

**REFERENCE COMMITTEE ON
SOCIOECONOMICS**

May 2017

1 The Reference Committee on Socioeconomics, having met on Friday, May 5, 2017, with all members
2 present, submits the following report:

- 3
4 (1) Council on Socioeconomics Report 2 - Increasing Use of Narrow Networks by Medicare
5 Advantage Plans

6
7 **RECOMMENDATION:**

8
9 Madam Speaker, your reference committee recommends that the recommendation in Council on
10 Socioeconomics Report 2 be adopted.

11
12 This report recommends:

13
14 That TMA adopt the following as policy:

15
16 **Extending Open Enrollment for Medicare Advantage Plans:** The Texas Medical Association
17 supports congressional policy changes that would require Medicare Advantage (MA) plans to
18 allow enrollees to change plans after the open enrollment period if they discover, after enrolling,
19 that their physician is not in the MA plan provider network.

20
21 Your reference committee heard testimony in support of this report.

- 22
23 (2) Council on Socioeconomics Report 3 - Prescription Drug Price Negotiation

24
25 **RECOMMENDATION:**

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27 Madam Speaker, your reference committee recommends that the recommendation in Council on
28 Socioeconomics Report 3 be adopted.

29
30 This report recommends:

31
32 That TMA adopt the following as TMA Policy on Prescription Drug Negotiation in the Medicare
33 Program:

34
35 **Prescription Drug Negotiation in the Medicare Program:** The Texas Medical Association
36 supports congressional authorization of Medicare to negotiate the prices of Medicare Part D
37 plans, as it does for other goods and services.

38
39 Your reference committee heard testimony only in support of this report.

- 40
41 (3) Council on Socioeconomics Report 4 – Prescription Drug Value Based Contracting

42
43 **RECOMMENDATION:**

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45 Madam Speaker, your reference committee recommends that the recommendation in Council on
46 Socioeconomics Report 4 be adopted.

47
48 This report recommends:

49

1 That the Texas Medical Association adopt the following as TMA policy on Prescription Drug
2 Value Based Contracting:
3

4 **Prescription Drug Value Based Contracting:** While the Texas Medical Association applauds
5 innovative ways to make prescription drugs more available and affordable for patients, TMA
6 believes that doing so without physician input may be construed as the corporate practice of
7 medicine. Therefore, TMA insists that physicians be included in the development of any new
8 contracting programs to ensure that physician and, more importantly, patient interests are
9 considered. In no way should value-based contracting or any other contracting method be a
10 hindrance between the physician and the drugs the physician believes is the best treatment for his
11 or her patient.
12

13 Your reference committee heard no opposing testimony.
14

15 (4) Council on Socioeconomics Report 5 – High-Risk Pool Policy
16

17 RECOMMENDATION:
18

19 Madam Speaker, your reference committee recommends that the recommendation in Council on
20 Socioeconomics Report 5 be adopted.
21

22 This report recommends:
23

24 That current TMA policy be amended as follows:

25 **110.009 Health Care Coverage:** The Texas Medical Association supports tax law reforms
26 which (1) increase the tax-preferenced insurance and spending choices available to patients;
27 (2) encourage individuals to buy insurance and set aside funds for medical needs; (3) provide
28 subsidies to those who are most in need; and (4) encourage personal responsibility and
29 participation of patients in the financing and benefit design decisions that ultimately
30 determine their health benefit coverage. TMA supports efforts to develop viable policies that
31 can improve the provision of care for the uninsured population. If federal standards are
32 relaxed or revised to allow risk rating and coverage exclusions for preexisting conditions, the
33 state of Texas should act immediately to create a new high-risk health insurance pool to
34 provide insurance coverage for individuals who cannot otherwise secure it. ~~The status of~~
35 ~~Texas' high risk pool should be monitored and any necessary reforms should be supported in~~
36 ~~response to federal reforms~~ (CSE Rep. 6-I-01; amended CSE Rep. 8-A-11).
37

