

REFERENCE COMMITTEE B – (Legislation)
SUMMARY REPORT FOR THE NEW ENGLAND DELEGATION
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Please list two questions for the Candidate Interviews based on the topics represented within your reference committee.

1. What is your position on substitution of HIPAA protections for substance use treatment privacy concerns versus current 42 CFR part 2 protections?
2. Can you please discuss how the growth of “augmented intelligence” will influence medical care and how you would balance opportunities and concerns at a policy level?

CONSENT CALENDAR FOR APPROVAL

- BOT Report 09** **Council on Legislation Sunset Review of 2009 House Policies**
 Council recommendations to retain, rescind, or edit a broad array of existing policies from 2009. Recommend approval unless a specific policy is identified for discussion.
- BOT Report 14** **Reforming the Orphan Drug Act; An Optional National Prescription Drug Formulary; Reform of Pharmaceutical Pricing; Negotiated Payment Schedules**
 Recommends reaffirmation of H-110.987 “Pharmaceutical Costs” and new policy to shorten exclusivity periods for FDA drug products where manufacturers engage in anti-competitive behaviors or unwarranted price escalations. Speaks against creation of a non-profit national prescription drug formulary as distracting from current efforts to expose PBM practices. Even if Medicare succeeded at government-controlled price controls in Part D, the costs of drugs in the commercial market would be expected to rise to compensate.
- BOT Report 17** **Ban on Medicare Advantage "No Cause" Network Terminations**
 The Board offers several policy proposals focused on network directory accuracy, network adequacy, network stability, communications with patients, and establishment of an external advisory group to better inform CMS regarding MA network issues. Many thoughtful recommendations for CMS to demand more transparency of MA networks.
- BOT Report 18** **Increased Use of Body-Worn Cameras by Law Enforcement Officers**
 Few states regulate body-worn camera recordings of medical treatment and the preservation of privacy depends instead on cooperation between law enforcement and health care providers. Policies must ensure that recordings are not permitted when they may interfere in the patient-physician relationship, including during clinical interviews, evaluations and treatments. In lieu of 208-I-17 adopt 1. AMA support for more body-worn cameras 2. Monitor privacy issues raised by cameras in health care settings 3. Develop policies to govern use of cameras in health care settings.
- BOT Report 19** **FDA Conflict of Interest (on scientific, technical and policy advisory panels)**
 The FDA has a process for determining whether to grant a waiver for an advisory committee member with an actual financial COI. The FDA also has guidance outlining how the Agency evaluates whether an advisory committee member has potentially disqualifying interests or relationships that fall into the second category of interests: appearance of a COI. Concern that an overzealous approach to waivers will undermine the actual or perceived quality of advisory committee recommendations. Adopt in lieu of 216-A-18, 1. Reaffirm H-100.992 that FDA COI not overrule scientific evidence 2. New AMA COI policy statement 3. Evaluate pay-later COI situations

