

MEDICINE'S STATE AND FEDERAL ADVOCACY EFFORTS

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October 18, 2011

MSSNY's Accomplishments in Recent Years

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Medical Liability:

Continuation each year of Excess Coverage for Physicians

Value: \$127.4M per year

Two Year Freeze on Premiums for primary layer (\$1.3M/3.9M)

Value: 11%–30% of 2008 rate alone

Medical Indemnity Fund

Value: 3%

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Medical Liability:

Defeat of Legislation which would have made problem much worse:

- Date of Discovery Statute of Limitations: +15% (MLMIC)
- Wrongful Death Damages Expansion: +53% (MLMIC)
- Contingency fee repeal: +11% (MLMIC)
- Ex Parte Interview: +5% (GNYHA)
- Settling Tortfeasors: +5% (GNYHA)

Managed Care:

(2006) Limitations in Refund Demands: 2 year look-back post-payment, except for alleged fraud or 'abusive billing'.

Plans must accept and initiate claims processing consistent with AMA CPT codes and must disclose editing rules.

(2007) Plans must pay pre-authorized claims.

Patients given right to independent appeal where plan denies access to out of network provider.

Managed Care:

Contracting Reforms 2009

Prompt Pay – 45 days to 30 days electronic.

90 days notice of material adverse reimbursement changes.

Provisional Credentialing if not completed in 90 days.

120 days to submit claims.

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Managed Care:

Contracting Reforms 2010

Re- instituted Insurance Department review and approval of health insurance premium rates.

Increased medical loss ratios for small groups and individuals to 82%; PPACA large 85%.

Managed Care:

Defeat of insurer's default rate – would have limited physicians' ability to refuse to participate in a plan.

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Managed Care:

2011: Secured NYS Senate Passage of Collective Negotiation

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State Budget:

\$188M for increase to primary care FFS rates (2009)

Defeat of a proposed 9.63% surcharge on office-based surgical and radiological procedures (2010 and 2011)

Value: Almost 10% procedure fees

Defeat of a proposed physician registration fee increase to \$1000

Value: \$400 (2007 and 2009)

Workers' Compensations and No Fault:

A 30% increase in the E&M fees paid to physicians for care under the Workers' Compensation program. (2010)

Enacted a law requiring that No-Fault carriers pay for the emergency, often life-saving, care provided to drivers who are intoxicated. Prior to the enactment of this law, this care would often not be paid by either auto or health insurance. (2010)

Success in Defeat of Scope of Practice Expansions:

Defeat of Dentists –four years

Defeat of Naturopaths– ten years

Defeat of Optometrists –seventeen years

Defeat of Podiatrists – twenty years

Defeat of Nurse Anesthetists – twenty years

Defeat of Nurse Practitioners– ten years

.....and counting

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PUBLIC HEALTH LAW:

Ban on Smoking in bars, restaurants (2003)

Making Timothy's Law (MH Parity) Permanent (2008)

Family Health Care Decisions Act (2010)

Protection for those who call 911 in drug overdose cases (2011)

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MSSNY's Division of Governmental Affairs is greatly appreciative of the help and support it receives from all of you!

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State Budget: Medicaid Redesign Team (MRT)

Created by Executive Order #5

274 → 78 Proposals – including \$ 250,000 Cap on P&S and Medical Indemnity Fund.

Final Budget:

Medical Indemnity Fund (MIF) for birth related neurologically impaired infants that have received a settlement or jury award.

Mandatory court settlement conferences for malpractice cases

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State Budget: Medicaid Redesign Team (MRT)

Final Budget (cont.)

Reduces Medicaid spending by \$2.2 billion in
FY 2011–12.

Caps Medicaid spending growth in state law.

Begins three-year phase-in to care
management for all.

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State Budget: Medicaid Redesign Team (MRT)

- Basic Benefit Review
- Behavioral Health Reform
- Health Disparities
- Health Systems Redesign: Brooklyn
- Managed Long Term Care Implementation and Waiver Redesign
- Affordable Housing
- Program Streamlining and State/Local Responsibilities
- Workforce Flexibility and Change of Scope of Practice
- Payment Reform and Quality Measurement
- Medical Malpractice Reform

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State Budget: Medicaid Redesign Team (MRT)

Robert Hughes, MD, MSSNY's President-Elect

Basic Benefit Review

Douglas DeLong, MD

Workforce Flexibility and Change of Scope of Practice

Robert Hughes, MD

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Basic Benefit Review : Mission:

Conduct a thorough examination of the current list of covered benefits in the New York State Medicaid program.

