



The following is a preliminary report of actions taken by the House of Delegates at its April 6, 2017 Meeting and should not be considered final. Only the Official Proceeding of the House of Delegates reflects official policy of the Medical Society of New Jersey.

**2017 ANNUAL MEETING
REPORT OF THE REFERENCE COMMITTEE
Alejandro Rodriguez, MD, Chair
Robyn Agri, MD
Vinod Sancheti, MD
Robert Vrablik, MD**

The Reference Committee recommends the following consent calendar for acceptance:

2017 REPORTS RECOMMENDED FOR ADOPTION

1. Report of the **SECRETARY**
The Reference Committee thanks Daniel Zirkman, MD, for his dedicated service as Secretary of MSNJ.
2. Report of the **TREASURER**
The Reference Committee recognizes the great work of Philip E. Kline, MD, as Treasurer of MSNJ.
3. Report of the **COMMITTEE ON FINANCE AND BUDGET – Report Revised at Reference Committee to add the word “dues”**
The Reference Committee recognizes the great work of Bruce Monaghan, MD, for his service as Chair of the Finance & Budget Committee.
4. Report of **NOMINATIONS FOR EMERITUS MEMBERSHIP**
5. **DECEASED MEMBERS REPORT**
6. **ANNUAL REVIEW OF OUTSIDE CONTRACTS REPORT**
7. **JUDICIAL COUNCIL REPORT**
8. Report of the **STATUS OF 2016 ANNUAL MEETING RESOLUTIONS**
9. **REVOLVING REFERENCE COMMITTEE REPORT**

2017 RESOLUTION RECOMMENDATIONS:

RECOMMENDED FOR ADOPTION

Resolution 1 – Opposition to PennEast Pipeline Due to Health and Safety Concerns

Resolution 8 – American Medical Association Organized Medical Staff Section – Proposed AMA Model Hospital Medical Staff Bylaws

RECOMMENDED FOR ADOPTION AS AMENDED

Resolution 3 – Tort Reform

Resolution 7 – Bylaws Change for the Size of the Board of Trustees and Elected Committees

RECOMMENDED FOR ADOPTION SUBSTITUTE RESOLUTION 4A IN LIEU OF RESOLUTIONS 4, 5 AND 6

Resolutions 4, 5 and 6 – Prior Authorization

RECOMMENDED FOR REFERRAL

Resolution 2 – Limitation on Reports to the National Practitioner Data Bank Unrelated to Patient Care to MSNJ NPDB Task Force.

Resolution 1 – Opposition to PennEast Pipeline Due to Health and Safety Concerns

Resolved, that the Medical Society of New Jersey recognizes that the PennEast Pipeline represents a serious threat to the health and safety of New Jersey residents and recommends to the state legislature and the appropriate regulatory agencies that the pipeline should not be allowed to pass through New Jersey.

Testimony:

Dein Shapiro, MD of Hunterdon County Medical Society, the proponent, discussed the background and the health implications of the pipeline. Questions focused on whether the issue is in the scope of MSNJ and whether negative health effects are truly expected, and effectiveness of opposition. Additional questions were concerned about what are the chances of stopping the pipeline and what are alternative energy solutions.

Reference Committee Deliberation:

The Reference Committee agreed that because there are health implications, it is rational for MSNJ have this policy in place.

Recommendation:

Your Reference Committee unanimously [recommends adoption](#).

Resolution 2 – Limitation on Reports to the National Practitioner Data Bank Unrelated to Patient Care

Resolved, that our AMA formally request that the Health Resources and Services Administration (HRSA) clarify that reports of medical staff appointment denial by physicians are contingent upon competency issues related to physicians' provision of or failure to provide healthcare services that result in harm; and be it further

Resolved, that our AMA formally petition the Secretary of HHS to require that HRSA audit the NPDB for reports on physician applicants to hospital staffs for reasons not related to providing healthcare services and without prior reports or disciplinary sanctions or reports based on eligibility criteria; (Directive to Take Action) and be it further

Resolved, that HRSA and the Secretary remove the name of any physician from the NPDB reported by a hospital or other entity as noted above where the physician was reported for reasons not related to patient care that resulted in a harm; (Directive to Take Action).

