114 - Mandate for Health Care Reaffirming Support:

Pages 21-26 in Ref Com Report. This was combined for consideration with CMS Report 9, Resolution 102 (like ours, supporting individual mandate), and Resolution 109 (strongly opposing the individual mandate). As expected, this was a hugely controversial topic, and generated the most protracted debate at A-11, both in the reference committee, and on the floor of the HOD. The reference committee produced a masterful report with a series of substitute recommendations, which were finally adopted after numerous attempts to offer amendments, including (on the floor of the House) numerous amendments to say that it should be our policy that it is up to the states to decide whether the individual mandate should be adopted. All of these amendments were defeated. Here is what was finally passed; we view this as an excellent outcome for our New Mexico resolution:

(10) COUNCIL ON MEDICAL SERVICE REPORT 9 - COVERING THE UNINSURED AND INDIVIDUAL RESPONSIBILITY
RESOLUTION 102 - SUPPORT FOR INDIVIDUAL RESPONSIBILITY TO PARTICIPATE IN HEALTH INSURANCE COVERAGE
RESOLUTION 109 - ENCOURAGING INDIVIDUAL RESPONSIBILITY TO OWN HEALTH INSURANCE WITH TAX INCENTIVES RATHER THAN A FEDERAL MANDATE
RESOLUTION 114 - REAFFIRMING SUPPORT OF THE INDIVIDUAL MANDATE FOR HEALTH INSURANCE

RECOMMENDATION A:
Mr. Speaker, your Reference Committee recommends that Council on Medical Service Report 9 be amended by insertion of a new Recommendation 7 to read as follows:

7. That our AMA reaffirm Policy H-165.838, which states that the AMA is committed to achieving the enactment of health system reforms that include health insurance coverage for all Americans, and insurance market reforms that expand choice of affordable coverage, and are consistent with AMA policies concerning pluralism, freedom of choice, freedom of practice, and universal access for patients. (Reaffirm HOD Policy)

RECOMMENDATION B:
Mr. Speaker, your Reference Committee recommends that Council on Medical Service Report 9 be amended by insertion of a new Recommendation 8 to read as follows:

8. That our AMA reaffirm Policy D-165.966, which advocate that state governments be given the freedom to develop and test different models for covering the uninsured. (Reaffirm HOD Policy)

RECOMMENDATION C:

Mr. Speaker, your Reference Committee recommends that the recommendations in Council on Medical Service Report 9 be adopted as amended in lieu of Resolution 102, Resolution 109 and Resolution 114 and that the remainder of the report be filed.

HOD ACTION: Council on Medical Service Report 9 adopted as amended in lieu of Resolution 102, Resolution 109 and Resolution 114 and the remainder of the report filed.
You can read the full discussion, if you'd like, in the reference committee report.

**213 - CMS Eligibility Information:**

Page 33 in Ref Com Report. Received only positive testimony and got a very favorable report from the reference committee, passed without modification on the consent calendar. Here is the reference committee report:

RESOLUTION 213 - CMS SHOULD PROVIDE DATE ELIGIBILITY INFORMATION TO BENEFICIARIES
RECOMMENDATION:
Mr. Speaker, your Reference Committee recommends that Resolution 213 be adopted.

HOD ACTION: Resolution 213 adopted.

Resolution 213 asks that our American Medical Association encourage the Centers for Medicare & Medicaid Services to establish user-friendly mechanisms, such as an automated phone-in system or a web portal, much as is currently provided by banks, including of course appropriate measures to ensure security and confidentiality, via which any Medicare beneficiary can easily and quickly verify the dates of eligibility for all preventative services to which the person is entitled.

Your Reference Committee heard testimony in support of Resolution 213, and agrees that our AMA should encourage the establishment of a mechanism for Medicare patients to be able to confirm Medicare coverage for preventive services and the timing of their covered benefits. Your Reference Committee, therefore, recommends adoption of Resolution 213.

**214 - Recovery Audit Contractors**

Pages 33-34 in Ref Com Report. Received only positive testimony and got a very favorable report from the reference committee, passed without modification on the consent calendar. Here is the reference committee report:

RESOLUTION 214 - RECOVERY AUDIT CONTRACTORS SHOULD CONFIRM PROBLEM HAS NOT ALREADY BEEN RESOLVED BEFORE UNDERTAKING AN AUDIT
RECOMMENDATION:
Mr. Speaker, your Reference Committee recommends that Resolution 214 be adopted.

HOD ACTION: Resolution 214 adopted.

