

## AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 208  
(I-19)

Introduced by: Medical Student Section

Subject: Net Neutrality and Public Health

Referred to: Reference Committee B

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Whereas, Net neutrality is the principle that Internet Service Providers (ISPs) should treat all content on the internet equally, without discriminating based on the content provided<sup>1</sup>; and

Whereas, In 2010, the Open Internet Order was passed by the FCC, which revolved around three basic tenets: transparency, no blocking and no unreasonable discrimination<sup>1</sup>; and

Whereas, In 2015, the FCC voted to reclassify broadband internet services as telecommunication services under Title II of the Communications Act, thereby subjecting services to more stringent regulation including bans on content throttling and paid prioritization; and

Whereas, Bandwidth throttling occurs when ISPs intentionally slow down the speed of a specific internet service<sup>3</sup>; and

Whereas, Paid prioritization occurs when ISPs provide faster internet services to companies who are willing to pay more based off a tiered system for data delivery speed<sup>3</sup>; and

Whereas, In December 2017, the FCC voted to reverse its prior decision and subsequently passed the Restoring Internet Freedom Initiative,<sup>4</sup> which removed the classification of broadband services as a telecommunication platform in Title II; and

Whereas, In 2019, the Save the Internet Act of 2019 was introduced in the House of Representatives<sup>6</sup> and if passed, the bill would reverse the Restoring Internet Freedom Initiative of 2017; and

Whereas, Advocates for the Restoring Internet Freedom Initiative argue that the repeal of net neutrality will promote investment and broadband implementation<sup>4</sup>; and

Whereas, Advocates of the Save the Internet Act express concern that the repeal of net neutrality may stifle competition and give ISPs a disproportionate amount of control over internet access and its functions<sup>3</sup>; and

Whereas, Existing AMA policy generally promotes increasing patient access to electronic health data, encouraging innovation and competition amongst technology vendors, and removing barriers to internet-based care; and

Whereas, The AMA supports increasing patient access to healthcare information and encourages innovation and competition in electronic healthcare; and

1 Whereas, The repeal of net neutrality could allow companies to place limits on how, where, and  
2 when patients and providers are able to access this healthcare data and allow companies to  
3 pursue policies that lessen both innovation and competition in healthcare technology, or  
4 increase the cost of healthcare delivery, thus negatively impacting both providers and patients;  
5 and  
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7 Whereas, Repealing net neutrality creates the possibility that internet service providers could  
8 potentially begin charging an additional fee to transmit health data which could add significant  
9 costs that may ultimately be passed on to patients, and potentially further cripple the fiscal  
10 viability of Medicare and Medicaid; and  
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12 Whereas, A non-neutral internet has the potential to raise the barrier of entry for new firms  
13 wishing to operate in the healthcare space and to disrupt the natural process of innovation by  
14 placing established, well-funded companies at an inherent advantage over those which are  
15 smaller and less funded; and  
16

17 Whereas, The potential exists for internet service providers to establish “fast lanes” which would  
18 prioritize delivery of specific data over that of others; and  
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20 Whereas, In a non-neutral internet, there would be no compelling force to stop an ISP from  
21 giving preference to traffic related to its own companies or services over those of competing  
22 firms; and  
23

24 Whereas, Hospitals could be charged a premium to access these premium networks and costs  
25 could potentially get passed on to patients; and  
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27 Whereas, Patients, healthcare providers, insurance companies, and taxpayers could face fewer  
28 options, lower quality service, and higher costs; and  
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30 Whereas, The FCC has yet to make a statement on how a non-neutral internet would  
31 specifically impact telehealth and there are no current guidelines or rules from the FCC that will  
32 ensure affordability and accessibility of telemedicine; and  
33

34 Whereas, Although the FCC argued in defense of the net neutrality repeal stating that paid  
35 prioritization would benefit latency-sensitive telemedicine, these technologies were already  
36 specifically highlighted as eligible for paid prioritization waivers under the previous Open  
37 Internet ruling<sup>14</sup>; and  
38

