

DISCLAIMER

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MEDICAL SOCIETY OF VIRGINIA HOUSE OF DELEGATES

Report of Reference Committee 2

Dr. Arturo Saavedra, Chair

Present Members: Dr. Arturo Saavedra, Dr. Carolyn Burns, Dr. John Paul Verderese, Dr. Patricia Pletke, Dr. Sharon Sheffield, Dr. Marc C. Alembik, Dr. Cyn Romero, Shay Fahey

The Reference Committee recommends the following consent calendar for acceptance:

RECOMMENDED FOR ADOPTION

22-202: Mental Health Questions on Credentialing Forms

22-203: Supporting Mental Health in Veterans and Veterans Families

RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED

22-201: Road Safety Resolution

22-205: Improved Reimbursement for Hair Protheses for Individuals with Cicatricial Alopecia

22-206 Amending Policy Compendium 25.1.02: Opposition to Criminalization of Reproductive Decision-Making

22-207: Opposing Restriction of Medically Appropriate Care

RECOMMENDED FOR NOT ADOPTION

22-204: MSV Organizational Structure Proposal

22-208: Resolution to Protect Evidence Based Medicine and Safeguard Medical Speech

22-209: Licensure and Discipline: Dissemination of Misinformation

RECOMMENDED FOR ADOPTION AS AMENDED IN LIEU OF

Policy 25.3.02 Legislation, Standards of Care and the Patient/Physician Relationship (in Lieu of 22-210: Health Care Policy Should Be Based Upon Peer Reviewed Research and Evidence-Based Practices

30 **1) 22-201 ROAD SAFETY RESOLUTION**

31 RECOMMENDATION:

32 Mr. Speaker, your Reference Committee recommends that **Resolution 22-201 be Adopted as**
33 **Amended.**

34 *RESOLVED, that the Medical Society of Virginia work with all appropriate organizations and stakeholders*
35 *to support legislation and/or regulatory actions requiring all licensed vehicles with four wheels or more in*
36 *Virginia have emergency supplies in their car, and be it further*

37 *RESOLVED, that the Medical Society of Virginia be involved in determining which safety items should be*
38 *kept in an individual's car.*

39 Your Reference Committee heard testimony in opposition for fear of intervening in interstate commerce
40 and the difficulties presented in enforcement creating such a mandate. Further remarks included how this
41 Resolution imposes unreasonable expectations on law enforcement and is impractical.

42 There was not testimony in support outside of the favorable remarks by the authors.

43 Online testimony was received for this resolution. A comment was critical of the mandated cost and
44 difficulty in the enforcement of such legislation.

45 Your Reference Committee discussed the intent of the Resolution.

46 Recommendation from counsel was to amend the language to reflect “registered” vehicles rather than
47 “licensed” for jurisdiction.

48 Accordingly, your Reference Committee recommends Resolution 21-201 be adopted as amended.

49 *RESOLVED, that the Medical Society of Virginia ~~work with all appropriate organizations and~~*
50 *~~stakeholders to supports~~ legislation and/or regulatory actions requiring all licensed registered vehicles*
51 *with four wheels or more in Virginia ~~have~~ being equipped with emergency supplies. ~~in their car, and be it~~*
52 *~~further,~~*

53 *~~RESOLVED, that the Medical Society of Virginia be involved in determining which safety items~~*
54 *~~should be kept in an individual's car.~~*

55 **2) 22-202 MENTAL HEALTH QUESTIONS ON CREDENTIALING FORMS**

56 RECOMMENDATION:

57 Mr. Speaker, your Reference Committee recommends that **Resolution 22-202 be Adopted.**

58 *RESOLVED, that the MSV encourage all hospitals, health systems, malpractice insurers, licensing*
59 *bodies, and health plans regularly review its (professional) healthcare workforce applications,*
60 *credentialing and/or job review questionnaires, and worker communications to remove or reword*
61 *questions that identify mental or physical health issues that do not have the potential to impair or interfere*
62 *with performance expectations commensurate with their job and professional responsibilities, and be it*
63 *further*

