

RESOLUTION

Subject: Opposing Contractual Threats to Patients and Professionalism

Submitted by: Greater Louisville Medical Society

Referred to: Reference Committee

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WHEREAS, physicians are increasingly employed by large organizations, many of which have leadership schooled and oriented to business tactics that primarily serve the organization, rather than patients, physician professionalism and principles of medical ethics; and

WHEREAS, some such organizations design employment contracts that bar, impede or threaten physicians who voice concerns about safety, overtreatment incentives, over testing practices, excessive costs and other threats to patients. Such contracts include forms of: (1) Confidentiality (Hides quality/safety concerns and contract problems); (2) Productivity incentives (Encourages overtreatment and excessive employer revenue); (3) "Leakage control" (Discourages appropriate referrals outside employer's system); (4) Termination without cause (Discourages physician quality/safety complaints. Reduces their patient's access); (5) Non-compete clauses (Restricts physicians leaving unsatisfactory positions); (6) Outside activity over-restriction (Restricts unrelated work, teaching, research, or academic freedom); (7) Employee "Gags" (Hides quality/safety problems and unethical practices); and (8) "Anti-poaching" (Restricts physicians leaving unsatisfactory positions); and

WHEREAS, to preserve our leadership in healthcare, the Kentucky Medical Association and organized medicine must continue highest priorities for patient protection and physician professionalism, including opposing unjust contract elements; now, therefore, be it

RESOLVED, that the Kentucky Medical Association mount a vigorous program to educate physicians and physicians in-training on contract elements that may be interpreted to bar, impede or threaten physician advocacy for patient safety, quality care and cost efficiency including but not limited to: (1) Confidentiality; (2) Productivity incentives; (3) "Leakage control"; (4) Termination without cause; (5) Non-compete clauses; (6) Over-restriction of outside activities; (7) Employee "Gags"; and (8) "Anti-poaching"; and be it further

RESOLVED, that the Kentucky Medical Association facilitate legal remedies for physicians facing "whistleblower" reprisals and other adverse employer actions for advocating patient safety, care quality and cost efficiency; and be it further

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RESOLVED, that if progress is not made on the use of restrictive contract terms by employers, the Kentucky Medical Association pursue alternative means that may include public education, legislative or regulatory action, or advocacy through the American Medical Association.