39 Whereas, Paid prioritization has the potential to further drive up cost requirements for mobile  
40 health, thus becoming prohibitive for many app developers and users; therefore be it  
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42 RESOLVED, That our American Medical Association advocate for policies that ensure internet  
43 service providers transmit essential healthcare data no slower than any other data on that  
44 network (Directive to Take Action); and be it further  
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46 RESOLVED, That our AMA collaborate with the appropriate governing bodies to develop  
47 guidelines for the classification of essential healthcare data requiring preserved transmission  
48 speeds (Directive to Take Action); and be it further  
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50 RESOLVED, That our AMA oppose internet data transmission practices that reduce market  
51 competition in the health ecosystem. (Directive to Take Action)

Fiscal Note: not yet determined

Date Received: 10/01/19

**References:**

1. FCC Releases Open Internet Order. Federal Communications Commission. <https://www.fcc.gov/document/fcc-releases-open-internet-order>. Published December 9, 2015. Accessed April 5, 2019.
2. Svensson P. Comcast blocks some Internet traffic. msnbc.com. [http://www.nbcnews.com/id/21376597/ns/technology\\_and\\_science-internet/t/comcast-blocks-some-internet-traffic/](http://www.nbcnews.com/id/21376597/ns/technology_and_science-internet/t/comcast-blocks-some-internet-traffic/). Published October 19, 2007. Accessed March 15, 2019.
3. Ma RTB, Wang J, Chiu DM. Paid Prioritization and Its Impact on Net Neutrality. *IEEE J Sel Areas Commun*. 2017;35(2):367-379. doi:10.1109/JSAC.2017.2659020
4. Restoring Internet Freedom. Federal Communications Commission. <https://www.fcc.gov/restoring-internet-freedom>. Published June 12, 2017. Accessed March 15, 2019.
5. Gilroy AA. The Net Neutrality Debate: Access to Broadband Networks. :29.
6. Doyle MF. Actions - H.R.1644 - 116th Congress (2019-2020): Save the Internet Act of 2019. <https://www.congress.gov/bill/116th-congress/house-bill/1644/all-actions>. Published March 26, 2019. Accessed March 31, 2019.
7. Medicare C for, Baltimore MS 7500 SB, Usa M. NationalHealthAccountsProjected. <https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/nationalhealthexpenddata/nationalhealthaccountsprojected.html>. Published February 26, 2019. Accessed April 5, 2019.
8. Greenstein S, Peitz M, Valletti T. Net Neutrality: A Fast Lane to Understanding the Trade-Offs. *J Econ Perspect*. 2016;30(2):127-150. doi:10.1257/jep.30.2.127
9. Chairman Pai at Project GOAL's Conference on "Aging and Technology." Federal Communications Commission. <https://www.fcc.gov/document/chairman-pai-project-goals-conference-aging-and-technology>. Published November 30, 2017. Accessed April 5, 2019.
10. FCC's Ajit Pai talks proposed \$100M connected care pilot, rural telehealth funding, opioid epidemic initiatives | MobiHealthNews. <https://www.mobihealthnews.com/content/fccs-ajit-pai-talks-proposed-100m-connected-care-pilot-rural-telehealth-funding-opioid>. Accessed April 5, 2019.
11. Chairman Pai Discusses FCC's Telehealth Work at Boston Conference. Federal Communications Commission. <https://www.fcc.gov/document/chairman-pai-discusses-fccs-telehealth-work-boston-conference>. Published October 18, 2018. Accessed April 5, 2019.
12. Newsroom - Consumer Sentiment Survey 2018. <https://newsroom.uhc.com/consumer-sentiment-survey-2018.html>. Accessed April 5, 2019.
13. WHO Global Observatory for eHealth. *MHealth: New Horizons for Health through Mobile Technologies*. Geneva: World Health Organization; 2011.
14. Federal Register. (2019). *Protecting and Promoting the Open Internet*. [online] Available at: <https://www.federalregister.gov/documents/2015/04/13/2015-07841/protecting-and-promoting-the-open-internet> [Accessed 7 Aug. 2019].

