Mister Speaker and Members of the House of Delegates:

Your Reference Committee recommends the following consent calendar for acceptance:

**RECOMMENDED FOR FILING FOR INFORMATION**
   b. Medical Society of the State of New York Political Action Committee  
   c. The Empire State Medical, Scientific and Educational Foundation, Inc.  
   d. The Medical, Educational and Scientific Foundation of New York, Inc.
2. President’s Report – HOD-2016
4. Secretary’s Report – HOD-2016
5. Executive Vice President’s Report – HOD-2016

**RECOMMENDED FOR ADOPTION**
6. 2016 Reports of Officers and Administrative Matters Sunset Report
7. Resolution 202 – Utilizing Social Media to Support Advocacy for Our Patients
8. Resolution 203 – MSSNY Organized Medical Staff Section
9. Resolution 217 – “Tabling” a Resolution Prior to Discussion

**RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED**
10. Resolution 205 – Partnering with Independent Practice Associations
11. Resolution 207 – Medicare Part B Double Dipping
12. Resolution 208 – Expanding GME Concurrently With UME
13. Resolution 211 – Attorney Ads on Drug Side Effects
14. Resolution 212 – Laymen’s Medical Advice Policy
15. Resolution 213 – Maintenance of Certification
16. Resolution 215 – Maintenance of Certification/Licensure (MOC/MOL)
17. Resolution 216 – Tying Maintenance of Licensure to Maintenance of Certification

**RECOMMENDED FOR REFERRAL TO COUNCIL**
18. Resolution 200 – Combine MSSNY HOD with Legislative Day in Albany
19. Resolution 201 – Delegate Subsidy

**RECOMMENDED NOT FOR ADOPTION**
20. Resolution 204 – CPH Contract Grace Period
21. Resolution 206 – Support Nursing Staffing Standards
22. Resolution 209 – Promote Medical Clerkships and International Health
23. Resolution 210 – Inclusion of Disclaimer with Advertised Products
24. Resolution 214 – Maintenance of Certification as Restraint of Trade
RECOMMENDED FOR FILING:

   - b. Medical Society of the State of New York Political Action Committee
   - c. The Empire State Medical, Scientific and Educational Foundation, Inc.
   - d. The Medical, educational and Scientific Foundation of New York, Inc.

2. President’s Report – HOD-2016
4. Secretary’s Report – HOD-2016
5. Executive Vice President’s Report – HOD-2016

THE REFERENCE COMMITTEE RECOMMENDS THAT ITEMS 1-5 BE ACCEPTED AND FILED FOR INFORMATION.

RECOMMENDED FOR ADOPTION:

6. 2016 REPORTS OF OFFICERS AND ADMINISTRATIVE MATTERS SUNSET REPORT

   THE REFERENCE COMMITTEE RECOMMENDS THAT THE 2015 REPORTS OF OFFICERS AND ADMINISTRATIVE MATTERS SUNSET REPORT BE ADOPTED.

7. RESOLUTION 202 - UTILIZING SOCIAL MEDIA TO SUPPORT ADVOCACY FOR OUR PATIENTS

   THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 202 BE ADOPTED.

Resolution 202 directs MSSNY to post links to action alerts of particular importance on its Twitter and Facebook pages.

Your Reference Committee heard testimony in support of this Resolution, and also heard from others that MSSNY is already doing this extensively. Your Reference Committee feels that social media’s potential for disseminating important alerts to physicians and patients is so vast that the need to make use of it is worth establishing in policy.

8. RESOLUTION 203 - MSSNY ORGANIZED MEDICAL STAFF SECTION

   THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 203 BE ADOPTED.

Resolution 203 calls on MSSNY to (1) request that all medical staffs with institutional membership agreements with MSSNY appoint a representative to the MSSNY Organized Medical Staff Section (OMSS), and (2) task each MSSNY OMSS representative to survey his or her own individual medical staff and hospital administration to obtain the top educational priorities for his or her particular medical staff; and (3) when developing its education programs, to factor in the educational priorities of medical staffs with institutional membership agreements.
Your Reference Committee heard testimony in support of this Resolution, and none opposed to it. It is a sound proposal for increasing the responsiveness of MSSNY to its members, and it offers a worthwhile way for OMSS representatives to help MSSNY provide value to their local colleagues without requiring a heavy investment of time.

