

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES (A-23)

Report of the Organized Medical Staff Section Reference Committee

Cristopher Gribbin, MD, Chair

1 Your Reference Committee recommends the following consent calendar for acceptance:

2 3 4 **RECOMMENDED FOR ADOPTION**

- 5
6 1. Resolution 4 – Rural Hospital Payment Models
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8 **RECOMMENDED FOR ADOPTION AS AMENDED**

- 9
10 2. Resolution 5 – Advocate to The Joint Commission to Redefine the Term
11 “Provider”
12 3. Resolution 11 – Establishing a Formal Definition of “Employed Physician”
13

14 **RECOMMENDED FOR ADOPTION IN LIEU OF**

- 15
16 4. Resolution 3 – Supporting Efforts to Strengthen Medical Staffs Through
17 Collective Bargaining and/or Unionization
18 Resolution 6 – Enabling Physician Advocacy
19

20 **RECOMMENDED FOR REFERRAL**

- 21
22 5. Resolution 1 – Ensuring Medical Staff Leaders Can Continue in Elected
23 Leadership Positions Whether or Not They Continue to Have Contact With the
24 Medical Facility
25 6. Resolution 7 – Advocacy Education Towards a Sustainable Medical Care System
26 7. Resolution 10 – Managing Conflict of Interest Inherent in New Payment Models—
27 Patient Disclosure
28

29 **RECOMMENDED FOR REAFFIRMATION**

- 30
31 8. Resolution 2 – Active AMA Involvement in Legislation That is Potentially Harmful
32 to Physicians and Patients in States
33 9. Resolution 9 – Reducing the Risk of Danger Associated With E-Scooters
34

35 **RECOMMENDED FOR NOT ADOPTION**

- 36
37 10. Resolution 8 – The Economics of Prior Authorization

RECOMMENDED FOR ADOPTION

(1) RESOLUTION 4 – RURAL HOSPITAL PAYMENT
MODELS

RECOMMENDATION A:

Resolution 4 be adopted.

RECOMMENDATION B:

**Resolution 4 be immediately forwarded for
consideration at the 2023 Annual Meeting of the AMA
House of Delegates.**

RESOLVED, That our American Medical Association urgently collaborate with appropriate stakeholders to protect health care delivery in underserved, rural communities and work to preserve the economic viability of rural sole community hospitals which are the primary lines of healthcare defense in rural America (Directive to Take Action); and be it further

RESOLVED, That our AMA study alternative rural hospital payment models for feasibility, including a patient-centered payment model and standby capacity payments for essential services, in helping preserve rural community hospitals financially and preserving access to care for patients (Directive to Take Action); and be it further

RESOLVED, that our AMA reaffirms policies H-465.979, H-200.972, H-465.990, and H-465.994 (Directive to Take Action).

Your Reference Committee heard near universal support from members in the Online Forum for Resolution 4. The consensus from both online testimony and the Committee at large was that the issues are timely and significant and that the AMA has a role to play positioning itself as a leader in this area, being proactive rather than reactive. Thus, the Committee agrees that Resolution 4 should be adopted and immediately advanced to the House of Delegates for consideration at the Annual Meeting.

RECOMMENDED FOR ADOPTION AS AMENDED

- (2) RESOLUTION 5 – ADVOCATE TO THE JOINT
COMMISSION TO REDEFINE THE TERM “PROVIDER”

RECOMMENDATION A:

The first resolve in Resolution 5 be amended by addition and deletion to read as follows:

RESOLVED, That our American Medical Association ~~advocate to The Joint Commission to redefine the term “provider” in their revised glossary as to separate “licensed individuals” and “organizations” and should not use the term “provider” when referring to physicians~~ convene a meeting with the Centers for Medicare and Medicaid Services (CMS) and The Joint Commission (TJC) to discuss the definition of terms used in CMS Conditions of Participation and in TJC Standards (Directive to Take Action); and be it further

RECOMMENDATION B:

The second resolve in Resolution 5 be amended by addition to read as follows:

RESOLVED, That our American Medical Association encourage the Centers for Medicare and Medicaid Services and The Joint Commission to not delete the term and definition of “licensed independent practitioner” (Directive to Take Action); and be it further

RECOMMENDATION C:

Resolution 5 be amended by addition of a new third resolve to read as follows:

RESOLVED, That in all rules and regulations and legislation, use of the term “providers” not be used to refer to “physicians” as is consistent with AMA Policy H-405.968 (Directive to Take Action).