Examine the latest cost-effectiveness research and value-based benefit design initiatives to see what lessons can be gleaned for New York State Medicaid.

Develop a series of recommendations for modifications to the Medicaid benefit package and cost-sharing policies that will both improve health care quality and lower costs in the program.

Focus on ways to monitor the impact of changes enacted in the budget regarding access to care and services.

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Workforce Flexibility : Mission:

Redefine and develop the workforce to ensure that the comprehensive health care needs of New York's population are met in the future.

Redefine the roles of certain types of providers and aligning training and certification requirements with workforce development goals..

Consider proposals for implementation in FY 2012–2013 that would increase workforce flexibility, including those outlined in MRT #200.

Create a consensus product that both builds and redefines the workforce to allow New York to ensure that the comprehensive health care needs of our population are met in the future.

The work group will discuss implementation of changes in health care settings outside the long term care sector, as well as changes to the scope of practice of advanced practice clinicians in all settings.

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Workforce Flexibility : Mission:

Smaller groups within this work group will focus on several issues:

Permit nurses (under their scope of practice exemption) to orient/direct home health aides (HHAs) and primary care workers to provide nursing care as is currently allowed in the consumer-directed personal assistance program;

Allow licensed practical nurses (LPNs) to complete assessments in long-term care settings;

Extend the use of medication aides into nursing homes;

Expand the scope of practice of HHAs to include the administration of pre-poured medications to both self-directing and non-self directing individuals; and,

Expand the scope of practice to allow dental hygienists to address the need for services in underserved areas.

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State Budget: Medicaid Redesign Team (MRT)

Payment Reform and Quality Measurement

Rick Abrams, JD, MSSNY's Executive Director

Medical Malpractice Reform

Ken Raske and Joseph Bullock, Co-Chairs
Arthur Fougner, MD

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Payment Reform: Mission:

Recommend how New York State can encourage the development of innovative payment and delivery models. These may include: Accountable Care Organizations, Bundling, Gain Sharing, Clinical Integration, and other shared savings and/or risk-sharing arrangements.

Explore and identify evidence-based quality indicators to benchmark New York's Medicaid program and the provider delivery system. Performance goals will also be developed to inform future Medicaid policy.

Explore issues in the New York State Disproportionate Share Program and related indigent care funding mechanisms, including compliance with federal law and Health and Human Services/Centers for Medicare and Medicaid Services (HHS/CMS) requirements; consider recommendations for needed work to ensure long-term viability.

Consider criteria that can be used to identify "safety net" providers, and the implications of such a designation on local planning, financing, care delivery, and oversight.

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Medical Liability Reform: Mission:

“Under Development”

Review Impact of Medical Indemnity Fund

Review reforms enacted in other states.

Develop initiatives for reform in New York.

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Medical Liability Reform: Mission:

Edward J. Amsler, Medical Liability Mutual Insurance Company

John Bonina Jr., Bonina and Bonina, PC

Arthur Fougner, Medical Society of the State of New York

Matthew Gaier, Kramer, Dillof, Livingston & Moore

Joel Glass, FOJP Service Corporation

Lee Goldman, Columbia University College of Physicians & Surgeons

Fred Hyde, Columbia University Mailman School of Public Health

Hon. Douglas E McKeon, Supreme Court, Bronx County

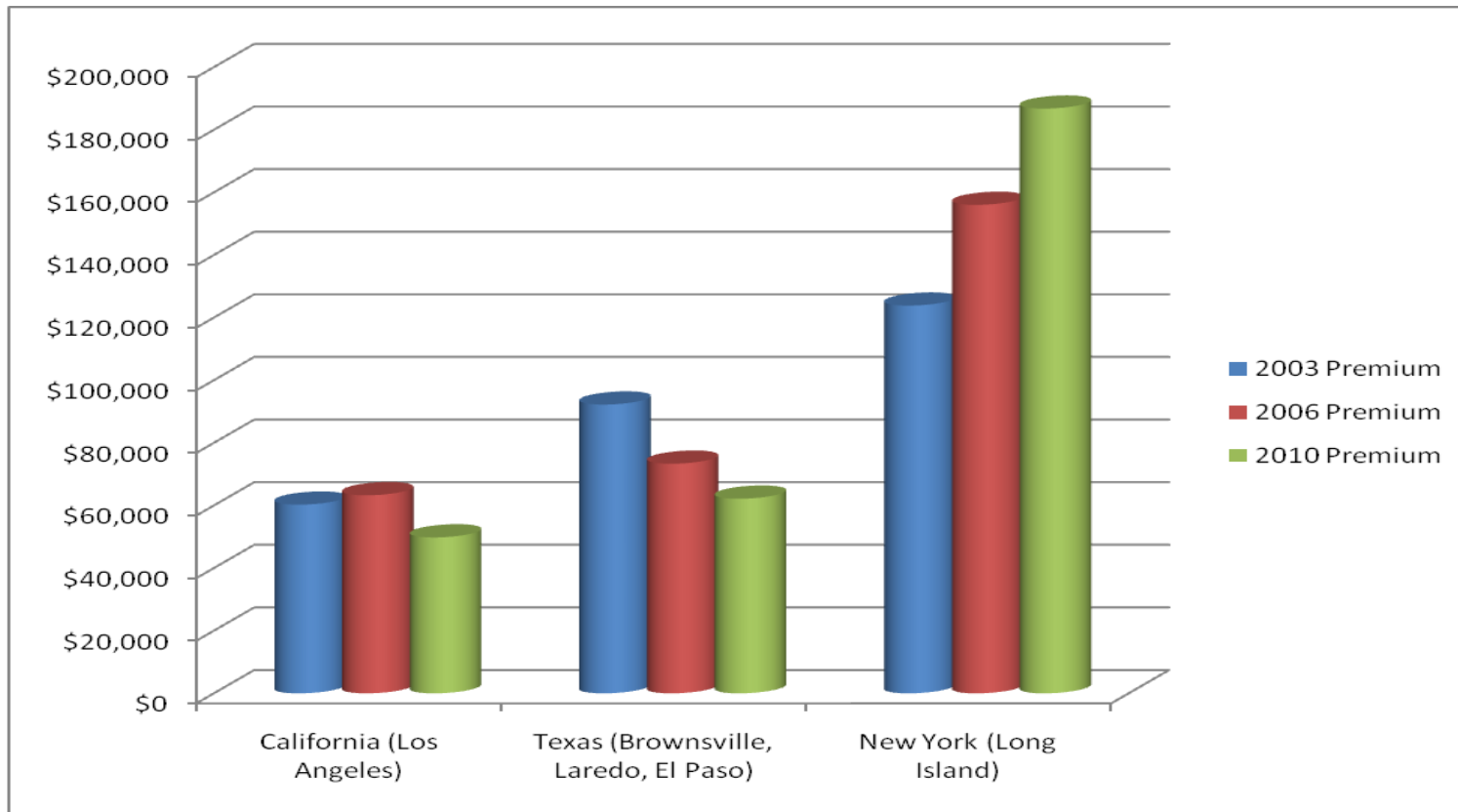
Christopher Meyer, Consumers Union

Nicholas Papain, Sullivan, Papain, Block, McGrath & Cannavo, PC

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Medical Liability Reform: Mission:

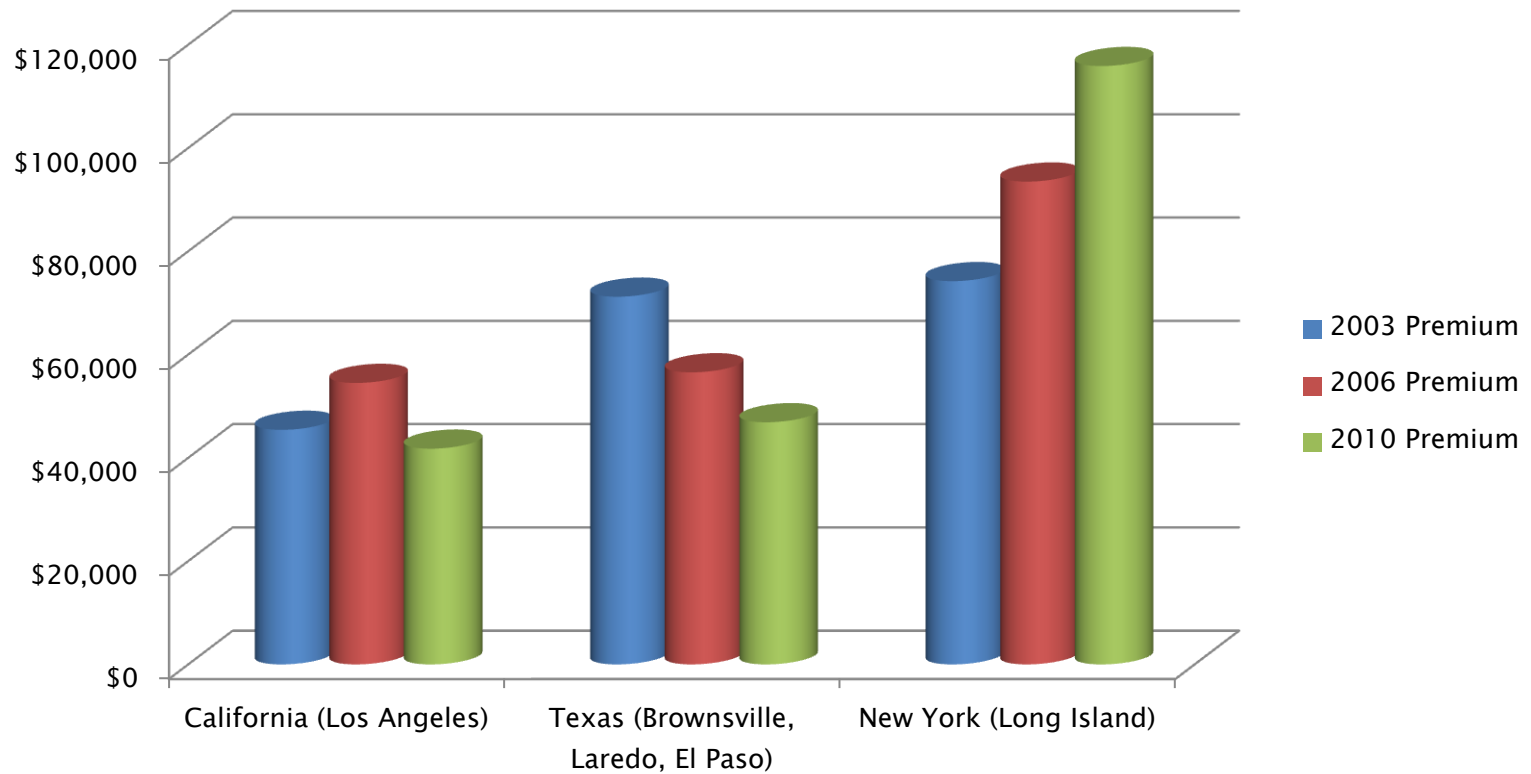
OB GYN



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Medical Liability Reform: Mission:

GENERAL SURGERY



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Medical Liability Reform: Mission:

The percentage of medical residents staying to practice in New York State after going to medical school here decreased from 53% in 2001 to 44% in 2010.

Source: Center for Health Workforce Studies Dec 2010

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Medical Liability Reform: Mission:

October 17 – NYC

- System Costs of Medical Malpractice coverage and Adverse Outcomes and their effects on providers, the State's Medicaid Program and Health Care Delivery; The impact of practices being undertaken to reduce the number of Adverse Events.

October 27– Albany

- Tort System and Insurance discussions

November 9– NYC

- Procedural and Systematic Proposals and Recommendations

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Medical Liability Reform: Mission:

Important Next Meetings of MRT:

November 1st: MRT votes on recommendations from: Managed LTC; Health Disparities; Behavioral Health Reform and Program Streamlining and State/Local Responsibilities.

December 13th: MRT votes on recommendations from: Basic Benefits; Payment Reform and Quality Measurement; Workforce Flexibility and Scope of Practice; Affordable Housing and Medical Malpractice Reform.

For more information on MRT:

http://www.health.state.ny.us/health_care/medicaid/redesign/

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MSSNY'S FOCUS FOR 2012

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HEALTHCARE DELIVERY IS A MULTI-FACETED,
COMPLEX, AND COMPLICATED ISSUE AREA
WHICH AFFECTS A WIDE RANGE OF
INDIVIDUAL, COMMUNITY, NOT-FOR-PROFIT
AND FOR-PROFIT STAKEHOLDERS.

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The Health Care System is Changing Rapidly

Number of employed physicians rising.

Hospitals purchasing physician practices.

- More than half practicing physicians are now employed by hospitals or integrated delivery systems. (Kocher, MD; NEJM, May 12, 2011)

HMOs purchasing hospitals.

- Highmark's proposed purchase of West Penn Allegheny Health System

These Changes are Impacting Physician Clinical Authority

Payors Usurping Clinical Control

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Our Challenge:

How to Protect the Appropriate Interests and Role of Physicians in This Ever-Changing Environment?