9. RESOLUTION 217 – “TABLED” A RESOLUTION PRIOR TO DISCUSSION

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 217 BE ADOPTED.

Resolution 217 calls on MSSNY to disallow the parliamentary mechanism of “tabling” a resolution prior to its being considered by a reference committee in its own House of Delegates, and to forward the resolution to the AMA HOD in order to eliminate the use of the parliamentary tactic of “tabling” a resolution prior to debate in the AMA HOD or its assigned reference committee.

Your Reference Committee heard testimony about an issue tabled at the AMA without an opportunity for discussion and believes that it is important to adopt policy by MSSNY and the AMA that recognizes the right in a democratic organization for a minority viewpoint to be heard.

RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED:

10. RESOLUTION 205 - PARTNERING WITH INDEPENDENT PRACTICE ASSOCIATIONS

THE REFERENCE COMMITTEE RECOMMENDS THE FOLLOWING:

RECOMMENDATION A: THAT RESOLUTION 205 BE AMENDED by addition as follows:

RESOLVED, that the Medical Society of the State of New York (MSSNY) explore partnering with independent practice associations (IPAs) to offer discounted IPA membership fees for MSSNY members, possibly in return for reduced medical society dues.

RECOMMENDATION B: THAT RESOLUTION 205 BE ADOPTED AS AMENDED.

Resolution 205 calls on MSSNY to explore partnering with independent practice associations (IPAs) to offer discounted IPA membership fees for MSSNY members.

Your Reference Committee heard testimony in support of this Resolution, as well as testimony concerning MSSNY’s ongoing investigation into various ways to support members in their efforts to collaborate on quality measures, to achieve operating efficiencies and to pursue clinical and/or financial integration. The Reference Committee felt that there may be other ways to partner with IPAs and noted that membership agreements offering reduced dues might be an option that would fit nicely.
11. RESOLUTION 207 - MEDICARE PART B DOUBLE DIPPING

THE REFERENCE COMMITTEE RECOMMENDS THE FOLLOWING:

RECOMMENDATION A: THAT RESOLUTION 207 BE AMENDED by addition and deletion as follows:

RESOLVED, that the Medical Society of the State of New York request that the American Medical Association seek legislation to stop the “double dipping” for those returning to the workforce or after having started drawing social security benefits. The practice by the federal government of deducting Medicare Part B coverage costs from the Social Security checks of retirees, as well as from salaries individuals may earn after they draw on social security benefits.

RECOMMENDATION B: THAT RESOLUTION 207 BE ADOPTED AS AMENDED
RECOMMENDATION C: THAT THE TITLE OF RESOLUTION 207 BE CHANGED TO READ:
SUPPORT TAX POLICIES THAT ENCOURAGE WORK BY OLDER AMERICANS.

Resolution 207 calls on MSSNY to ask the American Medical Association to seek legislation to stop the practice by the federal government of deducting costs of Medicare Part B coverage both from the Social Security checks of retirees, as well as from any salaries individuals may earn after having started drawing social security benefits. The Reference Committee felt that the term “double dipping” implies an activity that is illegal, and the committee therefore recommends a change in language.

12. RESOLUTION 208 - EXPANDING GME CONCURRENTLY WITH UME

THE REFERENCE COMMITTEE RECOMMENDS THE FOLLOWING:

RECOMMENDATION A: THAT THE FIRST RESOLVED OF RESOLUTION 208 BE AMENDED by addition and deletion as follows:

RESOLVED, that MSSNY support the expansion of residency slots with a view to the current and future needs of the United States population, oppose any new medical schools or expansion of current medical schools unless the expansion is associated with a corresponding increase in residency spots equal to or greater than the increase in medical school enrollment, and be it further

RECOMMENDATION B: THAT THE SECOND RESOLVED OF RESOLUTION 208 BE ADOPTED.

RECOMMENDATION C: THAT RESOLUTION 208 BE ADOPTED AS AMENDED

Resolution 208 asks (1) that MSSNY oppose any new medical schools or expansion of current medical schools unless the expansion is associated with a corresponding increase in residency spots equal to or greater than the increase in medical school enrollment, and (2) that MSSNY bring a resolution to this effect to the 2016 Annual Meeting of the American Medical Association.
Your Reference Committee believes that limiting the expansion of medical schools at a time when it is universally recognized that our nation faces a physician shortage is not a reasonable solution to the problem of residency shortages.