38 Your reference committee heard testimony only in support of this report.
39

40 (5) Council on Socioeconomics Report 6 - MACRA Update and Policy Review
41

42 RECOMMENDATION:
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44 Madam Speaker, your reference committee recommends that the recommendation in Council on
45 Socioeconomics Report 6 be adopted.
46

47 This report recommends:
48

49 That current TMA policies be amended as follows:
50

1 **195.033 Medicare Value-Based Payment Modifier Payment Incentives and Penalties:** The
2 Texas Medical Association advocates that any Medicare's penalty or incentive program including
3 the Value-Based Payment Modifier program and the Merit-Based Incentive Payment System
4 Purchasing program be designed so that: (1) the measures and standards used do not result in
5 financial penalties for physicians when their patients do not comply with orders or
6 recommendations for testing and treatment; (2) physicians are not penalized for providing
7 services to disadvantaged patients; (3) physicians are not penalized for noncompliance with
8 obsolete or superseded guidelines and standards; and (4) both cost and quality measures are
9 adequately risk adjusted to eliminate the effects of poverty, poor educational attainment, and
10 cultural differences from the measures used to adjust payment. Until all of the above are
11 implemented, Medicare payments should not be adjusted using these measures (CSE Rep. 2-A-
12 12).

13
14 **240.018 Sustainable Growth Rate Medicare Fees:** ~~The Medicare physician fee schedule~~
15 ~~update formula is based on incorrect assumptions.~~ Inadequate fee updates since 2001 have caused
16 Medicare physician payments to fall well below the average cost to provide services, so that
17 physician practices are unable to survive at Medicare payment rates. Inadequate fees lead to a
18 shift of care to non-physicians costly hospital-based settings. ~~The Medicare SGR update formula~~
19 ~~causes the wrong incentives.~~ Adequate fees and a revision of the update factors are necessary to
20 maintain beneficiary access to outpatient care and to accomplish improvements in medical care
21 quality. Congress should act now to set Medicare fees at an adequate rate and enact a
22 requirements for future updates that are adequate to accommodate increasing practice costs-
23 ~~permanent fix to the update formula~~ (CSE Rep. 3-A-07).

24
25 Your reference committee heard testimony only in support of this report.

26
27 (6) Council on Socioeconomics Report 7 - Policy Review

28
29 RECOMMENDATION:

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31 Madam Speaker, your reference committee recommends that the recommendations in Council on
32 Socioeconomics Report 7 be adopted.

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34 This report recommends:

- 35
36 1. Retain Policies - 130.016, Compensation for Emergency Department Care; 195.024, Medicare
37 HMOs; 235.027, Payment for Physician Work Product; 265.016, Healthcare Integrity and
38 Protection Data Bank; 335.013, Workers' Compensation Prompt Pay
39
40 2. Amend Policies - 170.009, Product Liability Lawsuit Impact on Premiums;
41 180.03, Advocacy Efforts Regarding Health Care Payment Plans; 235.026, Medical Care and
42 Fair Compensation;
43
44 3. Delete Policy - 240.018, Medicare Fee Adequacy as this policy was amended in CSE Report
45 6-A-17 MACRA Update and Policy Review.
46
47

48 Your reference committee heard testimony only in support of this report.
49
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- 1 (7) Council on Socioeconomics and Select Committee on Medicaid, CHIP, and the Uninsured Joint
2 Report 6 - Federal Medicaid Reform and Implications for Texas; and
3 Resolution 401 - Opposition to Capped Federal Medicaid Funding (Bexar County Medical
4 Society); and
5 Resolution 402 - Proposed Change in Medicaid Funding (Concho Valley County Medical
6 Society); and
7 Resolution 407 - Medicaid Block Grants and Per-Capita Caps (Ben G. Raimer, MD, FAAP,
8 Texas Pediatric Society, Kimberly M. Carter, MD, Texas Association of Obstetricians and
9 Gynecologists, Troy T. Fiesinger, MD, Texas Academy of Family Physicians); and
10 Resolution 412 - Preference of Medicaid Funding Proposals (Harris County Medical Society)

