

REPORT OF THE PRIVATE PRACTICE PHYSICIANS SECTION  
GOVERNING COUNCIL

PPPS GC Report B  
(A-26)

Subject: Equal Opportunity for Payment for “On Call” Duty  
(PPPS Resolution 3-I-24)

Presented by: Carolynn Francavilla, MD, Chair

Referred to: PPPS Reference Committee  
(, MD, Chair)

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1 INTRODUCTION

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3 At its 2024 Interim Meeting, the PPPS Assembly referred Resolution 3-I-24, Equal Opportunity for  
4 Payment for “On Call” Duty, for report. The resolution asked the AMA to:

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6 1. Work with relevant stakeholders to advocate nationally that all physicians, whether  
7 employed or independent, should be paid for “on call” responsibilities, whether or not  
8 patient care is separately billed.  
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10 DISCUSSION

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12 Testimony from the author of Resolution 3-I-24 indicated that the intention of the resolution is to  
13 ensure that physicians are adequately compensated for on-call time, irrespective of whether on-call  
14 services were provided. The author was agnostic about what the differences in compensation  
15 should be for time made available and services provided, as well as for differences in compensation  
16 according to specialty. In referring 3-I-24 to the PPPS Governing Council, the PPPS Assembly  
17 asked the Council to investigate the issue and make a recommendation on the extent to which  
18 determining on-call compensation is a worthwhile investment of resources for the AMA to engage  
19 in.  
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21 Therein lies the difficulty for the Governing Council. On-call time is variably determined under a  
22 variety of definitions, both statutory and common. These include, but are not limited to:

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24 • The Emergency Medical Treatment and Active Labor Act (EMTALA) under [42 U.S.C. §](#)  
25 [1395dd\(a\)](#)  
26 • EMTALA requirements for hospital maintenance under [42 C.F.R. § 489.20\(r\)\(2\)](#)  
27 • The Centers for Medicare & Medicaid Services (CMS) directives [CMS State Operations](#)  
28 [Manual, Appendix V, Tag A-2404](#)  
29 • The Medicare Claims Processing Manual [Medicare Claims Processing Manual, Ch. 12, §](#)  
30 [30.6.15.3](#)  
31 • The Fair Labor Standards Act (FLSA) under [29 C.F.R. § 785.17](#) and 29 C.F.R.  
32 § 541.304(d), (a)(1)

- 1 • As established under the Supreme Court’s holding in *Armour & Co. v. Wantock* — [323](#)  
2 [U.S. 126, 133 \(1944\)](#)
- 3 • As explained by the Supreme Court in *Skidmore v. Swift & Co.*-- [323 U.S. 134, 136–37](#)  
4 [\(1944\)](#)
- 5 • Under the Tenth Circuit’s holding in *Renfro v. City of Emporia*— [948 F.2d 1529, 1538](#)  
6 [\(10th Cir. 1991\)](#)
- 7 • Under the Ninth Court’s reasoning in *Owens v. Local No. 169* — [971 F.2d 347, 352 \(9th](#)  
8 [Cir. 1992\)](#)
- 9 • In accordance with the U.S. Office of Inspector General – [OIG Adv. Op. 12-15 \(2012\), p.](#)  
10 [4](#)  
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12 In addition to these regulations and legal holdings, the AMA maintains a variety of positions and  
13 guidance on proper and appropriate use of on-call time as well as protections for both over-use and  
14 under-use. These can be found in the AMA Physicians Guide to Medical Staff Organization  
15 Bylaws as well as in [AMA policy H-130.948](#), “On-Call Physicians.”  
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17 It is important to note that it is not a goal of any AMA policy to encourage or dissuade physicians  
18 from providing on-call coverage or to advocate for or against such coverage. Physicians should  
19 retain a degree of freedom to provide this service based on their own needs. This is particularly true  
20 for physicians in private practice who may find that providing on-call coverage is an advantageous  
21 method for helping to build their independent practice.  
22

23 Given the wide swath of interpretation for on-call services and the large number of settings in  
24 which such services can be called upon, the PPPS Governing Council finds it is beyond the scope  
25 of the Private Practice Physicians Section to make a reasoned recommendation for the multivariate  
26 uses and implications of on-call time and believes such questions should be answered by other  
27 AMA bodies that are better equipped to do so.  
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## 29 CONCLUSION

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31 The PPPS Governing Council believes the implications of Resolution 3-I-24 are outside the scope  
32 of the section. Given the significant statutory, regulatory, contractual, and specialty-specific  
33 variability governing on-call arrangements, the Council finds that it would be inappropriate for the  
34 PPPS to attempt to establish a uniform national advocacy position.  
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## 36 RECOMMENDATION

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38 The PPPS Governing Council recommends that Resolution 3-I-24 be not adopted and that this  
39 report be filed.