

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES (A-24)

Report of the Private Practice Physicians Section Reference Committee

David McClendon, MD, Chair

1 Your Reference Committee recommends the following consent calendar for acceptance:
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3 **RECOMMENDED FOR ADOPTION**
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- 5 1. Resolution 1 – Mentorship to Combat Prior Authorization
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7 **RECOMMENDED FOR ADOPTION AS AMENDED**
8

- 9 2. Resolution 3 – Transparency at the Pharmacy Counter—Let Patients Own Their
10 Prescriptions
11

12 **RECOMMENDED FOR ADOPTION IN LIEU OF**
13

- 14 3. Resolution 2 – Change Healthcare Security Lapse—The FBI Must Investigate
15

16 **RECOMMENDED FOR REFERRAL**
17

- 18 4. Resolution 5 – Getting On With the Times—Expanding PPS Inclusion Via
19 Hybrid Meetings and Voting
20

21 **RECOMMENDED FOR NOT ADOPTION**
22

- 23 5. Resolution 4 – Rebuke and Appeal CMS Interoperability and Prior Authorization
24 Final Rule

RECOMMENDED FOR ADOPTION

(1) RESOLUTION 1 – MENTORSHIP TO COMBAT PRIOR AUTHORIZATION

RECOMMENDATION:

Resolution 1 be adopted and immediately forwarded for consideration at the 2024 Annual Meeting of the AMA House of Delegates

Resolved, that our American Medical Association study the development of a template for a mentorship program for early career physicians as a means to reduce excessive healthcare costs, with a report back by Annual 2025 (Directive to Take Action); and be it further

Resolved, that our AMA develop modules of education centered on the economics of utilization of testing, pharmaceuticals, and procedures in various categories of common and exceptional medical care (Directive to Take Action); and be it further

Resolved, that our AMA work with affected stakeholders, including government legislators and regulators, pharmaceutical and business interests, healthcare systems, and patient representatives as well as physicians on substitution of mentorship for frequent prior authorization requests (Directive to Take Action).

Your Reference Committee heard support for Resolution 1, both for the promotion of mentorship opportunities and the notion of using mentorship as a method for addressing burdens caused by prior authorization. The Committee considered that while some logistical considerations would have to be factored into a nationwide program, particularly given that the entire country does not uniformly spend in the same ways with some areas spending much more than others, the effort to put together a program to help younger physicians benefit from experience of those more practiced in efficient testing, which in turn could reduce the justification for prior authorization, would be worthwhile. Your Reference Committee thus recommends that Resolution 1 be adopted and immediately forwarded to the House of Delegates.

RECOMMENDED FOR ADOPTION AS AMENDED

(2) RESOLUTION 3 – TRANSPARENCY AT THE
PHARMACY COUNTER—LET PATIENTS OWN THEIR
PRESCRIPTIONS

RECOMMENDATION A:

The resolve in Resolution 3 be amended by addition and deletion to read as follows:

Resolved, that our American Medical Association advocate for legislation or regulation that mandates that pharmacies, whether physical or mail order, must inform patients about their prescriptions, to include at a minimum: the actual dose, duration, and number of units prescribed (number of pills, days of treatment, grams of cream, etc.), as well as the option of purchasing the prescribed medications out of pocket and to provide the associated out of pocket costs when insurance does not cover or covers only part of the prescribed regimen as well as provide a reason for dispensing deviations from the prescribed dose, duration, and number of units including a reference to insurance-imposed limits or pharmacy-imposed limits whenever relevant

- a) The dosage and schedule of treatments as written by the prescriber
- b) Any restriction or alteration of the prescriber’s intent due to third party or pharmacy intervention, with the stated justification
- c) Details of other avenues to obtain the original prescription, including out of pocket options, with comparative costs

(Directive to Take Action).

RECOMMENDATION B:

Resolution 3 be adopted as amended with a change in title to read:

TRANSPARENCY AT THE PHARMACY COUNTER

RECOMMENDATION C:

Alternate Resolution 3 be immediately forwarded for consideration at the 2024 Annual Meeting of the AMA House of Delegates.

1 Resolved, that our American Medical Association advocate for legislation that mandates
2 that pharmacies, whether physical or mail order, must inform patients about the actual
3 dose, duration, and number of units prescribed (number of pills, days of treatment, grams
4 of cream, etc.), as well as the option of purchasing the prescribed medications out of
5 pocket and to provide the associated out of pocket costs when insurance does not cover
6 or covers only part of the prescribed regimen as well as provide a reason for dispensing
7 deviations from the prescribed dose, duration, and number of units including a reference
8 to insurance-imposed limits or pharmacy-imposed limits whenever relevant (Directive to
9 Take Action).

