

## ACTIONS OF THE 2009 HOUSE OF DELEGATES

### REFERENCE COMMITTEE A Medical Practice Issues

*Note: These actions will be updated in November 2009 with results of the delegate prioritization survey, assigning a priority ranking to each item of adopted and referred business.*

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Resolution 101a-09

#### **RAC AUDITS IN CALIFORNIA**

RESOLVED: That CMA continue to inform physicians and the public about the questionable practices of Recovery Audit Contractors; and be it further

RESOLVED: That CMA urge the AMA to seek legislation that requires the federal government to reimburse physician costs associated with a Recovery Audit Contractors audit; and be it further

RESOLVED: That CMA continue to advocate to Centers for Medicare and Medicaid Services the policy that an appeal shall include peer review by a physician practicing in the relevant specialty/subspecialty and geographical area based on medical necessity only as determined by that specialist/subspecialist; and be it further

RESOLVED: That CMA monitor the interaction between the Contractor Advisory Committee and Recovery Audit Contractors ensuring that there is an appropriate flow of information and respond accordingly; and be it further

RESOLVED: That CMA support changing the method of payment to the Recovery Audit Contractors from a contingency based system to a fee-for-service model.

*Action: Substitute adopted for combined resolutions 101-09 and 102-09*

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Resolution 102-09

#### **RECOVERY AUDIT CONTRACTORS**

*Action: See Resolution 101a-09*

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Resolution 103-09

**GOVERNMENT RECOVERY PROGRAMS**

RESOLVED: That CMA advocate that all government recovery programs contain complete physician access to any data mining criteria and programs and that there is same-specialty physician review prior to denial of claims and based on medical necessity or determined by that same-specialty/subspecialty physician reviewer; and be it further

RESOLVED: That CMA request that AMA explore options for reimbursement for physician costs related to government audits, including remedies available through the Equal Access to Justice Act.

*Action: Substitute adopted*

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Resolution 104a-09

**MEDICARE COVERAGE FOR HIV SCREENING**

RESOLVED: That CMA support the proposal of the Centers for Medicare and Medicaid Services to begin paying for HIV testing when done as a screening test for infection; and be it further

RESOLVED: That CMA request of the Centers for Medicare and Medicaid Services that coverage for HIV screening should have no automatic restrictions on age limit or maximum number of tests per year, but rather should depend on physician judgment regarding risk and appropriateness.

*Action: Substitute adopted*

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Resolution 105a-09

**MEDICARE EXPANDED BENEFITS SUPPLEMENT INSURANCE**

RESOLVED: That CMA advocate for the physician's right to collect up to the usual and customary rates for Medicare patients covered by supplemental or Medigap plans; and be it further

RESOLVED: That CMA continue to work with AMA on behalf of physicians to regain the right to bill up to usual and customary rates.

*Action: Substitute adopted*

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Resolution 106a-09

**PALMETTO REIMBURSEMENT**

RESOLVED: That CMA continue to track issues from members on the performance of Palmetto GBA, and notify elected officials and the public of the failures and the need for redress; and be it further

RESOLVED: That CMA provide input to Centers for Medicare and Medicaid Services (CMS) regarding the performance of Palmetto GBA and submit CMA recommendations to CMS in future contract negotiations.

*Action: Substitute adopted*

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Resolution 107a-09

**LAW ENFORCEMENT/REGULATOR VISITS TO PHYSICIANS' OFFICES**

RESOLVED: That CMA monitor the impact of unannounced inspections of physician offices on patient privacy and take appropriate steps to protect patient confidentiality.

*Action: Substitute adopted*

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Resolution 108-09

**ELIMINATION OF HARD COPY PRESCRIPTIONS FOR SCHEDULE II DRUGS**

*Action: Resolution 816-98 reaffirmed in lieu of Resolution 108-09*

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Resolution 109-09

**E-PRESCRIBING OF SCHEDULED MEDICATIONS**

RESOLVED: That CMA support action requiring that the Drug Enforcement Administration move expeditiously to establish reasonable requirements enabling the use of e-prescribing for controlled substances; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Adopted*

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Resolution 110-09

**DATA PROTECTION FOR BIOLOGIC SIMILARS**

*Action: Not adopted*

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Resolution 111a-09

**STATE MEDICAL LABORATORY REGULATION**

RESOLVED: That CMA support legislation eliminating the medical laboratory regulatory function of the State Laboratory Field Services, leaving intact its laboratory personnel licensing function.

*Action: Substitute adopted*

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Resolution 112-09

**MEDICARE COVERAGE OF OFF-LABEL ANTI-CANCER DRUG USE**

RESOLVED: That CMA call upon the Centers for Medicare and Medicaid Services to encourage the reporting of injectable anti-cancer drugs and their effect used off-label for the treatment of cancer to a national registry for the purpose of medical research; and be it further

RESOLVED: That CMA call upon Centers for Medicare and Medicaid Services to develop practical and easy methods by which oncologists may report their data to a national registry and may participate in qualified clinical trials.

*Action: Adopted as amended*

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Resolution 113a-09

**PHYSICIAN WELLNESS EDUCATION PROGRAM**

RESOLVED: That CMA work with other organizations, including but not limited to the CMA Alliance, medical societies and specialty societies, to identify resources available to effectively assist impaired physicians seeking treatment for physical and mental health and substance abuse issues; and be it further

RESOLVED: That CMA support the physician's right to confidentiality regarding physical and mental health and substance abuse treatment.

*Action: Substitute adopted*

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Resolution 114-09

**ABILITY TO DISPENSE DRUGS FROM A COMMON STOCK**

RESOLVED: That CMA study the issue of physician dispensing of medications from a common stock and, if appropriate, support legislation to allow the activity to take place.

*Action: Adopted*

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Resolution 115a-09

**TRANSLATOR SERVICES FOR HEARING-IMPAIRED PATIENTS**

RESOLVED: That all third party payors provide appropriate interpretive services to all of their hearing impaired enrollees as a benefit and provide appropriate compensation; and be it further

RESOLVED: That CMA educate physicians about the insurance industry's practice of assigning the financial responsibility for interpreter services to the physician; and be it further

RESOLVED: That CMA support future legislation related to this issue.

*Action: Substitute adopted*

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Report A-1-09

**POLICY REVIEW**

*Action: Recommendations adopted (on file at CMA headquarters)*

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Report A-2-09

**ELECTRONIC HEALTH RECORDS, CLAIMS BILLING AND PRESCRIBING**

RECOMMENDATION 1: That the House of Delegates adopt Substitute Resolution 108-08 as follows:

RESOLVED: That CMA support the ability of physicians to submit claims directly to payers, either electronically or by mailing paper claims; and be it further

RESOLVED: That CMA oppose payors owning or exclusively contracting with clearinghouses; and be it further

RESOLVED: That CMA oppose clearinghouses being used by plans to downcode claims, or otherwise inappropriately reduce reimbursement; and be it further

RESOLVED: That this matter be referred for national action.

RECOMMENDATION 2: That the House of Delegates adopt Substitute Resolution 109-08 as follows:

RESOLVED: That CMA support a physician's right to have direct electronic prescribing capability without being forced to pay setup fees, service charges and/or purchase proprietary software; and be it further

RESOLVED: That CMA support the ability of physicians to electronically prescribe on a system that is technology neutral and does not require proprietary software, including free or open source software; and be it further

RESOLVED: That CMA believes that mandatory e-prescribing programs should provide assistance for physician practices, and any mandate shall provide instructions offering no less than one option which will satisfy the mandate at no cost to the physician; and be it further

RESOLVED: That CMA support all privacy protections where electronic prescribing takes place; and be it further

RESOLVED: That this be referred for national action.

RECOMMENDATION 3: That the House of Delegates adopt Substitute Resolution 110-08 as follows:

RESOLVED: That CMA support the ability of physicians to have their own electronic health record/electronic medical record systems with application neutral commercial off the shelf software and/or open source software, and recognize this as a viable solution for some physicians; and be it further

RESOLVED: That CMA oppose any laws, rules or regulations that mandate a vendor specific operating system, browser, database and the like, to function in an electronic health care environment; and be it further

RESOLVED: That CMA support requiring HIT software vendors to fully disclose whether their product meets industry standards for functionality and interoperability; and be it further

RESOLVED: That CMA reaffirm the position that any new EHR system should, to the extent possible, be interoperable with legacy systems; and be it further

RESOLVED: That this be referred for national action.

RECOMMENDATION 4: That the House of Delegates adopt Substitute Resolution 111-08 as follows:

RESOLVED: That CMA support measures to assist physicians with the administrative and financial burdens associated with implementing health information technology (HIT) systems. These measures may include, but are not limited to: direct financial assistance, increased reimbursements, and tax credits; and be it further

RESOLVED: That, to the extent possible, such assistance should be given directly to physicians or physician groups, not through intermediaries. If financial assistance for HIT is tied to participation in pay-for-performance programs, those programs should meet the requirements of existing CMA policy.

*Action: Recommendations adopted as amended and remainder of report filed*

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## ACTIONS OF THE 2009 HOUSE OF DELEGATES

### REFERENCE COMMITTEE B Health System Reform

*Note: These actions will be updated in November 2009 with results of the delegate prioritization survey, assigning a priority ranking to each item of adopted and referred business.*

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Resolution 201a-09

#### **CMA INVOLVEMENT IN HEALTH SYSTEM REFORM**

RESOLVED: That CMA continue to play an active role in determining the future of the health care delivery system through active engagement of decision makers, both in Washington and in Sacramento.

*Action: Substitute adopted*

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Resolution 202-09

#### **CONGRESSIONAL SELF-EXEMPTION FROM HEALTH CARE LEGISLATION**

*Action: Not adopted*

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Resolution 203a-09

#### **HEALTH SYSTEM REFORM**

RESOLVED: That CMA support health system reform in the United States directed to help the truly uninsured, to help those who are eligible for coverage to obtain it, to allow total deductibility of all health care expenses and to enact tort reform nationally, as has been done in California; and be it further

RESOLVED: That CMA promote Health Savings Accounts and the right for physicians to privately contract with patients in federal health reform legislation; and be if further

RESOLVED: That CMA continue to fight for the “Guiding Principles of Health Reform” contained in HOD B-4-08.

*Action: Substitute adopted for combined resolutions 203-09 and 204-09*

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Resolution 204-09

**THOUGHTS ON MEDICAL CARE REFORM**

*Action: See Resolution 203a-09*

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Resolution 205-09

**HEALTH SYSTEM REFORM AND PALLIATIVE CARE**

RESOLVED: That CMA support proposals that seek to improve access, training, discussion and/or provision of good palliative care in any setting; and be it further

RESOLVED: That CMA appropriately respond to the scare tactics of those who distort the intent and impact of proposals to improve palliative care.

*Action: Adopted as amended*

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Resolution 206-09

**PREVENTION SERVICES IN HEALTH CARE REFORM**

RESOLVED: That CMA strongly support requirements that all public and private payors cover and appropriately reimburse physicians for preventive services, including as a minimum all those recommended by the U.S. Preventive Services Task Force and immunizations recommended by the Advisory Committee on Immunization Practices.