RECOMMENDATION D:

The title of Resolution 5 be changed to read as follows:

“Advocate to the Centers for Medicare and Medicaid Services and The Joint Commission to Redefine the Term “Provider” and Not Delete the Term “Licensed Independent Practitioner” ”

RECOMMENDATION E:

Resolution 5 be adopted as amended.

RECOMMENDATION F:

Resolution 5 be immediately forwarded for consideration at the 2023 Annual Meeting of the AMA House of Delegates.

RESOLVED, That our American Medical Association advocate to The Joint Commission to redefine the term “provider” in their revised glossary as to separate “licensed individuals” and “organizations” and should not use the term “provider” when referring to physicians (Directive to Take Action); and be it further

RESOLVED, that our AMA encourage The Joint Commission to not delete the term and definition of “licensed independent practitioner” (Directive to Take Action).

Your Reference Committee heard testimony strongly in support of Resolution 5 with many members echoing the importance of making distinctions between physicians and other members of the healthcare team for the safety and security of patients. The author of the resolution requested amendments to the original resolve clauses due to an evolving understanding of where the responsibility for terms in The Joint Commission glossary lies. It is the understanding of the author, on the authority of TJC commissioners, that TJC is limited in its ability to make these changes on its own and that the authority for doing so rests with the Centers for Medicare and Medicaid Services instead. In light of that understanding, the Committee agreed that the author’s proposed changes to both resolve clauses and the title of Resolution 5 are appropriate and better position it to accomplish its goals.

- (3) RESOLUTION 11 – ESTABLISHING A FORMAL
DEFINITION OF “EMPLOYED PHYSICIAN”

RECOMMENDATION A:

The resolve in Resolution 11 be amended by addition and deletion to read as follows:

RESOLVED, That our American Medical Association adopt the following as its definition of “employed physician”:

An employed physician is any physician, not in training, who derives compensation, financial or otherwise, from a contractual relationship with a practice, hospital, or other funding entity and has no ~~governance or direct~~ controlling ~~role~~ interest in the entity” (New HOD Policy).

RECOMMENDATION B:

Resolution 11 be adopted as amended.

RECOMMENDATION C:

**Resolution 11 be immediately forwarded for
consideration at the 2023 Annual Meeting of the AMA
House of Delegates.**

RESOLVED, That our American Medical Association adopt the following as its definition of “employed physician”:

An employed physician is any physician, not in training, who derives compensation, financial or otherwise, from a contractual relationship with a practice, hospital, or other funding entity and has no governance or controlling role in the entity” (New HOD Policy).

Your Reference Committee heard unanimous support for Resolution 11 with a particular recognition on the difficult nature of defining “employed” in the context of the practice of medicine. The Committee found itself in agreement with testimony provided, though it also struggled with how best to represent employment in a definition. Understanding that much work has gone into crafting the proffered definition, the Committee wondered how it would apply to members of a medical staff that work for a facility but retain a level of leadership within it. A possible example of this could be a physician who is president of the medical staff and/or a member of the board of trustees who is also paid to practice within the facility. The Committee wondered if the existing definition might exclude such staff leadership and, if so, if a solution may be to soften the clause in the definition around maintaining a governance role in the healthcare facility. The Committee was also not uniformly in agreement that the existing language was inadequate, however it did agree that putting forward the offered amendments for the consideration of the OMSS as a whole would be valuable.

RECOMMENDED FOR ADOPTION IN LIEU OF

(4) RESOLUTION 3 – SUPPORTING EFFORTS TO
STRENGTHEN MEDICAL STAFFS THROUGH
COLLECTIVE BARGAINING AND/OR UNIONIZATION

RESOLUTION 6 – ENABLING PHYSICIAN ADVOCACY

RECOMMENDATION A:

Alternate Resolution 3 be adopted in lieu of Resolutions 3 and 6.