10

11 Your Reference Committee appreciated that Resolution 3 is attempting to address an
12 issue that the Committee agrees is very much in need of attention. Generally, the
13 Committee found itself fully in support of Resolution 3, though it did believe that
14 restructuring the resolve clause and editing it slightly could improve its chances at the
15 House of Delegates. Having heard no testimony against it, your Reference Committee
16 thus recommends that Resolution 3 be adopted as amended and immediately advanced
17 to the House of Delegates for consideration at the 2024 Annual Meeting.

RECOMMENDED FOR ADOPTION IN LIEU OF

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3 (3) RESOLUTION 2 – CHANGE HEALTHCARE SECURITY
4 LAPSE—THE FBI MUST INVESTIGATE
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6 **RECOMMENDATION A:**
7

8 **That Alternate Resolution 2 be adopted in lieu of**
9 **Resolution 2:**

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11 Resolved, that our American Medical Association seek a
12 directed investigation by appropriate authorities of the
13 Change Healthcare cybersecurity breach that defines the
14 cause, so as to minimize the change of a future breach, as
15 well as to determine any penalties for negligence, should
16 that be a factor in the current episode (Directive to Take
17 Action); and be it further
18

19 Resolved, that our AMA monitor all ongoing investigations
20 of the Change Healthcare cybersecurity breach with a report
21 back at Interim 2024 with recommendations as to further
22 action the AMA itself should pursue (Directive to Take
23 Action).
24

25 **RECOMMENDATION B:**
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27 **Alternate Resolution 2 be immediately forwarded for**
28 **consideration at the 2024 Annual Meeting of the AMA**
29 **House of Delegates.**
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31

32 Resolved, that our American Medical Association issue a formal public request that the
33 Federal Bureau of Investigation investigate Change Healthcare’s cybersecurity incident
34 and issue a public report and the cause of the security breach, determining whether it is
35 preventable and how (Directive to Take Action); and be it further
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37 Resolved, that our AMA convene a workgroup on legal issues arising from the Change
38 Healthcare breach, including but not limited to resultant interruption of business practices,
39 increase in the costs of electronic transactions, increase in liability and financial losses
40 and report back at Interim 2024 on the feasibility to pursue legal action on behalf of private
41 practice physicians and possibly in collaboration with the American Hospital Association
42 (Directive to Take Action).
43

44 Your Reference Committee considered during deliberations on Resolution 2 that the
45 House of Delegates has already accepted a resolution for the Annual 2024 meeting,
46 Res. 008 – “Consolidated Health Care Market”, that would direct the AMA to investigate
47 the possibility of filing a class action lawsuit against Optum, United Health Group, and
48 Change Health to attempt to address damages caused by the Change Healthcare
49 breach as well as investigate the practices of Optum, of which Change Healthcare is a

1 component of their business. The sense of the Committee was generally in support of
2 efforts to protect practices against these types of widescale attacks, particularly by
3 encouraging alternate billing pathways and other logistical solutions that can help to
4 create fewer points of vulnerability for practices needing reimbursement.
5

6 The Committee also was aware that there are, at this time, several federal agencies
7 already looking into the causes, vulnerabilities, and possible solutions to the attack,
8 including ways to make practices whole. Given that, the Committee was doubtful that a
9 new workgroup would be beneficial. Understanding how many members of the PPS
10 have been affected by the attack, however, the Committee believed that some action
11 was warranted with the goal of giving the House of Delegates multiple options for action.
12 The Committee thus urges the PPS Delegate and Alternate Delegate to support Res.
13 008 at the House of Delegates and recommends that Alternate Resolution 2 be adopted
14 by the Section in lieu of Resolution 2 and immediately advanced to the House of
15 Delegates.

RECOMMENDED FOR REFERRAL

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3 (4) RESOLUTION 5 – GETTING ON WITH THE TIMES—
4 EXPANDING PPS INCLUSIVITY VIA HYBRID
5 MEETINGS AND VOTING
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7 **RECOMMENDATION:**
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9 **Resolution 5 be referred.**
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11 Resolved, that our Private Practice Physicians Section adopts hybrid meetings and
12 hybrid voting beginning with the 2024 Interim Meeting (Directive to Take Action); and be
13 it further
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15 Resolved, that our Private Practice Physicians Section Internal Operating Procedures
16 and other governing documents be amended to effect these changes (Directive to Take
17 Action).
18

