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REPORT 7
BOARD OF TRUSTEES

(Referred to Reference Committee E)

Policy Sunset - Resolution 89-9, Ten Year Sunset Provision for PMS Policy, directed that all Society policies adopted prior to 1981 be reviewed and presented to the House of Delegates for re adoption; in subsequent years, all policies adopted by the Society be reviewed and presented to the House for similar action on the tenth anniversary of their adoption. All policies reviewed but not re adopted automatically expire at the conclusion of that House of Delegates meeting. The Board implements this resolution by overseeing the sunset process and bringing a report with recommendations to the House each year.

The process employed is as follows: Once identified, the policy actions subject to sunset are sent to the relevant unit of the Society for review and a decision on whether the policy should be retained, rescinded, or retained in part. In instances where the recommendation is to rescind or retain in part, the reviewing unit is directed to indicate the reason for that decision. In addition, Society legal counsel reviews all policies for anti-trust ramifications. Policies are then submitted to the Board for recommendation to the House for action.

This year, this procedure was followed for policies for 1967, 1977, 1987, 1997, and 2007. The Board acted on these at its May meeting. These policies are now presented to the House for its consideration and action. Each item has a recommendation approved by the Board.

RECOMMENDATION:

1. The Board of Trustees recommends that the action indicated be adopted for each policy item.

David A. Talenti, MD
Chair

Attachment

2017 PENNSYLVANIA MEDICAL SOCIETY SUNSET POLICY REVIEW

Policy Number & Title	Retain	Retain in Part	Rescind	Comments
15.995 Regulatory Reporting Requirement under Motor Vehicle Law (Report 8, Board of Trustees, H-2007)	X			
20.990 Act 148 of 1990 (Res. 215, H-2007)			X	Act 59 of 2011 addressed the items found in Res. 215-2007. As an example, Act 59 allowed physicians to test patients for HIV unless a patient expressly objected (opt out versus opting in for testing), post-significant exposure testing procedures and counseling for patients with positive test results.
20.994 Physician with AIDS to Consult with Colleagues (Task Force on AIDS, Report A, H-1987)	X			
30.997 Underage Drinking and Strict Enforcement of DUI (Board of Trustees, March 1997)	X			
85.992 Advance Directives (Res. 412, H-2007)	X			
85.996 Medical Examiner System (Res. 34, H-1967)			X	At the time this resolution was adopted, the legislature was debating the merits of a medical examiners system versus a county coroners system. Given that 50 years have elapsed since this resolution was adopted, and that the county coroners system is well entrenched, this policy should be rescinded unless the HOD elects to revisit the issue.
100.999 Use of Anorexiant for Treatment of Obesity (Res. 21, H-1977)	X			
125.991 Informed Substitution of Anticonvulsant Drugs (Res. 211, H-2007)	X			
130.996 Utilizing Emergency Department to Connect Victims of Violence to Community Resources (Res. 408, H-2007)	X			
140.999 Joint Venture Contracts (Res. 39, H-1987; revised, H-2007)	X			
145.997 Promotion of Firearms Safety (Res. 406, H-2007)	X			
155.994 Costs of Highmark Automatic Audits (Res. 309, H-2007)	X			

Policy Number & Title	Retain	Retain in Part	Rescind	Comments
155.999 Release of "Raw Data" By HC-4 (Res. 29, H-1987)			X	No longer needed as this has been adopted as standard practice in the preparation of reports. This policy was enacted prior to these practices being in place.
160.980 Endorsement of Programs Which Improve Access to Health Care for the Uninsured and Underinsured (Res. 201, H-2007)			X	No longer applicable.
160.981 Highmark Quality Reporting Initiative, Fall 2007 (Res. 301, H-2007)			X	No longer applicable. Insurance companies and CMS publish quality scores of physicians through various programs such as Physician Compare, Highmark Stars, and others.
160.994 Society Voluntary Indigent Health Plan (Address of the President, H-1987)			X	No longer applicable.
165.990 For-Profit Conversions of Health Care Organizations (Amended Sub. Res. 408, H-1997)	X			
180.985 Proper Payment Under Assignment of Benefits (Res. 306, H-2007)	X			
180.986 Insurance Company Reminders of Appropriateness of Care (Res. 308, H-2007)	X			
180.987 Appropriate Reimbursement for Professional Services (Res. 304, H-2007)	X			
185.973 Evidence-Based Guidelines for Reimbursement for Medical Necessity Decisions (Res. 305, H-2007)	X			
185.974 Legality of Fining Physicians (Res. 307, H-2007)	X			
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)- Par. 1	X			