13. RESOLUTION 211 - ATTORNEY ADS ON DRUG SIDE EFFECTS

THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE RESOLUTION BE ADOPTED IN LIEU OF RESOLUTION 211:

RESOLVED, that MSSNY seek by legislation and/or regulation to require attorney commercials that may cause patients to discontinue medically necessary medications to have appropriate warnings that patients should not discontinue medications without seeking the advice of their physician; and be it further

RESOLVED, that MSSNY introduce a similar resolution to the AMA.

Resolution 211 calls for MSSNY to seek by legislation and/or regulation to prohibit attorney commercials that may cause the patients to discontinue medically necessary medications. Your Reference Committee shares the concerns voiced by physicians about patients being frightened into discontinuing needed medications by attorneys’ advertisements focused on potential harm that could be done as a result of side effects. However, this is a matter for both federal and state regulation, and would need to be addressed on both levels.

14. RESOLUTION 212 - LAYMEN'S MEDICAL ADVICE POLICY

THE REFERENCE COMMITTEE RECOMMENDS THE FOLLOWING:

RECOMMENDATION A: THAT RESOLUTION 212 BE AMENDED by addition and deletion as follows:

RESOLVED, that MSSNY ask the AMA to support a public campaign to promote patient recognition that when seeking the best source of medical advice, they are best served through partnership with their personal physician.

RECOMMENDATION B: THAT RESOLUTION 212 BE ADOPTED AS AMENDED

Your Reference Committee believes that the issue is of nationwide concern, and that the AMA is in the best position to fund a public campaign to address it.
15. RESOLUTION 213 – MAINTENANCE OF CERTIFICATION

THE REFERENCE COMMITTEE RECOMMENDS THE FOLLOWING:

RECOMMENDATION A: THAT THE FIRST RESOLVED OF RESOLUTION 213 BE ADOPTED.

RECOMMENDATION B: THAT THE SECOND RESOLVED OF RESOLUTION 213 BE AMENDED by addition and deletion, as follows:

RESOLVED, that the MSSNY simultaneously advocate for a varied approach to ensure adequate appropriate continuing education for physicians.

RECOMMENDATION C: THAT RESOLUTION 213 BE ADOPTED AS AMENDED.

Resolution 213 asks that MSSNY (1) go on record, and lobby against any linkage of licensure to Maintenance of Certification and (2) simultaneously advocate for a varied approach to ensure adequate continuing education for physicians.

Your Reference Committee feels that the word “appropriate” better reflects the profession’s concerns about initiatives that mandate education that may not pertain to a physician’s particular area of practice.

16. RESOLUTION 215 – MAINTENANCE OF CERTIFICATION/LICENSEURE (MOC/MOL)

THE REFERENCE COMMITTEE RECOMMENDS THE FOLLOWING:

RECOMMENDATION A: THE FIRST RESOLVED OF RESOLUTION 215 BE ADOPTED

RECOMMENDATION B: THE SECOND RESOLVED OF RESOLUTION 215 NOT BE ADOPTED.

RECOMMENDATION C: THAT RESOLUTION 215 BE ADOPTED AS AMENDED.

Resolution 215 calls on MSSNY to (1) ask the AMA to reaffirm its policy regarding MOC and MOL programs, and that MSSNY (2) provide an amicus brief or other support when the opportunity arises to defend physicians against any attempt to use recertification as a condition of employment, licensure, or reimbursement.

Your Reference Committee heard strong support for reaffirmation of AMA policy regarding MOC and MOL, most notably, H-275.932, opposing the use of recertification or Maintenance of Certification as a condition of employment, licensure or reimbursement, but agrees with those who testified that it would be irresponsible to adopt a policy directing the society to incur the cost of providing amicus briefs or other support in an unknown number of situations.
17. RESOLUTION 216 – TYING MAINTENANCE OF LICENSURE TO MAINTENANCE OF CERTIFICATION

THE REFERENCE COMMITTEE RECOMMENDS THE FOLLOWING:

RECOMMENDATION A: THE FIRST THREE RESOLVEDS OF RESOLUTION 216 BE ADOPTED.

RECOMMENDATION B: THE FOURTH RESOLVED OF RESOLUTION 216 NOT BE ADOPTED.

RECOMMENDATION C: THAT RESOLUTION 216 BE ADOPTED AS AMENDED.