64 *RESOLVED, these entities consider using the wording suggested by the Federation of State Medical*
65 *Boards, American with Disabilities Act, American Medical Association, American Hospital Association, the*
66 *Surgeon General's Advisory, and others.*

67 All testimony heard by your reference committee was in strong, unanimous support.

68 Specifically, your reference committee heard supportive testimony on expanding the breadth and action
69 to engage institutions within the state and implement change. MSV already commits resources and will
70 continue to do so to prevent physicians from sacrificing their own health in order to provide for their
71 patients. The authors spoke to the resolution representing more than just licensure and credentialing but
72 the overarching need for the greater healthcare system to remove invasive lines of questioning that effect
73 the wellbeing of clinicians who are managing their mental health.

74 Clarifying remarks were made by the Speaker that this Resolution cannot be combined with a previous
75 Resolution of similar subject matter procedurally.

76 Online testimony was received for this resolution. One comment inquired as to the status of a nearly
77 identical resolution submitted to the House of Delegates in 2021 that was referred to the Board. MSV staff
78 commented to clarify that that resolution would be referred back to the 2022 House of Delegates for
79 reconsideration after significant progress was made as a result of requested Board action.

80 Your Reference Committee discussed 21-201 and 22-202 respectively. The credentialing language
81 encompasses hospital staffing, medical group insurance, free clinic service, and health plan.

82 The Reference Committee discussed with interest the Resolution before you, incorporating the spirit of
83 the previous more comprehensively.

84 Accordingly, your Reference Committee recommends Resolution 22-202: Mental Health Questions on
85 Credentialing Forms be adopted.

86 **3) 22-203 SUPPORTING MENTAL HEALTH IN VETERANS AND FAMILIES OF VETERANS**

87 RECOMMENDATION:

88 Mr. Speaker, your Reference Committee recommends that **Resolution 22-203 be Adopted.**

89 *RESOLVED, that the Medical Society of Virginia partner with the Virginia Department of Veteran Services*
90 *to explore strategies that support mental health and prevent suicides in veterans and family members of*
91 *veterans.*

92 Your Reference Committee heard testimony in support of strategies and services for veterans as outlined
93 in this resolution.

94 Your Reference Committee discussed the supportive testimony and the staff recommendation to add
95 veterans families to the existing policy. The Committee ultimately decided to maintain the Resolution as
96 submitted.

97 Accordingly, your Reference Committee recommends Policy 40.18.04 – Optimizing Access of Mental
98 Health Services by Veterans be adopted.

99 **4) 22-204 MSV ORGANIZATIONAL STRUCTURE PROPOSAL**100 RECOMMENDATION:

101 Mr. Speaker, your Reference Committee recommends that **Resolution 21-104 be Not Adopted.**

102 *RESOLVED, the Medical Society of Virginia (MSV) supports amending the Virginia Constitution to create*
103 *a state entity to deliver healthcare to its citizens. This is assuming that the entity is the Medical Society of*
104 *Virginia which is a democratic organization with the ability to vote the way things are managed, and be it*
105 *further*

106 *RESOLVED, that the Medical Society of Virginia and the State of Virginia will collaboratively create the*
107 *new entity which would be the Medical Society of Virginia.*

108 Your reference committee heard testimony from the author reinforcing the responsibility of physicians as
109 leaders in healthcare.

110 Your reference committee also heard testimony in opposition to the resolution proposing the MSV adopt
111 the responsibilities of a state agency. Utility could be in the sway of political influence outside the control
112 of the MSV that presents great risk for the society.

113 Online comments were received for this resolution. One comment inquired as to whether the passage of
114 such legislation would allow MSV to negotiate on behalf of physicians with insurance companies. Another
115 comment suggested replacing “physician” with “doctor” in the resolution language.

116 Your Reference Committee discussed the staff recommendation and the language as submitted by the
117 author. Additionally, the issue is not within the policy-oriented business of the House of Delegates but
118 rather an outline for a corporate restructure.