Testimony:

Robert Villare, MD of Camden County Medical Society, the proponent, introduced the resolution, stating that the resolution already sent to the AMA is different than this proposal. He advocated a need for a change in the process to correct erroneous reports instead of the audit which is part of the proposed resolution. He stated the goal of narrowing reports to the NPDB to reflect the original intent of the statute. Dr. Gribbin indicated support for the intent of the resolution and read from the resolution that was adopted by the AMA at MSNJ's behest last year. Dr. Fallon stated that the proposal is an enhancement of the resolution passed last year. Dr. Reichman

testified that there are two problems: inappropriate entities reporting and appropriate entities that over-report. He discussed the difficulty of having reports removed from the NPDB and suggested that a new mechanism should be developed. Also, he suggested a streamlined reassessment and removal process that could be added so that erroneous reports could be removed early and short of a decision from the Health and Human Services. Dr. Cinotti urged that the new mechanism be developed to avoid a mere AMA affirmation. Dr. Mueller recommended that the MSNJ AMA delegation be given leeway to develop a resolution that the AMA House will pass. She further recommended that the proposal be debated at the MSNJ House of Delegates.

Reference Committee Deliberation:

The Reference Committee considered whether this resolution should be referred back to the task force to develop a pre-vetting step to avoid erroneous reports from being filed. The members suggested that a preview should be available before a report reaches the appeal stage.

Recommendation:

Your Reference Committee unanimously recommends [referral to the NPDB Task Force](#), for development of a preview stage to avoid erroneous reports.

Resolution 3 – Tort Reform

Resolved, that The Medical Society of New Jersey endorse the concept of federal tort reform; and be it further

Resolved, that The Medical Society of New Jersey notify the American Medical Association of its desire to see federal tort reform accomplished using Texas as a model, and request that the American Medical Association work with Congress to achieve that end.

Testimony:

Paul Carniol, MD, of Union County Medical Society, the proponent, discussed the need to push AMA to take action on tort reform this legislative session. There was acknowledgement of AMA's policy and effort, including support for HR1215. There was a suggestion that MSNJ should seek tort reform that protects physicians who meet quality measurements or specialty society standards. As for specific state models, Maine and California were mentioned as a good choices. There was concern that Texas may not be the best model. Forming MSNJ policy to support federal tort reform will help national groups, including the AMA, pursue their policy change goals.

Reference Committee Deliberation:

Your Reference Committee recommended removing the second resolve based on the testimony and recognizing the proponent's suggestion.

Your Reference Committee unanimously [recommends amendments](#) to the resolution by deleting the AMA request as follows:

RESOLVED, that The Medical Society of New Jersey endorse the concept of federal tort reform. ~~and be it further~~

~~RESOLVED, that The Medical Society of New Jersey notify the American Medical Association of its desire to see federal tort reform accomplished using Texas as a model, and request that the American Medical Association work with Congress to achieve that end.~~

THE FOLLOWING THREE RESOLUTIONS WERE DISCUSSED TOGETHER:

Resolution 4 – Study the problems of Pre-Certification and Pre-Authorization

Resolved, that MSNJ collaborate with DOBI to study the problems of Pre-certification and Pre-authorization of medical services to include:

1. Information from insurance carriers on cost savings to the carrier from a pre-certification and Pre-authorization program.
2. The frequency by insurance carrier and service (medication, imaging, etc.) of denial rates. This study should be completed within a 6 month time frame.

Resolution 5 – Pre-certification denials to be reviewed

Resolved, MSNJ seek legislation and approval for DOBI to review all medical goods and services DENIED by insurance plans and their subcontractors quarterly and therefore be it;

Resolved, DOBI analyze patterns of denials and make transparent for outside review in order to improve health care efficiency and reduce abuse in the Pre-certification and Least Expensive Alternate Treatment (LEAT) process and therefore be it;

Resolved, all Pre-certification/pre-approval denials which receive APPROVALS at the 5th level of review be recorded by DOBI and utilized to force insurers to cease further denials of like-minded requests within the same year, and to extend for all insurance plans participation in the State of New Jersey and therefore be it;

Resolved, that MSNJ forward resolution to the AMA meeting in Chicago, 2017 for national adoption.