**RELEVANT AMA POLICY:**

**Health Information Technology Principles H-478.981**

Our AMA will promote the development of effective electronic health records (EHRs) in accordance with the following health information technology (HIT) principles. Effective HIT should:

1. Enhance physicians ability to provide high quality patient care;
2. Support team-based care;
3. Promote care coordination;
4. Offer product modularity and configurability;
5. Reduce cognitive workload;
6. Promote data liquidity;
7. Facilitate digital and mobile patient engagement; and
8. Expedite user input into product design and post-implementation feedback.

Our AMA will AMA utilize HIT principles to:

1. Work with vendors to foster the development of usable EHRs;
2. Advocate to federal and state policymakers to develop effective HIT policy;
3. Collaborate with institutions and health care systems to develop effective institutional HIT policies;
4. Partner with researchers to advance our understanding of HIT usability;
5. Educate physicians about these priorities so they can lead in the development and use of future EHRs that can improve patient care; and
6. Promote the elimination of Information Blocking.

Our AMA policy is that the cost of installing, maintaining, and upgrading information technology should be specifically acknowledged and addressed in reimbursement schedules.

Citation: BOT Rep. 19, A-18; Reaffirmation: A-19;

#### **Promoting Internet-Based Electronic Health Records and Personal Health Records D-478.979**

Our American Medical Association will advocate for the Centers for Medicare & Medicaid Services (CMS) to evaluate the barriers and best practices for those physicians who elect to use a patient portal or interface to a personal health record (PHR) and will work with CMS to educate physicians about the barriers to PHR implementation, how to best minimize risks associated with PHR use and implementation, and best practices for physician use of a patient portal or interface to a PHR.

Citation: (BOT Rep. 11, I-11)

#### **Increasing Access to Broadband Internet to Reduce Health Disparities H-478.980**

Our AMA will advocate for the expansion of broadband and wireless connectivity to all rural and underserved areas of the United States while at all times taking care to protecting existing federally licensed radio services from harmful interference that can be caused by broadband and wireless services.

Citation: Res. 208, I-18;

#### **Innovation to Improve Usability and Decrease Costs of Electronic Health Record Systems for Physicians D-478.976**

1) Our AMA will: (A) advocate for CMS and the Office of the National Coordinator (ONC) to support collaboration between and among proprietary and open-source EHR developers to help drive innovation in the marketplace; (B) continue to advocate for research and physician education on EHR adoption and design best practices specifically concerning key features that can improve the quality, safety, and efficiency of health care regardless of proprietary or open-source status; and (C) through its partnership with AmericanEHR Partners, continue to survey physician use and issues with various EHRs--open source and proprietary--to create more transparency and support more informed decision making in the selection of EHRs.

2) Our AMA will, through partnership with AmericanEHR Partners, continue to survey physician use and issues with various EHRs--open source and proprietary--to create more transparency and formulate more formal decision making in the selection of EHRs.

3) Our AMA will work with AmericanEHR Partners to modify the current survey to better address the economics of EHR use by physicians including the impact of scribes.

4) Our AMA will make available the findings of the AmericanEHR Partners' survey and report back to the House of Delegates.

Citation: BOT Rep. 23, A-13; BOT Rep. 24, A-13; Reaffirmed: BOT Rep. 17, A-15; Appended: Res. 603, I-16; Modified: BOT Rep. 20, A-17;

#### **Opposition to Nationalized Health Care H-165.985**

Our AMA reaffirms the following statement of principles as a positive articulation of the Association's opposition to socialized or nationalized health care:

(1) Free market competition among all modes of health care delivery and financing, with the growth of any one system determined by the number of people who prefer that mode of delivery, and not determined by preferential federal subsidy, regulations or promotion.

(2) Freedom of patients to select and to change their physician or medical care plan, including those patients whose care is financed through Medicaid or other tax-supported programs, recognizing that in the choice of some plans the patient is accepting limitations in the free choice of medical services.

