks that our AMA: (1) affirm that hospital medical staff bylaws should promote, and not impede, gender equity in their implementation; and (2) study existing hospital medical staff bylaws as to how they impact on issues of gender equity, directly or indirectly, and suggest any addition(s) to its model bylaws to assure this issue is properly addressed, and gender equity affirmed.

Testimony unanimously supported the intent of Resolution 6. An amendment was offered that would expand the scope of the resolution to ensure nondiscrimination on a broader level. While no instance of discrimination should be tolerated, recent events have illustrated a prominent need to focus on the fairness of treatment for physicians of all genders. Your Reference Committee concludes that a focus on gender equity, alone, is not only appropriate but essential in the current environment and therefore recommends adoption of Resolution 6 as written.

(3) RESOLUTION 1 – PATIENT MEDICAL MARIJUANA USE IN HOSPITALS

RECOMMENDATION:

Mister Speaker, your Reference Committee recommends that the following resolution be adopted in lieu of Resolution 1:

RESOLVED, That the OMSS Delegate be instructed to support the intent of AMA Resolution 414-A-19, Patient Medical Marijuana Use in Hospitals, and seek referral with report back at the 2019 Interim Meeting.

Resolution 1 asks that our AMA offer guidance to medical staffs regarding patient use of non-FDA approved medical marijuana and cannabinoids on hospital property, including product use and storage in patient rooms, nursing areas, and/or pharmacy, with report back at the 2019 Interim Meeting.

Your Reference Committee heard extensive testimony in support of the spirit of Resolution 1. However, a number of concerns were raised which highlight the complexities that surround this important issue. We agree and also note that an identical resolution has been submitted to the AMA House of Delegates for consideration at the 2019 Annual Meeting (Resolution 414, Patient Medical Marijuana Use in Hospitals, introduced by the Oklahoma delegation). We therefore recommend that in lieu of Resolution 1, the OMSS seek referral of Resolution 414 to address these concerns, with report back at the 2019 Interim Meeting.

(4) RESOLUTION 2 – MILITARY PHYSICIAN REINTEGRATION INTO CIVILIAN PRACTICE

RECOMMENDATION A:

Mister Speaker, your Reference Committee recommends that Resolution 2 be amended by addition and deletion to read as follows:

RESOLVED, That our American Medical Association develop recommendations to inform local credentialing bodies of pathways to assure competency of returning military veteran physicians and surgeons while facilitating the process~~, and/or streamlining requirements,~~ for them to return to civilian practice, without compromising patient care. (Directive to Take Action)

RECOMMENDATION B:

Mister Speaker, your Reference Committee recommends that Resolution 2 be adopted as amended and transmitted to the AMA House of Delegates for consideration at the 2019 AMA Annual Meeting.

Resolution 2 asks that our AMA develop recommendations to inform local credentialing bodies of pathways to assure competency of returning military veteran physicians and surgeons while facilitating the process, and/or streamlining requirements, for them to return to civilian practice.

Your Reference Committee heard impassioned and at times mixed testimony on Resolution 2. There was reasonable concern raised that the scope of this resolution is too narrow. Having listened to all testimony on the issue, including the author's testimony regarding his intent, we conclude that the scope of this resolution should not be broadened. We agree with the prevailing sentiment that the AMA ought to develop guidance that seeks to minimize certain difficulties that physicians may face specifically in returning to non-military practice without compromising patient care, and have offered a minor amendment that we believe helps clarify the intent of Resolution 2.

(5) RESOLUTION 4 – RESTRICTIVE COVENANTS OF LARGE HEALTH CARE SYSTEMS

RECOMMENDATION A:

Mister Speaker, your Reference Committee recommends that the first Resolve of Resolution 4 be amended by addition and deletion to read as follows:

RESOLVED, That our American Medical Association, through its Organized Medical Staff Section, educate medical students, physicians-in-training, and physicians entering into employment contracts with large health care system employers on the dangers of ~~these~~ aggressive restrictive covenants, including but not limited to the impact on patient choice and access to care (Directive to Take Action); and be it further

RECOMMENDATION B:

Mister Speaker, your Reference Committee recommends that second Resolve of Resolution 4 be amended by deletion to read as follows:

~~RESOLVED, That our AMA, through its legal counsel, review and update the AMA's official position on restrictive covenants. (Directive to Take Action)~~

RECOMMENDATION C:

Mister Speaker, your Reference Committee recommends that Resolution 4 be amended by addition of a new Resolve to read as follows:

RESOLVED, That our AMA study the impact that restrictive covenants have across all practice settings, including but not limited to the effect on patient access to health care, the physician-patient relationship, and physician autonomy. (Directive to Take Action)

RECOMMENDATION D:

Mister Speaker, your Reference Committee recommends that Resolution 4 be adopted as amended and transmitted to the AMA House of Delegates for consideration at the 2019 AMA Annual Meeting.

