

MEDICAL SOCIETY
of the
STATE OF NEW YORK

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Division of Governmental Affairs
MEMORANDUM IN SUPPORT

ON SENATE FLOOR (CAL. #409)

S.2247 (HANNON)

IN ASSEMBLY HEALTH COMMITTEE

A.193 (BUCHWALD)

AN ACT to amend the public health and education law, in relation to the provision of practice management, billing and health information technology services for healthcare facilities and professionals

This legislation would amend the public health and education law to permit percentage-based billing arrangements between health care providers and billing management companies. **The Medical Society of the State of New York supports this legislation.**

Like many states, New York law prohibits "fee-splitting" to prevent situations where a healthcare professional splits part of a professional fee earned from treating a referred patient with the source of the referral. However, the New York statute goes much further and actually prohibits accepted and customary business relationships permitted in most other states to efficiently outsource practice management and billing functions to entities with appropriate expertise, and to compensate such vendors based on a percentage of reimbursement collection.

As a result of New York's current law, physicians are unwittingly and unfairly at risk of being charged with professional misconduct simply by entering into agreements with national practice management, professional billing and health information technology vendors whose customary pricing practices are not consistent with the unique New York limitations. The bill contains a number of provisions to protect against risks that the fee-splitting prohibition was intended to address. First, the bill assures that vendors in percentage-based relationships may not be responsible for the content of claims, to eliminate the incentive to increase the amount of such claims beyond what should otherwise be billed. Secondly, the bill would assure that providers receive third party payments directly in their own name, rather than having the vendors actually receive the payments directly themselves. Finally, the bill specifies that no referral may flow from the vendor to the provider, thereby eliminating the potential of payment for referral.

The bill strikes a fair balance between assuring that physicians have the flexibility to enter into billing service arrangements essential to the functioning of a medical practice permitted almost anywhere else in the country, while at the same time protecting the public against potentially inappropriate billing practices. Therefore, **the Medical Society of the State of New York supports this legislation and urges its enactment.**

Respectfully submitted,

MSSNY DIVISION OF GOVERNMENTAL AFFAIRS

MMA – support
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