Policy Number & Title	Retain	Retain in Part	Rescind	Comments
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 2			X	PAMED has adopted other processes for input on guidelines and coverage.
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 3	X			
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 4			X	Policy has been met.
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 5	X			
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 6			X	The Affordable Care Act (ACA) created a ratings system for healthcare exchange-based plans to help patients purchase “gold”, “silver”, and “bronze” plans.
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 7	X			
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 8			X	Rescind due to HIPAA regulations.
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 9	X			“Medical necessity” is still an active term with insurers, and PAMED still actively works with the media on related issues.
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 10	X			
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 11	X			
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 12	X			
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 13	X			
185.991 Denials by Insurers (Report 13, Board of Trustees, H-1997)-Par. 14	X			
185.995 Precertification Process (Res. 509, H-1995; reaffirmed, Res. 313, H-1997)	X			

Policy Number & Title	Retain	Retain in Part	Rescind	Comments
185.999 Child Health Insurance (Res. 21, H-1987)	X			
200.998 Physician Population in Pennsylvania (Report F, Board of Trustees, H-1987)			X	Information is readily available via database; therefore, formal study is not necessary.
230.992 Unfair Discrimination in Medical Staff Application/Selection Process (Res. 318, H-1997)	X			
270.986 Support for Breastfeeding (Res. 202, H-2007)			X	Act 28 of 2007 appropriately addressed this issue. As a result, women can now breastfeed in any location, public or private, areas without fear of criminal prosecution.
270.997 Generics, Compulsory (Res. 24, H-1967)			X	No longer necessary. In 1976 PA passed the Generic Drug Equivalent Law which allows the prescriber to indicate if a generic substitution is permissible or if it brand only.
275.992 State Licensure of Office Operating Room Facilities	X			

Policy Number & Title	Retain	Retain in Part	Rescind	Comments
275.995 Improve Operations of the State Board of Medicine (Res. 38, H-1987)			X	<p>It is recommended to rescind this resolution for the following reasons:</p> <ul style="list-style-type: none"> • Investigate alternative methods of adjudication by the Board in order to replace the single hearing office procedure. This requirement is set in law under Act 48. While there is a hearing office process, the hearing officer only provides a recommendation to the State Boards. The State Boards have ultimate authority whether to accept or reject the recommendation of the hearing officer. See 63 P.S. § 6603(a); 1 Pa. Code §§ 16.51-16.58. • Expedite the resolution of cases by adding time limitations for both the prosecution and the defense and setting deadlines by which hearings must take place. Act 48 provides that hearings must commence within 90 days after the date on which an answer is filed. A decision is required to be rendered within 180 days after the record is closed. A final adjudication, if exceptions are filed, is required within 90 days of the filing of the exceptions. See 63 P.S. § 2203(d). • Give appropriate weight to the final decision of a court of law. All state agencies are required to comply with the final order of a court. See, generally, 2 Pa.C.S. Chapter 7; 42 Pa.C.S. § 763(a). • Permit physicians to practice until a final decision is rendered: <i>Act 112 provides specific instances that must be present in order for a physician to be prohibited from practicing pending the outcome of a disciplinary case. See 63 P.S. § 422.40.</i> <i>Act 112 provides the State Board with the authority to temporarily suspend a license when there is an immediate and clear and present danger to the public health and safety. A preliminary hearing on the merits of the temporary suspension must be held within 30 days. If the Board upholds the temporary suspension, it is only valid for 180 days. See 63 P.S. § 422.40(a).</i> <i>Act 112 also provides for an automatic suspension for convictions under the Commonwealth's drug act or an equivalent act or for mental incompetency. See 63 P.S. § 422.40(b).</i>
275.998 Competency Only Criteria for Licensure (Address of the President-Elect, H-1987; revised, H-2007)			X	<p>The original purpose of this resolution in 1987 concerned a push to mandate CME training for physicians. In 2002, with the enactment of the MCARE Act, CMEs became mandatory for physicians. Therefore, with CMEs now a requirement, along with other rules and regulations concerning licensure, this resolution no longer serves its original purpose. See 40 P.S. § 1303.910.</p>
285.962 Contract Negotiations with Third-Party Payers (Report 4, Board of Trustees, H-2007)		X		<p>Remove “its Model Managed Care Contracting” from current language.</p>

Policy Number & Title	Retain	Retain in Part	Rescind	Comments
285.978 “Not for Cause” Termination of Physician Contracts (Recommendation 4 of the President-Elect, H-1997)	X			
285.979 Termination Without Cause Contract Provisions (Res. 323, H-1997)	X			
285.980 Primary and Consultative Care/Physician Credentialing (Res. 307 and 309, H-1997)	X			
285.981 Self-Deselection (Res. 302, H-1997)			X	No longer applies due to changes in healthcare delivery.
285.982 Utilization Review in Global Contracts (Res. 316, H-1997)	X			
285.983 Third-Party Carrier Notification of Subscribers (Res. 315, H-1997)	X			
285.984 Assisting Physicians in Obtaining Copies of Their Annual Contracts (Res. 312, H-1997)	X			
285.985 Educating Physicians on Coping with the Realities of Care (Board of Trustees, March 1997; title revised, H-2007)	X			
290.997 Early Periodic Screening Diagnosis and Treatment Program (Res. 19, H-1987)	X			
310.999 Resident Physician Working Hours (Res. 49, H-1987)		X		The majority of this policy should be retained with the exception of the end of the last sentence, since the Council on Education and Science no longer exists. The last sentence should read, “The Society is determined to monitor this issue through the Board of Trustees.”
315.998 Timeframe for Release of Medical Records (Report 2, Board of Trustees, H-1997)			X	Timeframe for producing a copy of medical records has been established by HIPAA.
330.994 Unassigned Medicare Patients in Hospital Clinics (Res. 14, H-1967)			X	No longer applies due to changes in healthcare delivery.
330.996 Medicare Home Health Benefits (Res. 28, H-1987)			X	No longer applies due to changes in healthcare delivery.
330.999 Clinic Patients Need Personal Doctor (Res. 13, H-1967)			X	No longer applies due to changes in healthcare delivery.