*Action: Adopted as amended*

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Resolution 207a-09

**COMMUNITY RATING AND GUARANTEED ISSUE OF HEALTH INSURANCE**

RESOLVED: That any health care reform legislation that includes community rating and guaranteed issue must be combined with an individual mandate.

*Action: Substitute adopted for combined resolutions 207-09 and 208-09*

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Resolution 208-09

**GUARANTEED ISSUE OF HEALTH INSURANCE**

*Action: See Resolution 207a-09*

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Resolution 209-09

**ATTESTATION OF REPRESENTATIVES' FULL READING OF HR 3200**

*Action: Not adopted*

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Resolution 210-09

**CONGRESSIONAL VOTING ON HEALTH CARE REFORM**

*Action: Not adopted*

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Resolution 211-09

**GOVERNMENT-SPONSORED HEALTH INSURANCE ALTERNATIVE**

*Action: Not adopted*

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Resolution 212-09

**"HEALTH STAMPS" FOR THE UNINSURED**

*Action: Not adopted*

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Resolution 213-09

**INDIGENT CARE TAX CREDIT**

*Action: Recommendations in Report B-3-08 reaffirmed in lieu of Resolution 213-09*

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Resolution 214-09

**OPTING OUT OF MEDICARE**

RESOLVED: That CMA support the ability of Medicare patients to legally opt out of the Medicare program and purchase private insurance using a voucher issued by the federal government; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Referred for decision*

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Resolution 215-09

**ELIGIBILITY AGE FOR MEDICARE PATIENTS**

*Not adopted*

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Resolution 216a-09

**PHYSICIAN REMUNERATION IN UNDERSERVED COMMUNITIES**

RESOLVED: That CMA continue to advocate for increased reimbursements and/or other incentives that will encourage physicians to practice in Health Professions Shortage Areas (HPSAs).

*Action: Substitute adopted*

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Resolution 217-09

**EMS (MADDY) FUND ACCOUNTABILITY**

RESOLVED: That CMA support the implementation of a standard accounting for dollars collected under applicable fines and forfeitures and deposited into the Emergency Medical Services Funds across all participating counties, and work with the appropriate state agency and/or the Legislature to make sure that the fines and forfeitures collected are properly accounted for and allocated to the EMS Fund and disbursed appropriately.

*Action: Referred for decision*

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Resolution 218-09

**FEDERAL PAYMENT FOR EMERGENCY SERVICES FOR UNDOCUMENTED IMMIGRANTS**

RESOLVED: That CMA support federal legislation to extend Section 1011 of the Medicare Modernization Act (MMA, P.L. 108-173), which provides for federal funding to the states for emergency services provided to undocumented immigrants; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Adopted as amended*

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Resolution 219-09

**MEDICAL HOME ADVOCACY**

RESOLVED: That CMA support the definition of “patient centered medical home” in state law that is based on the “Joint Principles of the Patient Centered Medical Home”; and be it further

RESOLVED: That only a licensed physician should lead any medical home model.

*Action: Adopted as amended*

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Resolution 220a-09

**INTEGRATING MENTAL, MEDICAL AND SUBSTANCE ABUSE TREATMENTS**

RESOLVED: That CMA support integration of mental health and substance abuse care with general medical care in both public and private sectors; and be it further

RESOLVED: That CMA advocate that any medical home program adopted by Medi-Cal includes access to psychiatric care.

*Action: Substitute adopted*

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Resolution 221a-09

**FEDERAL FUNDS FOR EHRs AND PATIENT PRIVACY**

RESOLVED: That CMA continue to take an active leadership role in educating physicians about the opportunities presented by federal incentives for the transition to electronic medical records; and be it further

RESOLVED: That CMA study issues regarding privacy in the transition to electronic medical records and take an active role in advocating for the privacy of patient and physician data.

*Action: Substitute adopted*

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Resolution 222-09

**PRESERVATION OF SOLO AND SMALL PRACTICE OPTIONS**

RESOLVED: That CMA support the ability of patients to seek consultation and treatment for their medical care from physicians practicing in solo or small group practice modes; and be it further

RESOLVED: That CMA undertake actions to help solo and small practices meet regulatory and payor requirements.

*Action: Adopted as amended*

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Resolution 223-09

**REQUIRE THAT HEALTH PLANS BE NON-PROFIT**

*Action: Not adopted*

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Resolution 224-09

**INCREASING MEDI-CAL PHYSICIAN REIMBURSEMENT**

RESOLVED: That CMA sponsor legislation in the 2010 legislative year to increase reimbursement for Medi-Cal providers by imposing a voluntary Medi-Cal claim fee that qualifies for federal matching funds; and be it further

RESOLVED: That the fees and federal matching dollars be placed in a pooled fund to increase reimbursement for Medi-Cal claims submitted by providers; and be it further

RESOLVED: That federally matched funds will only be used to increase Medi-Cal reimbursement for physicians to encourage increased participation in the Medi-Cal program.

*Action: Referred for decision*

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Resolution 225a-09

**BUDGET DEFICIT REDUCTION AND MEDI-CAL BENEFITS**

RESOLVED: That state budget deficit reduction efforts should not include the denial of necessary health care services to Medi-Cal beneficiaries.

*Action: Substitute adopted*

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Report B-1-09  
**POLICY REVIEW**

*Action: Recommendations adopted (on file at CMA headquarters)*

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Report B-2-09  
**REPORT OF THE HEALTH SYSTEM REFORM TAC**

RECOMMENDATION 1: That this report on Resolution 202a-08 be filed for information.

RECOMMENDATION 2: That the House of Delegates reaffirm existing policy, as outlined in Report B-1-04, that CMA will consider supporting a Public Utility Commission model for health plan regulation as a possible means for ensuring:

- risk adjusted payments to each plan;
- insurance plan compliance with laws;
- actuarially sound rates for premium setting; and
- an assessment that advancement in technology is evidence-based before mainstreamed into use.

*Action: Recommendations adopted and remainder of report filed*

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Report B-3-09  
**REPORT OF THE TAC ON THE FUTURE OF MEDICARE**

*Action: Filed for information*

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Report B-4-09  
**PRIVATE HEALTH INSURANCE VOUCHERS FOR MEDICARE PATIENTS**

*Action: Filed for information*

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## **ACTIONS OF THE 2009 HOUSE OF DELEGATES**

### **REFERENCE COMMITTEE C CMA Membership, Finance and Governance**

*Note: These actions will be updated in November 2009 with results of the delegate prioritization survey, assigning a priority ranking to each item of adopted and referred business.*

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Resolution 301-09

#### **SCHEDULING OF CMA ANNUAL SESSION**

RESOLVED: That CMA employ all available information to identify a time for the annual meeting that conflicts least with other important meetings of organized medical societies and associations, yet optimally meets the political goals of the organization.

*Action: Adopted*

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Resolution 302-09

#### **TIME LIMIT ON HOUSE OF DELEGATES DEBATE**

*Action: Withdrawn by author*

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Resolution 303-09

#### **HOUSE OF DELEGATES DEBATE TIME PER DELEGATE**

RESOLVED: That the CMA House of Delegates Standing Rules of Order be changed so that each speaker during floor debate is limited to 90 seconds instead of the current two minutes.

*Action: Adopted*

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Resolution 304-09

#### **DEFINITION OF TERMS IN CMA RESOLUTIONS**

*Action: Not adopted*

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Resolution 305a-09

**CMA RESOLUTION AUTHOR CONTACT INFORMATION**

RESOLVED: That the House of Delegates Standing Rules of Order be amended so that for each resolution introduced in the House of Delegates the author or designated representative's preferred means of contact, if so authorized by the author, shall appear on the resolution.

*Action: Substitute adopted*

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Resolution 306-09

**CMA ALTERNATE DELEGATE ELIGIBILITY FOR DELEGATION LEADERSHIP**

*Action: Not adopted*

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Resolution 307a-09

**CMA MEMBERSHIP RECRUITMENT**

RESOLVED: That CMA consider establishing a team of professional staff to assist component medical societies with membership recruitment and retention activities.

*Action: Substitute adopted*

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Resolution 308a-09

**SHORTENING THE CMA HOUSE OF DELEGATES MEETING**

RESOLVED: That CMA acknowledge that in-person CMA reference committee deliberations are extremely important; and be it further

RESOLVED: That the CMA House of Delegates should not be shortened to two days unless there is full House of Delegates discussion and decision.

*Action: Substitute adopted*

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Resolution 309-09

**ELECTRONIC VOTING BETWEEN SESSIONS OF THE HOUSE**

RESOLVED: That Chapter 9.09066 be added to the CMA Bylaws as follows (additions underlined):

9.09066 Subject to Section 7513 of the California Non-profit Mutual Benefit Corporation Law, voting conducted based on ballot arguments transmitted electronically to delegates shall be considered equivalent to written and mailed ballots and arguments with all of the same requirements pertaining thereto, except that votes cast electronically will be counted fourteen (14) days from the date of the electronic transmission of arguments to delegates.; and be it further

RESOLVED: That e-voting shall not be implemented until there are policies in place to ensure security, accuracy and verification of votes.

*ACTION: Adopted as amended*

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Resolution 310-09

**GARY S. NYE, MD AWARD FOR PHYSICIAN HEALTH AND WELL-BEING**

RESOLVED: That CMA institute a Gary S. Nye, MD Award for Physician Health and Well-Being that will be bestowed annually at the CMA House of Delegates meeting on a physician that has made significant contributions toward improving physician health and wellness; and be it further

RESOLVED: That the recipient of the Gary S. Nye, MD Award for Physician Health and Well-Being shall be nominated by the CMA Physicians' and Dentists' Confidential Line Committee; and be it further

RESOLVED: That CMA use the information gathered through the award nomination process to highlight the ongoing work that is being performed to ensure the health and wellness of the physician community and to use the opportunity to widely publicize the physician health and wellness resources available to all physicians.

*Action: Adopted*

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Resolution 311-09

**PHYSICIAN POLL ON HEALTH REFORM**

RESOLVED: That CMA conduct a statistically sound one doctor-one vote electronic poll of all physicians practicing in California for whom CMA has an email address to gauge their preferences for elements included in any ultimate health care reform legislation (not necessarily one particular legislative bill or another), regardless of whether some or all of the legislation has already been passed; and be it further

RESOLVED: That CMA conduct this poll in a timely manner during the fall of 2009 and make the results known to its members; and be it further

RESOLVED: That CMA recognize the importance of the ideas and positions its constituents and members (i.e., the physicians of California) have on health care reform and strive to adapt its lobbying efforts to best represent the will of California's physicians.

*Action: Referred for study and report back*

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Resolution 312-09

**FUNDING OF CALIFORNIA DELEGATION TO THE AMA**

*Action: Not adopted*

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Resolution 313-09

**SUBSIDIZING CMA DELEGATIONS TO OTHER ASSOCIATIONS**

*Action: Not adopted*

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Resolution 314-09

**COMMUNICATION WITH MEMBERS OF FORUMS AND SECTIONS**

RESOLVED: That CMA promote the success of its various forums and sections by establishing mechanisms whereby the officers of each and every forum and section can efficiently communicate regarding issues of importance with their respective members; and be it further

RESOLVED: That CMA request component medical societies to provide similar communication support to their delegates to the CMA's various sections and forums.