119 Accordingly, your Reference Committee recommends that Resolution 22-204 be not adopted.

120 **5) 22-205 IMPROVED REIMBURSEMENT FOR HAIR PROSTHESES FOR INDIVIDUALS WITH**
121 **CICATRICIAL ALOPECIA**122 RECOMMENDATION:

123 Mr. Speaker, your Reference Committee recommends that **Resolution 22-205 be Adopted as**
124 **Amended.**

125 *RESOLVED, that the Medical Society of Virginia encourages State, local, and community entities to*
126 *develop policies that expand insurance reimbursement and coverage of hair prostheses, thereby*
127 *improving quality of life and reducing financial burden for those suffering from scarring alopecia.*

128 Your Reference Committee heard testimony in support of the Resolution from a mental health and health
129 equity perspective. The MSV should support the quality of life for patients in their advocacy with health
130 insurance carriers.

131 Online comments were received for this resolution. One comment offered a friendly amendment to strike
132 language requiring MSV participation but retaining support for additional insurance benefits.

133 Your Reference Committee discussed the friendly amendment and staff recommendation. The Chair also
134 provided relevant background as to the previous advocacy at the specialty society level.

135 Accordingly, your Reference Committee recommends that Resolution 22-205 be adopted as amended.

136 *RESOLVED, that the Medical Society of Virginia supports ~~encourages~~ State, local, and community*
137 *entities to develop policies that expand insurance reimbursement and coverage of hair prostheses,*
138 *thereby improving quality of life and reducing financial burden for those suffering from scarring alopecia.*

139 **6) 22-206 AMENDING POLICY COMPENDIUM 25.1.02: OPPOSITION TO CRIMINALIZATION OF**
140 **REPRODUCTIVE DECISION-MAKING**

141 RECOMMENDATION:

142 Mr. Speaker, your Reference Committee recommends that **Resolution 22-206 be Adopted as**
143 **Amended.**

144 *RESOLVED, that the MSV amends policy compendium 25.1.02 by addition and deletion as follows:*

145 *25.1.02- Opposition to Criminalization of Reproductive Decision Making*

146 *The Medical Society of Virginia will oppose any legislation or ballot measures that could criminalize*
147 *obtaining or providing evidence-based reproductive healthcare in vitro fertilization, contraception, or the*
148 *management of ectopic and molar pregnancies.*

149 Your Reference Committee heard unanimous supportive testimony outlining the impact on patients in
150 need. Members supported the work of the Virginia Chapter of the American College of Obstetrics and
151 Gynecology and the language that supports the advocacy and lobby work as captured by this resolution.
152 Testimony also supported training that expands access to reproductive healthcare.

153 Further, testimony supported the Resolution's focus on the society's opposition to criminalization and not
154 applying a universal political position to the members at large. Testimony in support of the Resolution also
155 reiterated the MSV's opposition to intervention in the patient-provider relationship.

156 Your Reference Committee discussed how the language as written provides the society flexibility, but the
157 need for clear guidance at the General Assembly. The Committee was concerned with some members
158 when in a position of leadership decision making for the society could choose not to interpret or consider
159 abortion reproductive healthcare. To support the intent of the Resolution, "reproductive healthcare" may
160 need further defining in the policy to state that includes "abortion".

161 Counsel shared the federal definition of reproductive health services 18 USC Section 248(e)(5) that
162 sparked discussion to change "healthcare" to "services".

163 The Committee's reflection on the intention of the Resolution to have policy on criminalization ultimately
164 lead to the decision to amend the language to include "civil penalty" to incorporate cases of fines.

165 Your Reference Committee also discussed the overlapping subject matter with 22-207 but pursue
166 separate approaches given the concern they are potentially in conflict with one another. Counsel advised

167 should both pass as written, those policies would not be in conflict with each other. Ultimately your
168 committee agreed on an amendment.