SUPPORTING EFFORTS TO STRENGTHEN MEDICAL STAFFS THROUGH
COLLECTIVE BARGAINING AND/OR UNIONIZATION

RESOLVED, That our American Medical Association reevaluate the various efforts
to achieve collective bargaining an/or unionization for physicians nationally
(Directive to Take Action); and be it further

RESOLVED, That our American Medical Association dedicate resources to
making collective bargaining and/or unionization for physicians a reality as soon
as possible (Directive to Take Action); and be it further

RESOLVED, That our American Medical Association review the advisory
restricting collective action in Section 1.2.10 of its Code of Medical Ethics to allow
for more flexibility on the part of physicians who have exhausted other non-
disruptive methods for reform (Directive to Take Action).

RECOMMENDATION B:

Alternate Resolution 3 be immediately forwarded for consideration at the 2023 Annual Meeting of the AMA House of Delegates.

Resolution 3 – Supporting Efforts to Strengthen Medical Staffs Through Collective Bargaining and/or Unionization

RESOLVED, That our American Medical Association actively supports the various efforts
to achieve collective bargaining and/or unionization for physicians nationally (New HOD
Policy); and be it further

RESOLVED, that our AMA dedicate significant resources to making collective bargaining
and/or unionization for physicians a reality as soon as possible (Directive to Take Action).

Resolution 6 – Enabling Physician Advocacy

RESOLVED, That our American Medical Association review the advisory restricting
collective action in section 1.2.10 of its Code of Medical Ethics to allow for more flexibility
on the part of physicians who have exhausted other non-disruptive methods for reform
(Directive to Take Action).

1
2 Your Reference Committee heard substantial testimony regarding Resolution 3.
3 Testimony broadly supported the concept of allowing the AMA to find greater support for
4 and investment in strategies surrounding collective bargaining and/or unionization for
5 physicians. Several members testified that it was their belief that AMA support for
6 collective action on the part of physicians was currently inadequate and that a change
7 was necessary. Members also testified that the resolution, as written, could create
8 unintended legal consequences as well as that the larger AMA membership may feel
9 differently about collective action depending upon the kind of work setting any given
10 physician practices in.

11
12 Testimony for Resolution 6 was not as robust as Resolution 3, but was uniformly
13 supportive. Members endorsed the idea that the time is ripe for a re-evaluation of what
14 the ethical obligations are for a physician when it comes to affecting change in the
15 workplace, particularly as that effort seeks to improve healthcare delivery for patients but
16 also runs the risk of placing temporary barriers to it.

17
18 After reviewing testimony, the Committee believed that a sense of core principles
19 surrounding collective action for physicians has yet to be developed, but that the need
20 for such principles is significant. The Committee acknowledged that the AMA already
21 has standing policy that addresses these issues, but upon review found that the policy
22 does not encompass the directives in Resolutions 3 and 6. It was the sense of the
23 Committee that it is an appropriate time to review these policies and consider expanding
24 them. To better meet that obligation, the Committee believed that Resolutions 3 and 6
25 should be merged to not only improve their likelihood of passage at the House of
26 Delegates but also to streamline their collective efforts.

27
28 The Committee is aware that the issue of collective action is a broad one, both in terms
29 of how AMA members feel about it and in terms of what actions, specifically, are
30 included under the umbrella of “collective action.” Terms like “collective bargaining” and
31 “unionization” may not fully describe the suite of possibilities that could be open to
32 physicians in an ethical and practical manner. At the same time, the need for guidance
33 on this issue is growing. It is with that understanding that the Committee recommends
34 that Alternate Resolution 3, composed of resolve clauses taken from Resolution 3 and
35 Resolution 6 with some slight alteration, be adopted and immediately forwarded to the
36 House of Delegates for consideration at the Annual 2023 meeting.

RECOMMENDED FOR REFERRAL

- (5) RESOLUTION 1 – ENSURING MEDICAL STAFF
LEADERS CAN CONTINUE IN ELECTED LEADERSHIP
POSITIONS WHETHER OR NOT THEY CONTINUE TO
HAVE CONTACT WITH THE MEDICAL FACILITY

RECOMMENDATION:

Resolution 1 be referred.