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MSSNY's Legislative Program for 2012

Medical Liability Reform and Regressive Liability Bills

Managed Care and Collective Negotiation

State Budget and impact on Healthcare Financing

Medicaid, MRT, Coverage for Uninsured and Health Insurance Exchange

Scope of Practice

Workers Compensation and No Fault

Quality of Care

Public Health Issues

SGR and Other Federal Issues

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MEDICAL LIABILITY

ADR: Health Courts (S.3249,Hannon); NI No fault (S.2444,Hannon); (S.637, Golden)

Expert Witness: (A.4381, Schimminger/S.3187, Hannon)

Certificate of Merit Reform: (A.4381, Hannon/S.3187, Hannon)

Cap on Non-Economic Awards: (A.4381, Schimminger/S.3187, Hannon)

Immunity for Apologies (A. 8621, Galef)

Reducing Frivolous Lawsuits

Peer Review: (A.590, Gottfried/S.1207, Hannon)

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REGRESSIVE BILLS

Date of Discovery: (A.4852, Weinstein)

Wrongful Death: (A.4851, Weinstein/S.1951, Kruger)

Contingency Fee: (S.2541, DeFrancisco)

Ex Parte Interview: (A.694, Lancman/ S.3296, DeFrancisco)

Settling Tortfeasors: (A.625, Weinstein/S.3766, Bonacic)

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Friends in support of Liability Reform and in opposition to Regressive bills:

Physician Organizations

Hospital Organizations

Pharmaceutical Companies

Lawsuit Reform Alliance

Managed Care Industry

Liability Carriers

Municipalities

Business Groups

?? Patient Organizations ??

?? Citizens of NYS ??

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Friends in support of Liability Reform and in opposition to Regressive bills:

We must find a way to bring this \$561 million tort number under control. In a time of financial crisis and budgetary cuts, this is not just a huge number – it represents an unacceptable tradeoff in favor of individual plaintiffs at the expense of providing needed services to New Yorkers.

– New York City Corporation Counsel Michael Cardozo, in a September 22, 2011 speech to the Citizens Budget Commission.

Foes in opposition to Liability Reform and in support of Regressive bills:

Trial Lawyers

NYS Bar Association

NYPIRG

Center for Justice and Democracy

?? Patient Organizations ??

?? Citizens of NYS ??

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MANAGED CARE

Collective Negotiation: (A.2474, Canestrari/S.3186, Hannon).
Passed Senate; Assembly Ways & Means

Out of Network Payment:(A.7489, Gottfried/S.5068, Hannon)
Passed Assembly; Recalled and amended; on third reading; Senate Health Committee

OBS Facility Fee Payment: (A.7341, Morelle/S.4597,Hannon);
Passed Senate; Assembly Health

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MANAGED CARE

Next Steps:

Collective Negotiation: (A.2474, Canestrari/S.3186, Hannon).
Working with Assembly, Labor, AG's Chief of Staff
Impact on Health Costs
Oversight logistics and costs

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MANAGED CARE

Next Steps:

Out of Network Payment:(A.7489, Gottfried/S.5068, Hannon)
2hr meeting with Senator Hannon on October 11th.
Meetings with Senator Ball and Senate Majority
Leader Skelos

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MANAGED CARE

Next Steps:

OBS Facility Fee Payment:(A.7341, Morelle/S.4597,Hannon)
Schedule meetings with Assemblyman Morelle and
Senator Hannon.

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Friends in support of Managed Care Reform:

Physician Organizations

Hospital Organizations

Unions

Pharmaceutical Companies

Trial Lawyers

State of New York

Patient Organizations

Citizens of NYS

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Foes in opposition to Managed Care Reform:

Managed Care Industry

Business Council

NFIB

Unshackle Upstate

State of New York in its capacity as Payor

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How Do We Achieve Our Goals?

Build Physician Relationships with Local
Politicians and Community Leaders
Strengthen Key Contact Lists
Use Key Contacts In Advocacy

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How Do We Achieve Our Goals?

Build Coalitions Among Physicians and Others
Advocate +
Raise Money +
Advertise +
Where legally permissible, Contribute to
Political Committees

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How Do We Achieve Our Goals?

Strengthen House of Medicine Advocacy
By Mobilizing the Entire Profession to
Support our Organizational Objectives and
Goals At Unprecedented Levels

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*WE LOOK FORWARD TO WORKING
WITH YOU IN 2012.*

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