Resolution 4 asks that our AMA: (1) educate physicians entering into employment contracts with large health care system employers on the dangers of these aggressive restrictive covenants; and (2) through its legal counsel, review and update the AMA's official position on restrictive covenants.

Testimony generally supported the intent of Resolution 4. We agree with testimony suggesting that the AMA educate not only physicians about restrictive covenants but also medical students and physicians-in-training. Testimony also highlighted that the impact of restrictive covenants may vary widely and therefore requires further study. We offer amendments to that end.

(6) RESOLUTION 5 – ABUSE OF VOLUME BASED METRICS

RECOMMENDATION:

Mister Speaker, your Reference Committee recommends that the following resolution be adopted in lieu of Resolution 5 and transmitted to the AMA House of Delegates for consideration at the 2019 AMA Annual Meeting:

ECONOMIC DISCRIMINATION IN THE HOSPITAL PRACTICE SETTING

RESOLVED, That our American Medical Association actively oppose policies that limit a physician's access to hospital services based upon the number of referrals made, the number of procedures performed, or the use of hospital ancillary services.

Resolution 5 asks that our AMA vigorously oppose policies that, based on volume metrics, do not allow equivalent access to hospital services, OR time, access to facilities, units of care, or restricted support staff between hospital employed physicians and other non-owned physicians who are judged otherwise competent by training and performance.

Testimony unanimously supported the intent of Resolution 5, but there was concern about the comprehensibility of the language. We agree and recommend adoption of substitute language to simplify and concisely address this issue.

(7) RESOLUTION 7 – SENSIBLE APPROPRIATE USE CRITERIA IN MEDICARE

RECOMMENDATION A:

Mister Speaker, your Reference Committee recommends that Resolution 7 be amended by addition and deletion to read as follows:

RESOLVED, That AMA policy H-320.940, "Medicare's Appropriate Use Criteria Program," be amended by addition and deletion as follows:

Our AMA will continue to advocate to delay the effective date of the Medicare AUC Program until the Centers for Medicare & Medicaid Services can adequately address technical and workflow challenges with its implementation and any interaction between the Quality Payment Program (QPP) and the use of advanced diagnostic imaging appropriate use criteria, and support ~~legislation~~ regulatory change that resolves technical and workflow challenges and/or removes barriers to modifying or aligning the AUC Program and the QPP. (Modify HOD Policy)

RECOMMENDATION B:

Mister Speaker, your Reference Committee recommends that Resolution 7 be adopted as amended and transmitted to the AMA House of Delegates for consideration at the 2019 AMA Annual Meeting.

Resolution 7 seeks to amend AMA Policy H-320.940, "Medicare's Appropriate Use Criteria Program," by addition as follows: "Our AMA will continue to advocate to delay the effective date of the Medicare AUC Program until the Centers for Medicare & Medicaid Services can adequately address technical and workflow challenges with its implementation and any interaction between the Quality Payment Program (QPP) and the use of advanced diagnostic imaging appropriate use criteria, and support legislation that resolves technical and workflow challenges and/or removes barriers to modifying or aligning the AUC Program and the QPP."

Your Reference Committee heard mixed testimony on Resolution 7. While all testimony recognized the shortcomings of the Medicare AUC Program and the need for AMA action, there was confusion about the timeline for implementation (2020 vs 2021) and subsequently the most appropriate course of action. We have confirmed that while the regulations surrounding the Medicare AUC Program have indeed been finalized, the first year of implementation, beginning January 1, 2020, will be an education and operations testing period during which time claims will not be denied for failure to include proper AUC consultation information. Denial of claims would not occur before 2021. Given this timeline, we believe that regulatory change is still possible (and note that regulatory change could, but need not necessarily, be achieved via legislation). We offer a simple amendment to ensure all options remain available for AMA advocacy on this matter.