- BOT Report 2 0 **Safe and Efficient E-Prescribing****
Broad ranging recommendations to improve process of E-prescribing in lieu of 237-A-18.
- BOT Report 2 1 **Augmented Intelligence in Health Care****
This report summarizes the need for additional AMA policy that is relevant to **payment** and use of health care AI; provides definitions of related terms; and addresses key issues that impact physician adoption of new health care technologies and delivery modalities, including clinical efficacy, usability and workflow integration, and liability. Recommends adoption of 1. Balancing risks of harm vs. benefit 2. Payments and coverage based on complying with existing laws 3. Payment conditioned on clinical validation, alignment with decision-making familiar to physicians, and clinical evidence 4. Payment informed by acceptable operational design 5. Advance affordability by small practices 6. No penalties for non-use 7. Alignment of liability and incentives 8. Federal, state, physician interagency collaboration.
- BOT Report 2 2 **Inappropriate Use of CDC Guidelines for Prescribing Opioids****
1. Support balanced opioid-sparing policies that are not based on hard thresholds but on patient individuality and help ensure safe prescribing practices
2. Oppose “high prescriber” lists used by national pharmacy chains, PBMs, or payers to blacklist physicians from writing prescriptions for controlled substances
- BOT Report 2 3 **Prior Authorization Requirements for Post-Operative Opioids****
In lieu of 208-A-18, adopt 1. Advocate for legislatures, PBMs, and payers remove PA to non-opioid pain care 2. Allow exceptions to statutory or regulatory thresholds for post-operative or other medical procedures 3. Oppose payer, PBM policies that restrict access to post-operative pain care, including opioids unless based on sound clinical evidence.
- (* REAFFIRMATION RESOLUTIONS - The Speakers asked the Committee on Rules and Credentials to review the recommendations for placing resolutions introduced at this meeting of the House of Delegates on the Reaffirmation Calendar. The Committee recommends that current policy be reaffirmed in lieu of the following resolutions:**
- *201 **Assuring Patient Access to Kidney Transplantation****
(Am. Soc. of Transplant Surgeons) Ensure continued patient and physician directed coordinated care of ESRD, oppose any legislation that would remove patient choice and physician involvement in ESRD care decisions, and oppose any financial incentives that would curtail organ transplantation.
- *202 (CA) **Reducing the Hassle Factor in Quality Improvement Programs****
Recommends that MOC participation count toward satisfying MIPS quality category, (and the reciprocal) that MIPS quality reporting count towards practice performance sections of MOC. Study MOC and MIPS reciprocity to reduce measure duplication and administrative burden.
- 203 (CA) **Medicare Part B and Part D Drug Price Negotiation****
Advocates that CMS cover all recommended adult vaccines in both part D and Part B, to mandate CMS negotiate drug prices for parts D and B with manufacturers, and ensure access to reasonable prices for part B physician administered drugs and compensate for acquisition, storage, handling and administration.
- 204 (CA) **Holding the Pharmaceutical Industry Accountable for Opioid-Related Costs****
Advocate that the relevant pharmaceutical industry organizations be held financially responsible for the health care and other economic costs related to their unethical and deceptive misbranding, marketing, and advocacy of opioids.

- *205 (IL) Use of Patient or Co-Worker Experience/Satisfaction Surveys Tied to Employed Physician Salary**
Adopt policy opposing association of anonymous patient satisfaction scores or coworker observation reporting systems with physician salaries, and oppose publishing such data related to an individual physician
- 207 (IL) Direct-to-Consumer Genetic Tests**
Regard research using consumer genome data derived from saliva or cheek swab samples as research on human subjects requiring consents in compliance with the Health and Human Services (HHS) Office for Human Research Protection (OHRP), and recommend an “opt in” option to allow more consumer choice in the consent process, amend “Patient Privacy and Confidentiality” policy pertaining to genetic information, extend protections of non-discrimination based on genetic information related to life, long term care, disability
- *210 (NY) Air Ambulances**
Research states that 60% of patients transported by air would not have suffered a lower standard of medical care if they had been transported by land. Exorbitant, poorly regulated fees can leave a patient with an out-of-pocket bill of upwards of \$40,000-\$60,000 after insurance payments which has caused some patients to file bankruptcy. 1. Establish an expedited independent dispute resolution system to resolve payment disputes between emergency air ambulance providers and health insurers; and 2. Ensure that such independent dispute resolution process would ensure the patient be “held harmless” except for applicable insurance policy in-network cost-sharing requirements.
- 211 (NY) Use of FAIR Health**
Advocate that any legislation addressing surprise out of network medical bills use FAIR Health usual and customary data and not all payer database data (which may lack data from self-insured health plan sources)
- 212 (NY) Pharmacy Benefit Managers**
Advocate through all appropriate means to ensure that medications used to stabilize palliative and hospice patients for pain and delirium in the hospital continue to be covered by pharmacy benefit plans after patients are transitioned out of the hospital.
- *214 (NY) The Term Physician**
Seek the passage of federal regulation and/or legislation that mandates that the term “physician” be limited to those people trained in accordance with Accreditation Council for Graduate Medical Education guidelines and have an MD, DO or a recognized equivalent physician degree and that the term not be used by any other organization or person involved in healthcare.
- *216 (NY) Eliminate the Word Provider from Healthcare Contracts**
Seek legislation to ensure that all references to physicians in government and insurance contracts, agreements, published descriptions, and printed articles eliminate the word “provider” and substitute the accurate and proper term “physician”.
- 217 (NY) Medicare Vaccine Billing**
Advocate that a physician’s office can bill Medicare for all vaccines and that the patient shall only pay the applicable copay to prevent fragmentation of care.
- 218 (NY) Payment for Medications Used Off Label for Treatment of Pain**
Petition the Centers for Medicare and Medicaid Services to allow reimbursement for off label use of medications like gabapentin or lidocaine patches at the lowest copayment tier for the indication of pain so that patients can be effectively treated for pain and decrease the number of opioid prescriptions written.