Resolution 6 – Pre-Certification & LEAT (Least Expensive Alternative Treatment)

Resolved, Physician time on behalf of their patients requires a streamlined access to responsible insurance company physicians, and be it further

Resolved, Medical insurance contracts for patients must legally and clearly delineate potential limitations in covered care such as Pre-certification and Least Expensive Alternative Treatment (LEAT) insurance company potential actions and consequences, and further be it,

Resolved, physicians representing patients are doing so at the patients' behest, and insurance companies must recognize with limited patient resources the insurance company is restricting care, and further be it

Resolved, that medical insurance companies should provide MSNJ (and AMA) physicians' access to responsible and actionable physicians in 5 minutes with care decisions determined usually (90% of time) within 5 minutes.

Testimony:

The committee heard testimony on three resolutions all submitted by Camden County Medical Society. Joseph Reichman, MD (Resolution 4); Lee Yasgur, MD (Resolution 5); and Joseph Fallon, MD (Resolution 6) testified on behalf of the resolutions, each taking a different approach to repairing the prior authorization process so that it does not negatively impacting physician practices and patient care. Resolution 6 emphasized patient responsibility for obtaining approvals. The predominant issues raised in testimony were transparency, improvement in turnaround times for patients and outcomes of the prior authorization process. There was a suggestion that services and medications recommended by in-network physicians should not be subject to prior authorizations, or that the process should be eliminated altogether.

Reference Committee Deliberation:

The Department of Banking and Insurance already has authority to collect information. There was discussion about who should analyze the data and how to best use it to show that prior authorization creates unneeded barriers. There was discussion about how robust public reporting should be and suggestions that consumers should be able to use the information to make purchasing decisions. In relation to Resolution #6, there are already turnaround time limits statute and regulations. There was discussion to seek electronic prior authorizations as a way to streamline the process and reduce turnaround time.

The Committee added approval rates to the analysis so that denials can be compared. There was also discussion about the distinction between internal and external appeals.

Recommendation:

Your Reference Committee unanimously [recommends Adopting substitute resolution 4A](#) in lieu of Resolutions 4, 5 and 6.

Substitution Resolution 4A:

Resolved, that MSNJ collaborate with Department of Banking and Insurance to study the problems of Pre-certification and Prior Authorization of medications and medical services ordered by in-network and out-of-network physicians to include:

1. Approval rates
2. Denial rates
3. Time to disposition
4. Total number of services and medication subject to prior authorization;

This study should be completed within a 6 month time frame.

Resolved, that MSNJ compile information on prior authorization measures by insurer and distribute to the membership and purchasers of insurance; and therefore it be;

Resolved, that MSNJ engage with Department of Banking and Insurance and insurers to streamline the prior authorization process and eliminate prior authorization for services and medications routinely approved by internal or external appeals.

Resolution 7 – Bylaws Change for the Size of the Board of Trustees and Elected Committees

Resolved, that MSNJ change its bylaws to reduce the positions on the BOT's to one elected member from each of the five Districts; and be it further

Resolved, that a bylaws change be made for the composition of all elected committees to have only one representative from each of the five Districts; and be it further

Resolved, that the Committee on Constitution and Bylaws be charged with studying the composition of the BOT and drafting bylaws changes consistent with this resolution.

Testimony:

Donald Cinotti, MD of Hudson County Medical Society, the proponent, testified that the goal is to increase competition and membership, to minimize vacancies. He described the past history during which counties would carefully vet for nominations to the Board of Trustees. He pointed out that historically candidates delivered speeches about their qualifications, but now we have more surrogate speeches on behalf of candidates. The stated goal of the resolution is to engender more competition for Board positions.

