AMERICAN MEDICAL ASSOCIATION ORGANIZED MEDICAL STAFF SECTION

Late Resolution: 2
(I-26)

Introduced by: Matthew Vo, MD

Subject: Increased Oversight of Private Equity's Involvement in the Healthcare System

Referred to: OMSS Late Resolution Committee
(Woody Jenkins, MD, Chair)

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Whereas, private equity firms' primary interest is to raise their profits in order to satisfy the shareholders' interests; they focus on raising profits through various ways, including cost-cutting, replacing physicians with non-physician healthcare providers, acquisitions, managing labor expenses, and increasing patient volume with little to no significant discussion of patient outcomes or quality of care; and

Whereas, hospital systems continue to find new ways to infringe on patients' quality of care and medical staff rights by practices such as firing medical staff and using private equity firms to fill staffing, including forcing primary care physicians to take on many more patients and to sign off on the work of unsupervised non-physician providers; and

Whereas, hospital administrations throughout the country have replaced local physician groups in hospitals with private equity physician groups more loyal to hospital administration; as a result, the care and wellbeing of patients have been consistently compromised; and

Whereas, these problems have worsened when hospital administrations took over control of both the hospital governing board and the medical staff who were typically entrusted with patients' wellbeing and quality of care and were replaced by private equity-employed medical staff such that physician committees (Credentials, Peer Review, and the Medical Executive Committee for example) could no longer adequately carry out their duties; and

Whereas, while states and the federal government are starting to study the problems associated with private equity firms' involvement in healthcare and taking steps to addresses these problems, many healthcare facilities are closing or cutting back services, affecting patients all over the country; and

Whereas, in response to the growing influence of private equity in healthcare, Massachusetts is expanding oversight, requiring private equity firms, real estate investment firms, and medical service organizations to disclose information to the public for cost, impact, and utilization reviews and authorizing the state Attorney General to issue civil investigative demands; and

Whereas, denial of this information can be detrimental to physicians in regards to unwitting participation in fee-splitting and up-coding as well as to the public if they are subject to excessive charges; and

Whereas, the AMA has policy that outlines concerns about private equity and corporate influence on access to quality medical care but is, to date, incomplete insofar as explicit remedies are concerned and further specific guidance is advisable as an urgent matter; therefore be it

RESOLVED, that our American Medical Association asserts that all healthcare adhere to evidence-based quality of care and outcomes assessments, regardless of administrative structure of the healthcare providing organization, including but not limited to those controlled by agents of private equity, and will advocate for revision of law or regulation to assure that principle is upheld (New HOD Policy); and be it further

RESOLVED, that our AMA advocate for the model of physician-led healthcare teams, requiring active physician engagement even when non-physician practitioners are involved, in healthcare providing organizations, including but not limited to those controlled by agents of private equity, and will advocate for revision of law or regulation to assure that principle is upheld (Directive to Take Action); and be it further

RESOLVED, that our AMA advocate that a majority of voting members of hospital key committees and the leadership of said committees be reserved for physicians whose income is less than 50 percent derived from the hospital or parent organization or via groups under contract to them (Directive to Take Action); and be it further

RESOLVED, that our AMA advocate for nationwide expansion of oversight and monitoring of private equity firms' involvement in healthcare delivery, both direct and indirect, in order to minimize healthcare facilities' reduction of services and/or closure and to enhance public transparency of their operations (Directive to Take Action); and be it further

RESOLVED, that our AMA advocate that there should be mechanisms in place to prevent any untoward influences, such as peer review abuse or uninvited intrusion into medical staff meetings, from private equity or other corporate entities on medical staffs and medical staff committees (Directive to Take Action).

Fiscal Note: (Assigned by HOD)

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## RELEVANT AMA POLICY

### Corporate Investors H-160.891

1. Our American Medical Association encourages physicians who are contemplating corporate investor partnerships to consider the following guidelines:
    a. Physicians should consider how the practice's current mission, vision, and long-term goals align with those of the corporate investor.
    b. Due diligence should be conducted that includes, at minimum, review of the corporate investor's business model, strategic plan, leadership and governance, and culture.
    c. External legal, accounting and/or business counsels should be obtained to advise during the exploration and negotiation of corporate investor transactions.
    d. Retaining negotiators to advocate for best interests of the practice and its employees should be considered.
    e. Physicians should consider whether and how corporate investor partnerships may require physicians to cede varying degrees of control over practice decision-making and day-to-day management.
    f. Physicians should consider the potential impact of corporate investor partnerships on physician and practice employee satisfaction and future physician recruitment.
    g. Physicians should have a clear understanding of compensation agreements, mechanisms for conflict resolution, processes for exiting corporate investor partnerships, and application of restrictive covenants.
    h. Physicians should consider corporate investor processes for medical staff representation on the board of directors and medical staff leadership selection.
    i. Physicians should retain responsibility for clinical governance, patient welfare and outcomes, physician clinical autonomy, and physician due process under corporate investor partnerships.
    j. Each individual physician should have the ultimate decision for medical judgment in patient care and medical care processes, including supervision of non-physician practitioners.
    k. Physicians should retain primary and final responsibility for structured medical education inclusive of undergraduate medical education including the structure of the program, program curriculum, selection of faculty and trainees, as well as education and disciplinary issues related to these programs.
2. Our AMA supports improved transparency regarding corporate investment in physician practices and subsequent changes in health care prices.
3. Our AMA encourages national medical specialty societies to research and develop tools and resources on the impact of corporate investor partnerships on patients and the physicians in practicing in that specialty.
4. Our AMA supports consideration of options for gathering information on the impact of private equity and corporate investors on the practice of medicine.

Citation: CMS Rep. 11, A-19; Appended: CMS Rep. 2, I-22; Reaffirmed: BOT Rep. 14, A-23

### The Corporate Practice of Medicine, Revisited D-215.982

Our American Medical Association will revisit the concept of restrictions on the corporate practice of medicine, including, but not limited to, private equities, hedge funds and similar

entities, review existing state laws and study needed revisions and qualifications of such restrictions and/or allowances, in a new report that will study and report back by Annual 2025 with recommendations on how to increase competition, increase transparency, support physicians and physician autonomy, protect patients, and control costs in already consolidated health care markets; and to inform advocacy to protect the autonomy of physician-directed care, patient protections, medical staff employment and contract conflicts, and access of the public to quality health care, while containing health care costs.

Citation: Res. 702, A-24

**The Regulation of Private Equity in the Healthcare Sector D-160.904**

Our American Medical Association will propose appropriate guidelines for the use of private equity in healthcare, ensuring that physician autonomy and operational authority in clinical care is preserved and protected.

Citation: Res. 710, A-24