- 220 (PA) Study of Confidentiality and Privacy Protection in the Treatment of Substance Disorders**
Study whether the confidentiality protections of 42 CFR Part 2 outweigh the potential benefits of coordinating care with HIPAA privacy protections in the treatment of substance related disorders. (virtually the same as 231)
- 221 Extending Medicaid Coverage to 12-Months Postpartum**
(American College of Obstetricians and Gynecologists, American Psychiatric Association, New Jersey, Illinois American Academy of Pediatrics, American Academy of Child and Adolescent Psychiatry) – Support and actively work toward enactment of state legislation, Section 1115 waiver applications, and federal legislation to extend Medicaid coverage to 12-months postpartum.
- *222 Protecting Patients from Misleading and Potentially Harmful "Bad Drug" Ads**
(KY, MI, OK, WV) Encourage state legislatures to consider and adopt legislation that helps protect patient health by creating fair rules and regulations around attorney advertisements that: 1. Prohibit misuse of governmental logos or the term “recall” 2. Provide clear warning of the dangers in stopping a course of treatment without consulting with a physician and 3. Require written consent before sharing personal health information.
- 223 (WI) Simplification and Clarification of Smoking Status Documentation in the Electronic Health Record**
Support the streamlining of the SNOMED categories for smoking status and passive smoking exposure documentation in the electronic medical record so that the categories are discrete, non-overlapping, and better understood per The Association for the Treatment of Tobacco Use and Dependence 2019 recommendations as follows: **Smoking status categories:** Current Every Day Smoker, Current Some Day Smoker Former Smoker, Never Smoker, and Smoking Status Unknown **Passive smoking exposure:** Exposure to Second Hand Tobacco Smoke, Past Exposure to Second Hand Tobacco Smoke, No Known Exposure to Second Hand Tobacco Smoke
- 224 (RFS) Extending Pregnancy Medicaid to One Year Postpartum**
Petition the Centers for Medicare and 21 Medicaid Services to extend pregnancy Medicaid to a minimum of one year postpartum. – Very similar to Resolution 221.
- *225 (RFS) DACA in GME**
American Medical Association Policy D-255.991, “Visa Complications for IMGs in GME,” be reaffirmed; and that AMA Policy D-350.986, “Evaluation of DACA-Eligible Medical Students, Residents and Physicians in Addressing Physician Shortages,” be reaffirmed. – Not sure why this is not on the “reaffirmation consent calendar”
- *228 (ASA) Truth in Advertising**
Support of the Scope of Practice Partnership’s Truth in Advertising Campaign to ensure patients receive accurate information about who is providing their care (AMA Policy H-405.969) and oppose any misappropriation of medical specialties’ titles and work with state medical societies to advocate for states and administrative agencies overseeing nonphysician providers to authorize only the use of titles and descriptors that align with the nonphysician providers’ state issued licenses and national board certification.
- *229 (ASCO) Clarification of CDC Opioid Prescribing Guidelines**
Reaffirm Policy D-120.932, “Inappropriate Use of Centers for Disease Control and Prevention Guidelines for Prescribing Opioids”; and that clinical practice guidelines specific to cancer treatment, palliative care, and end of life be utilized in lieu of the CDC’s Guideline for Prescribing Opioids for Chronic Pain as per the CDC’s clarifying recommendation.
- *230# (ACC et al) State Legislation Mandating Electrocardiogram (ECG) and/or Echocardiogram Screening of Scholastic Athletes**
Oppose legislation mandating echocardiograms or ECGs as a condition of participation in scholastic sports.