19 Upon review of Resolution 5, your Reference Committee found itself in agreement that it
20 would behoove the Private Practice Physician Section to work toward a hybrid meeting
21 solution for future meetings of the Section. Given that private practice physicians are
22 particularly vulnerable to the opportunity costs of attending an in-person meeting instead
23 of seeing patients, efforts should be undertaken to improve the ability of more future
24 members to participate without negatively affecting their practices. The Committee also
25 considered that increased membership is a core goal of the Section and methods to help
26 it do so should be given high priority.
27

28 The Committee also considered that the transition to a hybrid meeting is a costly and
29 complex one, involving significant infrastructure investment and personnel costs. The
30 Committee understands those costs could prove too high to bear at the present time.
31 Nevertheless, given the mandate to expand membership in the Section, the Committee
32 ultimately agreed that movement toward a hybrid meeting is in the best interest of the
33 PPS.
34

35 Understanding that decisions about how Section Business Meetings are conducted are
36 largely outside the scope of the House of Delegates, your Reference Committee thus
37 recommends that Resolution 5 be referred to the Private Practice Physicians Section
38 Governing Council with instructions to report back to the Section Assembly by the 2024
39 Interim Meeting on a plan for movement toward a hybrid meeting structure.

RECOMMENDED FOR NOT ADOPTION

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3 (5) RESOLUTION 4 – REBUKE AND APPEAL CMS
4 INTEROPERABILITY AND PRIOR AUTHORIZATION
5 FINAL RULE
6

7 **RECOMMENDATION:**
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9 **Resolution 4 be not adopted.**
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11 Resolved, that our American Medical Association conducts an independent cost analysis
12 of the CMS Interoperability and Prior Authorization Final Rule of 2024 and determine
13 whether it is allowable and appropriate for the AMA to file a federal lawsuit for one or more
14 violations of the Administrative Procedure Act for exceeding delegated authority under
15 HIPAA administrative simplification requirements (Directive to Take Action); and be it
16 further
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18 Resolved, that, as a potential claim for relief in the event it initiates a lawsuit as described
19 in the foregoing Resolution or in such other lawsuit as our AMA may initiate to address the
20 concerns expressed in these Resolutions, the AMA shall determine whether it is allowable
21 and appropriate to demand that courts direct the Centers for Medicare and Medicaid
22 Services to rewrite regulations under the CMS Interoperability and Prior Authorization
23 Final Rule of 2024 to comply with applicable laws while advocating the principles
24 enumerated in AMA and Medical Society of the State of New York policies (Directive to
25 Take Action); and be it further
26

27 Resolved, that our AMA report back at Interim 2024 on the progress of the implementation
28 of this resolution and subsequently at each Annual Meeting (Directive to Take Action).
29

30 Your Reference Committee heard feedback from the AMA Office of the General Counsel
31 (OGC) as well as the AMA Advocacy Resource Center (ARC) raising some concerns
32 about Resolution 4 as it was originally written. As the business units responsible for
33 ensuring the AMA's legal compliance and its federal legislative and regulatory relations,
34 they presented considerations for the Committee to ensure that any direction Resolution
35 4 would promote at the House of Delegates complied not only with law, but also with the
36 AMA's larger strategic operations. Neither business unit has ultimate authority over the
37 Private Practice Physicians Section's policy content, however the Committee takes their
38 feedback seriously.
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40 The Committee considered that, per the advisement of ARC and OGC, some
41 components of Resolution 4 may be lacking in the technical expertise necessary to
42 direct legal action as well regulatory interactions with the United States Health and
43 Human Services Department. After deliberations, the Committee believed that while
44 Resolution 4 is addressing an issue that is not only at the heart of AMA strategic
45 priorities surrounding fixing prior authorization, in its current form the resolution presents
46 some legitimate and potentially unfavorable challenges to larger AMA legal and federal
47 regulatory operations.
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1 Your Reference Committee thus recommends that Resolution 4 be not adopted. The
2 Committee would, however, welcome the opportunity to connect with the author of the
3 resolution and share the feedback from the Advocacy Resource Center and the Office of
4 the General Counsel and encourage that Resolution 4 be redrafted and resubmitted at a
5 future meeting with that feedback taken into account.

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- 1 Doctor Chair, this concludes the report of the Private Practice Physicians Section
- 2 Reference Committee. I would like to thank Drs. Connie DiMari, Matthew Gold, and Shalini
- 3 Shah, as well as all those who testified before the Committee.

David McClendon, MD
Chair, PPS Reference Committee

Connie DiMari, MD

Matthew Gold, MD

Shalini Shah, MD