Policy Number & Title	Retain	Retain in Part	Rescind	Comments
350.997 Healthy Living in Ethnic Communities (Res. 209, H-2007)	X			PAMED provides a grant for healthy living in ethnic communities that is still active.
350.999 Minority Medical School Admissions (Res. 44, H-1977)	X			
370.999 Education of Physicians on Donor Programs and Law (Res. 32, H-1987; revised, H-1997)			X	Educational and informational resources related to organ donation are readily available to physicians and patients through the Department of Health and most donor organizations (i.e., Gift of Life, Donate Life-PA, CORE).
385.965 Reimbursement for Immunizations (Res. 302, H-2007)	X			
385.977 Uniformity for Insurance Documentation (Report 14, Board of Trustees, H-1997)	X			
385.985 Physician Review of Billings and Remittances Made on their Behalf (Res. 322 H-1997)	X			
385.988 Americans with Disabilities Act (Res. 401, H-1997)			X	ADA established that costs incurred as a result of providing effective communication to hearing-impaired patients are considered normal operating costs of the practice.
405.995 Immunity for Employers Providing References (Res. 407, H-2007)	X			
405.998 Physician Information on the Internet (Res. 425, H-1997)	X			
435.967 Countersuits/Non-Meritorious Lawsuits (Res. 403, H-2007)	X			
435.968 Physician Volunteers (Report 6, Board of Trustees, H-2007)	X			
435.987 Meaningful Tort Reform (Res. 410, H-1997)-Par. 1	X			
435.987 Meaningful Tort Reform (Res. 424, H-1997)-Par. 2	X			
435.988 Privatization of the Malpractice Insurance System (Sub. Res. 423, H-1997; revised, H-2007)	X			
435.989 Out-of-State Practice of Medicine (Res. 406, H-1997)	X			

Policy Number & Title	Retain	Retain in Part	Rescind	Comments
440.997 Legal Protection, Mass Immunization (Res. 8, H-1967)			X	<p>Mass immunizations are one form of assistance during a declared state of emergency. Title 35, the Emergency Management Services Code, provides immunity protection for individuals complying with the directions of a disaster declaration issued by the Governor. The Department of Health, as the lead agency for public health in the Commonwealth, would likely be placed in charge of developing a mass immunization program for the Commonwealth. Individuals that were contracted by the Department to fulfill this program would be given immunity protection except for cases of misconduct or gross negligence. See 35 Pa.C.S. § 7704(a).</p> <p>In non-emergent situations, when the Department has established a mass immunization program, those programs are filtered through the Department's state health centers. As the state health centers are staffed by state employees, those employees have sovereign immunity against suits except in cases of misconduct or gross negligence. An example of when this was done was when the Department established an immunization program for the H1N1 flu several years ago. See 42 Pa.C.S. §§ 8521-8522.</p>
450.998 Interference with Professional Judgment of Physician (Res. 18, H-1977)	X			
480.997 Telemedicine/Telehealth (Report 5, Board of Trustees, H-2007)	X			
490.990 Statewide Tobacco Legislation Regarding Minors (Res. 402, H-2007)	X			
530.982 Pennsylvania Delegation Membership for AMA Speaker/Vice Speaker (Res. 501, H-2007)	X			

Policy Number & Title	Retain	Retain in Part	Rescind	Comments
530.989 CME Program (Board of Trustees, March 1997; revised, H-2007)			X	As a result of Act 13 of 2002, physicians must complete continuing medical education requirements as a condition of re-licensure and, therefore, PAMED no longer requires verification of CME completion as a condition of membership. Members may still voluntarily submit proof of completion of CME credits and request a member CME certificate as a benefit of membership.
530.991 Demographic Reports on Annual Basis to County Societies (Report of Ad Hoc Committee on House Representation, H-1997)	X			
530.992 Elected Officials and Conflict of Interest (Report 18, Board of Trustees, H-1997; Report of Speaker, House of Delegates, H-1998)	X			
530.993 Numerical Balance Between AMA Delegates and Alternates (Report 17, Board of Trustees, H-1997; revised, H-2007)	X			
530.994 Voluntary Term Limits for Pennsylvania AMA Delegates (Report 34, Board of Trustees, H-1997)	X			