The Reference Committee on Financial and Organizational Affairs, having met on Friday, May 18, 2018, with all members present, submits the following report:


RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendations in Speaker’s Report 1 be adopted.

This report recommends the following amendments to Resolution 109-A-17:

(1) That vote counts of all secret ballots taken in the TMA House of Delegates be announced publicly in the house at the time each election result is announced; a TMA Balloting Procedures resource document be posted on the TMA website and distributed at each annual session, and

(2) Final vote counts of all secret ballots in the TMA House of Delegates continue to be made public and made part of the official proceedings of the house, available to any member upon request on site after elections conclude, or following adjournment of the meeting by contacting the TMA House of Delegates staff, and

(3) That Resolution 109-A-17 be adopted as amended.

Your reference committee heard no testimony on this item.

(2) Speakers Report 2 – Election of TMA Board of Trustees Members, Filling Vacancies by Special Election (Resolution 101-A-17)

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendations in Speakers Report 2 be adopted.

This report recommends: (1) that each at-large and ex-officio member of the TMA Board of Trustees elected prior to TexMed 2018 continue to abide by the term of office and length of tenure provisions specified in the TMA Bylaws at the time the member first was elected to the board, regardless of future amendments to these bylaws provisions, and (2) amendment of TMA Policy 295.013, Election Process.

Background testimony was provided the Board of Trustees.

(3) Council on Constitution and Bylaws Report 2 – Election of TMA Board of Trustees Members, Filling Vacancies by Special Election (Resolution 101-A-17)

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendations in Council on Constitution and Bylaws Report 2 be adopted.
This report recommends:

(1) Amend Bylaws Chapter 4, Board of Trustees, Section 4.40, as follows:

**Term, tenure, and vacancies of at-large members.** The term of service of at-large members of the Board of Trustees shall be three years. Tenure of service as an at-large member of the board, by election and by appointment, shall not exceed three terms, provided that serving as much as one year of the three-year term shall be considered serving a full term. The term of service of the young physician member on the Board of Trustees shall be two years and shall not be eligible for reelection. The two-year young physician term shall not count toward the lifetime service limit of nine years on the Board of Trustees. Tenure of service as the young physician member on the board, by election, shall not exceed one term, provided that serving as much as half of the two-year term shall be considered serving a full term.

Total lifetime service on the Board of Trustees whether as an at-large or ex officio member shall not exceed nine years excluding terms served as the young physician, resident, or student member.

The president shall fill vacancies in the offices of at-large members of the Board of Trustees until the next annual session of the House of Delegates, at which time election for the unexpired term vacancies to be filled shall be held. If, however, a vacancy occurs during the course of any House of Delegates meeting, it may be filled at that meeting by house election.

(2) Amend Bylaws Chapter 7, Elections, Section 7.42, Balloting, Subsection 7.421, First ballot, and Subsection 7.422, Run-off ballot, as follows:

**7.42 Balloting.** All elections shall be by secret ballot, and a majority of the votes cast shall be necessary to elect. When there are three or more nominees for a single position, the one receiving the least number of votes on each ballot shall be dropped until one of the said nominees receives a majority vote. When there is only one nomination, vote may be by acclamation.

When (1) two or more vacancies exist, and (2) there are three or more nominees, election procedures are as follows:

**7.421 First ballot.** All nominees shall be listed in a randomly determined sequence on a single ballot, regardless of the length of term. Each elector shall have as many votes as there are positions to be filled, and each vote must be cast for a different nominee. No ballot shall be counted if it contains fewer or more than the number of votes to be cast, or if the ballot contains more than one vote for any nominee. Nominees who receive (1) a vote on a majority of the legal ballots cast and (2) the highest majorities shall be elected to the vacancies to be filled. When there are varying term lengths of positions to be filled, those receiving the highest majorities shall be elected to the longer terms.

**7.422 Run-off ballot.** The house shall hold a run-off election to fill any vacancy that cannot be filled because of a tie vote or when necessary, to resolve any ties to determine which candidate(s) shall be elected to which term.

Your reference committee heard testimony in favor and in opposition to this report. Opposing testimony expressed the concern that eliminating partial terms would potentially lessen the ability for member participation on the board. Your reference committee believes the reduction in the term to a total of nine years addresses this concern.
(4) Board of Trustees Report 12 – Sunset Review of TMA Standing Committees

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendations in Board of Trustees Report 12 be adopted.

