DISCLAIMER
The following is a preliminary report of actions taken by the House of Delegates at its 2021 Annual Meeting and should not be considered final. Only the Official Proceedings of the House of Delegates reflect official policy of the Society.

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 Prostheses 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
1) 22-201 ROAD SAFETY RESOLUTION

RECOMMENDATION:

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

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

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

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

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

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

Your Reference Committee discussed the intent of the Resolution.

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

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

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

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

2) 22-202 MENTAL HEALTH QUESTIONS ON CREDENTIALING FORMS

RECOMMENDATION:

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

RESOLVED, that the MSV encourage all hospitals, health systems, malpractice insurers, licensing bodies, and health plans regularly review its (professional) healthcare workforce applications, credentialing and/or job review questionnaires, and worker communications to remove or reword questions that identify mental or physical health issues that do not have the potential to impair or interfere with performance expectations commensurate with their job and professional responsibilities, and be it further
RESOLVED, these entities consider using the wording suggested by the Federation of State Medical Boards, American with Disabilities Act, American Medical Association, American Hospital Association, the Surgeon General’s Advisory, and others.

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

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

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

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

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

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

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

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

RECOMMENDATION:

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

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

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

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

Accordingly, your Reference Committee recommends Policy 40.18.04 – Optimizing Access of Mental Health Services by Veterans be adopted.
4) 22-204 MSV ORGANIZATIONAL STRUCTURE PROPOSAL

RECOMMENDATION:

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

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

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

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

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

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

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

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

5) 22-205 IMPROVED REIMBURSEMENT FOR HAIR PROSTHESES FOR INDIVIDUALS WITH CICATRICIAL ALOPECIA

RECOMMENDATION:

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

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

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

Online comments were received for this resolution. One comment offered a friendly amendment to strike language requiring MSV participation but retaining support for additional insurance benefits.
Your Reference Committee discussed the friendly amendment and staff recommendation. The Chair also provided relevant background as to the previous advocacy at the specialty society level.

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

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

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

RECOMMENDATION:

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

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

25.1.02- Opposition to Criminalization of Reproductive Decision Making

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

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

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

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

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

The Committee’s reflection on the intention of the Resolution to have policy on criminalization ultimately lead to the decision to amend the language to include “civil penalty” to incorporate cases of fines.

Your Reference Committee also discussed the overlapping subject matter with 22-207 but pursue separate approaches given the concern they are potentially in conflict with one another. Counsel advised
should both pass as written, those policies would not be in conflict with each other. Ultimately your committee agreed on an amendment.

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

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

7) 22-207 OPPOSING RESTRICTION OF MEDICALLY APPROPRIATE CARE

RECOMMENDATION:

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

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

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

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

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

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

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

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

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

Your Reference Committee also heard testimony in opposition to policy that specifically references reproductive choice and or abortion, or goes further than stating the MSV opposes intervention in the
provider-patient relationship. Further testimony in opposition spoke against the language of the Resolution being inflammatory.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RECOMMENDATION:

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

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

Your reference committee heard testimony in support of the Resolution with consideration of the high standard for practicing medicine and providing recommendations for care that should result in discipline.

Additional clarifying testimony was provided about misinformation being based on the perspective of the individual and there not being a universal definition or absolute truths.
Your reference committee heard testimony in opposition on the grounds that ABMS’ due process already solves for this issue through their investigations of these cases. Every decision cannot be regulated or legislated—there has to be an appropriate stakeholder to hold others accountable.

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

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

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

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

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

RECOMMENDATION:

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

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

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

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

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

A friendly amendment was offered to remove or amend the phrase “standard of care” as the MSV has always historically opposed such efforts to codify that standard.
Online comments were received for this resolution. One comment suggested the deletion of the second resolved clause. Another comment pointed to current MSV policy, 25.3.02 that serves the society well on this issue.

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

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

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

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

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

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

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

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