REFERENCE COMMITTEE C

Items referred to Reference Committee C will be taken in the following order:

1) MAG ALIGNMENT WITH THE MEDICAL PRACTICE ACT (Resolution: 301C.16; Resolve 1)

2) NETWORK TRANSPARENCY AND NETWORK MANAGEMENT TO BENEFIT PATIENTS (Resolution: 302C.16; Resolve 1)

3) MAINTENANCE OF CERTIFICATION (MOC) (Resolution: 303C.16; Resolve 1)
PROTECT PHYSICIAN PRACTICES FROM MOC (Resolution: 310C; Resolve 1)

4) ADVERTISEMENT OF BOARD CERTIFICATION IN GEORGIA (Resolution 304C.16; Resolves 1 and 2)

5) PROTECTION FOR VISITING ATHLETES AND TEAM PHYSICIANS (Resolution: 305C.16; Resolve 1)

6) NURSE PROTOCOL AGREEMENT (Resolution: 306C.16; Resolves 1, 2 and 3)

7) REVIEW OF DELEGATED MEDICAL ACTS (Resolution: 307C.16; Resolves 1, 2 and 3)

8) HEALTH CARE INSURER CONTRACTS (Resolution: 308C.16; Resolve 1)

9) STEP THERAPY PROTOCOLS WITH FIRST FAIL PROTOCOLS (Resolution 309C.16; Resolve 1)

10) PHYSICIAN CONTROL OF ADMISSIONS TO HOSPITAL (Resolution 311C.16; Resolves 1 and 2)

11) IMPROVING ACCESS TO HEALTH CARE IN GEORGIA (Resolution: 312C.16; Resolve 1)

MEDICAL ASSOCIATION OF GEORGIA HOUSE OF DELEGATES (C-16)

SUBJECT: Report of Reference Committee C

PRESENTED BY: Katarina Gabrielle Lequeux-Nalovic, M.D., Chairman

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Mr. Speaker and members of the House of Delegates:

Reference Committee C gave careful consideration to the several items referred to it and submits the following report:

1) MAG ALIGNMENT WITH THE MEDICAL PRACTICE ACT (Resolution: 301C.16)

Original Resolve(s)

1) "That the Medical Association of Georgia (MAG) adopt policy and correct all existing policies such that these policies will align with the Medical Practice Act and other laws and rules and regulations such that they include the following:

   (1) Only a physician may enter a medical diagnosis for a patient;

   (2) A physician licensed in the state of Georgia may delegate certain specific medical acts to an APRN, with whom the physician has entered into an agreement in accordance with state law;

   (3) Written clinical nurse protocols for the delegation of medical acts will contain at a minimum: a) recognizable signs and symptoms and other data supported by the APRN's observation, b) the delegating physician's medical diagnosis pertinent to the observations and c) treatments appropriate to the diagnosis; and

   (4) Treatments ordered, including prescriptions under protocol, will be limited to those contained in the written protocol for the certain medical act delegated."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 301C.16 be adopted.

Rationale:

The committee heard and agreed with favorable testimony that MAG policy concerning delegation of medical acts and treatment by physicians should be updated to align with the Medical Practice Act. Discussion included the intent to update MAG policies and specific terms within MAG policies to conform with using correct nomenclature. Concerns centering around nurse protocol agreements were heard and addressed.

2) NETWORK TRANSPARENCY AND NETWORK MANAGEMENT TO BENEFIT PATIENTS (Resolution: 302C.16)

Original Resolve(s)

1) "That the Medical Association of Georgia (MAG) supports legislation that would have insurers do the following:

(1) Provide information that allows patients to evaluate network adequacy within their hospitals, which includes publishing provider in-network rates and a list of in-network physicians by medical specialty and medical group within the hospital; and

(2) In cases involving non-emergency care (a) patients will be given statements that services may be provided by out-of-network providers, (b) hospitals will have to post names and links of all contracted insurers for the benefit of both consumers and medical staff, and (c) insurers must create and support a system for network navigation to provide in-network consumer protection and to inform consumers as to whether a physician is in network and the consequences of using an out-of-network provider."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 302C.16 be adopted as amended:

1) "That the Medical Association of Georgia (MAG) supports legislation that would have insurers do the following:

(1) Provide information that allows patients and physicians to evaluate network adequacy within their hospitals, which includes publishing an accurate and timely provider in-network ratio ~~rates~~ and list of in-network physicians by medical specialty and medical group within the hospital; and

(2) In cases involving non-emergency care (a) patients will be given statements that services may be provided by out-of-network providers, (b) hospitals will have to post names and links of all contracted insurers for the benefit of both consumers and medical staff, and (c) insurers must create and support a system for network navigation to provide in-network consumer protection and to inform consumers as to whether a physician is in network and the consequences of using an out-of-network provider."