231# (VT et al) Alignment of Federal Privacy Law and Regulations Governing Substance Use Disorder Treatment (42 CFR Part 2) with the Health Insurance Portability and Accountability Act

Support the alignment of federal privacy law and regulations (42 CFR Part 2) with the Health Insurance Portability and Accountability Act (HIPAA) for the purposes of treatment, payment and health care operations, while ensuring protections are in place against the use of “Part 2” substance use disorder records in criminal proceedings and support the sharing of substance use disorder patient records as required by the HIPAA Privacy Rule for uses and disclosures of protected health information for treatment, payment and health care operations to improve patient safety and enhance the quality and coordination of care.

232# (Thoracic) COPD National Action Plan

Support the inclusion of \$25 million at NIH’s National Heart, Lung, and Blood Institute (NHLBI) and an additional \$2 million at the Centers for Disease Control and Prevention in the FY2020 Labor Health and Human Services and Education Appropriations Bill to implement the Chronic Obstructive Pulmonary Disease (COPD) National Action Plan

***234# (MI) Improved Access to Non-Opioid Therapies**

Improve access to non-opioid treatment modalities including, but not limited to, physical therapy and occupational therapy as recommended by the patient’s physician.

235# (MI) Prescription Coverage of the Lidocaine Transdermal Patch

Encourage the US Food and Drug Administration to consider approving other indications in addition to post-herpetic neuralgia for transdermal lidocaine patches and provide insurance coverage of lidocaine transdermal patches for other indications in addition to post-herpetic neuralgia.

237# (MSS) Opportunities in Blockchain for Healthcare

Work with the Office of the National Health Information Technology to create official standards for the development and implementation of blockchain technologies in healthcare, monitor the evolution of blockchain technologies in healthcare, and engage in discussion with appropriate stakeholders regarding blockchain development. – A potential game changer...

***238# (Neuromodulation) Coverage Limitations and Non-Coverage of Interventional Pain Procedures Correlating to the Worsening Opioid Epidemic and Public Health Crisis – supports coverage for multiple interventional pain management procedures and coverage for trials and implantation for spinal cord stimulators and peripheral nerve stimulation by all payers. -**

242# (TX) Improving Health Information Technology Products to Properly Care for LGBTQ Patients*

Call for AMA to research how best to handle issues of documentation of sex and gender in EMRs and use of personal health records to reduce burden of needing to query about sexual orientation and gender identity at each encounter. To implement these changes at no additional costs to physicians.

243# (TX) Improving the Quality Payment Program and Preserving Patient Access*

Concerns expressed about disproportionate adverse impact of MIPS on small and rural practices and advocates for making MIPS completely voluntary, eliminating budget neutrality as a way of funding incentive payments (rather financed from new appropriated funds), call for CMS to create an annual report to permit analysis of the MIPS program impact, exempting 1-15 clinician practices from MIPS, and increase the volume threshold for MIPS participation.

RESOLUTIONS FOR DISCUSSION

BOT Report 3 0

Opioid Treatment Programs Reporting to Prescription Monitoring Programs

Report opposes 507-A-18 that advocated for OTP program reporting to PDMPs. Opposition based on support of part 2 privacy provisions.

