

AMERICAN MEDICAL ASSOCIATION ORGANIZED MEDICAL STAFF SECTION

Resolution: 5
(I-24)

Introduced by: Thomas J. Madejski, MD

Subject: Development of Resources for Medical Staffs to Engage in Collective
Negotiation with Hospital and Health Systems

Referred to: OMSS Reference Committee
(xxxx, MD, Chair)

- 1 Whereas, the ability of medical staffs to negotiate collectively with hospital systems is essential
2 for ensuring fair working conditions, adequate staffing, and the highest quality of patient care;
3 and
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5 Whereas, collective negotiation can lead to improved communication and collaboration between
6 medical staffs and hospital and health system administration, fostering a more supportive and
7 effective healthcare environment; and
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9 Whereas, many medical staffs currently lack the resources and materials necessary to
10 effectively engage in collective negotiation; and
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12 Whereas, the American Medical Association is committed to supporting physicians and medical
13 staffs in their professional endeavors and advocating for policies that enhance the practice of
14 medicine; and
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16 Whereas, New York state case law, such as *City of New York v. New York State Nurses*
17 *Association* (2017), supports the rights of medical staffs to engage in collective negotiation and
18 obtain necessary information for representation¹ and
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20 Whereas, the National Labor Relations Board (NLRB) has determined that medical staff at
21 Bellevue Hospital have the right to negotiate collectively, as evidenced by their ruling that the
22 hospital violated the National Labor Relations Act (NLRA) by threatening employed physicians
23 with cutbacks and layoffs for engaging in concerted activities²; therefore be it
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25 RESOLVED, that our American Medical Association develop and distribute comprehensive
26 materials and resources to enable medical staffs to become effective agents for collective
27 negotiation with hospitals and health systems (Directive to Take Action); and be it further
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29 RESOLVED, that our AMA allocate appropriate resources and support to assist medical staffs in
30 understanding their rights, the negotiation process, and strategies for successful collective
31 action (Directive to Take Action); and be it further
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33 RESOLVED, that our AMA advocate for policies at the state and federal levels that support the
34 rights of medical staffs to engage in collective negotiation with hospital systems (Directive to
35 Take Action).
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Fiscal Note: (Assigned by HOD)

Received: 9/19/2024

REFERENCES

1. AMA Advocacy Resource Center. (2023). ARC issue brief: Collective bargaining for physicians and physicians-in-training. American Medical Association. <https://www.ama-assn.org/system/files/advocacy-issue-brief-physician-unions.pdf>
2. National Labor Relations Board. (2011). Board issues decision on appropriate units in non-acute health care facilities. <https://www.nlr.gov/news-outreach/news-story/board-issues-decision-on-appropriate-units-in-non-acute-health-care>
3. National Labor Relations Board. (2019). Notable Board decisions. <https://www.nlr.gov/cases-decisions/decisions/notable-board-decisions>
4. City of New York v. New York State Nurses Association, NY Slip Op 04492 (2017). <https://law.justia.com/cases/new-york/court-of-appeals/2017/53.html>
5. Parrott, M. (2023). At 57, New York hospitals, safe staffing law falls apart. *City and State New York*. Jan 5, 2023. <https://www.cityandstateny.com/policy/2023/01/57-new-york-hospitals-safe-staffing-law-falls-apart/381493/>
6. Blassman, A.M., Zuckerman, R.K., & Krauthamer, M. (2018). The *Triborough* doctrine and statute: A catalyst or hinderance to harmonious labor relations? *Taylor Law at 50*. May 10, 2018. <https://nysba.org/NYSBA/Coursebooks/Spring%202018%20LPM%20Coursebooks/Taylor%20Law%20at%2050/11.Outline%20-%20Concurrent%20%20-%20300%20pm%20UPDATED%205.8.18.pdf>

RELEVANT AMA POLICY

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; Reaffirmed: A-00; Reaffirmed: A-01; Reaffirmed: I-03; Reaffirmed: A-04; Reaffirmed in lieu of Res. 105, A-04; Reaffirmed: A-05; Reaffirmed: A-06; Reaffirmed: A-08; Reaffirmed: BOT Rep. 17, A-09; Reaffirmed: 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

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-97; Reaffirmed: I-98; Reaffirmed: A-01; Reaffirmed: A-05; Reaffirmed: A-06; Reaffirmed: A-08; Reaffirmed: I-10; Reaffirmed: Res. 206, A-19.

Support for Physicians Pursuing Collective Bargaining and Unionization D-385.943

Our American Medical Association will study opportunities for the AMA or physician associations to support physicians initiating and navigating a collective bargaining process, including but not limited to unionization.

Citation: Res. 210, A-24

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