RESOLVED: That CMA consider updating its website to include new tools such as, but not limited to, online discussion forums, contact lists, blogs, calendar events, job postings and virtual sites to which mode of practice forums and sections may post content under the supervision of CMA.

*Action: Adopted as amended*

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Resolution 315-09

**RECOVERY OF ATTORNEYS' FEES**

RESOLVED: That CMA consider and pursue all practical ways to collect reasonable attorneys' fees and costs that CMA incurs for engaging in litigation to protect and advance the interests of physicians.

*Action: Adopted*

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Resolution 316-09

**FORMATION OF A PHYSICIANS UNION**

RESOLVED: That CMA form a union, legally constituted, but held dormant until such time as laws and the practice of medicine change to where physicians will need or wish to join a union for representation, in addition to the CMA; and be it further

RESOLVED: That this union be formed and operated in a manner consistent with the principles and ethics of the medical profession; and be it further

RESOLVED: That this union develop an educational program to train physicians in the art of negotiation.

*Action: Referred for decision*

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Resolution 317-09

**CREATION OF MOTHERLODE MEDICAL SOCIETY**

RESOLVED: That the physicians and the medical societies of Tuolumne, Calaveras, Amador, Alpine and San Joaquin counties be requested to begin discussions and feasibility studies on the potential establishment of a separate Motherlode Medical Society (MLMS) and on any other solutions to remedy the unique challenges of rural physicians in these counties; and be it further

RESOLVED: That CMA commit resources to assist in facilitating the above discussions and studies; and be it further

RESOLVED: That a report on progress and solutions in this matter be presented to the 2010 House of Delegates.

*Action: Referred for decision*

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Resolution 318a-09

**EDUCATION ON DIRECT FINANCIAL RELATIONSHIPS WITH PATIENTS**

RESOLVED: That CMA continue to educate its members on how to form a direct financial relationships with patients as an alternative to the traditional third party payor model; and be it further

RESOLVED: That CMA continue to make available to local medical societies and to physicians toolkits, information and guidelines related to direct medical practice with patients.

*Action: Substitute adopted*

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Resolution 319-09

**EDUCATIONAL CONFERENCE FOR STATE LAWMAKERS**

RESOLVED: That CMA consider working with interested parties to develop an annual educational conference for new and returning state legislators to offer them in-depth review of complex medical issues facing state government.

*Action: Adopted as amended*

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Resolution 320-09

**COMPONENT SOCIETY CHARTER COMMISSION**

RESOLVED: That CMA Bylaws Chapter 4.00, Component Societies, be amended as follows (additions underlined, deletions shown in ~~strikeout~~):

**CHAPTER 4.00 COMPONENT SOCIETIES**

**4.01 DEFINITION OF COMPONENT SOCIETIES**

A component society shall be a medical society organized on a geographical basis and encompassing one or more counties or a medical society of smaller geographic scope electing to withdraw from a county society in accordance with these Bylaws. The Association may recognize as component medical societies such additional medical societies, not limited as to geographical area, as these Bylaws shall specifically provide. Except for honorary and out-of-state members, no one may be a member of a component society who is not also a member of this Association.

**4.02 COMPONENT SOCIETY CHARTERS**

The House of Delegates may issue charters to component societies. The Articles of Incorporation and Bylaws of this Association now or hereafter in effect shall be expressly incorporated by reference in the charter of each component society, and shall govern in the event

of any conflict with the Constitution and Bylaws of the component society. The Constitution and Bylaws of the component society shall not be amended in any way to conflict or be inconsistent with the Articles of Incorporation and Bylaws of this Association. Each charter shall be signed by the president and the speaker of this Association. A copy of each component society's charter shall be maintained on file with the Association.

#### 4.031 CHARTER COMMISSION

##### 4.0311 Constitution of the Charter Commission

A Charter Commission shall, at the conclusion of the annual House of Delegates, be constituted to serve until the conclusion of the next annual meeting of the House of Delegates. Membership of the Charter Commission shall consist of the three (3) most recent past presidents of the Association who:

- (a) are not serving in an elected position at a component medical society or the Association; and
- (b) are not serving as a trustee or officer of the AMA; and
- (c) are not a declared candidate for an elected position in organized medicine at a local, state or national level; and
- (d) are residents of the state of California; and
- (e) are willing to serve on the Charter Commission; and
- (f) may be serving as directors or officers of CMA's subsidiary organizations established pursuant to Section 28.01; and
- (g) may be serving as AMA Delegates or Alternates or as appointed members of AMA councils or committees.

The President and Chair of the Board shall each appoint one (1) voting member to the Charter Commission who serve until the conclusion of the next annual meeting of the House of Delegates.

Member(s) of the Charter Commission must recuse themselves from any discussion, deliberation or voting concerning the component society of which they are a member or executive.

In the event that one or more of the Past Presidents is unable to serve or must recuse him or herself, then the President shall appoint a replacement Past President, whose eligibility to serve on the Commission shall be subject to conditions and qualifications set forth in this section.

The Chair of the Charter Commission will be the most recent past president.

The immediate past chair of the Medical Executive Conference shall serve as an ex-officio, non-voting member of the Charter Commission. If the immediate past chair of the Medical Executive Conference is unable to serve or must recuse him or herself, then the chair of the Medical Executive Conference will appoint a past chair of the Medical Executive Conference to serve as an ex-officio, non-voting member of the Charter Commission.

##### 4.0312 Purpose of the Charter Commission

The Charter Commission will serve as a dispassionate mediator and advisor on specific issues associated with component society charters.

##### 4.0313 Powers of the Charter Commission

The Charter Commission will ensure that every component society has a charter on file with the Association that meets the requirements of article 4.02. Failure by a component medical society to meet this requirement within six (6) calendar months of a written request by the Charter Commission will cause the Charter Commission to recommend charter revocation directly to the House of Delegates pursuant to article 4.03031.

##### 4.0314

The Charter Commission shall be convened by majority vote request of either the Executive Committee or the Board of Trustees of the Association, or the Executive Committee of the Medical Executive Conference, when a trigger event occurs. Trigger events include, but are not limited to, the following:

(a) When membership in a component society falls significantly below the Association's statewide ratio of regular active members to eligible physicians, or when membership falls precipitously in a short period, typically less than two years.

(b) When there is repetitive and unusual turnover of component society management.

(c) When there are significant fiscal problems reported on a component society's required reporting documents, or if the required reporting documents are not filed.

(d) When there are reports of election irregularities at component medical societies.

4.0315

When the Charter Commission receives a request to convene pursuant to Section 4.0314, the Charter Commission shall be obligated to meet on the matter within thirty (30) days of receipt of the request, and report to the Board of Trustees of the Association and the group that requested the Charter Commission to convene, within ninety days (90) of convening. The Charter Commission, using its staff, may:

(a) Take no action.

(b) Collect, or request of component societies or the Association, data germane to one or more of the trigger events.

(c) Request written report (s) from component societies or the Association, germane to one or more of the trigger events.

(d) Make recommendations germane to one or more of the trigger events to component societies, to the Executive Committee or Board of Trustees of the Association, or to the Medical Executive Conference.

(e) Recommend charter revocation directly to the House of Delegates pursuant to article.

#### 4.03 REVOCATION OF COMPONENT SOCIETY CHARTERS

4.0301

The House of Delegates may suspend or revoke any such charter, for cause, after due notice and proper hearing. "Cause" shall be considered to be any conduct or action on the part of any component society deemed in contravention of the Articles of Incorporation and Bylaws of this Association or the American Medical Association or their "Principles of Medical Ethics."

"Cause" shall further be deemed to be any conduct or action of a component society deemed inimical to the best interests of the Association.

4.0302

The House of Delegates may act on the withdrawal or secession of any component society from the Association and take such measures as are deemed advisable and proper for reinstatement of any component society which may have withdrawn or had its charter suspended or revoked.

4.0303

The charter of a component society may be suspended or revoked only in accordance with the following procedure:

4.03031 Complaint

A written complaint, stating the grounds for action, shall be filed with the Speaker by ~~the~~ of the Board of Trustees pursuant to a resolution adopted by the affirmative majority vote of Chair the

members of the Charter Commission, or two-thirds vote of the members of the Board of Trustees.

#### 4.03032 Notice

The Speaker of the Association shall, within thirty (30) days of receipt of complaint, send by certified mail to the secretary of the component society concerned, a true copy of such complaint.

#### 4.03033 Hearing

Hearing on the complaint shall be held by the House of Delegates at its first session occurring not less than three (3) months after the date of its presentation to the Speaker of the Association.

#### 4.03034 Decision

Suspension or revocation of the charter of a component society shall require a two-thirds affirmative vote of the members of the House of Delegates. The delegates of the component society concerned shall not vote, and their number shall not be counted in determining the necessary two-thirds majority.

### 4.04 COMPONENT SOCIETY RESTRUCTURINGS

Component Societies may be restructured by merger or division as provided in this section. The House of Delegates may issue a charter to a new component society when it concludes that the creation of the new component society is in the best interest of the Association. A charter shall be issued to the new entity whenever two (2) or more component societies complete a legal merger.

The Charter Commission, whenever component societies are merged or divided, shall recommend to the House of Delegates any modifications to Districts listed in Article 8.00.

### 4.05 RESCHEDULING OF THE HOUSE OF DELEGATES

Any term or period of time specified in these Bylaws shall be automatically extended to the extent a rescheduling of the House of Delegates requires a longer or shorter period of time to permit orderly transition upon the adjournment of the meeting of the House of Delegates.

4.06 Upon the conclusion of the 2010 Annual Session, Chapter 4.00 of the CMA Bylaws shall revert back to its prior version as it read on October 17, 2009.; and be it further

RESOLVED: That the Board of Trustees study the effectiveness of the provisions of Chapter 4.00 of the CMA Bylaws and report back to the House of Delegates in 2010.

*Action: Adopted as amended*

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Report C-1-09  
**POLICY REVIEW**

*Action: Recommendations adopted (on file at CMA headquarters)*

\*\*\*

Report C-2-09  
**CMA OFFICER FINANCIAL COMPENSATION**

*Action: Filed for information*

\*\*\*

Report C-3-09  
**OFFICER, TRUSTEE AND CANDIDATE DECLARATION OF INTEREST**

*Action: Filed for information*

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Report C-4-09  
**MICRA EDUCATION FUND BUDGET**

*Action: Filed for information*

\*\*\*

Report C-5-09  
**2010 CMA OPERATING BUDGET**

*Action: Filed for information*

\*\*\*

Report C-6-09  
**NOMINATIONS FOR APPOINTMENTS TO 2009-2010 STANDING COUNCILS AND COMMITTEES**

RECOMMENDATION 1: That the House of Delegates confirm the attached appointments to 2009-2010 CMA standing councils and committees.

RECOMMENDATION 2: *(Not adopted)*

RECOMMENDATION 3: *(Not adopted)*

RECOMMENDATION 4: That the House of Delegates reassign quality of care issues from the Committee on Quality Care, at the conclusion of the 2009 House of Delegates, to either the Committee on Medical Services or a newly constituted committee or TAC as emergent issues arise.