- *206 (IL) Changing the Paradigm: Opposing Present and Obvious Restraint of Trade**
Seek legislative or regulatory changes to allow physicians to collectively negotiate professional fees, compensation and contract terms without integration.
- 208 (IL) Repeal or Modification of the Sunshine Act**
Adopt as policy opposition to the Physician Payments Sunshine Act as it currently is written and implemented, and support either repeal of the current Sunshine Act or significant modifications to the Sunshine Act, such as substantially increasing the monetary threshold for reporting, that will decrease the burden and “hassle factor” and support efforts at administrative simplification for physicians, which the Center for Medicare and Medicaid Services and the organized medical community has supported, if any portion of the Act is maintained
- *209 (IL) Mandates by ACOs Regarding Specific EMR Use**
Adopt policy stating that Accountable Care Organizations cannot mandate their membership to use a single specific Electronic Medical Record (EMR) and move to effect legislation that prevents Accountable Care Organizations from imposing EMR mandates. ***The use of alliances such as CommonWell Health Alliance and Carequality Interoperability Framework have accelerated the ability of unrelated healthcare entities including inpatient and outpatient facilities to share data through interoperability
- *213 (NY) Financial Penalties and Clinical Decision-Making**
Oppose the practice of a payer utilizing statistical targets alone (and not outcomes data) to determine ‘cost effectiveness’ of a therapeutic choice and oppose the practice of a payer imposing financial penalties upon physicians and/or associated physicians based upon the use of statistical targets without first considering the clinical factors unique to each patient’s claim.
- *215 (NY) Reimbursement for Health Information Technology**
Seek the passage of federal regulation and/or legislation that mandates that third party payers allow physician practices to charge a technology fee equal to the copayment of the patient's plan.
- 219 (OK) Medical Marijuana License Safety**
Draft model state legislation to amend states’ prescription drug monitoring programs to include a medical marijuana license registry.
- *226 (NY) Physician Access to Their Medical and Billing Records**
Advocate that licensed physicians must always have access to all medical and billing records for their patients from and after date of service including after physician termination and that our AMA press for legislation or regulation to eliminate contractual language that bars or limits the treating physician’s access to the medical and billing records such as treating these records as trade secrets or proprietary.
- 227 (AL) Controlled Substance Management**
Strongly advocate for a mechanism by which physicians may be compensated for controlled substance management and that our AMA strongly encourage CMS and private payers to recognize and establish equitable payment for controlled substance management (pill counts/checking prescription monitoring system).
- 233# (GA) GME Cap Flexibility**
Adopt the concept of “Cap-Flexibility” and allow new and current Graduate Medical Education teaching institutions to extend their cap-building window for up to an additional five years beyond the current window (for a total of up to ten years), giving priority to primary care residencies and provide funding to hospitals and/or universities prior to the arrival of any residents, removing the clause where “Medicare funding does not begin until the first resident is ‘on-duty’ at the hospital.”

***236# (MSS) Support for Universal Basic Income Pilot Studies**

Support federal, state, local, and/or private Universal Basic Income pilot studies in the United States which intend to measure health outcomes and access to care for participants. – Would support extraction since Universal Basic Income is not specifically mentioned in current AMA policies sited

239#(Greg Pinto) Improving Access to Medical Care Through Tax Treatment of Physicians

Seek legislation and/or regulation that would permit physician practices to utilize ‘pass through’ tax treatment of practice income in the manner of other small businesses and professionals.

***240# (HI) Formation of Collective Bargaining Workgroup**

Form a workgroup to outline the legal challenge to federal antitrust statute for physicians and report by the 2020 Annual Meeting on the viability of a strategy for the formation of a federal collective bargaining system for all physicians and, to the extent viable, a related organizational plan. – Discuss extraction versus reaffirmation?

***241# (NED) Facilitation of Research with Medicare Claims Data**

Eliminate the prohibitions on sharing data outside of the accountable care organization contained in the CMS Data Use Agreement and allow sharing of that data: (1) in the form of de-identified data sets as permitted by HIPAA; and (2) for purposes of research as permitted by HIPAA – This resolution introduces new specificity to existing AMA policy around ACO data and research efforts.

Contained in Addendum