11
12 **RECOMMENDATION A:**

13
14 Madam Speaker, your reference committee recommends that the recommendations in Council on
15 Socioeconomics and Select Committee on Medicaid, CHIP, and the Uninsured Joint Report -
16 Federal Medicaid Reform and Implications for Texas be amended by addition as follows:

17
18 This report recommends:

- 19
20 1. That TMA vigorously advocate to preserve guaranteed, uncapped federal Medicaid funding
21 for at least all Texas Medicaid populations covered by the program as of Jan. 1, 2017.
22
23 2. That TMA strongly advocate maintaining mandated minimum services, benefits and cost-
24 sharing requirements for pregnant women and children, including protecting the Early
25 Periodic Screening Diagnosis and Treatment (EPSDT) program to ensure Medicaid-enrolled
26 children retain access to all medically necessary services, and maternal health services to
27 promote healthy pregnancies and birth outcomes.
28
29 3. That TMA strongly reiterate its support for measures that promote continuity of care and the
30 patient-centered medical home, including maintaining 12-month continuous coverage for
31 children enrolled in the Children's Health Insurance Program and advocating for the same
32 policy for children's Medicaid, and preserve measures to simplify and streamline Medicaid
33 and CHIP enrollment processes so that children and other enrollees do not lose coverage due
34 to red-tape and bureaucracy.
35
36 4. That TMA reiterate its commitment to implementing a comprehensive initiative to expand
37 health care coverage to low-income Texans using federal funding and private sector
38 solutions.
39
40 5. That TMA evaluate the feasibility of piloting a capped Medicaid funding scheme for
41 Medicaid expansion population should Texas implement a coverage option for low-income
42 Texans, so long as the initiative provides patients meaningful coverage as devised by an
43 advisory panel of primary and specialty care physicians and does not increase uncompensated
44 care for physicians.
45
46 6. That TMA advocate strongly to stand against any federal or state reform measure, including
47 block grants, that will diminish patient access to services or increase physicians'
48 uncompensated care.
49

7. That TMA collaborate with state legislative leadership to seek relief from federal administrative requirements that impose undue costs and paperwork on patients, physicians, and the state without improving patient care or outcomes.

RECOMMENDATION B:

Madam Speaker, your reference committee recommends that the recommendations in the Council on Socioeconomics and Select Committee on Medicaid, CHIP, and the Uninsured Joint Report 6 be adopted as amended in lieu of Resolutions 401, 402, 407 and 412.

Resolution 401 recommends that the Texas Medical Association apply all appropriate resources to oppose capped Medicaid funding to ensure that vulnerable Texas children, pregnant women, and other populations continue to receive necessary medical services and that Texas does not increase uncompensated care for physicians.

Resolution 402 recommends:

1. Support maintaining the present Medicaid coverage, including Early Periodic Screening Diagnosis and Treatment, for the following populations: children, pregnant women, parents, patients with disabilities, and seniors;
2. Support the concept of block or per-capita grants for the Medicaid expansion population;
3. Support the basis for any block grant or per-capita grant being national per-capita expenditure averages, rather than historical expenditures by state; and
4. Support block or per-capita grants being adjusted annually to account for the medical inflation rate and population growth.

Resolution 407 recommends:

1. That the Texas Medical Association apply all appropriate resources and efforts to ensure that Medicaid continues to exist as an entitlement for children and pregnant women who are currently eligible for Medicaid; and
2. That the Texas Medical Association apply all appropriate resources and efforts to ensure that children enrolled in the Medicaid program continue to receive the current level of Early and Periodic Screening, Diagnosis, and Treatment benefits they currently have.

Resolution 412 recommends:

1. That, while not an endorsement of set dollar amount funding, if the federal government mandates a set dollar amount to the states for Medicaid, the Texas Medical Association recommend to our congressional leaders the use of a per-capita cap mechanism over block grants; and
2. That TMA work with our congressional leaders to ensure that states that did not expand Medicaid will not be penalized and should receive the same federal funding as expansion states.