*Action: Recommendations 1 and 4 adopted; recommendations 2 and 3 not adopted; remainder of report filed*

\*\*\*

Report C-7-09

### **CMA MEMBERSHIP CATEGORIES AND BENEFITS**

*Action: Filed for information*

\*\*\*

Report C-8-09

### **MEDICAL STUDENT TRUSTEE TERM OF OFFICE**

RECOMMENDATION 1: That CMA Bylaws Section 10.03 be amended as follows (additions underlined, deletions shown in ~~strikeout~~):

#### 10.03 TRUSTEES: ELECTION TERMS AND TERM LIMITS

Trustees from Districts 1-11, the specialty delegation, the Council on Scientific and Clinical Affairs, EMOS, OMSS and Mode of Practice Fora shall serve for terms of three (3) years; except that the initial term of a new office arising hereunder may be for less than three (3) years, as the Bylaws may provide, to allow for staggering of terms. Such trustees shall serve no more than three (3) consecutive full terms representing the same constituency. A full term shall mean a term of at least two years for purposes of this Bylaw.

Trustees elected from the Medical Student Section and from the CMA Resident and Fellow Section (CMA-RFS) shall serve for a term of one (1) year with a maximum of two (2) consecutive full terms. The trustee for the Young Physicians Section shall serve for a term of two (2) years with a maximum of two (2) consecutive full terms.

Except for the trustee elected from the CMA Medical Student Section, Terms of office of the trustees shall commence immediately upon the adjournment of the meeting of the House of Delegates of the Annual Session of the Association at which such trustees are elected, and shall continue up to the adjournment of the meeting of the House of Delegates at the Annual Session of the Association of the year in which the term of office ends. The term of office of the medical student trustee shall commence upon being elected in April by the Governing Council of the CMA Medical Student Section, and shall continue up to the April trustee election by the Governing Council of the CMA Medical Student Section of the year in which the term of office ends.

*Action: Recommendation adopted and remainder of report filed*

\*\*\*

## **ACTIONS OF THE 2009 HOUSE OF DELEGATES**

### **REFERENCE COMMITTEE D Insurance and Physician Reimbursement**

*Note: These actions will be updated in November 2009 with results of the delegate prioritization survey, assigning a priority ranking to each item of adopted and referred business.*

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Resolution 401-09

#### **PAYMENT FOR EMERGENCY CARE SERVICES**

RESOLVED: That CMA pursue enactment of legislation to require health plans, and not their subcontracted IPAs and medical groups, to pay the claims of emergency physicians and emergency department on-call specialists for EMTALA-obligated medical screening and stabilizing emergency care; and be it further

RESOLVED: That this legislation require health plans to develop emergency care risk pools or similar arrangements to provide incentives to their sub-contracted medical groups and IPA to maintain the health of chronically ill enrollees, and offer expanded access to unscheduled care appointments, so as to reduce the need for these enrollees to use emergency department services.

*Action: Referred for decision*

\*\*\*

Resolution 402a-09

#### **PAYMENT FOR PATIENT MANAGEMENT BY TELEPHONE AND INTERNET**

RESOLVED: That health plans identify to patients and physicians the specific circumstances under which they will and will not reimburse online and telephone services; and be it further

RESOLVED: That CMA continue to work with regulators to ensure that health plans properly reimburse online and telephone services that health plans have identified as reimbursable services; and be it further

RESOLVED: That CMA continue to support appropriate billing of patients for online and telephone services that are not reimbursed by health plans.

*Action: Substitute adopted*

\*\*\*

Resolution 403a-09

#### **REIMBURSEMENT FOR ELECTROCARDIOGRAM TEST AND INTERPRETATION**

RESOLVED: That CMA collaborate with appropriate organizations, including but not limited to the American Heart Association, American Academy of Pediatrics, American Academy of Family Physicians, American Psychiatric Association and the California Health Benefit Review Program to (1) determine the feasibility of requiring insurers to cover electrocardiogram as part of the evaluation of children and adolescents receiving or being considered for stimulant drug therapy for Attention Deficit/Hyperactivity Disorder, and (2) reimburse physicians for electrocardiogram services.

*Action: Substitute adopted*

\*\*\*

Resolution 404-09

**REMUNERATION FOR TIME SPENT COMMUNICATING WITH INSURERS**

RESOLVED: That CMA support reasonable remuneration for time consumed by physicians and their staff communicating with representatives of insurance companies and their affiliates to obtain approval for medical care, to assist patients in their efforts to follow through with the physician's recommendations regarding care, and to obtain compensation for medical care provided.

*Action: Adopted as amended*

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Resolution 405-09

**FULL DISCLOSURE OF PAYMENT SCHEDULES**

*Action: Resolution 413a-00 reaffirmed in lieu of Resolution 405-09*

\*\*\*

Resolution 406a-09

**PHYSICIAN LABORATORY BILLING**

RESOLVED: That CMA work with regulators to investigate non-reimbursement by health plans of physician handling fees associated with clinical laboratory services.

*Action: Substitute adopted*

\*\*\*

Resolution 407a-09

**FORCED OFF-LABEL USE OF MEDICATIONS AND STEP THERAPY**

RESOLVED: That CMA support legislation to bar health plans and insurers from requiring a patient to use a particular non Food and Drug Administration (FDA)-indicated drug before providing access to FDA-indicated drugs if they cannot demonstrate that the particular non FDA-indicated drug is supported by widely accepted guidelines or clinical literature, and if they cannot show that the particular non FDA-indicated drug is appropriate for the treatment of the medical condition and medically appropriate for the patient; and be it further

RESOLVED: That CMA continue to work with the Department of Managed Health Care to investigate health plan and insurer abuse of step therapy, and take all appropriate action, including working with the California Attorney General, to help enforce step therapy laws to protect patients and physicians; and be it further

RESOLVED: That this be referred to national action.

*Action: Substitute adopted for combined resolutions 407-09 and 408-09*

\*\*\*

Resolution 408-09

**STEP THERAPY/FAIL FIRST PRESCRIBING**

*Action: See Resolution 407a-09*

\*\*\*

Resolution 409a-09

**UNIVERSAL MEDICAL NECESSITY LEGISLATION**

RESOLVED: That CMA continue to support a rebuttable presumption standard for treating physicians' medical necessity determinations and returning the burden of proof for overturning such decisions to the health plans.

*Action: Substitute adopted*

\*\*\*

Resolution 410-09

**PAY FOR PERFORMANCE FOR PATIENTS**

RESOLVED: That CMA support an approach that would encourage patients to adhere to physician recommended treatments and screening/prevention guidelines through the use of financial incentives; and be it further

RESOLVED: That CMA develop a "Suggested Pay for Performance for Patients (P4P4P) Model" that can be used by third party payers in developing such financial incentives; and be it further

RESOLVED: That this P4P4P model shall not encourage nor condone an approach of penalizing patients who do not adhere to physician recommended treatments and screening/prevention guidelines, but rather reward patients through financial incentives who do adhere to physician recommended treatments and screening/prevention guidelines; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Referred for decision*

\*\*\*

Resolution 411a-09

**LOCAL REFERRAL OF PATIENTS BY HEALTH PLANS**

RESOLVED: That CMA work with appropriate regulators to address the issue of health plans and insurers inappropriately sending patients outside of the service area for health care services available locally with contracting physicians.

*Action: Substitute adopted*

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Resolution 412a-09

**DMHC REGULATOR CONFLICT OF INTEREST**

RESOLVED: That CMA work with the Fair Political Practices Commission to further strengthen the code of conduct for former Department of Managed Health Care (DMHC) employees, which would include barring former DMHC employees from lobbying DMHC for at least three years after leaving DMHC; and be it further

RESOLVED: That CMA work with the Fair Political Practices Commission to explore if it is legally feasible to bar former DMHC employees from working for a DMHC regulated health plan for a period of time.

*Action: Substitute adopted*

\*\*\*

Resolution 413-09

**WORKERS' COMPENSATION MEDICAL TREATMENT AUTHORIZATION**

RESOLVED: That CMA take an active role in establishing legislation forbidding the arguing of medical necessity of Workers' Compensation treatment after the treatment has already been rendered; and be it further

RESOLVED: That utilization review be the only pathway to approve or deny medical treatment; and be it further

RESOLVED: That payment for treatment cannot be denied after it has been provided and the insurance company failed to use utilization review to argue medical necessity.

*Action: Referred for study and report back*

\*\*\*

Resolution 414-09

### **QME WAITING ROOM TIME**

RESOLVED: That CMA work with the Division of Workers' Compensation to change the current regulations regarding the maximum waiting time an injured worker, claimant, or applicant may spend in an evaluator's office from one to two hours.

*Action: Adopted as amended*

\*\*\*

Resolution 415a-09

### **ONLINE DEFAMATION OF HEALTH CARE PROVIDERS**

RESOLVED: That CMA work with the AMA to seek federal guidance on misleading or false statements regarding physician performance posted online or on other public venues, particularly when patients use protected health information (PHI); and be it further

RESOLVED: That CMA support legislation that would require vendors who operate online forums related to review of physician performance to include terms and conditions of use that include, but are not limited to, the following: posters are aware that the information posted online is available to the public; posters agree to post factual statements; posters must be current or former patients of the physician; posters may not pose as another patient; posters are to disclose; within their posts; any conflicts of interest or business relationship with the vendor of the online forum; and that non-inclusion of terms and conditions of use is deemed an unfair business practice; and be it further

RESOLVED: That CMA develop and provide educational materials or resources to help physicians manage misleading or false statements regarding physician performance posted online or on other public venues, which may include guidelines or strategies, and examples of documents dealing with false public statements.

*Action: Substitute adopted for combined resolutions 415-09 and 416-09*

\*\*\*

Resolution 416-09  
**ONLINE DEFAMATION OF HEALTH CARE PROVIDERS (#2)**

*Action: See Resolution 415a-09*

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Resolution 417a-09  
**CONCIERGE MEDICINE/RETAINER-BASED PRACTICES**

RESOLVED: That CMA continue to acknowledge concierge medicine as an option for providing medical care to patients in an ethically sound, patient centered environment; and be it further

RESOLVED: That CMA continue to make available CMA's concierge medicine information and any related toolkit to all constituent societies and interested physicians via website or regular mail upon written request.

*Action: Substitute adopted*

\*\*\*

Resolution 418-09  
**PHYSICIAN AUTHORITY IN DETERMINING MEDICAL NECESSITY**

RESOLVED: That CMA stand for the art and science of medicine and recognize that the best medical care treats each patient as an individual; and be it further

RESOLVED: That the best medical care is individualized for each patient and does not unduly restrict the physician from practicing the art of medicine; and be it further

RESOLVED: That the physician be presumed correct in the determination of what is best medically for the patient; and be it further

RESOLVED: That the physician be the primary medical authority determining medical necessity and not an outside entity that has not examined the patient or has developed a doctor-relationship with all the duties, obligations, and privileges that that relationship entails.

*Action: Referred for study and report back*

\*\*\*

Resolution 419-09  
**UTILIZATION REVIEW PEER REVIEW**

RESOLVED: That CMA recognize that utilization review (UR) peer review is the practice of medicine and should be held accountable as is every other physician for the care they render; and be it further

RESOLVED: That CMA recognize that UR peer review physicians have a profound impact on the life and welfare of suffering patients and should not be held harmless for the harm they create by strict adherence to guideline medicine without consideration for the opinion of the treating physician; and be it further

RESOLVED: That CMA demand that UR physicians be held accountable for the consequences of the medical care that they deny, delay or modify; and be it further

RESOLVED: That CMA recognize that treating physicians are presumed correct in determining medical necessity in the rendering of medical care for their patients.