Resolution 216 resolves that (1) all physicians still in practice be encouraged and enjoined to participate in activities to improve and maintain the knowledge and skills necessary to render the highest quality of care to their patients; (2) that MSSNY strongly oppose any effort by New York State to require certification by any medical specialty board as a condition of obtaining or renewing the registration of a medical license in the State of New York; (3) that the MSSNY Division of Governmental Affairs make our position PROACTIVELY known to all appropriate agencies; and (4) that the New York Delegation to the AMA forward this resolution to the 2016 annual meeting of the AMA.

Your Reference Committee heard strong support for Resolution 216, but feels that the fourth resolved will be adequately addressed if the House adopts the first resolved of Resolution 215, calling on MSSNY to ask the AMA to reaffirm its policy regarding MOC and MOL, particularly with reference to AMA policies H-275.923 and D-275.971. These policies state that the AMA will: 1. Continue to work with the FSMB to establish and assess MOL principles, with the AMA to assess the impact of MOC and MOL on the practicing physician, and the FSMB to study the impact on licensing boards. 2. Recommend that the American Board of Medical Specialties not introduce additional assessment modalities that have not been validated to show improvement in physician performance and/or patient safety.

Your Reference Committee feels that it is important that MSSNY advocate for appropriate CME or other activities by which physicians can demonstrate continued competence in their fields, as opposed to linking licensure specifically to maintenance of certification.

RECOMMENDED FOR REFERRAL TO COUNCIL:

18. RESOLUTION 200 – COMBINE MSSNY HOD WITH LEGISLATIVE DAY IN ALBANY

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 200 BE REFERRED TO COUNCIL.

Resolution 200 calls for MSSNY to have the House of Delegates meeting combined with Legislation Day.

Your Reference Committee agrees with those who testified that combining the two meetings could have a beneficial effect on legislative participation at the event, as well as on involvement in legislative advocacy by more individuals throughout the year. While the goal is laudable,
there are many practical obstacles to combining legislative day with the House of Delegates,
most notably, a lack of sufficient hotel space to accommodate the HOD as it is currently
constituted, a very full schedule of activities for the HOD already, and the difficulty that would be
presented for many delegates if the length of the meeting were to be extended. Your Reference
Committee recommends that the MSSNY Council be asked to consider changes to the HOD
that would resolve some of these obstacles.

19. RESOLUTION 201 – DELEGATE SUBSIDY

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 200 BE REFERRED
TO COUNCIL.

Resolution 201 calls on MSSNY, from this point forward, to raise the subsidy for all delegates
attending the House of Delegates to $175 per delegate to offset the cost incurred to all county
medical societies, and that the delegate subsidy cover up to three nights’ hotel stay.

Your Reference Committee heard compelling testimony about the financial impact on county
medical societies of funding attendance at the HOD by their delegates, and also about the
existing cost to MSSNY of supporting counties in this area. It was noted that it is extremely rare
for a state medical society to bear any part of the expenses of the delegates who are there to
represent different organizations. The Council, or a task force appointed to study changes to
the HOD, could consider the structure, the number of delegates, and the size, length and
location of the meeting and find ways to reduce costs for both MSSNY and the county societies.

RECOMMENDED NOT FOR ADOPTION:

20. RESOLUTION 204 – CPH CONTRACT GRACE PERIOD

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 204 NOT BE
ADOPTED.

Resolution 204 called for all Committee for Physician Health contracts to have a seven day opt
out period allowing the provider an opportunity to withdraw their consent and contract.

Your Reference Committee heard testimony about procedures of the Committee for Physician
Health, reviewed them in detail with CPH staff in executive session. The reference committee
believes that the resolution is unnecessary for several reasons. Physicians referred to the CPH
are not asked to agree to the Conditions of Participation until after they have undergone an
Independent Medical Exam and been found to be impaired. If impaired, the matter is reportable
to the OPMC unless the physician is participating in the CPH program. This is the same as the
situation for an impaired physician who withdraws from the CPH program. There are multiple
opportunities to appeal determinations before and after agreeing to the Conditions of
Participation, and an advisory body of MSSNY physicians is extremely mindful of the physician’s
concerns throughout the appeals processes. Your Reference Committee does feel that the
MSSNY and the CPH should make an effort to disseminate this information more widely to
physicians.


21. RESOLUTION 206 - SUPPORT NURSING STAFFING STANDARDS

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 206 NOT BE ADOPTED.