RESOLVED, That our American Medical Association will make clear and inform medical staffs everywhere that their bylaws need to be updated to reflect that elected medical staff leaders must be allowed to serve out their term as leaders of the medical staff, whether their contract(s) with the facility get renewed (Directive to Take Action).

Your Reference Committee heard testimony supporting Resolution 4, though also asking for greater clarity given the complexity of the issue. Testimony reflected that the directive as currently written could apply to physicians in some cases but not in others due to a variety of factors including contractual obligations, state and local law, and other details. Given the strong support for Resolution 1 in general, but agreeing with the need for greater clarity and specificity, the Committee recommends Resolution 1 be referred to the OMSS Governing Council for study and report back to the Section at Interim 2023.

- (6) RESOLUTION 7 – ADVOCACY EDUCATION TOWARDS
A SUSTAINABLE MEDICAL CARE SYSTEM

RECOMMENDATION:

Resolution 7 be referred.

RESOLVED, That our American Medical Association accelerate advocacy efforts via educational actions directed towards the general population, medical students, residents, and fellows (Directive to Take Action); and be it further

RESOLVED, That our AMA sponsor development of text, oral, and video presentations about the state of health care and the avenues for advocacy suitable for wide dissemination (Directive to Take Action); and be it further

RESOLVED, That our AMA expand direct to the public advocacy efforts (Directive to Take Action); and be it further

RESOLVED, That our AMA encourage the American Association of Medical Colleges to add education in advocacy to curricula at its member medical colleges (Directive to Take Action); and be it further

RESOLVED, That our AMA encourage residency and fellowship programs to incorporate advocacy education into their programs (Directive to Take Action).

1
2 Your Reference Committee heard generally supportive testimony for Resolution 7.
3 Members particularly supported the concept that advocacy be better engrained in
4 physician education and that the AMA dedicate itself to promoting advocacy not only as
5 a tool for physicians to use but a skill to be developed. The Committee believed however
6 that more specificity is likely warranted; advocacy requires focus and targeting and the
7 Committee would have liked to have seen some outlining of what specific advocacy
8 goals should be targeted, otherwise it worries that advocacy efforts will become too
9 generalized and risk losing their impact. Given the strong support for Resolution 7 but
10 the sense that more specificity would benefit the ultimate goals, the Committee
11 recommends Resolution 7 be referred to the OMSS Governing Council for advice and a
12 report back to the Section at Interim 2023.
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15 (7) RESOLUTION 10 – MANAGING CONFLICT OF
16 INTEREST INHERENT IN NEW PAYMENT MODELS—
17 PATIENT DISCLOSURE
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19 **RECOMMENDATION:**
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21 **Resolution 10 be referred.**
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23 RESOLVED, That our American Medical Association seek legislation requiring complete
24 disclosure of potential conflicts of interest by:
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- 26 1. All insurance plans: Medicare (Medicare Advantage), Medicaid, and commercial
27 insurers;
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29 2. Employers of physicians (for example, accountable care organizations in the Medicare
30 Shared Savings Program);
31
32 3. Pharmacy benefit managers;
33
34 4. (Directive to Take Action); and be it further
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36 RESOLVED, That our AMA advocate that disclosure of potential conflicts of interest are to
37 be written in plain language and detail the following:
38

- 39 1. The type of physician incentive arrangement, whether withhold, bonus, or capitation;
40
41 2. The percentage of the withhold or bonus as the intensity of the incentives clearly effect
42 the extent of the physician's conflict of interest;
43
44 3. The amount and type of stop-loss protection;
45
46 4. A breakdown of capitation payments by the percentages for primary care, specialty
47 care, hospital care, or other services;
48
49 5. Whether physicians are at significant risk for services not personally provided by them;

1 6. The possibility of a reduction in care that has a positive expected benefit but is not
2 deemed cost-effective;
3

4 7. Disclosure of “shared” savings that may be earned by the individual physician from
5 limiting patient options, access to specialist referrals, diagnostic tests and treatment;
6 (Directive to Take Action).
7

8 Your Reference Committee heard testimony that offered conceptual support for
9 Resolution 10 but recommended that it be referred to the Governing Council ahead of
10 action by the larger House of Delegates. The Committee agreed with this assessment,
11 finding the resolution well thought-out and the directives reasonable and appropriate but
12 believing that it could be better accomplished by a in-depth study and plan from the
13 Governing Council followed by a reconsidering of any proposed actions. The Committee
14 recommends Resolution 10 be referred to the OMSS Governing Council with a report
15 back to the Section by Annual 2024.