*Action: Referred for study and report back*

\*\*\*

Report D-1-09

## **POLICY REVIEW**

*Action: Recommendations adopted (on file at CMA headquarters)*

\*\*\*

Report D-2-09

## **DEFINITION OF MEDICAL NECESSITY**

RECOMMENDATION 1: That the following substitute resolution (for Resolutions 401-08, 414-08 and 403-07) on medical necessity be adopted (amendments to existing policy are contained in Resolves 1 and 2, with additions underlined and deletions shown in ~~striketrough~~):

RESOLVED: That only a California-licensed, actively practicing physician who is competent, by means of similar board certification or training as the treating physician, to evaluate the specific clinical issues involved may deny or modify requests from a treating physician for authorization based on medical necessity, including but not limited to pre- and post-procedural pain control, ~~and~~ medical consultations, and independent medical review. An actively practicing physician means a minimum of ten hours per week in the active clinical practice of the physician's specialty or previously having been actively practicing for a minimum of ten hours per week in the physician's specialty within the past three years; and be it further

RESOLVED: That CMA reaffirm its existing policy regarding the definition of medical necessity and use all appropriate measures to ensure that only a California-licensed, actively practicing physician who is competent by means of similar board certification or training as the treating physician to evaluate the specific clinical issues involved may deny or modify

requests from a treating physician for authorization based on medical necessity, including but not limited to pre and post procedural pain control, medical consultations, and independent medical review; and be it further

RESOLVED: That CMA use all appropriate measures to advocate that health plans and insurers conducting business in California adopt the CMA definition of medical necessity; and be it further

RESOLVED: That this matter be referred for national action.

RECOMMENDATION 2: That policies HOD 413a-06 and HOD 415a-08 be rescinded.

*Action: Referred for study and report back*

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## ACTIONS OF THE 2009 HOUSE OF DELEGATES

### REFERENCE COMMITTEE E Quality, Ethics and Legal Issues

*Note: These actions will be updated in November 2009 with results of the delegate prioritization survey, assigning a priority ranking to each item of adopted and referred business.*

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Resolution 501-09

#### **MEDICAL ERRORS AND "FAIR AND JUST CULTURE"**

RESOLVED: That CMA endorse and promote the use of the following principles of fair and just culture in quality and patient safety: (1) Every member of the healthcare team is aware that medical errors can cause patient harm; (2) Every caregiver feels responsible to report all errors and "near misses," even when actual harm to patients does not result; (3) Investigations of reports are done with a view not to assigning blame but to identifying and correcting systems and processes of care that contribute to the risk of harm to the patient; (4) All caregivers are held accountable for following established procedures for reducing risks to patient safety, and learn from human error to reduce the risk of the error that leads to patient harm; (5) The action taken in peer review will not be based solely on the outcome, but on the relative risk and behavioral choices; and (6) Medical errors and near misses that result from reckless behavior or from unjustifiable failure to follow established safety policies and procedures will result in disciplinary action.

*Action: Referred for study and report back*

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Resolution 502a-09

#### **PATIENT SAFETY VIOLATIONS**

RESOLVED: That CMA shall make information available to its members regarding patient safety violations cited by the California Department of Public Health.

*Action: Substitute adopted*

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Resolution 503-09

#### **EVIDENCE TO SUPPORT CLINICAL RECOMMENDATIONS**

*Action: Not adopted*

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Resolution 504a-09

**MEDICAL PRACTICE GUIDELINES AND CONFLICTS OF INTEREST**

RESOLVED: That CMA support the position that members of practice guideline development committees must disclose, in conjunction with the practice guidelines developed, any possible conflict of interest; and be it further

RESOLVED: That medical and specialty associations should not receive from drug, device or equipment manufacturers any money for sponsoring, underwriting or promoting practice guidelines; and be it further

RESOLVED: That CMA support the position that practice guidelines should be peer reviewed by independent reviewers prior to publication to ensure that all guidelines are evidence-based to the greatest possible degree and that any possible conflict of interest of the committee members or independent reviewers have been disclosed with each publication thereof; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Substitute adopted*

\*\*\*

Resolution 505a-09

**NON-GOVERNMENTAL HEALTH STANDARDS**

RESOLVED: That CMA support the ability of non-governmental organizations to evaluate appropriate medical diagnosis or therapy or current or new diagnostic or therapeutic tests, procedures, medications or other procedures that improve the quality of patient care; and be it further

RESOLVED: That any practice guidelines, parameters, best practices models, or similar set of principles or clinical recommendations, whether developed or issued by government or non-government organizations, including those that result from any comparative effectiveness research or evidence-based medicine system, do not, and expressly state that they do not, establish standard of care or create specific requirements for physicians that restrict the exercise of their clinical judgment; and be it further

RESOLVED: That CMA urge any organization, whether governmental or non-governmental, promulgating any practice guidelines, parameters, best practices models, or similar set of principles or clinical recommendations, to include a statement that they are guidelines only; and be it further

RESOLVED: That CMA urge any organization, whether governmental or non-governmental, promulgating any practice guidelines, parameters, best practices models, or similar set of principles or clinical recommendations, to set a regular schedule for review and update; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Substitute adopted*

\*\*\*

Resolution 506a-09

**END-OF-LIFE CARE AND FUTILE TREATMENT**

RESOLVED: That CMA petition one or more committees that have jurisdiction over health care in the House of Representatives and U.S. Senate to hold public hearings on end-of-life care and provide testimony.

*Action: Substitute adopted*

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Resolution 507-09

**END-OF-LIFE CARE CONSULTATION PROPOSALS**

*Action: Not adopted*

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Resolution 508-09

**PERMISSIBLE WITHDRAWAL FROM PROVIDING ONGOING CARE**

*Action: Not adopted*

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Resolution 509-09

**AID IN DYING**

*Action: Not adopted*

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Resolution 510-09

**CMA MEMBERSHIP POLL ON PHYSICIAN AID IN DYING**

*Action: Not adopted*

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Resolution 511-09

**LIMITATION ON NUMBER OF IMPLANTED EMBRYOS**

*Action: Not adopted*

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Resolution 512a-09

**TORT IMMUNITY FOR PHYSICIAN VOLUNTEERS**

RESOLVED: That CMA continue to actively monitor and participate in discussions with other interested stakeholders on the California Medical Board's Report to the legislature pursuant to Business & Professions Code Section 2023 on malpractice protections for physicians providing voluntary, unpaid service, and will continue to work towards a legislative solution to the issue.

*Action: Substitute adopted*

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Resolution 513-09

**LIABILITY IMMUNITY IN CASE OF MAJOR DISASTER**

RESOLVED: That CMA support immunity from liability for medical and nonmedical care rendered and triage decisions made during a major disaster or state of emergency anywhere within any jurisdiction covered by such emergency for the extent of time that a state of emergency may exist.

*Action: Adopted as amended*

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Resolution 514-09

**PROFESSIONAL LIABILITY REFORM IN HEALTH CARE LEGISLATION**

*Action: Not adopted*

\*\*\*

Resolution 515a-09

**CALIFORNIA CORPORATE MEDICINE BAR**

RESOLVED: That CMA continue to defend the bar on the corporate practice of medicine as necessary to preserve it; and be it further

RESOLVED: That CMA continue education efforts on the corporate medicine bar; and be it further

RESOLVED: That CMA continue its efforts to explore other appropriate strategies to recruit physicians in communities where such physicians are needed.

*Action: Substitute adopted*

\*\*\*

Resolution 516a-09

**FAMILY MEDICAL LEAVE ACT AMENDMENT**

RESOLVED: That CMA support legislation amending the Family Medical Leave Act's basic leave entitlement "to care for the employee's spouse, son or daughter, or parent who has a serious health condition" to included designated caregiver; and be it further

RESOLVED: That CMA request the Department of Labor to include these changes at the federal level.

*Action: Substitute adopted*

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Report E-1-09

**POLICY REVIEW**

*Action: Recommendations adopted (on file at CMA headquarters)*

\*\*\*

Report E-2-09

**PATIENT CONFIDENTIALITY IN BIOBANKS**

RECOMMENDATION 1: That the House of Delegates adopt the following Substitute Resolution 502-08:

RESOLVED: That CMA support the development and use of a universal consent form for use with participants in research studies that involve the participant's biologic materials; be it further

RESOLVED: That informed consent for participants in research studies that involve the participant's biologic materials should include, in addition to other information required by law, a direct statement of the participant's right to withdraw from the research study at any time, as well as information as to whether the participant's biologic material:

- will be de-identified;
- will be pooled in a biobank;
- will be shared outside of the organization conducting the research study;

- will be sold or exchanged;
- will be made available for commercial use; or
- may be accessed, used or considered by outside entities; and be it further

RESOLVED: That this be referred for national action.

*Action: Recommendation adopted and remainder of report filed*

\*\*\*

Report E-3-09

### **CONFLICT OF INTEREST RULES FOR PHYSICIANS**

RECOMMENDATION 1: That the House of Delegates adopt the following Substitute Resolution 507-08:

RESOLVED: That CMA support mandatory disclosure of financial relationships between physicians, pharmaceutical interests, and medical device manufacturers; and be it further

RESOLVED: That CMA continue to support policy that would require pharmaceutical companies and makers of medical devices to report all payments, including cash, grants and contracts, as well as all gifts, honoraria or other emoluments, including travel, entertainment, sports, recreation or lodging, given to physicians and others with a value over \$100, and that all such reports be made public at least annually; and be it further

RESOLVED: That CMA support physician disclosure to patients of compensation from drug or medical device manufacturers when enrolling those patients as participants in research studies. Said disclosure should be made as part of the informed consent process and should include the fact of the compensation as well as identification of the products and devices that these companies manufacture that may be recommended by said physician; and it be further

RESOLVED: That this be referred for national action.

*Action: Recommendation adopted and remainder of report filed*

\*\*\*

Report E-4-09

### **COMPENSATION FOR RESEARCH PARTICIPANTS PROVIDING OOCYTES**

RECOMMENDATION 1: That Resolution 512-08 not be adopted.

*Action: Referred for decision*

\*\*\*

## ACTIONS OF THE 2009 HOUSE OF DELEGATES

### REFERENCE COMMITTEE F Health Professions and Facilities

*Note: These actions will be updated in November 2009 with results of the delegate prioritization survey, assigning a priority ranking to each item of adopted and referred business.*

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Resolution 601-09

#### **ENFORCEMENT OF PEER REVIEW REQUIREMENTS**

*Action: Not adopted*

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Resolution 602-09

#### **PERMISSABLE USE OF SUMMARY BLANKET ORDERS**

*Action: Not adopted*

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Resolution 603a-09

#### **PUBLIC EDUCATION ON MEDICAL LICENSURE**

RESOLVED: That the CMA support educating the public about the requirements for medical licensure and the value that licensed physicians bring to their patients and the community.