(8) GOVERNING COUNCIL REPORT A – OMSS HANDBOOK REVIEW: HOUSE OF DELEGATES RESOLUTIONS & REPORTS

RECOMMENDATION A:

Mister Speaker, your Reference Committee recommends that Recommendation 15 in GC Report A be amended by addition and deletion to read as follows:

15. That the OMSS Delegate be instructed to ~~oppose the intent~~ seek amendment of the first Resolve of Resolution 525-A-19 as follows:

RESOLVED, That our American Medical Association support those practices which are currently believed to be best practices with respect to ~~keeping patients with~~ neonatal abstinence syndrome ~~with their parents or legal guardians in the hospital throughout their treatment, as the patient's health and safety permits, through the implementation of rooming-in programs~~ (New HOD Policy); and be it further

RECOMMENDATION B:

Mister Speaker, your Reference Committee recommends that the recommendations in GC Report A be amended by addition of a new Recommendation 18 to read as follows:

18. That the OMSS Delegate be instructed to support the intent of Resolution 617-A-19, and seek amendment as follows:

~~DISABLED PHYSICIAN~~ ADVOCACY FOR PHYSICIANS WITH DISABILITIES

RESOLVED That our American Medical Association study and report back on eliminating stigmatization and enhancing inclusion of ~~disabled~~ physicians with disabilities including but not limited to:

(1) Enhancing representation of ~~disabled~~ physicians with disabilities within the AMA.
(2) Examining support groups, education, legal resources and any other means to increase the inclusion of physicians with disabilities in the AMA (Directive to Take Action); and be it further

RESOLVED That our AMA identify medical, professional and social rehabilitation, education, vocational training and rehabilitation, aid, counseling, placement services and other services which will enable ~~disabled~~ physicians with disabilities to develop their capabilities and skills to the maximum and will hasten the processes of their social and professional integration or reintegration~~.~~ (Directive to Take Action); and be it further

RESOLVED, That our AMA support programs that educate physicians with or without disabilities about legal rights of physicians, employees, and patients with disabilities to accommodation and freedom from discrimination.

RECOMMENDATION C:

Mister Speaker, your Reference Committee recommends that the recommendations in GC 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.

Report A includes the following recommendations:

1. That the OMSS Delegate be instructed to support the intent of Resolution 010-A-19.
2. That the OMSS Delegate be instructed to support the intent of Resolution 111-A-19.
3. That the OMSS Delegate be instructed to support the intent of Resolution 127-A-19.
4. That the OMSS Delegate be instructed to support the intent of Resolution 205-A-19.
5. That the OMSS Delegate be instructed to support the intent of Resolution 226-A-19.
6. That the OMSS Delegate be instructed to support the intent of Resolution 237-A-19.
7. That the OMSS Delegate be instructed to support the intent of Resolution 305-A-19.
8. That the OMSS Delegate be instructed to support the intent of Resolution 308-A-19.
9. That the OMSS Delegate be instructed to oppose the intent of Resolution 311-A-19.
10. That the OMSS Delegate be instructed to support the intent of Resolution 402-A-19.
11. That the OMSS Delegate be instructed to oppose the intent of Resolution 525-A-19.
12. That the OMSS Delegate be instructed to support the intent of BOT Report 10-A-19.
13. That the OMSS Delegate be instructed to support the intent of Resolution 612-A-19.
14. That the OMSS Delegate be instructed to support the intent of BOT Report 15-A-19.
15. That the OMSS Delegate be instructed to support the intent of CMS Report 7-A-19.
16. That the OMSS Delegate be instructed to support the intent of CMS Report 11-A-19.
17. That the OMSS Delegate be instructed to support the intent of Resolution 705-A-19.

Your Reference Committee heard a fair amount of testimony on Report A, which we outline below:

Testimony supported amendment of the Governing Council's recommendation on Resolution 525, Support for Rooming-in of Neonatal Abstinence Syndrome Patients with their Parents, that would allow OMSS to support the concepts contained in the resolution.

Testimony also supported the addition of a recommendation that the OMSS support the intent of Resolution 617, Disabled Physician Advocacy, with amendments to make the language more respectful of physicians with disabilities and to educate physicians about their related rights.

Your Reference Committee notes that the Governing Council offered no recommendation on Resolutions 209, 604, or 706. As no further testimony was offered in support or opposition of these resolutions, we have removed these resolutions from Governing Council Report A.

