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3 **Title:** Physician Rights and Responsibilities Regarding Collaboration with Non-
4 Physician Practitioners
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6 **Introduced by:** Viktoria Koskenoja, MD, for the Marquette-Alger County Delegation
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8 **Original Author:** Viktoria Koskenoja, MD
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10 **Referred To:** Reference Committee B
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12 **House Action:** **APPROVED AS AMENDED**
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15 Whereas, employed physicians generally have no control over the hiring, evaluation, or
16 firing processes for nonphysician practitioners at their workplace, nor access to the record of
17 training, experience, and competencies, nor access to details of their collaborative practice
18 agreement(s), and
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20 Whereas, employed physicians are generally not offered the choice of whether and to what
21 extent they must work with nonphysician practitioners, regardless of whether a physician holds a
22 collaborative practice agreement; therefore be it
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24 RESOLVED: That MSMS update existing policy, "Standards for Collaborative Agreements," to
25 recognize that the decision to collaborate must be made voluntarily, not as a condition of
26 employment, and with a formal collaborative practice agreement; and be it further
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28 RESOLVED: That MSMS support legislation or regulation to ensure that the employers of
29 nonphysician practitioners have the financial and administrative responsibility to provide work and
30 staffing conditions that offer (1) a safe level of collaboration in the independent medical judgment
31 of the collaborative physician and (2) timely and safe level of oversight in the independent medical
32 judgment of on-site physicians who may be asked to verify with or without attestation to medical
33 acts of the nonphysician practitioner; and be it further
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35 RESOLVED: That MSMS seek and support legislation regarding physicians with no active
36 collaborative agreement(s), regardless of employment arrangement, that requires the following:

37 1. That on-site physicians may verify a medical task performed by a nonphysician
38 practitioner provided that the verifying physician is present for key portions of any patient care task
39 or procedure verified (similar to the standards for the verification of resident physician care).

40 2. That on-site physicians may only attest, through signature or other written
41 documentation, to tasks, procedures, and elements of patient care that they have verified.

42 3. That the attestation of tasks, procedures, and patient care notes for patients whom the
43 physician has not seen and a request from the employer that a physician attest to care that the
44 physician has not participated in may constitute a breach of ethics or contract on the part of the
45 employer.

46 4. That, to ensure a safe level of patient care provided by nonphysician practitioners, on-site
47 physicians who formally agree to be available for verification or attestation of medical acts by
48 nonphysician practitioners (1) have adequate time set aside from other professional responsibilities
49 and duties to perform the verification and attestation function as determined by the respective

50 physician's independent medical judgment and (2) receive adequate compensation to account for
51 the loss of individual productivity and lost revenue due to the verification and attestation functions;
52 and be it further

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54 RESOLVED: That MSMS seek and support legislation on behalf of physicians with one or
55 more active collaborative agreements, regardless of employment arrangement, requires the
56 following:

57 1. That physicians be allowed to fully participate in the recruitment, selection, hiring,
58 performance evaluation and firing decisions regarding the nonphysician practitioner.

59 2. That, to ensure a safe level of patient care provided by nonphysician practitioners,
60 physicians engaged in collaborative agreement (1) have adequate time set aside from other
61 professional responsibilities and duties to perform the collaborative function as determined by the
62 respective physician's independent medical judgment and (2) receive adequate compensation to
63 account for the loss of individual productivity and lost revenue due to the collaborative function.

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66 WAYS AND MEANS COMMITTEE FISCAL NOTE: \$16,000-\$32,000

Relevant MSMS Policy

Standards for Collaborative Agreements

MSMS affirms the urgency of defining standards for "collaborative agreements" with advanced practice registered nurses (APRN)s and that MSMS seek and support legislation that would require APRNs to work in a setting and perform tasks and procedures that are within the collaborating physician's particular field of medicine, as qualified by residency training and/or board certification to perform.

MSMS believes physicians who enter into collaborative or practice agreements with APRNs or physician assistants (PAs) from a location outside of Michigan must be available to answer questions and directly collaborate with the non-physician practitioners (NPPs), or to examine the patient, during a majority of the hours of activity of the APRN and/or PA via video conferencing.

Safe Collaborative Medical Practice

MSMS supports the appropriate licensing Boards and agency investigating and censuring physicians who deliberately violate the spirit of safe collaborative medical practice with NPPs by (1) engaging in a pattern of negligent delegation to, supervision of, or collaboration with NPPs; (2) supervising activities for which the physician is not formally trained and/or board certified; (3) not being promptly available to communicate with the NPP and/or patient; and, (4) disregarding collaborative practice agreement requirements by aiding and abetting the unlicensed practice of medicine.

Physician Antiretaliation, Due Process, and Indemnification Rights

MSMS shall: (1) continue to assess the needs of employed physicians, ensuring autonomy in clinical decision-making and self-governance; (2) promote physician collaboration, teamwork, partnership, and leadership in emerging health care organizational structures, including but not limited to hospitals, health care systems, medical groups, insurance company networks and accountable care organizations, in order to assure and be accountable for the delivery of quality health care; (3) advocate for the rights of physicians against employer retaliation, including unfair or discriminatory termination of employment or contractual obligation for conscious objection and/or conscious

refusal to participate in any activity that the physician judges to be unethical or unsafe for patients; (4) advocate for the physician's authority to practice medicine based on medical judgment, conscience, ethics, morals, or good faith obligation toward patients to a non-physician or corporate entity; (5) advocate for the following: (a) that physicians on staff receive written notification when their license is being used to document supervision of non-physician practitioners; (b) that physician supervision should be explicitly defined and mutually agreed upon; (c) that advanced notice and disclosure be provided to physicians before they are hired or as soon as practicably known by provider organizations and institutions that anticipate physician supervision of non-physician practitioners as a condition for physician employment; (d) that organizations, institutions, and medical staffs that have physicians who participate in supervisory duties for non-physician practitioners have processes and procedures in place that have been developed with appropriate clinical physician input; (e) that physicians have the right to object to or refuse to allow their license to be used to document supervision of non-physician practitioners without fear of retaliation; (f) that physicians be able to report professional concerns about care provided by the non-physician practitioners to the appropriate leadership with protections against retaliation; and (g) that physicians be indemnified at the organizations' and institutions' expense from malpractice claims and other litigation arising out of the supervision function.

Transparency of Practice Agreements Between Physicians and Non-Physicians

MSMS supports public transparency of practice agreements, or lack of such agreements, between physicians and non-physician providers (such as nurse practitioners and physician assistants), as a reflection of our professionalism and commitment to patient safety in a physician-led care model.

Relevant AMA Policy - None

Source:

1. Credit to Mercy M. Hylton, MD, for introducing this original resolution to the Indiana State Medical Association.