169 Accordingly, your Reference Committee recommends that Resolution 22-206 be adopted as amended.

170 *The Medical Society of Virginia will oppose any legislation or ballot measures that could criminalize or*
171 *impose civil penalty for obtaining or providing evidence-based reproductive health services. ~~healthcare in~~*
172 *in vitro fertilization, contraception, or the management of ectopic and molar pregnancies.*

173 **7) 22-207 OPPOSING RESTRICTION OF MEDICALLY APPROPRIATE CARE**

174 RECOMMENDATION:

175 Mr. Speaker, your Reference Committee recommends that **Resolution 22-207 be Adopted as**
176 **Amended.**

177 *RESOLVED, that the MSV amends policy compendium 25.1.04 as follows:*

178 *25.1.04 – Opposing Legislative Efforts to Restrict the Provision of Reproductive Healthcare*

179 *The Medical Society of Virginia opposes any government mandated efforts to restrict the provision of*
180 *medically appropriate care, as decided by the physician and patient, in the management of reproductive*
181 *health.*

182 *Comprehensive reproductive health care includes the provision of contraceptive and abortion services.*
183 *Furthermore, the Medical Society of Virginia opposes the restriction of abortion services before the onset*
184 *of fetal viability.*

185 *The Medical Society of Virginia further opposes efforts which criminalize or enforce medically*
186 *unnecessary standards on ~~providers~~ clinicians and clinics that in turn make it economically or physically*
187 *difficult for doctors and clinics to provide services.*

188 Your Reference Committee heard remarks from the author about removing the language around viability
189 after discussion with specialty stakeholders, include provision of contraceptive and abortion services, and
190 using the term clinician instead of provider.

191 There was also testimony supporting the actions of ACOG Virginia Section and the AMA on the issue.
192 Intervention between a patient and physician has created concerns for patients' access to care or a
193 providers right to practice medicine. There were comments concerning retention of physicians if laws do
194 not support their medical education and professional background. Further, patient privacy rights are
195 reason enough to create policy preventing government intervention in their care.

196 Testimony in support also spoke to advocating for bodily autonomy and maintaining the medical capacity
197 for abortion services that defer to the patients' decision-making. Testimony also included the need for
198 additional policy considering the political timeliness and anticipated legislation. Further, supportive
199 testimony included remarks that the MSV is the proper entity to lead advocacy for reproductive rights.

200 Your Reference Committee also heard testimony in opposition to policy that specifically references
201 reproductive choice and or abortion, or goes further than stating the MSV opposes intervention in the

202 provider-patient relationship. Further testimony in opposition spoke against the language of the
203 Resolution being inflammatory.

204 Other testimony in opposition recommended not amending the policy or passing this Resolution and
205 maintaining the simplified language that supports evidence-based medical care.

206 The authors spoke to the importance of the prescriptive language defining reproductive healthcare
207 including abortion as an essential healthcare service.

208 Online comments were received for this resolution. One comment inquired as to whether not standing
209 alongside the AMA on this issue would cause the MSV to lose membership. Critical comments noted the
210 evolution of the term “viability” in the past two decades and cited polling results that reflected public
211 sentiment that differed from the polls cited within the resolution. Supportive comments pointed to current
212 Virginia Code and noted the support of major medical associations. Another comment indicated that
213 taking any position on this issue is likely to cause membership loss within the MSV.

214 Your Reference Committee discussed the interpretation of the federal definition of reproductive health
215 services. Your committee considered the need for clear language, consistency, that can be understood by
216 all. An OBGYN representative on your committee clarified contraceptives vs. contraception.

217 Counsel recommended maintaining healthcare provider rather than accepting the author’s verbal
218 amendment to clinician as reflected in the Virginia code.