*Action: Substitute adopted*

\*\*\*

Resolution 604-09

#### **USE OF THE TERM 'PHYSICIAN'**

RESOLVED: That CMA encourage its members to use the terms 'physician' to describe themselves, leaving other terms such as 'practitioner,' or 'provider' to be used by non-physicians; and be it further

RESOLVED: That CMA support the appropriate use of credentials and professional degrees in advertisements and provide a mechanism for physicians to report advertisements related to medical care that are false or deceptive; and be it further

RESOLVED: That CMA continue to oppose legislation that would expand use of the term 'physician' to persons other than DOs and MDs; and be it further

RESOLVED: That CMA continue to support reserving the title ‘physician’ for DOs/MDs who have completed the education, training, examination and regulation required for the unlimited practice of medicine.

*Action: Adopted as editorially amended*

\*\*\*

Resolution 605a-09

**USE OF SPECIALIST NOMENCLATURE**

RESOLVED: That CMA support continuing education and training within the specialty for physicians who represent themselves as a specialist; and be it further

RESOLVED: That CMA support the consideration of multiple factors in assessing a physician’s qualifications to practice as a specialist, including but not limited to medical education and training, board certification, and practice experience.

*Action: Substitute adopted*

\*\*\*

Resolution 606-09

**UNLICENSED PRACTICE OF MEDICINE BY PHYSICIANS' ASSISTANTS**

*Action: Not adopted*

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Resolution 607-09

**QUALIFICATION REQUIREMENTS OF MBC CONSULTANTS**

RESOLVED: That CMA, through sponsorship or support of legislation or any other means, work to ensure that each case that is referred for disciplinary action to the California Attorney General’s Office by the Medical Board California be reviewed by a consultant who holds a valid California physician license, actively practices in the specialty similar to that of the defendant and demonstrates competency in that specialty through recertification by the American Board of Medical Specialties or its equivalent (those who practice the subspecialty in question and hold a faculty appointment at an accredited medical school in the United States would be exempt from this rule).

*Action: Referred for study and report back*

\*\*\*

Resolution 608a-09

**FUNDING FOR GRADUATE MEDICAL EDUCATION**

RESOLVED: That CMA support and advocate for the following goals that are critical to improving the quality of graduate medical education and relieving the physician supply problem in California: (1) increasing the funding to support training and compensation for both residents and the physicians providing the training regardless of training setting; (2) increasing the number of internship and residency training positions in hospitals and in community settings; (3) monitoring the impact of health care reform policies on the funding and quality of accredited residency training program to ensure that the availability of graduate medical education training continues to be a high priority; and (4) ensuring that any reallocation or new allocation of residency training funding be equitable and the effect on California be assessed and advocated.

*Action: Substitute adopted for combined resolutions 608-09, 609-09, 610-09 and 611-09*

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Resolution 609-09

**HEALTH REFORM IMPACT ON GRADUATE MEDICAL EDUCATION**

*Action: See Resolution 608a-09*

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Resolution 610-09

**FUNDING FOR GRADUATE MEDICAL EDUCATION**

*Action: See Resolution 608a-09*

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Resolution 611-09

**COMMUNITY GRADUATE EDUCATION**

*Action: See Resolution 608a-09*

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Resolution 612a-09

**EMPHASIS ON PRIMARY CARE IN MEDICAL EDUCATION**

RESOLVED: That CMA reaffirm its support for expanding the emphasis on primary care in medical education; and be it further

RESOLVED: That CMA encourage the incentives for, and expansion of, medical education that increases the supply of primary care physicians and without any adverse impact on patient care.

*Action: Substitute adopted*

\*\*\*

Resolution 613-09

**NEW MODEL FOR FINANCING MEDICAL EDUCATION**

RESOLVED: That CMA support the establishment of a program that allows institutions such as government agencies to fully fund education and training for medical students in exchange for an agreement to practice medicine at a designated institution upon completion of medical training; and be it further

RESOLVED: That this be matter be referred for national action.

*Action: Adopted as amended*

\*\*\*

Resolution 614a-09

**HEALTH POLICY AND PRACTICE MANAGEMENT IN MEDICAL EDUCATION AND TRAINING**

RESOLVED: That CMA encourage the inclusion of health care policy courses as part of the standard U.S. medical school curriculum, as well as through continuing medical education programs; and be it further

RESOLVED: That CMA develop guidelines for incorporating a practice management curriculum into residency training and make these guidelines available to all California residency programs.

*Action: Substitute adopted for combined resolutions 614-09 and 616-09*

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Resolution 615a-09

**LOAN FORGIVENESS FOR PRIMARY CARE PRACTICE**

RESOLVED: That CMA reaffirm existing policy on loan forgiveness for medical education; and be it further

RESOLVED: That CMA support re-evaluating the terms of the Steven M. Thompson Loan Repayment Program to increase participation of primary care physicians and expand the geographic areas in which they may practice.

*Action: Substitute adopted*

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Resolution 616-09

**MANDATORY PRACTICE MANAGEMENT IN RESIDENCY**

*Action: See Resolution 614a-09*

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Resolution 617a-09

**CME FOR ALLIED HEALTH PROVIDERS**

RESOLVED: That CMA request that medical specialty boards and allied health professional associations work together to develop recommended continuing education programs of study for limited license providers specific to the specialty of the physician who supervises them.

*Action: Substitute adopted*

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Resolution 618a-09

**MEDICAL EDUCATION ON DOMESTIC VIOLENCE**

RESOLVED: That CMA advocate for education on domestic violence in our medical school and residency curricula as well as education for practicing physicians and all health care extenders; and be it further

RESOLVED: That education include prevention, early recognition, evaluation, treatment and reporting of domestic violence; and be it further

RESOLVED: That the CMA Alliance and CMA Foundation facilitate education of all stakeholders in the prevention, early recognition, evaluation and referral of domestic violence.

*Action: Substitute adopted*

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Resolution 619-09

**ACCME FEE INCREASE**

RESOLVED: That CMA oppose unreasonable increases in the annual fee the Accreditation Council for Continuing Medical Education levies upon providers of continuing medical education; and be it further

RESOLVED: That CMA urge ACCME to reduce the current proposed fee increase on the CME providers.

*Action: Adopted as amended*

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Resolution 620-09

**ABUSIVE PRACTICES OF NOT-FOR-PROFIT HOSPITALS**

*Action: Not adopted*

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Resolution 621a-09

**MARTIN LUTHER KING HARBOR HOSPITAL**

RESOLVED: That CMA support the establishment of a comprehensive hospital at the former site of Martin Luther King Harbor Hospital.

*Action: Substitute adopted*

\*\*\*

Resolution 622-09

**PRIVILEGING LOW VOLUME PRACTITIONERS**

RESOLVED: That CMA study the privileging process and report back with recommendations on establishing guidelines for privileging “low and no volume” physicians.

*Action: Adopted*

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Resolution 623-09

**PHYSICIAN SUPERVISION OVER CERTIFIED REGISTERED NURSE ANESTHETISTS**

RESOLVED: That CMA urge the federal government to eliminate the opt-out provision of the Medicare Conditions of Participation requirement that certified registered nurse anesthetists practice under physician supervision; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Adopted as editorially amended*

\*\*\*

Resolution 624-09

**MEDICAL STAFF ACCESS TO INFORMATION**

RESOLVED: The medical executive committee shall grant medical staff physician members access to general opinions and analyses produced by legal counsel representing the medical staff that pertain to the bylaws and other policy issues of interest to the general membership that do not raise peer review or other sensitive issues involving specific medical staff members.

*Action: Adopted as editorially amended*

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Resolution 625-09

**HOSPITAL ACCREDITATION ORGANIZATIONS**

RESOLVED: That CMA evaluate the extent to which the accreditation standards of the Healthcare Facilities Accreditation Program and DNV Healthcare, Inc. are consistent with California state law, particularly with respect to requirements for an independent self-governing medical staff; and be it further

RESOLVED: That CMA report its findings to the OMSS Assembly at the 2010 Annual Assembly meeting.

*Action: Adopted*

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Resolution 626-09

**MEDICAL EXECUTIVE COMMITTEE ACCOUNTABILTY**

RESOLVED: That the House of Delegates adopt the following amendment to the CMA Model Medical Staff Bylaws regarding meetings of the medical executive committee (addition underlined):

11.3-3 Meetings

The medical executive committee shall meet as often as necessary, but at least [once a month] and shall maintain a record of its proceedings and actions. The record shall also contain for each action taken, whether, and if so, how, each member of the committee voted on policy and procedure issues of interest to the general membership that do not raise peer review or other sensitive issues involving specific medical staff members. The administrator or designee shall be invited to attend all meetings in a non-voting capacity.

*Action: Adopted*

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Resolution 627-09

**HEALTH CARE FACILITY PLANNING RELATED TO INFLUENZA OUTBREAK**

RESOLVED: That CMA support the establishment of physician-directed medical staff committees that are qualified to assess and recommend changes to staffing plans in the event of an influenza outbreak; and be it further

RESOLVED: That CMA work with the California Hospital Association to develop tools and resources for health care facilities to use in developing business continuity plans; and be it further

RESOLVED: That CMA oppose the use of sanctions against health care facilities that are unable to meet mandated staff-patient ratios due to influenza-related staffing shortages.

*Action: Adopted*

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Report F-1-09

**POLICY REVIEW**

*Action: Recommendations adopted (on file at CMA headquarters)*

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Report F-2-09

**CMA PROPOSED MODEL MEDICAL STAFF BYLAWS REGARDING DISRUPTIVE BEHAVIOR CODE OF CONDUCT**

RECOMMENDATION 1: That the House of Delegates adopt the following amendments to CMA's Model Medical Staff Bylaws Article 2.7, Medical Staff Members' Conduct Requirements, to comply with the Joint Commission requirement regarding "code of conduct" (additions underlined, deletions shown in ~~strikeout~~):

2.7 MEMBERS' CONDUCT REQUIREMENTS ~~HARASSMENT PROHIBITED~~

As a condition of membership and privileges, a medical staff member shall continuously meet the requirements for professional conduct established in these bylaws. Non-members with privileges will be held to the same conduct requirements as members. Except as provided in these bylaws, no other codes or policy restricting or defining conduct apply to the medical staff and its members.

2.7-1 Acceptable Conduct

Acceptable medical staff member conduct is not restricted by these bylaws and includes, but is not limited to:

(a). advocacy on medical matters;

(b). making recommendations or criticism intended to improve care;

(c). exercising rights granted under the medical staff bylaws, rules and regulations, and policies;

(d). fulfilling duties of medical staff membership or leadership;

(e). engaging in legitimate business activities that may or may not compete with the hospital.

#### 2.7-2 Disruptive and Inappropriate Conduct

Disruptive and inappropriate medical staff member conduct affects or could affect the quality of patient care at the hospital and includes:

(a). Harassment by a medical staff member against any individual involved with the hospital; (e.g., against another medical staff member, house staff, hospital employee or patient) on the basis, of race, religion, color, national origin, ancestry, physical disability, mental disability, medical disability, marital status, sex or sexual orientation ~~shall not be tolerated~~.

(b). “Sexual harassment” defined as is unwelcome verbal or physical conduct of a sexual or gender-based nature which may include verbal harassment (such as epithets, derogatory comments or slurs), physical harassment (such as unwelcome touching, assault, or interference with movement or work), and visual harassment (such as the display of derogatory cartoons, drawings, or posters). Sexual harassment includes unwelcome advances, requests for sexual favors, and any other verbal, visual, or physical conduct of a sexual nature when (1) submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, retention, promotion, or other aspects of employment; or (2) this conduct substantially interferes with the individual’s employment or creates and/or perpetuates an intimidating, hostile, or offensive work environment. Sexual harassment also includes conduct which indicates that employment and/or employment benefits are conditioned upon acquiescence in sexual activities.