Rationale:

Insurers continue to manipulate provider networks that deprive patients and providers of transparency and certainty regarding the provision of care and payment for that care. Testimony on this topic was overwhelmingly in favor of this resolution. The author recommended the amendments to be in line with current terminology.

3) MAINTENANCE OF CERTIFICATION (MOC) (Resolution: 303C.16)
PROTECT PHYSICIAN PRACTICES FROM MOC (Resolution 310C.16)

Resolutions 303C.16 and 310C.16 were similar in language and intent. The committee decided to combine the two resolutions for discussion and recommendation.

Original Resolve of 303C.16

1) "That the Medical Association of Georgia supports the adoption of legislation that prohibits the use of Maintenance of Certification (MOC) as a condition of medical licensure or as a

prerequisite for hospital or staff privileges, employment in state medical facilities, reimbursement from third parties or issuance of malpractice insurance."

Original Resolve of 310C.16

1) "That the Medical Association of Georgia supports the adoption of legislation comparable to that enacted in Oklahoma or more comprehensive, if possible, to protect Georgia physicians and their practices."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 303C.16 be adopted in lieu of Resolution 310C.16.

Rationale:

As the practice of medicine has changed, so have the challenges presented by entities that seek to control the practice of medicine through requiring Maintenance of Certification (MOC). The committee heard testimony that hospitals have begun requiring MOC for hospital and staff privileges regardless of the quality of the physician.

The majority of testimony supported the language of 303.C16 over 310.C16 although both supported the same principle. Testimony universally espoused the principle that continuing medical education is essential to providing the highest quality care. The issue is not the requirement for physicians to continually study changes and advances in medicine, the issue is how these MOC requirements can be used to control decisions regarding employment, privileges, reimbursement and issuance of malpractice insurance.

Those who expressed concerns wanted to ensure some measure of quality even with the requirement of CME for licensure. In their opinion, MOC can provide this level of consistency. In addition, there are issues with physicians attesting they have the required CME when that may not have occurred or may have occurred in different areas from their primary practice.

Again, all who testified consistently iterated the need for a recertification process based on high quality, appropriate CME material in the interest of providing patient safety and excellent care. Finally, other states have passed similar laws that maintain a physicians' ability to practice and not be subject to requirements which unnecessarily force a particular avenue to prove expertise to provide care to patients.

4) ADVERTISEMENT OF BOARD CERTIFICATION IN GEORGIA (Resolution: 304C.16)

Original Resolve(s)

1) "That the Medical Association of Georgia (MAG) update its Policy Compendium to state that a licensed physician in Georgia may lawfully declare certification by a medical board if such physician meets the stated qualifications of such board, and earned certification by an ABMS or AOA board of the same or related specialty at least once."

2) "That MAG introduce a bill in the Georgia General Assembly that substitutes language in H.B. 1043, which would provide that a licensed physician in Georgia may lawfully declare certification by a medical board if such physician meets the stated qualifications of such board,

and earned certification by an ABMS or AOA board of the same or related specialty at least once."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 304C.16 Resolve 1 be NOT adopted.

Mr. Speaker, your Committee recommends that Resolution 304C.16 Resolve 2 be adopted as amended:

2) "That MAG introduce a bill in the Georgia General Assembly that substitutes language in H.B. 1043, which would provide that a licensed physician in Georgia may lawfully declare certification by a medical board if such physician meets the stated qualifications of such board, and earned certification by an ABMS, ~~or~~ AOA, ABPS or NBPAS board ~~of the same or related specialty at least once~~."

Rationale:

This Resolution follows on the heels of last year's adopted resolution 313C.15. That resolution stated that MAG supports legislation that requires all health care professionals – physicians and non-physicians – to accurately and clearly disclose their training and qualifications to patients and for a physician to not hold themselves out to the public in any manner as being certified by a public or private board unless certain criteria were met.