219 The Reference Committee discussed the importance of maintaining existing policy language regarding
220 clinics.

221 Your committee also amended the title for consistency with language changes.

222 Accordingly, your Reference Committee recommends this Resolution 22-207 be adopted as amended.

223 *RESOLVED, that the MSV amends policy compendium 25.1.04 as follows:*

224 *25.1.04 – Opposing Legislative Efforts to Restrict the Provision of Reproductive ~~Healthcare~~ Health*
225 *Services*

226 *The Medical Society of Virginia opposes any government mandated efforts to restrict the provision of*
227 *medically appropriate care, as decided by the physician and patient, in the management of reproductive*
228 *health.*

229 *Comprehensive reproductive health services care includes the provision of contraception ~~contraceptive~~*
230 *and or abortion. services. Furthermore, the Medical Society of Virginia opposes the restriction of abortion*
231 *services.*

232 *The Medical Society of Virginia further opposes efforts which criminalize, impose civil penalties, or*
233 *enforce medically unnecessary standards on healthcare providers ~~providers~~ clinicians and clinics that in*
234 *turn make it economically or physically difficult for healthcare providers ~~doctors~~ and clinics to provide*
235 *services.*

236 **8) 22-208 RESOLUTION TO PROTECT EVIDENCE BASED MEDICINE AND SAFEGAURD MEDICAL**
237 **SPEECH**

238 RECOMMENDATION:

239 Mr. Speaker, your Reference Committee recommends that **Resolution 22-208 be Not Adopted.**

240 *RESOLVED, that the MSV support that the Virginia Board of Medicine shall have the authority to suspend*
241 *or revoke the license of a physician or other medical licensee who demonstrates unprofessional conduct*
242 *by propagating medical misinformation or disinformation.*

243 Your reference committee heard testimony from the author about the effects of medical misinformation,
244 particularly with vaccines. The author also referenced existing policy 25.3.02 regarding repercussions for
245 providers exhibiting unprofessional conduct outside the standard of medical care.

246 Testimony in opposition referenced freedom of speech and there being no need for this Resolution as
247 state law as reflected in 54.01-2915 already empowers the Board of Medicine to take the disciplinary
248 action described (Unprofessional Conduct). Further testimony in opposition considered this a
249 controversial issue that may have an unintended negative impact on physicians appropriately acting
250 within their purview.

251 Response from the author clarified that freedom of speech does not apply to the intentional spread of
252 medical misinformation.

253 Online comments were received for this resolution. Critical comments cited opposition to a similar law
254 considered in California. Other testimony argued that the medical profession, like all professions, has
255 standards, and enforcement of standards is essential.

256 Your Reference Committee discussed the unprofessional conduct statute at length with counsel. The
257 committee addressed the concern over freedom of speech and the lack of a clear definition of
258 misinformation.

259 Accordingly, your Reference Committee recommends this Resolution 22-208 be not adopted.

260 **9) 22-209 LICENSURE AND DISCIPLINE – DISSEMINATION OF MISINFORMATION**

261 RECOMMENDATION:

262 Mr. Speaker, your Reference Committee recommends that **Resolution 22-209 be Not Adopted.**

263 *RESOLVED, the Medical Society of Virginia believes that when a physician's board certification is*
264 *revoked on accusations of alleged professional misconduct for the dissemination of misinformation or*
265 *disinformation that may threaten public health, such revocation should be based on a clear and*
266 *convincing evidentiary standard.*

267 Your reference committee heard testimony in support of the Resolution with consideration of the high
268 standard for practicing medicine and providing recommendations for care that should result in discipline.
269 Additional clarifying testimony was provided about misinformation being based on the perspective of the
270 individual and there not being a universal definition or absolute truths.

271 Your reference committee heard testimony in opposition on the grounds that ABMS' due process already
272 solves for this issue through their investigations of these cases. Every decision cannot be regulated or
273 legislated—there has to be an appropriate stakeholder to hold others accountable.

274 There was clarifying testimony questioning who will define “evidentiary standards” and a desire to avoid
275 political or regulatory misuse.

276 Online comments were received for this resolution. Supportive testimony pointed to divisive issues in
277 medicine putting board certifications and licensure at risk. A lengthy discussion occurred regarding
278 whether both “misinformation” and “disinformation” should be included in the proposed language as one
279 or both of those terms may not be completely objective. An informational comment offered perspective on
280 how such issues are handled regarding board certifications and outlined the processes associated with
281 disciplinary investigations.