Your reference committee heard overwhelming testimony in support of this report, as well as numerous resolutions that mirrored the contents of the joint report. The reference committee felt that the joint report captured the intent of the resolutions listed above. They believe the adoption of any of the policies would duplicate either existing TMA policy or the report by the joint committee.

1 (8) Resolution 403 - Supporting Community-Based Health Care Delivery Models for Vulnerable
2 Patients

3
4 RECOMMENDATION:

5
6 Madam Speaker, your reference committee recommends that Resolution 403 be adopted.

7
8 The resolution resolves that the Texas Medical Association:

- 9
10 1. Support the concept and implementation of community-based health care delivery models
11 emphasizing meaningful access for vulnerable patients throughout Texas; and be it further
12
13 2. Collaborate with the county medical societies to advocate before the Texas Health and
14 Human Services Commission, elected officials, and the Centers for Medicare & Medicaid
15 Services for adoption of community-based health care delivery models.
16

17 Your reference committee heard testimony only in support of these new and novel healthcare delivery
18 models.

19
20 (9) Resolution 404 - Allowing Exceptions to the Centers for Medicare & Medicaid Services' Locum
21 Tenens 60-Day Limit (Harris County Medical Society)

22
23 RECOMMENDATION:

24
25 Madam Speaker, your reference committee recommends that Resolution 404 be adopted.

26
27 The resolution resolves that the Texas Medical Association:

- 28
29 1. Support enhancing the Centers for Medicare & Medicaid Services' (CMS') locum tenens 60-
30 day exemption policy to allow physicians the right to apply for an exception to the 60-day
31 limit for billing for locum tenens services for circumstances beyond active military service
32 such as serious illness and family emergency, and be it further
33
34 2. That the Texas Delegation to the American Medical Association take to the AMA House of
35 Delegates a resolution requesting that AMA work with CMS to modify CMS policy, allowing
36 physicians the right to apply for an exception to the current 60-day limit for billing for locum
37 tenens services due to unforeseen circumstances such as serious illness, physical impairment,
38 or family emergency.
39

40 Your reference committee heard testimony only in support of this resolution.

41
42 (10) Resolution 405 - Minimum Standards for Interstate Sale of Health Insurance Products (Harris
43 County Medical Society)

44
45 RECOMMENDATION A:

46
47 Madam Speaker, your reference committee recommends that Resolution 405 be amended by
48 addition as follows:

49
50 The resolution resolves:
51

1 1. That the Texas Medical Association adopt policy on the following minimum standards to
2 apply to the interstate sale of health insurance products sold in Texas that supports at a minimum
3 the following standards, should such a policy be approved at the federal level:
4

- 5 1. Products with in-network/out-of-network distinctions must meet Texas network
- 6 adequacy standards;
- 7 2. Products must adhere to Texas prompt pay requirements;
- 8 3. Each company or HMO must meet minimum financial solvency standards required in
- 9 Texas; and
- 10 4. The jurisdiction for all legal challenges is determined by the location where the care is
- 11 given;
- 12

13 2. That the Texas Delegation to the American Medical Association take to the AMA House of
14 Delegates a similar resolution requesting that AMA establishing establish minimum federal
15 standards not lower than the Texas threshold that do not weaken any states' requirements on
16 network adequacy, tort and other insurance plan regulations.
17

18 Your reference committee heard testimony in favor of this resolution. The idea of selling
19 insurance across state lines has recently come forward on the federal level in anticipation of
20 changes to the Affordable Care Act. The resolution provides TMA with guidance if necessary.
21 There were concerns expressed by the members of the AMA delegation regarding the second
22 resolve. The AMA delegation would like flexibility to present this resolution without demanding
23 it be done the "Texas way". The author of the resolution acknowledges the concerns of the AMA
24 delegation and requests that the current protections afforded under Texas law be retained. Your
25 reference committee recommends amending the first resolve to ensure this protection.
26

27 RECOMMENDATION B:

28
29 Madam Speaker, your reference committee recommends that Resolution 405 be adopted as
30 amended.