Resolution 214 asks that our American Medical Association advocate that Federal Recovery Audit Contractors (RACs), prior to instituting an audit of a physician practice, make a good faith effort to ascertain whether the practice has already self-identified any billing irregularities that may have resulted in overpayments (including any such overpayment that may have been reported to the RAC), and has satisfactorily cured the irregularities by returning the overpayments and making any needed changes in their billing procedures, and where such self-identification and rectification has already occurred, that the audit not be initiated.
Your Reference Committee heard overwhelmingly supportive testimony on Resolution 214. Your Reference Committee agrees that audits imposed by Recovery Audit Contractors (RACs) are often highly disruptive and very expensive for physician practices. We also agree that the intent of having RACs should be to work constructively to identify true improprieties and recover overpayments, but not to punish those physician practices who make good faith efforts to self-identify and correct inadvertent errors. Your Reference Committee agrees that physician practices that self-initiate return of overpayments and remedy billing practices should not be subject to additional audits. Your Reference Committee heard that there may currently be a mechanism for accomplishing the goals of this resolution. Therefore, Your Reference Committee recommends adoption of Resolution 214.

313 - Prescribing Physical Activity

Page 75 in Ref Com Report. Was opposed by several people who testified that this would encroach on academic freedom by mandating curricular changes. Even though this resolution only asked for consideration of the inclusion of physical activity prescription writing in medical school curricula and nowhere was there anything resembling a mandate, the lack of support in reference committee persuaded us to let this go for now and try again another time with a reworked resolution, and lining up support ahead of time. (As you can see below, the reference committee also felt that this was covered by existing policy, and recommend "Not Adopt", and we chose not to extract it.

RESOLUTION 313 - PHYSICAL ACTIVITY PRESCRIPTION WRITING AS COMPONENT OF MEDICAL EDUCATION
RECOMMENDATION:
Mr. Speaker, your Reference Committee recommends that Resolution 313 not be adopted.

HOD ACTION: Resolution 313 not adopted.

Resolution 313, introduced by the New Mexico Delegation, asks that our AMA encourage the American Association of Medical Colleges to incorporate the 2008 US Department of Health and Human Services’ physical activity guidelines into the curricula of medical schools and residencies nationally.

The AMA plays an active role in encouraging healthy lifestyles among both patients and physicians. Encouraging instruction of medical students in this area is reflected in current AMA policy. Your Reference Committee heard testimony in support of the intent of this resolution, but the AMA is not in favor of mandating medical school curricula. Therefore, we recommend not adoption.

518 - Backscatter X-ray at Airports

Pages 108-109 in Ref Com Report. This was combined with a very similar resolution from New England (516), and got mainly very supportive testimony, except for the one person for the American College of Radiology who felt that there was no evidence to justify a study. The reference committee recommended Referral for Study, which was exactly what the resolution was requesting. This recommendation passed without modification on the consent calendar.
HOD ACTION: Resolutions 516 and 518 referred.

Resolution 516 asks that our AMA study the use of ionizing radiation in airport scanners and make appropriate recommendations to the federal government based on the findings of the study.

Resolution 518 asks that our AMA study the available information concerning the safety of whole body backscatter X-ray airport security scanners, with the intent of providing recommendations of a public health nature, including (1) Additional studies that should be undertaken; (2) Whether there is sufficient evidence to suggest that specific regulations should be put into place to ensure that the scanners are performing according to clearly established specifications on an ongoing basis; (3) Whether there is sufficient concern to recommend that some or all those who travel on commercial aircraft should decline to be scanned by X-ray scanners; (4) Whether there is sufficient concern to recommend that the Transportation Safety Administration consider the preferential use of alternative technology such as millimeter wave scanners in lieu of backscatter X-ray scanners; and (5) Whether an independent panel of experts to include biophysicists and radiation biologists should be convened to issue further recommendations.

Virtual testimony noted that the American College of Radiology (ACR) has issued a statement attesting to the safety of airport scanners. Based on other approaches to determining doses delivered to the initial layers of the dermis and not based on whole body exposure, media reports have questioned the assumptions in declaring these scanners to be safe. Virtual testimony also was mixed on the value of referring this topic to the Council on Science and Public Health for a report. Onsite testimony was divided between support for the recommendation to convene an expert panel and referral. In the case of referral, the Council could consider establishing an expert panel. The ACR opposed both resolutions on the basis that the radiation exposure from these devices is exceedingly small compared with background levels, and that the safety of airport scanners has been adequately vetted and reaffirmed by numerous federal agencies, standard setting and regulatory bodies. Many others, including the US Public Health Service (representing the NIH) believed that additional research on the performance of scanners employing ionizing radiation would be helpful, and that a lack of general consensus on their safety was apparent. In particular, the value of educating the public on the safety of such devices was noted. Ultimately, your Reference Committee believes that referral is the best option for addressing this issue.