This report recommends:

(1) continuing the Interspecialty Society Committee, Committee on Membership, Committee on Physician Health and Wellness, Committee on Continuing Education, Committee on Physician Distribution and Health Care Access, Committee on Cancer, Committee on Child and Adolescent Health, Committee on Emergency Medical Services and Trauma, Committee on Infectious Diseases, and Committee on Reproductive, Women’s, and Perinatal Health, Committee on Medical Home and Primary Care and the Committee on Rural Health for three years, and

(2) amending the charge of the Patient-Physician Advocacy Committee in Section 10.532 of TMA Bylaws as follows: The committee shall assess the quality of medical and health care services in the State of Texas and recommend regulatory, legislative, and legal approaches to assure that the highest standard of quality medical care is available for all Texans. The committee shall assess the environments and circumstances in which physicians practice on both a case-by-case and a global basis to identify and advocate against barriers to a healthy environment for the practice of medicine. The committee shall serve as a source of advice on quality assurance, utilization review, and other quality and medical practice environment issues; develop and recommend policy; establish and maintain liaison with appropriate regulatory agencies and with groups with similar interests; and serve in an advocacy role for physicians and patients on issues related to quality assurance, utilization review, and other forms of review and medical practice environment, and

(3) continuing the Patient-Physician Advocacy Committee, as amended, for three years.

Your reference committee heard testimony supporting the recommendations of the board.

(5) Board of Trustees Report 13 – Policy Review

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendations in Board of Trustees Report 13 be adopted.

This report recommends that: (1) Policy 160.016 be retained, and (2) Policy 75.003 be retained as amended.

Your reference committee heard testimony supporting the recommendations of the board.
(6) Board of Trustees Report 14 – TMA 2025

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendation in Board of Trustees Report 14 be adopted.

This report recommends approval of TMA’s 2025 strategic plan.

Your reference committee heard testimony supporting the recommendation of the board.

(7) Board of Trustees Report 15 – Amendments to Constitution and Bylaws Chapter 9, Councils

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendation in Board of Trustees Report 15 be adopted.

This report recommends amending TMA Bylaws, Chapter 9, Councils, Section 9.31, Number of members, to allow councils to consist of nine to 18 members.

Your reference committee heard testimony supporting the recommendation of the board.

(8) Board of Councilors Report 4 – Support of Evidence-Based Medicine (Resolution 107-A-17)

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendation in Board of Councilors Report 4 be referred with report back at A-19.

This report recommends that the House of Delegates not adopt Resolution 107-A-17.

Multiple people testified for referral of this report. Specifically, there was a request for referral to the Council on Science and Public Health’s LGBTQ workgroup so that a more focused policy can be development regarding the treatment of LGBTQ patients.

(9) Board of Councilors Report 5 – Emeritus Nominations

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendation in Board of Councilors Report 5 be adopted.

This report recommends that the TMA House of Delegates elect Nalin H. Tolia, MD, to emeritus membership in the Texas Medical Association.

Your reference committee heard testimony in support of this report.
(10) Board of Councilors Report 6 – Honorary Nominations

Madam Speaker, your reference committee recommends that the recommendation in Board of Councilors Report 6 be adopted.

This report recommends that the TMA House of Delegates elect William J. Deaton, MD, John D. McKeever, MD, and William A. Walker, MD, to honorary membership in the Texas Medical Association.

Your reference committee heard testimony in support of this report.

(11) Board of Councilors Report 7 – Policy Review

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendations in Board of Councilors Report 7 be adopted.

This report recommends that: (1) Policy 85.010 be retained and (2) Policy 85.002 be deleted.

Your reference committee heard testimony in favor of this report.

(12) Texas Delegation to the AMA Report 3 – Texas Delegation Operating Procedure Changes

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendation in Texas Delegation to the AMA Report 3 be adopted.

This report recommends amendments to Section 3.0, Officers and Elected Positions, of the delegation’s Operating Procedures.

Your reference committee heard testimony in support.

(13) Medical Student Section Report 1 – Medical Student Section Operating Procedures Update

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendation in Medical Student Section Report 1 be adopted.

This report recommends amendment of TMA Medical Student Section Operating Procedures.

Your reference committee heard testimony in support.

(14) Young Physician Section Report 1 – Young Physician Section Operating Procedures Update

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendations in Young Physician Section Report 1 be adopted.
This report recommends amendment of TMA Young Physician Section Operating Procedures with necessary updates to clarify the election process and streamline meeting scheduling.