(c) Deliberate physical, visual or verbal intimidation or challenge, including disseminating threats or pushing, grabbing or striking another person involved in the hospital;

(e) Carrying a gun or other weapon in the hospital;

(f) Refusal or failure to comply with these member conduct requirements.

~~All allegations of sexual harassment shall be immediately investigated by the medical staff and, if confirmed, will result in appropriate corrective action, from reprimands up to and including termination of medical staff privileges or membership, if warranted by the facts.~~

#### 2.7-3 Medical Staff Conduct Complaints

Complaints or reports of disruptive and inappropriate conduct by medical staff members are subject to review whether or not the witness or complainant requests or desires action to be taken. Complaints or reports must be in writing, and will be transmitted to the Department Chair and President Chief of the Medical Staff, or to the medical staff officer designated by either the President Chief of Staff or Medical Executive Committee. Complaints are shared with the subject member, who will be given the opportunity to respond to the officer or, if referred, the Committee handling the complaint. The Department Chair, in consultation with the Chief of Staff President shall refer the matter to the Wellness Committee for evaluation immediately, and monitoring and treatment if needed, if there is any indication that the member's health is implicated. The Department Chair, in consultation with the Chief of Staff President shall determine if the complaint or report is obviously specious and warrants no further action. If the Department Chair, in consultation with the Chief of Staff President determines no action is warranted, the decision is reported at the next Medical Executive Committee in executive session, and may be discussed and acted upon at the request of any Medical Executive Committee member. Complaints not referred to the Wellness Committee or nor dismissed by the Department Chair, in consultation with the Chief of Staff President are referred to the appropriate department for evaluation or to the Medical Executive Committee for consideration of further education, investigation and, if needed, corrective action. Any action taken shall be commensurate with the nature and severity of the conduct in question.

#### 2.7-4 Hospital Staff Conduct Complaints

Medical staff members' reports or complaints about the conduct of any hospital administrators, nurses or other employees, contractors, board members or others affiliated with the hospital must be reduced to writing and submitted to the President or any medical staff officer. The President shall forward the complaint or report to the appropriate hospital authority for action. Reports and complaints regarding hospital staff conduct will be tracked through the medical staff office, which will report results of such results and complaints to the Medical Executive Committee.

#### 2.7-5 Abuse of Process

Retaliation or attempted retaliation against complainants or those who are carrying out medical staff duties regarding conduct will be considered inappropriate and disruptive conduct, and could give rise to evaluation and corrective action pursuant to the medical staff bylaws.

*Action: Recommendation adopted as amended and remainder of report filed*

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Report F-3-09

### **PROPOSED CMA MODEL MEDICAL STAFF BYLAWS FOR ONGOING PROFESSIONAL PRACTICE EVALUATION (OPPE)**

RECOMMENDATION 1: That the House of Delegates adopt the following amendments to the CMA Model Medical Staff Bylaws to comply with Joint Commission standards regarding "ongoing professional practice evaluation" (additions underlined, deletions shown in ~~strikeout~~):

## ARTICLE II: MEMBERSHIP

### 2.5 BASIC RESPONSIBILITIES OF MEDICAL STAFF MEMBERSHIP

Except for the honorary and retired staff, the ongoing responsibilities of each member of the medical staff include:

- (a) providing patients with the quality of care meeting the professional standards of the medical staff of this hospital;
- (b) abiding by the medical staff bylaws, medical staff rules and regulations, and policies;
- (c) discharging in a responsible and cooperative manner such reasonable responsibilities and assignments imposed upon the member by virtue of medical staff membership, including committee assignments;
- (d) preparing and completing in timely fashion medical records for all the patients to whom the member provides care in the hospital;
- (e) abiding by the lawful ethical principles of the California Medical Association or member's professional association;
- (f) aiding in any medical staff approved educational programs for medical students, interns, resident physicians, resident dentists, staff physicians and dentists, nurses and other personnel;
- (g) working cooperatively with members, nurses, hospital administration and others so as not to adversely affect patient care;
- (h) making appropriate arrangements for coverage of that member's patients as determined by the medical staff;
- (i) refusing to engage in improper inducements for patient referral;
- (j) participating in continuing education programs as determined by the medical staff;
- (k) participating voluntarily in such emergency service coverage or consultation panels as may be determined by the medical staff;
- (l) serving as a proctor or other peer reviewer, and otherwise participating in medical staff peer review as reasonably requested;
- (m) discharging such other staff obligations as may be lawfully established from time to time by the medical staff or medical executive committee; and
- (n) providing information to and/or testifying on behalf of the medical staff or an accused practitioner regarding any matter under an investigation pursuant to paragraph 6.1-3, and those which are the subject of a hearing pursuant to Article VII.

## ARTICLE VI: PEER REVIEW ~~EVALUATION AND CORRECTIVE ACTION~~

Peer review, fairly conducted, is essential to preserving the highest standards of medical practice.

### 6.1 PEER REVIEW OF APPLICANTS

All applicants are evaluated for membership and privileges using only those medical staff peer review criteria adopted consistent with these bylaws, and applied exclusively through the processes established in these bylaws.

## 6.2 ONGOING PEER REVIEW EVALUATION OF MEMBERS

All members are subject to evaluation based exclusively on medical staff peer review criteria, adopted consistent with these bylaws. Evaluation results are used in privileging, system improvement, and when warranted, corrective action.

### 6.2-1 Peer Review Criteria

Departments shall develop and routinely update peer review criteria based on current practices and standards of care, which shall be the sole criteria used in evaluating those applying for membership and privileges and the performance of members and privileges holders; "Patient satisfaction" survey responses shall not be used to evaluate professionals for membership or privileging unless the methodology used is considered reliable by the medical staff.

Included in the departmental peer review criteria are the types of data to be collected for evaluation. At a minimum, departments shall, where relevant, collect and evaluate department members' data pertaining to:

- Operative and other clinical procedure(s) performed and their outcomes
- Pattern of blood and pharmaceutical usage
- Requests for tests or procedures
- Patterns of length of stay
- Use of consultants and
- Morbidity and mortality

In addition, each department shall add and update department-specific criteria [quarterly but] at least [annually] for ongoing peer review of department members.

Department criteria are subject to the approval of the Medical Executive Committee. Approved criteria as updated are made known and accessible to all members.

### 6.2-21-3 Focused Peer Review of Initial Members

All initial grants of privileges shall be subject to proctoring under these bylaws and otherwise reviewed for compliance with the relevant departmental peer review criteria.

### 6.2-31-4 Ongoing Peer Review of Members

All members and privilege holders not otherwise subject to initial review are reviewed for compliance with the relevant department peer review criteria on an on-going basis. In addition to

information gathered under routine screening determined by the department, such as periodic chart review, proctoring on a rotational basis, monitoring of diagnostic and treatment techniques, and discussions with other professionals, complaints and concerns are analyzed in light of the department peer review criteria. Peer review analysis shall be [conducted and reported [quarterly] by the department chair] [conducted and reported at quarterly department meetings] [conducted by the department peer review committee for reporting quarterly to the department meeting for action],[conducted by the credentials committee for reporting monthly to the medical executive committee.] [using mechanisms determined by the department to review collected data no less frequently than semi-annually]. Members are kept apprised of reviews of their performance. Performance monitoring, corrective action or other measures are implemented or recommended.

#### 6.2-4 ~~4-5~~ Results of Review

Information resulting from ongoing peer review of members according to the relevant department criteria and analyzed by the process established in these bylaws must be acted upon. Resulting action can be but is not limited to:

- documenting in the member's credentials file that the member is performing well or within desired expectations;
- identifying issues that require a focused evaluation;
- recommending that the Medical Executive Committee require focused review when the privilege is performed after a lapse of a year;
- determining that the privilege should be continued because the hospital's mission is to be able to provide the privilege to its patients;
- recommending to the medical executive committee needed changes in hospital systems to improve patient safety or the quality of patient care;
- recommending limiting a privilege or privileges or other corrective action under these bylaws.

The fact of the peer review and any recommendations and determinations pertaining to the member shall be included in the member's credentials file and dealt with according to these bylaws.

*Action: Recommendation adopted as amended and remainder of report filed*

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Report F-4-09

### **CMA MODEL MEDICAL STAFF BYLAWS REVISIONS**

[See Report F-4-09 for content of recommended revisions]

*Action: Recommendations 1-4 and 6-14 adopted; Recommendation 5 adopted as amended; remainder of report filed*

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Report F-5-09

**PERFORMANCE OF HISTORY AND PHYSICAL BY A PODIATRIST**

RECOMMENDATION 1: That the House of Delegates adopt Substitute Resolution 617-08 as follows:

RESOLVED: That CMA take all appropriate efforts before governmental bodies to support the position that the performance of a comprehensive medical history and physical examinations be limited to licensed physicians and surgeons, or, when acting under the direct supervision of a physician or surgeon, nurse practitioners and physician assistants; and be it further

RESOLVED: That CMA take all appropriate steps to clarify in state law that where members of the medical staff who are podiatrists, dentists, and clinical psychologists admit patients, those health care providers be authorized to perform admission screenings but only within their scope of practice, and that a physician and surgeon be available with respect to any medical problem that may arise which is not within the scope of practice of that practitioner.

*Action: Recommendation adopted and remainder of report filed*

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Report F-6-09

**UNSUPERVISED PHYSICIAN OFFICE LIMITATIONS**

*Action: Filed for information*

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## **ACTIONS OF THE 2009 HOUSE OF DELEGATES**

### **REFERENCE COMMITTEE G Science and Public Health**

*Note: These actions will be updated in November 2009 with results of the delegate prioritization survey, assigning a priority ranking to each item of adopted and referred business.*

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Resolution 701a-09

#### **INFLUENZA IMMUNIZATION FOR HEALTH CARE WORKERS**

RESOLVED: That CMA support universal annual seasonal influenza vaccination of all health care workers with direct patient contact; and be it further

RESOLVED: That CMA recommend vaccination of H1N1 and other pandemic influenza strains for health care workers according to recommendations from the Center for Disease Control and Prevention; and be it further

RESOLVED: That CMA support efforts to ensure the administration of 2009 H1N1 and seasonal influenza vaccines to persons per the recommendations of the Center for Disease Control and Prevention; and be it further

RESOLVED: That CMA support state efforts to educate health care workers about the importance of receiving the seasonal influenza vaccine; and be it further

RESOLVED: That CMA encourage physicians in California to continue to be educated about the immunization, clinical management, reporting, and public health actions regarding H1N1 and other influenzas; and be it further

RESOLVED: That CMA make available to its members significant new information regarding H1N1 and other influenzas in a timely manner; and be it further

RESOLVED: That CMA support the current CDC recommendations for vaccinated health care workers with regard to seasonal influenza and support enhanced infection control policies for health care workers who are not vaccinated by requiring them to wear appropriate personal protective equipment when within a specified proximity of any patient while providing care during the influenza season defined by the Director of the California Department of Public Health.