Most testimony was against the concept of shrinking the size of the Board. Many felt that limiting the number of Board positions to one per district would cause many good candidates to be ineligible. Dr. Chervenak testified that the issue of board membership must be examined "overall" and "in a lot of different directions." Dr. Gribbin agreed with the intent, but also felt that as written the resolution might prevent good leaders from becoming Board members. He indicated that the issue should be studied "in detail" and that the bylaws should be subject to a "housekeeping" review. There was testimony that physicians should not be disqualified because they are unable to attend the nomination committee meeting. There was general recognition that the Committee on Constitution and Bylaws would have to weigh-in and report. Dr. Cinotti indicated that the real goal was not to shrink the board, but rather to engender more competition for positions. Union County's Board opposes the resolution. A recommendation was made to focus on slots that repeatedly go unfilled, rather than eliminating seats.

Reference Committee Deliberation:

The Reference Committee was persuaded that a reduction in the size of the Board was not the actual goal and would not achieve the restated desired goal of more competition for Board positions. The Committee agreed with the intent to engender more competition and participation. After careful consideration the Committee decided not to recommend adoption of Resolves number 1 or 2. The Committee recommends adoption of Resolve 3, as amended.

Recommendation:

Your Reference Committee unanimously [recommends amending](#) Resolution #7 as follows:

~~**Resolved**, that MSNJ change its bylaws to reduce the positions on the BOT's to one elected member from each of the five Districts; and be it further~~

~~**Resolved**, that a bylaws change be made for the composition of all elected committees to have only one representative from each of the five Districts; and be it further~~

Resolved, that the Committee on Constitution and Bylaws be charged with studying the composition of the ~~BOT~~ Board of Trustees and Councils and Committees and drafting bylaws changes ~~consistent with this resolution~~ to encourage more participation.

Resolution 8 – American Medical Association Organized Medical Staff Section – Proposed AMA Model Hospital Medical Staff Bylaws

Resolved, that the AMA develop Model Hospital Medical Staff Bylaws incorporating best practices and designed to meet the requirements of the recognized hospital accreditation bodies and Medicare Conditions of Participation, annotated to show the source of the provisions; and be it further

Resolved, that the AMA Model Hospital Medical Staff Bylaws include annotated references to each different state's legal and regulatory requirements, to be plugged in to make the Model Bylaws a legal reference for each state; and be it further

Resolved, that the AMA Model Hospital Medical Staff Bylaws be posted on the AMA OMSS website, continuously updated and available on demand to medical staffs, medical staff offices, and medical societies staff online; and be it further

Resolved, that the AMA Model Hospital Medical Staff Bylaws be widely distributed as an adjunct to the next edition of the Physician's Guide to Medical Staff Organization Bylaws.

Testimony:

Dr. Gribbin, MSNJ delegate to OMSS, presented the resolution. He indicated that MSNJ has garnered a reputation for work on medical staff bylaws and, as a result, the Texas Medical Association asked MSNJ to work together to bring a resolution to the OMSS that would require AMA to develop model medical staff bylaws. He also explained that the first version, posted for consideration, was not well received by the OMSS staff because of the heavy lift and large fiscal note. Being sensitive to this, Texas representative and MSNJ representatives agreed to scale back the scope of the project in hopes of passing the resolution. The revised resolution as presented above would require AMA to develop model medical staff bylaws based on best practices, federal law and regulations, JAHCO and Medicare Conditions of Participation. Instead of full-blown model language for all 50 states, there would be annotations directing to the each state's laws and regulations with a reminder to check those sources. Dr. DiGioia expressed his opinion that model staff bylaws for each state would be too much work. Dr. Fallon supported the resolution.

Reference Committee Deliberation:

The Reference Committee discussed the testimony and the value of model medical staff bylaws. Members agreed that developing model medical staff bylaws for every state would be a heavy lift and perhaps could be required in the future.

Recommendation:

The Reference Committee concluded that MSNJ's OMSS delegation should pursue the revised resolution and [recommends adoption](#) of the revised resolution.

Submitted by:

Soumen Samaddar, MD, Vice-Speaker of the House of Delegates