Thus, the issue of transparency regarding Board Certification is an important one touching on patient safety and business practices. This issue garnered vigorous discussion in the committee meeting. The committee heard from physicians committed to providing the highest quality care to their patients with the desire to appropriately advertise their expertise. Some of these physicians previously obtained Board Certification in ABMS or AOA certified specialties and then obtained additional certifications from boards that were not recognized by ABMS or AOA. However, H.B. 1043 as passed did not allow these physicians to state their certifications with the boards not recognized by ABMS or AOA.

The overarching focus for all those who testified was patient safety. Physicians should not treat patients or perform procedures when they are not appropriately trained to do so. Physicians do not want injuries or death that come about as the result of inexperienced physicians performing procedures beyond their scope of training.

Your Reference Committee heard testimony that H.B. 1043 ("truth in advertising"), which became effective on July 1, 2016, was in response to numerous instances where physicians who were not trained or experienced in performing certain procedures experienced complications, including death. Often, patients who see that a physician is Board Certified rely upon that designation in choosing a physician. However, some physicians who are holding themselves out as being "Board Certified" by a certain board may not hold the requisite experience and training which meets the standards established by recognized certifying organizations such as the ABMS or AOA.

At the same time, the committee heard testimony that the ABMS and AOA essentially hold a monopoly over certification when other boards have equally rigorous standards for awarding certification in a specialty or subspecialty. While Board Certification by the ABMS and AOA has long been associated as an indicator of quality, other boards have developed standards which are as rigorous as ABMS and AOA.

In the context of advertising, this presents an obvious tension. Those who believe their non-ABMS or non-AOA certification meets the necessary standards for showing expertise want to be able to advertise their certification with those boards. Yet there are some boards which do not enforce appropriate standards for certification. The question is whether a certifying organization has shown it meets the necessary requirements to be recognized as credible. H.B. 1043 essentially codifies as credible two accrediting organizations and excluded all others.

The legislative history of HB 1043 reflects the inclusion of the National Board of Physicians and Surgeons ("NBPAS") in the list of accrediting organizations which could be advertised. The NBPAS was then removed from the list in the final version of HB 1043. In addition, the committee determined the American Board of Physician Specialties ("ABPS") is a recognized board such that it should be included in the list as well.

Finally, existing MAG policy (230.991; Resolution 101A.15) includes the NBPAS; therefore the amended resolution is in line with MAG policy.

5) PROTECTION FOR VISITING ATHLETES AND TEAM PHYSICIANS (Resolution: 305C:16)

Original Resolve(s)

1) "That the Medical Association of Georgia supports the passage of legislation that will protect visiting athletes by providing for limited exemption of licensure for visiting team physicians who are licensed in their home state, to care for athletes, coaches, and support staff while participating in sporting events within the state of Georgia."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 305C.16 be adopted as amended:

1) "That the Medical Association of Georgia supports the passage of legislation that will protect visiting athletes by providing for limited exemption of licensure for visiting team physicians who are licensed in their home state, to care for visiting athletes, coaches, and support staff while participating in sporting events within the state of Georgia."

Rationale:

The proposed resolution brings Georgia in line with other states in allowing a limited exemption to physicians who travel with out-of-state sports teams to Georgia. The current process is lengthy and does not allow for expedited exemptions to be granted.

While suggestions were made to expand the exemption to other school groups / teams other than sports teams, it was felt that sports teams created the highest amount of exposure and risk, thereby justifying the limitation to visiting sports teams.

6) NURSE PROTOCOL AGREEMENT (Resolution: 306C.16)

Original Resolve(s)

1) "That the Medical Association of Georgia (MAG) encourages the degree granting advance practice registered nurse (APRN) programs in Georgia to teach by commonly accepted protocols similar to those that may be used in practice under their delegating physician who may delegate certain selected medical acts to the APRN (OCGA 43-34-23 and 25)."

2) "That MAG reports to the Georgia Composite Medical Board the discrepancy in education and illegal nursing practice by performance of physician delegated medical acts under the laws of Georgia that may be easily corrected by this modification of using selected common clinical nurse protocols for delegation of certain medical acts."

3) "That MAG advises the Georgia Board of Nursing that such a state of disparity exists where the mechanism of delegation of medical acts, that is the written clinical nurse protocol from delegating physician to the agreement bound APRN, is not being commonly used, thereby putting the delegating physician at risk of discipline for failure to comply with these provisions of the Medical Practice Act."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 306C.16 Resolve 1 be adopted.

Mr. Speaker, your Committee recommends that Resolve 3 be adopted.