RECOMMENDED FOR REAFFIRMATION

- (8) RESOLUTION 2 – ACTIVE AMA INVOLVEMENT IN
LEGISLATION THAT IS POTENTIALLY HARMFUL TO
PHYSICIANS AND PATIENTS IN STATES

RECOMMENDATION:

AMA Policies G-620.021 and G-620.080 be reaffirmed in lieu of Resolution 2.

RESOLVED, That our American Medical Association will play a more active role in assisting states' medical associations and societies in addressing potentially harmful legislation (Directive to Take Action).

Your Reference Committee heard a range of testimony regarding Resolution 2 with some reflecting that the AMA currently engages frequently with state medical associations and specialty societies to achieve legislative and regulatory goals. Others offered that while engagement is regular, it is often reactive instead of proactive and that greater efforts could be put forth to address issues before they grow to problematic proportion. While the Committee found itself in support of continued and frequent interactions between the AMA and state and specialty societies, it also appreciated that such directives already exist within AMA policy. The Committee believed without specific guidance or a novel directive in the resolution, Resolution 2 is best served by reaffirmation of existing AMA policy.

- (9) RESOLUTION 9 – REDUCING THE RISK OF DANGER
ASSOCIATED WITH E-SCOOTERS

RECOMMENDATION:

AMA Policies H-10.964, H-15.960 and D-15.999 be reaffirmed in lieu of Resolution 9.

RESOLVED, That our American Medical Association endorse stronger regulations for limiting scooter availability, stricter helmet and alcohol use policies, improved infrastructure, and more awareness campaigns teaching the public about the risks and dangers of e-scooters (Directive to Take Action).

Your Reference Committee heard testimony broadly in support of Resolution 9. Several members raised the question of whether the issue was germane to the OMSS and if it was an issue applicable to medical staffs. Others countered that its relevance to public safety and emergency department use place it under the umbrella of organized medical staff concerns. The Committee appreciated that no testimony reflected a disagreement with the need for care and concern over rising rates of injuries associated with e-scooters. The Committee ultimately found, however, that advocacy for use of safety equipment, better regulation around safe use of motorized vehicles and devices, and improved infrastructure for these vehicles was well established under existing AMA

- 1 policy. The Committee believes reaffirmation of specific existing policies are appropriate
- 2 in this case.

RECOMMENDED FOR NOT ADOPTION

(10) RESOLUTION 8 – THE ECONOMICS OF PRIOR AUTHORIZATION

RECOMMENDATION:

Resolution 8 be not adopted.

RESOLVED, That our American Medical Association advocate to the federal government that third party payors and surrogates include economic information on the costs of medications denied prior authorization and, where applicable, comparative costs of alternative approved or suggested medications for each rejected prior authorization (Directive to Take Action).

Your Reference Committee heard testimony universally in support of Resolution 8. Members testified that the financial and opportunity cost to physicians resulting from prior authorizations continues to be too high. Members additionally testified that aside from the fiscal and operational costs, there was a strong sense that prior authorizations presented a serious barrier to care for patients, putting them at greater risk.

The Committee found no disagreement with these sentiments; In point of fact, the Committee found itself entirely in agreement with them. It struggled, however, with the implications of Resolution 8, specifically with the question of how the economic information gathered should be used. The Committee found itself unclear as to how greater information about the costs of medications denied prior authorization would address the problems raised by members' own experiences. It wondered if Resolution 8 could benefit from an additional directive that would instruct the AMA on action to be taken with newly reported information about costs and if, in doing so, greater effects could be felt.

The Committee would welcome additional thoughts from the author of Resolution 8 or from any other interested party and believes it would likely find its recommendation altered with additional directives or information.

- 1 Doctor Chair, this concludes the report of the Organized Medical Staff Section Reference
- 2 Committee. I would like to thank Drs. Maryanne Bombaugh, Jay Gregory, Alan Klitzke,
- 3 and Marilyn Laughead as well as all those who testified before the Committee.

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