31
32 (11) Resolution 406 - Transparency and Payments for Prior Authorizations (Harris County Medical
33 Society)
34

35 RECOMMENDATION:

36
37 Madam Speaker, your reference committee recommends that Resolution 406 be referred.

38
39 The resolution resolves:

- 40
41 1. That current Texas Medical Association policy be revised as follows:
42

43 **235.034 Authorizations Initiated by Third-Party Payers:** The Texas Medical Association
44 supports policy and legislation that third-party payers may not implement prior authorization
45 mechanisms unless these payers compensate physician practices for work required independent of
46 any payment for patient care; specifically, medical practices must be compensated for the burden
47 of added staff and resources required to navigate payer-initiated prior authorizations for
48 medications, studies, or procedures (Res. 401-A-11); and be it further
49

- 1 2. That, if payers and third parties do not compensate physicians for the prior authorization burdens
2 listed above, physicians may charge subscribers, since these burdens are not a covered service;
3 and be it further
4
- 5 3. That prior authorizations may be allowed for only new medications and not for medications that
6 patients have been receiving previously and continuously; and be it further
7
- 8 4. That TMA pursue new Texas laws that incorporate the AMA Ensuring Transparency in Prior
9 Authorization Act model bill, including provisions that prior authorization requirements and
10 restrictions be readily accessible on payers' websites for physicians and subscribers, and that
11 statistics regarding prior authorization approvals and denials be available on payers' websites;
12 and be it further
13
- 14 5. That TMA support legislation to mandate that payers accept and respond to standard electronic
15 prior authorization (ePA) transactions, such as the NCPDP SCRIPT Standard ePA transactions;
16 and be it further
17
- 18 6. That the Texas Delegation to the American Medical Association take this resolution to AMA for
19 a national unified movement.
20

21 Your reference committee heard testimony in support of the resolution, as well as overwhelming
22 testimony in support of referral. Those in support of referral felt that while the issue of payment for prior
23 authorization is important, the topic warranted further study by TMA. Members of the Texas Delegation
24 to the AMA testified that a robust report on this topic will be presented at the upcoming 2017 AMA
25 Annual meeting and addresses the spirit behind the last resolved. The delegation testified that they will
26 ensure that the intent of the principles included in this resolution are in the AMA report.
27

28
29 (12) Resolution 408 - Compensation of Physicians for Authorizations and Preauthorizations (Ori Z.
30 Hampel, MD)
31

32 **RECOMMENDATION:**
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34 Madam Speaker, your reference committee recommends that Resolution 408 be referred.
35

36 The resolution resolves:
37

38 That insurance and managed care companies ("payers") compensate physicians for the time that
39 physicians and their staff spend on authorization and preauthorization procedures. Such
40 compensation shall be paid in full by payers to physicians without deductible, coinsurance, or
41 copayment billable to patients. The fee schedule shall be based on the compensation due
42 physicians for direct patient care according to the Current Procedural Terminology (CPT) coding
43 system. For physicians contracted with payers, the payers shall compensate the physician at the
44 contracted fee schedule. For out-of-network physicians, the payers shall compensate physicians at
45 60 percent of billed charges. The physician and/or physician staff shall track the time spent per
46 patient per day performing tasks related to authorization and preauthorization. The physician shall
47 bill the payer in accordance with the following conversion table of time spent to CPT code:
48

Time spent by physician and/or staff	CPT code
Up to 5 minutes	99211
Up to 10 minutes	99212

Up to 15 minutes	99213
Up to 25 minutes	99214
Up to 40 minutes	99215
Each additional part of 10-minute increments	99212

1
2 Billable minutes for authorization and preauthorization include, but are not limited to, time spent
3 filling out forms, making telephone calls (including time spent negotiating phone trees and hold
4 time), documenting in the patient's medical record, communicating with the patient, printing,
5 copying, and faxing. Texas laws pertaining to payment timeliness shall apply to payers for such
6 billing as well.
7