*Action: Substitute adopted for combined resolutions 701-09, 702-09 and 703-09*

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Resolution 702-09

**INFLUENZA IMMUNIZATION FOR ALL HEALTH CARE WORKERS**

*Action: See Resolution 701a-09*

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Resolution 703-09

**SEASONAL INFLUENZA IMMUNIZATION FOR HEALTH CARE WORKERS**

*Action: See Resolution 701a-09*

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Resolution 704a-09

**CRIMINALIZATION OF MARIJUANA**

RESOLVED: That CMA consider the criminalization of marijuana to be a failed public health policy; and be it further

RESOLVED: That CMA encourage and participate in debate and education regarding the health aspects of changing current policy regarding cannabis use.

*Action: Substitute adopted for combined resolutions 704-09 and 705-09*

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Resolution 705-09

**DECRIMINALIZATION OR LEGALIZATION OF RECREATIONAL DRUGS**

*Action: See Resolution 704a-09*

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Resolution 706a-09

**ANTIBIOTICS USE IN LIVESTOCK**

RESOLVED: That CMA oppose the non-therapeutic use of antibiotics in livestock.

*Action: Substitute adopted*

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Resolution 707a-09

**SAFETY AND LABELING OF PHARMACEUTICALS**

RESOLVED: That CMA advocate that the FDA be funded and staffed to adequately inspect and ensure safety of all pharmaceuticals, including over-the-counter products, consumed in the United States; and be it further

RESOLVED: That CMA advocate that the FDA require labeling of all pharmaceuticals with their ingredients and their respective countries of origin; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Substitute adopted*

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Resolution 708a-09

**HEALTH EFFECTS OF AIR FRESHENERS AND CLEANING PRODUCTS**

RESOLVED: That CMA support public and physician education regarding the potential harmful health effects of air fresheners and cleaning products; and be it further

RESOLVED: That CMA request the California Department of Toxic Substance Control to review air fresheners and cleaning products for their impact on health.

*Action: Substitute adopted*

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Resolution 709a-09

**REPORTING OF SATURATED AND TRANS FATS ON NUTRITIONAL LABELS**

RESOLVED: That CMA support that saturated fat and trans fat contents be accurately reported to a 0.1 gram level per serving on all nutritional labels.

*Action: Substitute adopted for combined resolutions 709-09 and 710-09*

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Resolution 710-09

**REPORTING OF TRANS FATS IN NUTRITIONAL LABELS**

*Action: See Resolution 709a-09*

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Resolution 711a-09

**HEALTH EFFECTS OF FLAME RETARDANTS**

RESOLVED: That CMA recognize the cumulative negative health effects of flame retardants and encourage the appropriate regulatory agencies to limit their use while balancing the long-term health effects with the short-term fire safety implications and exploring feasible alternatives.

*Action: Substitute adopted*

\*\*\*

Resolution 712a-09

**ENDOCRINE-DISRUPTING CHEMICALS**

RESOLVED: That CMA urge further collaboration among medical and scientific groups to identify ways to decrease exposure to endocrine disrupting chemicals (EDCs); and be it further

RESOLVED: That regulatory oversight of EDCs be centralized to ensure coordination among agencies; and be it further

RESOLVED: That policy regarding EDCs be based on comprehensive data covering both low-level and high-level exposures; and be it further

RESOLVED: That CMA encourage the education of all health professionals on the human health effects of toxic chemical exposures, including EDCs; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Substitute adopted*

\*\*\*

Resolution 713a-09

**"SMART GROWTH" AND AIR POLLUTION REDUCTION**

RESOLVED: That CMA support efforts to develop ambitious regional targets for local governments to reduce greenhouse gas emissions and support land use and transportation strategies to meet those targets; and be it further

RESOLVED: That CMA support efforts to reduce vehicle trips by means of land use and transportation measures that promote "smart growth," improve air quality, improve community health and reduce chronic illness; and be it further

RESOLVED: That CMA support the participation of public health officials in land use decision making and transportation planning to help identify and mitigate potential health impacts.

*Action: Substitute adopted*

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Resolution 714-09

**CAP-AND-TRADE CONTROL OF POPULATION GROWTH**

*Action: Not adopted*

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Resolution 715a-09

**LESBIAN, GAY, BISEXUAL AND TRANSGENDER ADOLESCENTS**

RESOLVED: That CMA work with other organizations to identify and make resources and information available to physicians to: (1) support families in developing healthy relationships with their adolescents regardless of the adolescents' sexual orientation; and (2) discuss consequences of varying levels of family acceptance and rejection of lesbian, gay, bisexual and transgender adolescents.

*Action: Substitute adopted*

\*\*\*

Resolution 716a-09

**CALIFORNIA POISON CONTROL SYSTEM FUNDING**

RESOLVED: That CMA declare that the California Poison Control System is a public health necessity deserving secure funding and that CMA undertake all efforts to achieve this goal.

*Action: Substitute adopted*

\*\*\*

Resolution 717a-09

**CIGARETTE FILTER ENVIRONMENTAL FEE**

RESOLVED: That CMA declare that the inappropriate disposal of toxic cigarette butts and filters can lead to adverse effects on public health and the environment; and be it further

RESOLVED: That CMA work with other organizations to explore the feasibility of implementing an environmental fee or cash refund program on each cigarette filter sold in California and to mitigate the environmental and public health risks.

*Action: Substitute adopted*

\*\*\*

Resolution 718a-09

**WATER PIPE/HOOKAH SMOKING**

RESOLVED: That CMA recognize that the adverse health effects associated with smoking via water pipe are similar to all other tobacco use; and be it further

RESOLVED: That CMA discourage the use of water pipe smoking, especially by young people.

*Action: Substitute adopted*

\*\*\*

Resolution 719-09

**TEENAGE ALCOHOL ABUSE**

RESOLVED: That CMA endorse continuing medical education for health care professionals to aid them in educating lower and middle school students of the dangers of alcohol; and be it further

RESOLVED: That CMA endorse outreach programs to elementary "lower" and middle schools to create awareness of the dangers of alcohol.

*Action: Adopted*

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Resolution 720-09

**ALCOHOL TAXES FOR EDUCATION, PREVENTION AND TREATMENT**

RESOLVED: That CMA advocate that any measure to increase alcohol taxes should allocate money to alcohol-related education, outreach, prevention, and treatment programs.

*Action: Adopted*

\*\*\*

Resolution 721a-09

**SUGAR SWEETENED FOOD/BEVERAGE EDUCATION AND TAXATION**

RESOLVED: That physicians should educate their patients about the health risks associated with the consumption of food and beverages containing high amounts of processed simple sugars or refined sugars such as high fructose corn syrup; and be it further

RESOLVED: That CMA support increased taxes on sodas and other relevant sugar sweetened beverages, with the revenues to be utilized for public health education efforts such as those conducted by the CMA Foundation and for other health purposes; and be it further

RESOLVED: That CMA encourage public health education campaigns on obesity prevention and treatment.

*Action: Substitute adopted*

\*\*\*

Resolution 722a-09

**PHYSICAL EDUCATION STANDARDS**

RESOLVED: That CMA encourage compliance with the current educational code requirements for physical education; and be it further

RESOLVED: That CMA encourage the state to maximize the time allotted for physical education classes during the school week according to CDC guidelines.

*Action: Substitute adopted*

\*\*\*

Resolution 723a-09

**HEALTH BENEFITS AND RISKS OF PHYSICALLY ACTIVE VIDEO GAMES**

RESOLVED: That CMA encourage research efforts that aim to determine the potential health benefits and risks of physically active video games and other innovative methods to promote exercise.

*Action: Substitute adopted*

\*\*\*

Resolution 724a-09

**SCHOOL SPORTS PRE-PARTICIPATION PHYSICAL EXAMS**

RESOLVED: That CMA encourage that student athletes be offered the option of a visit with their physician of choice to obtain an athletic pre-participation physical exam; and be it further

RESOLVED: That CMA recommend that the CA Interscholastic Federation communicate the benefits of regular comprehensive physical examination by a primary care physician.

*Action: Substitute adopted*

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Resolution 725-09  
**CDC PROPOSED HIV RULE CHANGE**

*Action: Not adopted*

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Resolution 726a-09  
**HELMET USE BY SKIERS AND SNOWBOARDERS**

RESOLVED: That CMA encourage the voluntary use of approved ski helmets by all alpine skiers and snowboarders while skiing or snowboarding.

*Action: Substitute adopted*

\*\*\*

Resolution 727-09  
**ADULT FILM INDUSTRY WORKER SAFETY AND HEALTH**

RESOLVED: That CMA support legislation that would require the mandatory use of condoms in the production of adult films; and be it further

RESOLVED: That CMA support legislation that would improve the ability of local health departments and OSHA/CalOSHA to investigate and control occupational exposures to infectious diseases and enforce workplace regulations in a timely manner; and be it further

RESOLVED: That CMA urge that existing OSHA and other occupational standards be vigorously enforced to reduce exposure to infectious diseases within the adult film industry; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Adopted*

\*\*\*

Resolution 728a-09  
**ECOLOGICAL HEALTH FOOTPRINT FOR HEALTH CARE FACILITIES**

RESOLVED: That CMA encourage the education of physicians and other health professionals with resources, such as the “Eco-Health Footprint Guide” distributed by the Global Health and Safety Initiative, in mitigating the impacts of health care system contributions to climate change and toxic pollution.

*Action: Substitute adopted*

\*\*\*

Resolution 729-09

**ACCESS AND AVAILABILITY OF AUTOMATIC EXTERNAL DEFIBRILLATORS**

RESOLVED: That CMA support public access to and availability of automatic external defibrillators.

*Action: Adopted as amended*

\*\*\*

Resolution 730-09

**PAYMENT FOR CHILDHOOD VACCINES**

RESOLVED: That CMA pursue legislation mandating that all childhood vaccines be covered under the Vaccines for Children Program, irrespective of the insurance status; and be it further

RESOLVED: That until such legislation is passed, CMA advocate that all commercial health plans be responsible to pay for the vaccines.

*Action: Referred for decision*

\*\*\*

Resolution 731a-09

**MEDICARE COVERAGE OF AVASTIN FOR INTRAVITREAL USE**

RESOLVED: That CMA support the ability of local Medicare carriers to price compounded drugs, including Avastin, using a “non-specific” J-code or other reasonable means where this is medically appropriate and financially beneficial; and be it further

RESOLVED: That CMA lobby CMS on this issue with relation to Avastin and its use for ophthalmic diagnoses using established channels; and be it further

RESOLVED: That this matter be referred for national action.

*Action: Substitute adopted*

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Report G-1-09  
**POLICY REVIEW**

*Action: Recommendations adopted (on file at CMA headquarters)*

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Report G-2-09  
**DISTRIBUTION OF COMPOUNDED ASTHMA INHALANT MEDICATIONS**

RECOMMENDATION 1: That the House of Delegates adopt Substitute Resolution 706-08 as follows:

RESOLVED: That CMA encourage the Board of Pharmacy to work with the Food and Drug Administration (FDA) to enforce in California the FDA's policy directive prohibiting the mass scale pharmacy manufacturing and distribution of compounded asthma medications to patients.

*Action: Recommendation adopted and remainder of report filed*

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