(3) Full and clear information to consumers on the provisions and benefits offered by alternative medical care and health benefit plans, so that the choice of a source of medical care delivery is an informed one.

(4) Freedom of physicians to choose whom they will serve, to establish their fees at a level which they believe fairly reflect the value of their services, to participate or not participate in a particular insurance plan or method of payment, and to accept or decline a third party allowance as payment in full for a service.

(5) Inclusion in all methods of medical care payment of mechanisms to foster increased cost awareness by both providers and recipients of service, which could include patient cost sharing in an amount which does not preclude access to needed care, deferral by physicians of a specified portion of fee income, and voluntary professionally directed peer review.

(6) The use of tax incentives to encourage provision of specified adequate benefits, including catastrophic expense protection, in health benefit plans.

(7) The expansion of adequate health insurance coverage to the presently uninsured, through formation of insurance risk pools in each state, sliding-scale vouchers to help those with marginal incomes purchase pool coverage, development of state funds for reimbursing providers of uncompensated care,

and reform of the Medicaid program to provide uniform adequate benefits to all persons with incomes below the poverty level.

(8) Development of improved methods of financing long-term care expense through a combination of private and public resources, including encouragement of privately prefunded long-term care financing to the extent that personal income permits, assurance of access to needed services when personal resources are inadequate to finance needed care, and promotion of family caregiving.

Citation: BOT Rep. U, I-88; Reaffirmed: BOT Rep. 40, I-93; Reaffirmed: Sub. Res. 110, A-94; Reaffirmed: CMS Rep. 7, I-97; Reaffirmed by CMS Rep. 9, A-98; Reaffirmed: CMS Rep. 4, A-99; Reaffirmation I-07; Modified: CMS Rep. 8, A-08; Reaffirmed in lieu of Res. 813, I-08; Reaffirmation A-09; Reaffirmed in lieu of Res. 112, A-09; Reaffirmation A-11; Reaffirmed: Res. 239, A-12; Modified: Speakers Rep., A-14; Reaffirmed: CMS Rep. 09, A-19;

#### **Information Technology Standards and Costs D-478.996**

1. Our AMA will: (a) encourage the setting of standards for health care information technology whereby the different products will be interoperable and able to retrieve and share data for the identified important functions while allowing the software companies to develop competitive systems; (b) work with Congress and insurance companies to appropriately align incentives as part of the development of a National Health Information Infrastructure (NHII), so that the financial burden on physicians is not disproportionate when they implement these technologies in their offices; (c) review the following issues when participating in or commenting on initiatives to create a NHII: (i) cost to physicians at the office-based level; (ii) security of electronic records; and (iii) the standardization of electronic systems; (d) continue to advocate for and support initiatives that minimize the financial burden to physician practices of adopting and maintaining electronic medical records; and (e) continue its active involvement in efforts to define and promote standards that will facilitate the interoperability of health information technology systems.

2. Our AMA advocates that physicians: (a) are offered flexibility related to the adoption and use of new certified Electronic Health Records (EHRs) versions or editions when there is not a sufficient choice of EHR products that meet the specified certification standards; and (b) not be financially penalized for certified EHR technology not meeting current standards.

Citation: Res. 717, A-04; Reaffirmation, A-05; Appended: Sub. Res. 707, A-06; Reaffirmation A-07; Reaffirmed in lieu of Res. 818, I-07; Reaffirmed in lieu of Res. 726, A-08; Reaffirmation I-08; Reaffirmation I-09; Reaffirmation A-10; Reaffirmation I-10; Reaffirmed: Res. 205, A-11; Reaffirmed in lieu of Res. 714, A-12; Reaffirmed in lieu of Res. 715, A-12; Reaffirmed in lieu of Res. 724, A-13; Reaffirmation I-13; Reaffirmation A-14; Reaffirmed: BOT Rep. 03, I-16; Reaffirmed: BOT Rep. 05, I-16; Appended: Res. 204, I-17; Reaffirmation: I-17; Reaffirmed: BOT Rep. 45, A-18; Reaffirmed: BOT Rep. 19, A-18; Reaffirmation: A-19;