8 Your reference committee heard testimony in support of referral. The issues associated with prior
9 authorization administration hassles and the lack of reimbursement for the time spent on them is
10 important to physicians. The reference committee believes that further study is needed to determine the
11 best way to address these issues.
12

13 (13) Resolution 409 - Medicaid Payments for Speech Therapy, Physical Therapy, and Occupational
14 Therapy (Medical Student Section)
15

16 RECOMMENDATION:

17
18 Madam Speaker, your reference committee recommends that Resolution 409 be referred.
19

20 The resolution resolves:

- 21
22 1. That the Texas Medical Association recognize the importance of funding for allied health care
23 professionals, such as speech therapists, physical therapists, and occupational therapists, to treat
24 economically disadvantaged minors, and be it further
25
26 2. That TMA collaborate with specialty societies to bring forth educational materials for legislators
27 and the general public explaining the purpose of nonphysician health services, such as speech
28 therapy, physical therapy, and occupational therapy, in promoting healthy children.
29

30 Your reference committee heard testimony applauding the hard work done by the MSS on this topic and
31 others. The majority of testimony recommended for referral as they felt the issue deserved further review
32 by the Select Committee on Medicaid, CHIP and the Uninsured. There were concerns expressed that the
33 specifics behind funding of allied health professionals is not within the TMA realm of work.
34

35 (14) Resolution 410 - Public-and Private-Sector Funding of Interpretation Services for Limited
36 English Speakers and American Sign Language (Medical Student Section)
37

38 RECOMMENDATION:

39
40 Madam Speaker, your reference committee recommends that Resolution 410 be adopted.
41

42 The resolution resolves:

- 43
44 1. That the Texas Medical Association advocate with interested parties to support expanded
45 reimbursement from Medicaid, the Children's Health Insurance Program, and other public sector
46 insurers, as well as private-sector coverage for interpretive services; and be it further
47

1 2. That TMA support expanded legislation that might arise concerning reimbursement of
2 interpretive services for both American Sign Language and limited English speakers; and be it
3 further
4

5 3. That TMA advocate for increased access to qualified medical interpretive services for physicians.
6

7 Your reference committee heard testimony only from the Medical Student Selection representative.
8

9 (15) Resolution 411 - Clearer Language Regarding the Physician's Role in Providing Auxiliary Aid
10 for Effective Communication Under Current Federal Laws (Medical Student Section)
11

12 RECOMMENDATION:
13

14 Madam Speaker, your reference committee recommends that Resolution 411 be referred.
15

16 The resolution resolves:
17

18 1. That the Texas Medical Association advocate with interested parties to support clarification of
19 current federal laws in regards to what constitutes effective communication towards patients with
20 interpretive needs; and be it further
21

22 2. That TMA support the creation of clearer guidelines in the Americans with Disabilities Act for
23 what is considered undue burden and recognize that negative resolution flow be a consideration;
24 and be it further
25

26 3. That TMA support measures to provide smaller practices that have limited resources and
27 availability of interpretive services with better legal protections and accessibility to qualified
28 medical interpreters; and be it further
29

30 4. That the Texas Delegation to the American Medical Association bring this resolution to the AMA
31 House of Delegates.
32

33 Your reference committee heard testimony acknowledging that this topic is of concern to physicians. The
34 overwhelming requirements and practice expense should be considered. However, patients who fall under
35 the Americans with Disabilities Act may have a negative perception of physicians who advocate for
36 changes in how their medical care is delivered. Based on these concerns it is recommended that the
37 resolution be referred for further study.
38

39 (16) Resolution 413 - Addressing Zika Through Increasing Medicaid Coverage of Insect Repellent
40 (Medical Student Section)
41

42 RECOMMENDATION:
43

44 Madam Speaker, your reference committee recommends that Resolution 413 be adopted.
45

46 The resolution resolves:
47

48 1. That TMA advocate for continued Medicaid coverage of insect repellent; and be it further
49

50 2. That TMA advocate for men insured through Medicaid receive similar insect repellent
51 prescription coverage as their female counterpart.