(9) GOVERNING COUNCIL REPORT AA – OMSS POSITION ON BOARD OF TRUSTEES REPORT 13-A-19: EMPLOYED PHYSICIAN BILL OF RIGHTS AND BASIC PRACTICE PROFESSIONAL STANDARDS

RECOMMENDATION A:

Mister Speaker, your Reference Committee recommends that the recommendation of GC Report AA be adopted.

Governing Council Report AA recommends that the OMSS Delegate be instructed to support the intent of the recommendations of BOT Report 13-A-19.

Your Reference Committee heard limited testimony in general support of Governing Council Report AA. While there was some discussion of the importance of balancing "rights" with "responsibilities," we note that despite its title (which is a vestige of the resolution to which the report responds), BOT Report 13 does not actually recommend adoption of a "bill of rights." We therefore recommend that the recommendation in GC Report AA be adopted as presented.

(10) GOVERNING COUNCIL REPORT BB – OMSS POSITION ON BOARD OF TRUSTEES REPORT 32-A-19: IMPACT OF HIGH CAPITAL COSTS OF HOSPITAL EHRS ON THE MEDICAL STAFF

RECOMMENDATION A:

Mister Speaker, your Reference Committee recommends that the recommendation in GC Report BB be amended by addition and deletion to read as follows:

The Governing Council recommends that the OMSS Delegate be instructed to ~~support the intent of the recommendations~~ seek referral of BOT Report 32-A-19, with a report back at the 2019 Interim Meeting that addresses the impact of the high capital costs of hospital EHRs on small, non-hospital employed physicians.

Governing Council Report BB recommends that the OMSS Delegate be instructed to support the intent of the recommendations of BOT Report 32-A-19.

Testimony expressed frustration with BOT Report 32, and suggested that the report does not fully address the issues raised in the original OMSS-sponsored resolution—in particular, the impact of the high capital costs of hospital EHRs on small, non-hospital based physicians. We agree and recommend that OMSS seek referral of BOT Report 32 so that this important matter may be addressed.

(11) GOVERNING COUNCIL REPORT CC – OMSS POSITION ON COUNCIL ON MEDICAL EDUCATION REPORT 6-A-19: STUDY OF MEDICAL STUDENT, RESIDENT, AND PHYSICIAN SUICIDE

RECOMMENDATION:

Mister Speaker, your Reference Committee recommends that the recommendation in GC Report CC be amended by addition to read as follows:

The Governing Council recommends that the OMSS Delegate be instructed to support the intent of the recommendations of CME Report 6-A-19, and seek amendment of Recommendation 4 by addition of a time-certain for report back (2020 Annual Meeting).

Governing Council Report CC recommends that the OMSS Delegate be instructed to support the intent of the recommendations of CME Report 6-A-19.

Testimony supported the intent of CME Report 6, but suggested that the AMA study called for by Recommendation 4 should be completed within a reasonable timeframe. We therefore recommend that OMSS seek amendment of that recommendation to require report back at the 2020 Annual Meeting.

(12) GOVERNING COUNCIL REPORT DD – OMSS POSITION ON COUNCIL ON MEDICAL SERVICE REPORT 8-A-19: GROUP PURCHASING ORGANIZATIONS AND PHARMACY BENEFIT MANAGER SAFE HARBOR

RECOMMENDATION:

Mister Speaker, your Reference Committee recommends that the recommendation in GC Report DD be amended by addition to read as follows:

The Governing Council recommends that the OMSS Delegate be instructed to support the intent of the recommendations of CMS Report 8-A-19, and seek amendment by the addition of a new Recommendation 6:

6. That our AMA collaborate with medical specialty partners, patient advocacy groups, and other stakeholders to seek repeal of the 2003 Safe Harbor protection to the Medicare Anti-Kickback Statute for Pharmacy Benefit Managers. (Directive to Take Action)

Governing Council Report DD recommends that the OMSS Delegate be instructed to support the intent of the recommendations of CMS Report 8-A-19.

While testimony generally supported the intent of CMS Report 8, many suggested that the report should have gone further and recommended that AMA seek repeal of safe harbor protections for pharmacy benefit managers. We agree and recommend that the OMSS seek such amendment to CMS Report 8.

Mr. Speaker, this concludes the report of the OMSS Reference Committee. I would like to thank Jeffrey Brackett, MD, Christopher Garofalo, MD, Woody Jenkins, MD, Nancy Mueller, MD, and all those who testified before the Committee.

Jeffrey Brackett, MD

Nancy Mueller, MD

Christopher Garofalo, MD

James Guo, MD
Chair

Woody Jenkins, MD