Resolution 206 calls for MSSNY to support the establishment of reasonable standards for Nursing Staffing.

Your Reference Committee was informed that New York State Hospital Regulations currently require hospitals to provide adequate staffing levels. Resolution 206 asks that overall standards be set defining adequate nurse-to-patient ratios. Testimony supported the need for greater adherence to current requirements but that a one-size fits all hospitals and all circumstances-solution would be inappropriate.

22. RESOLUTION 209 - PROMOTE MEDICAL CLERKSHIPS AND INTERNATIONAL HEALTH

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 208 NOT BE ADOPTED.

Resolution 209 asks (1) that MSSNY encourage The New York State Department of Education (NYDOE) with the Board of Regents to develop in cooperation with its approved medical schools both New York State based and dual campus international LCME/COCA qualified clerkships to meet the demands of their medical students and (2) That NYSDOE and its approved medical schools consider offering LCME/COCA qualified clerkships in international settings to offer education in diverse settings to best meet the needs of their students in education and service to our patients.

Your Reference Committee notes that current AMA policies D-295.931 and H255.998, and MSSNY policy, as contained in its 2015 Legislative Program, address the need to assure clinical clerkship slots for US medical students, and felt that the resolved clauses of Resolution 209 do not match the whereas clauses.

23. RESOLUTION 210 - INCLUSION OF DISCLAIMER WITH ADVERTISED PRODUCTS

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 210 NOT BE ADOPTED

Resolution 210 calls on MSSNY to seek legislation that would require television/print commercial advertisements claiming to provide Durable Medical Equipment (DME) (e.g., back braces) with minimal or no out-of-pocket costs to Medicare beneficiaries to include a clearly defined “Disclaimer” identifying Medicare’s policy about “Reasonable Useful Lifetime” (RUL), which can range from 5 years to a lifetime benefit, that would allow beneficiaries to make an informed and intelligent decision prior to ordering any “free” products.

Your Reference Committee was informed that General Business Law prohibits false advertising, and that to mandate content in ads would violate the free speech rights of the corporation. In order to overcome this protection, it would be necessary to prove significant harm to patients from the advertisements or the products they promote, through clear and convincing evidence.
Your Reference Committee heard testimony supporting the need to inform Medicare beneficiaries of the Reasonable Useful Lifetime policy for Durable Medical Equipment and to encourage them to use caution in responding to ads claiming to offer a product with minimal or no out-of-pocket costs. However, your Committee believes that this goal will have to be accomplished through some means other than legislation.

24. RESOLUTION 214 – MAINTENANCE OF CERTIFICATION AS RESTRAINT OF TRADE

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 214 NOT BE ADOPTED.

Resolution 214 calls on MSSNY to (1) investigate legislation to prohibit board certification requirements for hospital medical staff privileges, insurer contracts and state licensure and (2) agree that maintenance of certification is restraint of trade perpetrated by specialty boards and (3) file an amicus brief in support of the American Association of Physicians and Surgeons lawsuit regarding board certification requirements as antitrust, and (4) take this resolution to the 2016 annual meeting of the AMA HOD.

Your Reference Committee was advised that the American Board of Medical Specialties lodged a motion to dismiss the AAPS lawsuit in June 2014, on the grounds that allegations of restraint of trade must be based on a claim of conspiracy, and that no such claim has been made. The court has not yet ruled on the motion. For MSSNY to submit an amicus brief now, nearly two years after the motion was made, and legal briefs of the respective parties have been submitted, would not only be poorly timed, it would have to be limited to the issue of whether or not the suit should be allowed to go forward. If the court allows the case to proceed, a discovery phase will begin and any evidence of conspiracy can be submitted. A more appropriate time for an amicus would be after evidence has been submitted, a judgment has been made and the matter has been taken up by the Appellate Court.
Your chair is grateful to the Reference Committee members, namely, Raymond Lanzafame, MD, Daniel Nicoll, MD, Veronica Santilli, MD, Richard Vienne, Jr., DO, and Michael Ziegelbaum, MD.

Your Reference Committee wishes to express its appreciation to Philip Schuh, CPA, Donald Moy, Esq., Ruzanna Arsenian and Eunice Skelly for their help in the preparation of this report.

Veronica Santilli, MD

Raymond Lanzafame, MD

Daniel Nicoll, MD

Richard Vienne, Jr., DO

Michael Ziegelbaum, MD