282 Your Reference Committee discussed the relevance of misinformation and disinformation and the need
283 for additional information or language to adjudicate these situations. The political charge associated with
284 the terms in addition to the risk associated with an unpopular decision being conflated with
285 misinformation.

286 Accordingly, your Reference Committee recommends this Resolution 22-209 be not adopted.

287 **10) 22-210 HEALTH CARE POLICY SHOULD BE BASED UPON PEER REVIEWED RESEARCH AND**
288 **EVIDENCE BASED PRACTICES**

289 RECOMMENDATION:

290 Mr. Speaker, your Reference Committee recommends that **Policy 25.3.02 Legislation, Standards of**
291 **Care and the Patient/Physician Relationship be Adopted as Amended in Lieu of 22-210: Health**
292 **Care Policy Should Be Based Upon Peer Reviewed Research and Evidence-Based Practices.**

293 *RESOLVED, that MSV reaffirms that the patient-physician relationship is the bedrock upon which all safe*
294 *and ethical medical care is provided and all joint decision-making between a physician and a patient must*
295 *be private and specific to the patient's condition(s), and be it further*

296 *RESOLVED, that MSV encourages the passage and implementation of laws, regulations, health codes,*
297 *medical practice standards and institutional/corporate rules that are evidence-based, evidence informed*
298 *or are based upon consensus advisory opinion by recognized health care organizations with significant*
299 *efficacy and value, as demonstrated by the best available evidence, including, but not limited to peer-*
300 *reviewed scientific literature, and be it further*

301 *RESOLVED, that MSV opposes all criminal sanctions against physicians and the other medical providers*
302 *who deliver, and the patients who receive care that is evidence-based, evidence informed or are based*
303 *upon consensus advisory opinion by recognized health care organizations and has significant efficacy*
304 *and value as demonstrated by the best available evidence, including, but not limited to peer-reviewed*
305 *scientific literature.*

306 Your reference committee heard testimony from the author about the negative impact of legislative
307 interference on bodily autonomy, informed medical decision making, and the need for policy supporting
308 the standard of care.

309 A friendly amendment was offered to remove or amend the phrase “standard of care” as the MSV has
310 always historically opposed such efforts to codify that standard.

311 Online comments were received for this resolution. One comment suggested the deletion of the second
312 resolved clause. Another comment pointed to current MSV policy, 25.3.02 that serves the society well on
313 this issue.

314 Your Reference Committee discussed the difficulties this policy stands to create with respect to the
315 democratic process and the pressure it may create within the profession. The committee also discussed
316 the staff recommendation at length and considered amending existing MSV policies regarding the
317 physician patient relationship and evidence-based care. Your committee also discussed clarifying
318 amendments to the existing policy.

319 With respect to the questions from your Reference Committee on the author's intent, your Committee
320 Chair recommended discussion during caucus with the authors District representatives to extract the
321 Resolution and further discuss this before the House.

322 Your committee extensively discussed the legislative efforts to codify the standard of care and considered
323 the three Resolved clauses individually.

324 Accordingly, your Reference Committee recommends Policy 25.3.02 Legislation, Standards of Care and
325 the Patient/Physician Relationship be adopted as amended in lieu of 22-210: Health Care Policy Should
326 Be Based Upon Peer Reviewed Research and Evidence-Based Practices.

327 *25.3.02 Legislation, Standards of Care and the Patient/Physician Relationship*

328 *The Medical Society of Virginia ~~will opposes efforts to or work to favorably amend legislation, regardless~~*
329 *~~of its primary intent, that interfere with or jeopardize the sanctity of the patient/physician relationship.~~*

330 *~~The MSV supports or is in conflict with or contrary to broadly accepted, evidence-based standards of care~~*
331 *~~identified by credible medical organizations such as the American Medical Association or the specialties~~*
332 *~~and sub-specialties recognized by the American Board of Medical Specialties.~~*

333 *RESOLVED, that MSV further opposes all criminal penalties against physicians and the other healthcare*
334 *providers who deliver, and the patients who receive, care that is evidence-based.*