Mr. Speaker, your Committee recommends that Resolve 2 be adopted as amended:

2) "That MAG reports to the Georgia Composite Medical Board the discrepancy in education and illegal nursing practice by performance of ~~physician delegated~~ medical acts ~~under~~ contrary to the laws of Georgia that may be easily corrected by this modification of using selected common clinical nurse protocols for delegation of certain medical acts."

Rationale:

APRNs who enter into protocol agreements with physicians are not licensed under the Georgia Composite Medical Board. As such, the potential exists for inconsistency on standards of practice for those acts delegated to APRNs. This resolution seeks to normalize and increase the training and experience of APRNs who enter into agreements with physicians. Physicians, by signing Nurse Protocol Agreements, agree to oversee certain aspects of the APRNs actions. The committee heard concerns regarding the scope of the resolution but the proactive approach is needed in the context of the number of APRNs and their prescriptive authority.

7) REVIEW OF DELEGATED MEDICAL ACTS (Resolution: 307C.16)

Original Resolve(s)

1) "That the Medical Association of Georgia (MAG) supports the Georgia Composite Medical Board's (GCMB) monitoring of the delegation of medical acts by periodic assessment of the use of the following:

(1) Written protocols with acknowledgment of updates;

(2) Annual Nurse Protocol Agreement review and renewal;

(3) Pharmacological training by the delegating physician for the APRN; and

(4) Chart review/patient examination by the delegating physician sufficient to ensure compliance with the law."

2) "That MAG supports a process that may be performed by a simple check-off on a license renewal form like other questions to the physician acknowledging compliance with the law by use of written protocols, education and oversight of APRN performance of physician delegated medical acts."

3) "That MAG supports legislative funding sufficient for periodic assessment of compliance with the law governing the delegation of medical acts for the assurance of patient safety and the standard of practice."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 307C.16 Resolves 1, 2, and 3 be adopted.

Rationale:

The committee heard testimony in support of the GCMB's efforts to monitor the delegation of medical acts. Discussion focused on patient safety and included the importance of periodic assessments by the GCMB to ensure both patient safety and compliance with the law. No physician spoke against this resolution.

8) HEALTH CARE INSURER CONTRACTS (Resolution: 308C.16)

Original Resolve(s)

1) "That the Medical Association of Georgia supports providers having the opportunity to discuss insurance contracts during the time of year that grants patients sufficient notice prior to open enrollment and only end coverage for the patient at the end of a calendar year."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 308C.16 be adopted as amended:

1) "That the Medical Association of Georgia supports providers having the opportunity to discuss insurance contracts during the time of year that grants patients sufficient notice prior to open enrollment and only end coverage for the patient at the end of ~~a calendar year~~ open enrollment."

Rationale:

This resolution as amended brings more opportunity for transparency and clarity to patients and providers during the enrollment window. The amendment makes clear patients should be protected until the end of open enrollment rather than at the beginning.

9) STEP THERAPY PROTOCOLS WITH FIRST FAIL PROTOCOLS (Resolution: 309C.16)

Original Resolve(s)

1) "That the Medical Association of Georgia (MAG) works in concert with the Specialty Tiers Coalition of Georgia (STCGA) to develop Step Therapy Legislation in Georgia that accomplishes the following:

(1) Permits a prescriber to override the step therapy when patients are stable on a prescribed medication;

(2) Permits a physician to override the step therapy if the physician expects the treatment to be ineffective based on the known relevant physical characteristics of the patient and the known characteristics of the drug regimen; will cause or will likely cause an adverse reaction by or physical harm to the patient; or is not in the best interest of the patient, based on medical necessity;

(3) Requires health insurance plans to incorporate step therapy approval and override processes in their preauthorization applications;

(4) Prohibits insurers from requiring insured patients from having to fail a prescription medication more than once;

(5) Limits any single step therapy protocol to a maximum of 60 days;

(6) Prohibits a previously insured patient from having to repeat step therapy for a condition they are undergoing treatment for when they are in the process of changing insurers;

(7) Prohibits plans from limiting or excluding coverage for a drug, if it has been previously approved when plans make formulary design changes; and

(8) Supports a single standardized prior authorization form, in paper or electronic format, on all insurance formulary websites to be utilized by patients during the provision of medical services."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 309C.16 be adopted as amended:

1) "That the Medical Association of Georgia (MAG) works in concert with the Specialty Tiers Coalition of Georgia (STCGA) to develop Step Therapy Legislation in Georgia that accomplishes as many of the following as possible:

(1) Permits a prescriber to override the step therapy when patients are stable on a prescribed medication;

(2) Permits a physician to override the step therapy if the physician expects the treatment to be ineffective based on the known relevant physical characteristics of the patient and the known characteristics of the drug regimen; will cause or will likely cause an adverse reaction by or physical harm to the patient; or is not in the best interest of the patient, based on medical necessity;

(3) Requires health insurance plans to incorporate step therapy approval and override processes in their preauthorization applications;

(4) Prohibits insurers from requiring insured patients from having to fail a prescription medication more than once;

(5) Limits any single step therapy protocol to a maximum of 60 days;

(6) Prohibits a previously insured patient from having to repeat step therapy for a condition they are undergoing treatment for when they are in the process of changing insurers;

(7) Prohibits plans from limiting or excluding coverage for a drug, if it has been previously approved when plans make formulary design changes; and

(8) Supports a single standardized prior authorization form, in paper or electronic format, on all insurance formulary websites to be utilized by patients during the provision of medical services."

Rationale:

The committee heard testimony that insurers fail to authorize or pay for medications which are clinically indicated for certain patients. This resolution attempts to set forth and develop procedures which are necessary to provide the appropriate medications for patients despite insurers attempts to save costs by, for example, requiring a patient to fail a prescription medication more than once before the recommended medication is approved. Concerns included the difficulty in addressing potential legal obstacles to the enactment of such legislation as well as encouraging more narrow attempts to require transparency in the step process to obtain pre-authorization. Yet the import of the resolution is to work with STCGA to develop best practices to improve patient care.

11) PHYSICIAN CONTROL OF ADMISSIONS TO HOSPITAL (Resolution: 311.16)

Original Resolve(s)

1) "That the Medical Association of Georgia (MAG) updates its policy compendium to state that the surgeon, and not the insurance company, shall determine the need for hospitalization for a post-surgical complication, for the first three weeks after surgery for non-neurosurgical patients and for the first six weeks for neurosurgical patients."

2) "That MAG supports legislation requiring insurance companies to defer to the surgeon regarding the need for hospitalization for post-operative complications for the first three weeks after surgery for non-neurosurgical patients and for the first six weeks for neurosurgical patients."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 311C.16 Resolves 1 and 2 <u>be adopted.</u>

Rationale:

The Committee agreed with testimony that physicians, and not insurance companies, should make decisions regarding patient care. The discussion focused specifically on situations where complications occur within certain timeframes after surgery. No testimony was heard in opposition to this resolution. The committee recommends that MAG adopt this resolution to create a better environment for patients with post-operative complications.

12) IMPROVING ACCESS TO HEALTH CARE IN GEORGIA (Resolution: 312.16)

Original Resolve(s)

1) "That the Medical Association of Georgia supports a Medicaid waiver to close the coverage gap in Georgia in a fiscally responsible and sustainable way that meets the needs of patients and providers which includes, but is not limited to the following:

   (1) That patients receive proven, cost-effective care that is not impeded by unnecessary barriers to enrollment or unaffordable cost-sharing; and

   (2) That such a waiver eliminates regulatory barriers to providing proven, cost-effective care; and seek parity for all physician services with the Medicare fee schedule."

Recommendation:

Mr. Speaker, your Committee recommends that Resolution 312C.16 be adopted.

Rationale:

The committee heard testimony regarding the recent history of Medicaid expansion discussions in Georgia and coalition group efforts to create a Medicaid waiver in the state. Several physicians then spoke in support of expanding coverage for Georgia's uninsured population. Questions about the state's long-term financial commitment to a federal waiver were addressed and no testimony was heard against the resolution.

Mr. Speaker, this concludes the report of Reference Committee C. I wish to thank the members of the committee who are:

Patrick Leroy Blohm, M.D., Vice Chairman, Georgia Medical Society
Kathryn Cynette Elmore, M.D., DeKalb Medical Society
Welborn Cody McClatchey, M.D., Medical Association of Atlanta
Lionel Dain Meadows, M.D., Jackson-Banks County Medical Society
Ramana Puppala, M.D., Stephens-Rabun Medical Society
Mitzi Beth Rubin, M.D., Georgia Academy of Family Physicians

Mr. Speaker, your Reference Committee wishes to also thank MAG staff members, Derek Norton and Trey Reese, for their very capable assistance to the committee.

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Katarina Gabrielle Lequeux-Nalovic, M.D., Chairman
Georgia Society of Dermatologists