Your reference committee heard testimony in favor of adoption and in favor of referral. The Young Physician Section’s testimony indicated the need for changes to the operating procedures in order to encourage participation of Young Physician Section members. This change in the operating procedures was drafted with broad language to give flexibility to address the concerns of its members.

(15) Council on Constitution and Bylaws Report 1 – Amendments to the TMA Constitution

RECOMMENDATION:

Madam Speaker, your reference committee recommends that the recommendations in Council on Constitution and Bylaws Report 1 be adopted.

This report recommends (1) final approval of an amendment to the TMA Constitution, Article VI, Board of Trustees, recognizing the election of a young physician member; and (2) approval of the first reading of the constitutional amendment necessary to include the young physician member of the Board of Trustees as a voting member of the House of Delegates (Article V. House of Delegates).

Your reference committee heard testimony in support of these proposed Constitutional amendments.


RECOMMENDATION A:

Madam Speaker, your reference committee recommends that the recommendations in Council on Science and Public Health Report 1 be amended:

(1) the Texas Medical Association does not discriminate, and opposes discrimination, based on race, religion, disability, ethnic origin, national origin, age, sexual orientation, sex, or gender identity, and

(2) TMA supports physician efforts to encourage that the nondiscrimination policies in their practices, medical schools, hospitals, and clinics be broadened to include “race, religion, disability, ethnic origin, national origin, age, sexual orientation, sex, or gender identity” in relation to patients, health care workers, and employees.

RECOMMENDATION B:

Madam Speaker, your reference committee recommends that the recommendations in Council on Science and Public Health Report 1 be adopted as amended.

Your reference committee heard testimony in support of this report with addition of an amendment to the first recommendation.

RECOMMENDATION A:

Madam Speaker, your reference committee recommends that the recommendation in Patient-Physician Advocacy Committee Report 2 be amended by deletion of the second sentence as follows:

265.019 Physician Behavior Standards: The Texas Medical Association encourages bylaws and policies that promote a safety culture and asserts that standards for physician behavior should not use ambiguous terms that can be used against physicians for retaliation or for economic gain.

RECOMMENDATION B:

Madam Speaker, your reference committee recommends that the recommendation in Patient-Physician Advocacy Committee Report 2 be adopted as amended:

This report recommends to amend and retain Policy 265.019.

265.019 Physician Disruptive Behavior Standards: The Texas Medical Association encourages bylaws and policies that promote a safety culture and asserts that standards for physician behavior should not use ambiguous terms that can be used against physicians for retaliation or for economic gain. TMA will encourage hospital medical staffs, the American Medical Association, and other appropriate entities to amend applicable resources and policies to replace the terms “disruptive behavior” and “disruptive physician” with references to “unprofessional behavior” or “behavior that undermines a culture of safety” to reflect amendments The Joint Commission has made to its leadership standards. The Joint Commission has made to its leadership standards will aid and assist the AMA in distributing to Texas physicians the resource materials developed on the “disruptive physician,” compiling the experiences of hospital medical staffs and physicians in satisfying the new Joint Commission leadership standard on “disruptive physicians,” and seeking amendments to this standard as indicated.

Your reference committee heard testimony in support and opposition. Your reference committee expressed concern that “unprofessional behavior” could also be used improperly against a physician. Thus, your reference committee recommended striking the Patient-Physician Advocacy Committee’s proposed second sentence.

(18) Resolution 101 – Patient-Centered Medical Record Responsibilities (Webb-Zapata-Jim Hogg County Medical Society)

RECOMMENDATION:

Madam Speaker, your reference committee recommends that Resolution 101 be referred with report back at A-19.

This resolution resolves that the Texas Medical Association; (1) encourage appropriate organizations, e.g., disaster preparedness agencies, utility companies, and county health departments, to educate Texans on the importance of having access to or possession of an accurate summary of their medical record whenever and wherever it is needed, and (2) support a legislative proclamation that designates a Texans Medical Record Checkup Day at the beginning
of hurricane and tornado season to encourage Texans to have access to or possession of an accurate summary of their medical record should it be needed.

Your reference committee heard testimony in support of the intent of this resolution. However, concerns were expressed regarding the implementation and the need to tighten up the language. Multiple people testified for referral.