710 - Model legislation Regarding Data Ownership

Pages 129-130 in Ref Com Report. This got extremely strong support at the reference committee. There was a small modification, to add language specific to mental health concerns, which we regarded as a friendly amendment, and the reference committee recommended "Adopt as Amended". Passed on the consent calendar without further modification. I would also mention that this resolution resulted in an article in AMNews, copied below the Ref Com Report.

RESOLUTION 710 – NEED FOR AMA POLICY AND POSSIBLE MODEL LEGISLATION REGARDING DATA OWNERSHIP AND ACCESS TO CLINICAL DATA BY PAYERS IN HEALTH INFORMATION EXCHANGES
RECOMMENDATION A:
Mr. Speaker, your Reference Committee recommends that Resolution 710 be amended by insertion on page 2, line 36 to read as follows:

k) privacy issues including genetic testing, mental health disorders and substance use disorders.

RECOMMENDATION B:
Mr. Speaker, your Reference Committee recommends that Resolution 710 be adopted as amended.

HOD ACTION: Resolution 710 adopted as amended.

Resolution 710 asks that the AMA study issues related to how best to protect the legitimate interests of patients and physicians regarding clinical data that is sent to and received from a health information exchange (HIE), particularly in regards to payers and their access to and use of clinical data obtainable via an HIE, and develop policies and standards regarding HIE data, and possible model legislation, with attention to: a) who owns the clinical data that is passed to and from an HIE; b) what types of parties have a legitimate interest in obtaining clinical data from HIEs, and for what purposes; c) who may determine what data is made available to whom; d) what constraints should properly be placed on the use of clinical data in an HIE; e) ensuring that at a very minimum, no payer would be allowed to obtain identifiable clinical data on individuals who are not currently insured members of a health plan belonging to that payer, with the possible exception of informed consent having been signed by a patient as part of an application for acceptance of that patient by a specified health plan, if such underwriting were once again allowed by law; f) how policies and standards for data sharing and access should differentiate between individually identifiable patient data and de-identified or aggregated patient data; g) standards for de-identified and aggregated data to protect against reverse engineering to re-identify clinical data, especially where data relates to rare diseases or comes from rural areas; h) policies for data sharing and access that specifically address data use for mandated reporting, "care management", research, and proprietary purposes; i) informed consent for sharing of data: what such informed consent should include and who should be tasked to obtain it; and j) possible model state legislation to define accountability for clinical data use in an HIE and to ensure that those policies that are essential to protect patients and physicians can be legally enforceable.

Your Reference Committee heard extensive positive testimony on Resolution 710. Impassioned testimony was heard from the sponsor and many other speakers about growing concerns for security and protection of clinical data in health information exchanges (HIEs). Your Reference Committee notes that the AMA has been actively working on this issue through workgroup calls with members of the Federation in order to clarify state needs. An HIE physician advisory group has been established in order to hear the physician perspective on HIEs and to determine how the AMA can support and educate physicians in this area. Based on discussions thus far, the following AMA action plan for HIEs has been proposed:

1. Develop standard contract language that can be used by physicians in developing/evaluating HIE contracts, to include provisions that address privacy, data security, and liability issues. This project would be similar in design to the Model Managed Care Contract.
2. Create an FAQ document on HIEs for physicians. The FAQs should address physicians' most common questions regarding HIEs and include the issues that physicians should consider before connecting with an HIE.
3. Develop a legislative template for states to use when drafting HIE legislation. A model HIE bill is not practical, since HIEs are developing differently across various states.
Instead, create a legislative template that includes clauses on key issues such as privacy, data protection, standard operational rules, and interconnectivity.

4. Monitor and evaluate the need for federal HIE legislation. Some states have expressed support for federal legislation that would create national HIE standards and specify the penalties for the breach of these standards. AMA staff will continue to follow HIE-related developments and assess the need for federal legislation.

5. Develop an HIE communication plan/educational outreach program for a physician audience, working in conjunction with other entities with subject-matter expertise (eg, eHealth Initiative).

Your Reference Committee concurs with proposed amended language to include privacy issues, mental health and substance use disorders and therefore recommends an additional clause to the original resolution.