

AMERICAN MEDICAL ASSOCIATION HOOUSE OF DELEGATES

Resolution: 210
(I-23)

Introduced by: Oregon Delegation

Subject: Support for Physicians Pursuing Collective Bargaining and Unionization

Referred to: Reference Committee B

1 Whereas, the American Medical Association (AMA) supports the right of physicians to engage in
2 collective bargaining, and it is AMA policy to work for expansion of the numbers of physicians
3 eligible for that right under federal law; and
4

5 Whereas, while AMA policy supports expanding rights for physicians rights and abilities to
6 collectively bargain, the last study of this policy area last occurred pre-pandemic as the
7 paradigm shift of physician as employee continues to expand, particularly for younger
8 generations of physicians who would be more likely to leverage and seek unionization; and
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10 Whereas, the AMA points out that bargaining units composed entirely of physicians are
11 presumed appropriate, a recommendation that makes sense in recognition of physicians' unique
12 skills and ethical and professional obligations; and
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14 Whereas, in 1999 the AMA provided financial support for the establishment of a national labor
15 organization - Physicians for Responsible Negotiation (PRN) - under the National Labor
16 Relations Board (NLRA) to support the development and operation of local physician
17 negotiating units as an option for employed physicians and physicians in-training, but ultimately
18 withdrew support in 2004 as few physicians signed up; and
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20 Whereas, the numbers of physicians who are union members is estimated to have grown
21 significantly since then with a 26% increase from 2014 to 2019 when 67,673 physicians were
22 members of a union; and
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24 Whereas, the percentage of physicians now employed by hospitals, health systems, or
25 corporate entities has increased significant, most recently reported up to 73.9% as of January,
26 2022 (up from 47.4% in 2018), and the number of physician practices acquired by hospitals and
27 corporate entities between 2019-2022 also accelerated during the pandemic; and
28

29 Whereas, dominant hospitals, healthcare systems, and other corporate entities employing
30 physicians may present limited alternatives to physicians working in a market largely controlled
31 by their employer or where covenants-not-to-compete may further contribute to the employer's
32 bargaining advantage; and
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34 Whereas, the transition from independent professional physician workforce to employed
35 physician workforce fundamentally alters the dynamics between hospitals, health systems,
36 corporate entities and physicians, with a risk of negatively affecting the conditions of care
37 delivery and quality of care provided; and

1 Whereas, the corporatization of medicine, including involvement of private equity in healthcare,
2 raises questions about incentive alignment, costs, and downstream effects on patients; and
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4 Whereas, recent years have seen an increase in physician burnout, which accelerated during
5 the COVID-19 pandemic, directly related to time spent on electronic health record
6 documentation, bureaucratic administrative tasks, and moral injury related to an incongruence
7 between what physicians care about and what they are incentivized to do by the health care
8 system; and
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10 Whereas, physicians face a dominant power when negotiating with hospital employers and may
11 not have countervailing influence without collective bargaining; and
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13 Whereas, collective bargaining is an effective tool for protecting patient care safety standards,
14 improving work conditions, ensuring pay and job security, and a providing a process for
15 grievances; and
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17 Whereas, the National Labor Relations Board determined in 2022 that employed physicians are
18 not in a supervisory role and are therefore eligible to unionize; and
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20 Whereas, interest in exploring collective bargaining for residents and practicing physician
21 groups has increased in some parts of the country including in Oregon, likely driven by
22 dynamics seen in the profession's shift to "employed status" for the majority of physicians;
23 therefore be it
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25 RESOLVED, that our American Medical Association convenes an updated study of
26 opportunities for the AMA or physician associations to support physicians initiating a collective
27 bargaining process, including but not limited to unionization. (Directive to Take Action)
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Fiscal Note: Modest - between \$1,000 - \$5,000

Received: 4/5/2024

REFERENCES

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3. https://www.physiciansadvocacyinstitute.org/Portals/0/assets/docs/PAI-Research/PAI%20Avalere%20Physician%20Employment%20Trends%20Study%202019-21%20Final.pdf?ver=ksWkgjKXB_yZflmFdXlvGq%3d%3d
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14. <https://www.nytimes.com/2016/01/10/business/doctors-unionize-to-resist-the-medical-machine.html>
15. <https://www.nytimes.com/2023/06/15/magazine/doctors-moral-crises.html?smid=nytcore-ios-share&referringSource=articleShare>
16. <https://www.medpagetoday.com/special-reports/features/104210>

RELEVANT AMA POLICY

Collective Bargaining for Physicians H-385.946

The AMA will seek means to remove restrictions for physicians to form collective bargaining units in order to negotiate reasonable payments for medical services and to compete in the current managed care environment; and will include the drafting of appropriate legislation.

Citation: Res. 239, A-97Reaffirmation I-98Reaffirmation A-01Reaffirmation A-05Reaffirmation A-06Reaffirmation A-08Reaffirmation I-10

Physician Collective Bargaining H-385.976

Our AMA's present view on the issue of physician collective negotiation is as follows: (1) There is more that physicians can do within existing antitrust laws to enhance their collective bargaining ability, and medical associations can play an active role in that bargaining. Education and instruction of physicians is a critical need. The AMA supports taking a leadership role in this process through an expanded program of assistance to independent and employed physicians.

(2) Our AMA supports continued intervention in the courts and meetings with the Justice Department and FTC to enhance their understanding of the unique nature of medical practice and to seek interpretations of the antitrust laws which reflect that unique nature.

(3) Our AMA supports continued advocacy for changes in the application of federal labor laws to expand the number of physicians who can bargain collectively.

(4) Our AMA vigorously opposes any legislation that would further restrict the freedom of physicians to independently contract with Medicare patients.

(5) Our AMA supports obtaining for the profession the ability to fully negotiate with the government about important issues involving reimbursement and patient care.

Citation: BOT Rep. P, I-88; Modified: Sunset Report, I-98; Reaffirmation A-00; Reaffirmation I-00; Reaffirmation A-01; Reaffirmation I-03; Reaffirmation A-04; Reaffirmed in lieu of Res. 105, A-04; Reaffirmation A-05; Reaffirmation A-06; Reaffirmation A-08; Reaffirmed: BOT Rep. 17, A-09; Reaffirmation I-10; Reaffirmed: Sub. Res. 222, I-10; Reaffirmed: Res. 215, A-11; Reaffirmed: BOT action in response to referred for decision Res. 201, I-12; Reaffirmed: Res. 206, A-19;

Employee Associations and Collective Bargaining for Physicians D-383.981

Our AMA will study and report back on physician unionization in the United States.

Citation: Res. 601, I-14; Reaffirmed: Res. 206, A-19

Investigation into Residents, Fellows and Physician Unions D-383.977

Our AMA will study the risks and benefits of collective bargaining for physicians and physicians-in-training in today's health care environment. Citation: Res. 606, A-19

Physicians' Ability to Negotiate and Undergo Practice Consolidation H-383.988

Our AMA will: (1) pursue the elimination of or physician exemption from anti-trust provisions that serve as a barrier to negotiating adequate physician payment; (2) work to establish tools to enable physicians to consolidate in a manner to insure a viable governance structure and equitable distribution of equity, as well as pursuing the elimination of anti-trust provisions that inhibited collective bargaining; and (3) find and improve business models for physicians to improve their ability to maintain a viable economic environment to support community access to high quality comprehensive healthcare. Citation: Res. 229, A-12; Reaffirmed: Res. 206, A-19