1
2 Your reference committee heard overwhelming testimony in favor of the resolution. Opposition to the
3 resolution was expressed due to the potential cost of implementation. Those in favor of the resolution
4 pointed out that the overall cost of treating Zika would far outweigh the cost of providing insect repellent.

5
6 (17) Resolution 414 - Regulations Regarding Freestanding Emergency Care Facilities (Evans Smith,
7 MD, FAAEM, FACEP)

8
9 RECOMMENDATION:

10
11 Madam Speaker, your reference committee recommends that Resolution 414 not be adopted.

12
13 The resolution resolves:

- 14
15 1. That the Texas Medical Association encourage and support legislation to level the playing field
16 between hospital-based emergency departments, which serve as the safety net for our
17 communities, and freestanding emergency medical centers, which serve primarily the financial
18 interests of their owners; and be it further
19
20 2. That TMA urge legislation to require any facility presenting itself as an emergency department to
21 participate in Medicare and Medicaid with all of their regulatory requirements; and be it further
22
23 3. That TMA urge legislation to require that freestanding emergency care facilities not be allowed to
24 deny emergency medical service (ambulance)- patients access to emergency care during times of
25 critical need such as when local hospitals are on a divert status; and be it further
26
27 4. That TMA urge the Texas Department of State Health Services to investigate freestanding
28 emergency medical care facilities' compliance with Title 25, Part 1, Chapter 131, Subchapter C,
29 Rule 131.46 (a) of the Texas Administrative Code regarding the treatment and stabilization of
30 patients without regard to their ability to pay.
31

32 Your reference committee heard testimony expressing concerns about the inaccuracy of information in
33 the resolution. Due to these inaccuracies, there was overwhelming testimony to not adopt the resolution.
34 Testimony pointed out that forcing freestanding emergency care facilities to participate in Medicare and
35 Medicaid could lead to forced participation by all physicians. Your reference committee notes that
36 existing TMA policy supports the intent of some of the resolutions as well as the concerns heard in
37 testimony

38
39 (18) Resolution 415 - Replacing the Medical Malpractice Litigation System With a "No-Fault"
40 Patients' Compensation System (Ori Z. Hampel, MD)

41
42 RECOMMENDATION:

43
44 Madam Speaker, your reference committee recommends that Resolution 415 be referred.

45
46 The resolution resolves:

47
48 That the Texas Medical Association support a "no-fault" patients' compensation system, modeled
49 after the workers' compensation system, that replaces our broken professional liability litigation
50 system, eliminates the practice of defensive medicine, and ensures real access to real justice for
51 all injured patients, with goals of (1) reducing the incidence of "defensive medicine," thus

1 lowering health care costs by avoiding unnecessary tests and procedures performed because of
2 fear of litigation; (2) eliminating the practice of “defensive medicine” by eliminating physicians’
3 fear of personal financial liability and the fear of the litigation process; (3) improving quality of
4 patient care by realigning incentives towards patient safety and a reduction in medical errors; and
5 (4) ensuring that iatrogenic adverse events are evaluated openly, resolved quickly, and
6 compensated fairly.

7
8 Your reference committee heard testimony from both the author of the resolution and other physicians
9 that this is a complex issue that has yet to be properly studied. Due to the complexity and the extensive
10 advocacy Texas has done to accomplish medical tort system reforms, the reference committee believes
11 referral is appropriate.

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16 Respectfully submitted,

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19
20 G. Sealy Massingill, MD, Chair
21 Brenda Vozza-Zeid, MD
22 Brian M. Bruel, MD
23 Habeeb Munir Salameh, MD
24 Katharina Hathaway, MD
25 Michael Ian Vengrow, MD
26 Nefertiti C. duPont, MD
27