RECOMMENDATION A:

Madam Speaker, your reference committee recommends that Resolution 103 be amended as follows:

That the Texas Medical Association (1) work with the Texas Medical Board and the Texas Legislature to change §165.5(b)(2) of the Texas Administrative Code to allow the notification of patients to be accomplished by posting a notice on the physician’s website as a stand-alone method in addition to placing a notification in the physician’s office, and (2) formally recommend to the Texas Medical Board amendment of the current provisions of Texas Administrative Code §165.5(b)(2) as follows: “Notification shall be accomplished by: (A) posting a notice on the website of the physician, to be kept available for two years, or publishing notice in the newspaper of greatest general circulation in each county in which the physician practices or practiced; (B) placing a written notice in the physician’s office; or and (C) sending an email notice or postal letters to patients seen in the last two years notifying them of discontinuance of practice.”

RECOMMENDATION B:

Madam Speaker, your reference committee recommends that Resolution 103 be adopted as amended.

This resolution resolves that the Texas Medical Association: (1) work with the Texas Medical Board and the Texas Legislature to change §165.5(b)(2) of the Texas Administrative Code to allow the notification of patients to be accomplished by posting a notice on the physician’s website as a stand-alone method in addition to placing a notification in the physician’s office, and (2) formally recommend to the Texas Medical Board amendment of the current provisions of Texas Administrative Code §165.5(b)(2) as follows: “Notification shall be accomplished by: (A) posting a notice on the website of the physician, to be kept available for two years, or publishing notice in the newspaper of greatest general circulation in each county in which the physician practices or practiced and in a local newspaper that serves the immediate practice area; (B) placing a written notice in the physician’s office; and (C) sending an email notice or postal letters to patients seen in the last two years notifying them of discontinuance of practice.”

Your reference committee heard testimony in support of amendment but wishes to clarify that the first resolve was unnecessary because the language in the second resolve grants a physician flexibility with regard to the methods of providing notice.
Resolution 104 – Clarification of Guidelines for Online Prescribers in Texas (Travis County Medical Society)

RECOMMENDATION:

Madam Speaker, your reference committee recommends that Resolution 104 be adopted.

This resolution resolves that: (1) the Texas Medical Association support national efforts to amend federal law and federal Drug Enforcement Administration regulations to allow for the e-prescribing of a medication, including a controlled substance, needed by a patient with a mental health or behavioral health diagnosis when an appropriate patient-physician relationship has been established through telemedicine and in accordance with state law and accepted standards of care, and (2) our Texas Delegation to the American Medical Association take this, or a similar, resolution to the AMA House of Delegates for consideration.

Your reference committee heard testimony in support of the resolution.

Resolution 105 – Revision of Section 165.155 (a) of the Texas Occupations Code, Solicitation of Patients (Bexar County Medical Society)

RECOMMENDATION:

Madam Speaker, your reference committee recommends that Resolution 105 be referred with report back at A-19.

This resolution resolves that the Texas Medical Association work to pass legislation that would rewrite Section 165.155 of the Texas Occupations Code, in particular, part (a) of the section, in order to eliminate the great potential for selective regulatory abuse, to eliminate any competitive burdens that are now placed on some groups of physicians, and to eliminate the present situation where physicians are unknowingly breaking the law.

Your reference committee heard testimony in favor of this resolution. However, your reference committee believes the resolution needs further study on the details and implications to clarify the scope of the resolution and therefore recommends that it be referred.

Resolution 106 – Creation of a TMA Ad Hoc Committee on the Power and Influence of the Texas Non-Profit Health Corporation (NPHC)/501A Organization (Bexar County Medical Society)

RECOMMENDATION A:

Madam Speaker, your reference committee recommends that Resolution 106 be amended:

That the Texas Medical Association study and make legislative recommendations on the effects of nonprofit health corporations (NPHCs)/5.01(a) organizations on the patients and physicians of Texas.

RECOMMENDATION B:

Madam Speaker, your reference committee recommends that Resolution 106 be adopted as amended with report back at A-19.
This resolution resolves that: (1) the Texas Medical Association establish an ad hoc committee to study the effects of nonprofit health corporations (NPHCs)/501A organizations on the patients and physicians of Texas, and (2) this ad hoc committee will generate recommendations based on its findings to educate and empower TMA to advocate effectively for needed changes in the statutes regulating NPHCs/501A organizations to protect the patients of Texas and the physicians who care for them.

Your reference committee heard testimony about the need to study this issue. However, the Board of Trustees asked that this issue be addressed by an existing standing council and stated that it is unnecessary to create an ad hoc committee.

(23) Resolution 107 – Physician Protections When Reporting Violations of Nonprofit Health Corporations (Harris County Medical Society)

RECOMMENDATION A:

Madam Speaker, your reference committee recommends that Resolution 107 be amended as follows:

That the Texas Medical Association develop legislation that forbids retaliation by a nonprofit health corporation (NPHC) against any person working for the NPHC who files a complaint or reports a suspected violation of state or federal law; and be it further

That the Texas Medical Association develop model legislation, or ask the Texas Medical Board (TMB) to adopt more robust rules providing TMB authority to accept, process, and dispose of complaints against a licensed NPHC through its board members and/or the chief medical officer; and be it further

That the Texas Medical Association ask the Texas Medical Board to develop a complaint form to facilitate filing complaints against NPHCs.

RECOMMENDATION B:

Madam Speaker, your reference committee recommends that Resolution 107 be adopted as amended.

This resolution resolves that the Texas Medical Association develop: (1) legislation that forbids retaliation by a nonprofit health corporation (NPHC) against any person working for the NPHC who files a complaint or reports a suspected violation of state or federal law, and (2) model legislation, or ask the Texas Medical Board (TMB) to adopt rules providing TMB authority to accept, process, and dispose of complaints against a licensed NPHC through its board members and/or the chief medical officer.

Your reference committee heard testimony in support of this resolution. However, your reference committee notes that the language needs clarification to better accomplish the intent of the resolution.
Resolution 108 – Inclusion of Medical Students in Good Samaritan Laws and Policies for Disaster Settings (Medical Student Section)

RECOMMENDATION A:

Madam Speaker, your reference committee recommends that Resolution 108 be amended as follows:

That the Texas Medical Association support medical students volunteering inside outside of their institutional affiliations during times of disaster and emergency, due to both the need for and the competency of medical students, as demonstrated by previous research and disaster situations; and be it further

That the Texas Medical Association study the involvement of medical students in natural disaster and emergency situations in order to develop TMA policy regarding medical student roles in disaster situations; and be it further

That the Texas Medical Association support the Good Samaritan law in application to medical students as unlicensed providers of care in emergency settings, due to both the need for medical students in disaster situations and the lack of protection afforded to them under current Texas law.

RECOMMENDATION B:

Madam Speaker, your reference committee recommends that Resolution 108 be adopted as amended.

This resolution resolves that the Texas Medical Association: (1) support medical students volunteering outside of their institutional affiliations during times of disaster and emergency, due to both the need for and the competency of medical students, as demonstrated by previous research and disaster situations; (2) study the involvement of medical students in natural disaster and emergency situations; and (3) support the Good Samaritan law in application to medical students as unlicensed providers of care in emergency settings, due to both the need for medical students in disaster situations and the lack of protection afforded to them under current Texas law.

Your reference committee heard testimony in favor of the intent of the resolution with several amendments to the language.

Resolution 109 – Liability Exemptions for Volunteer Medical Health Workers (Harris County Medical Society)

RECOMMENDATION A:

Madam Speaker, your reference committee recommends that Resolution 109 be amended as follows:

That the Texas Medical Association develop legislation that establishes a statewide medical liability exemption for physicians and healthcare providers who work under the supervision of a physician medical health workers who respond to a call for medical volunteers from a state or local governmental or medical entity.
RECOMMENDATION B:

Madam Speaker, your reference committee recommends that Resolution 109 be adopted as amended.

This resolution resolves that the Texas Medical Association develop legislation that establishes a statewide medical liability exemption for medical health workers who respond to a call for medical volunteers from a state or local governmental or medical entity.

Your reference committee heard testimony in support of this resolution.

(26) Address of the President, Carlos J. Cardenas, MD

Madam Speaker, your reference committee recommends that the House of Delegates recognize TMA President Dr. Carlos Cardenas for his work on the MOC protection law, protecting patients from surprise billing, defending physicians’ right to bill for services, enlisting physicians as community health activists, and addressing the issue of maternal mortality and morbidity.

Respectfully submitted,

Thomas D. Kimbrough, MD, chair
David J. Donahue, MD
David T. Lam, MD
Hattie E. Henderson, MD
Mr. Stephen Haff
Gus W. Kruckle, MD
Vani S. Vallabhaneni, MD