RECOMMENDATION:
Madam Speaker, Your Reference Committee recommends that the policies contained in 2017 the Socio-Medical Economics Sunset Report be acted upon in the manner indicated and that the remainder of this report be filed:

REAFFIRM
60.997 New York State Department of Health’s Task Force on Life and the Law: MSSNY to seek to have more representation on the New York State Department of Health’s existing Task Force on Life and the Law; and MSSNY’s representatives to: (1) make an effort to set guidelines on discontinuing or not initiating treatment, which might then be used to aid treating physicians on a voluntary basis in discussion with a patient and/or his/her family; and (2) advocate that an appropriate mechanism for adjudication in end-of-life questions in the hospital setting be available for treating physicians. (HOD 2007-261)

RECOMMENDATION: REAFFIRM; still relevant

120.971 Medical Outsourcing:
MSSNY will request legislation to prevent insurance companies from incentivizing subscribers in this state to have to go overseas for medical treatment that could be provided locally and, through the American Medical Association, request federal legislation to prevent insurance companies from incentivizing subscribers to go overseas for medical treatment that could be provided locally. (HOD 2007-263)

RECOMMENDATION: REAFFIRM; still relevant

165.894 Tracking Electronic Claims:
MSSNY will seek legislation or regulation mandating health payment plans that require electronic claims submission be required to make available the means of tracking the claim electronically as it is processed. (HOD 2007-265)

RECOMMENDATION: REAFFIRM, although this is being done in the marketplace.

165.895 Requirement for MCOs to Provide Education and Training Initiatives:
MSSNY will legislation that would require: (1) each third-party insurer to develop and implement a formal Local Provider Education and Training (LPET) Initiative, designed to give panel physicians all the information they need now and in the future about the carrier’s policies, procedures, and coverage issues, in order to receive appropriate reimbursement; and (2) third-party insurers to provide dedicated and identifiable staff, telephone lines, and e-mail addresses, whereby physicians can contact the carrier in order to fully understand and abide by the carrier’s policies and procedures. (HOD 2007-256)

RECOMMENDATION: REAFFIRM; still relevant
165.896 Retraction Letters and Erroneous Termination Letters:
MSSNY will work with the appropriate New York State regulatory agency to draft regulations requiring managed care organizations (MCOs) to issue letters of retraction when the MCO has erroneously informed patients that a physician is no longer participating, when the physician has merely filed a request to change the demographic information in the plan’s Provider File. (HOD 2007-254)

RECOMMENDATION: REAFFIRM; still relevant

165.897 MCOs Use of Pre-Payment Claim Reviews to Circumvent the New York State Prompt Payment Law:
MSSNY will:
(1) using the Hassle Factor Form, solicit and compile examples of prepayment claim reviews initiated by managed care organizations where the physician has received no prior notification of aberrant coding or claim submission practices;
(2) review these examples to determine whether the managed care organizations are in violation of the New York State Prompt Payment Law or related regulatory directives, such as the New York State Insurance Department Regulation # 178 (11 NYCRR 217) (Prompt Payment of Health Insurance Claims) or Article 26 of the Unfair Claim Settlement Practices law (Section 2601); and
(3) urge the New York State Insurance Department to take appropriate action against these managed care organizations if it is determined that the MCOs are indeed in violation of the relevant statutes or regulations through their use of erroneous pre-payment reviews. (HOD 2007-253)

RECOMMENDATION: REAFFIRM; still relevant

165.907 Clarification of the New York State Current Procedural Terminology Uniformity Law:
MSSNY should take all the steps, including legislation, necessary to assure that health plans comply with and abide by the American Medical Association coding policy statements that are contained in the yearly AMA CPT coding manual. (HOD 2007-61)

RECOMMENDATION: REAFFIRM; still relevant

165.910 Codification and Access of All Formularies:
MSSNY will: (1) advocate for the creation of a unified industry-supported website that lists the formularies of all health plans and Part D plans; (2) explore the feasibility of requiring a plan to format their formularies in a nationally recognized standard that would facilitate physician Electronic Medical Record interfaces; and (3) seek to assure that health plan prior authorization rules for prescribing medications be clear and concise. (HOD 2007-55)

RECOMMENDATION: REAFFIRM; still relevant

165.953 Accountability for HMO Termination of a Physician by Mistake:
MSSNY will actively seek legislation or regulation which holds an HMO or managed care plan accountable for all damages incurred by a physician as the result of termination notification which was made in error, to the physician’s patients. MSSNY will take all action necessary to assure that physicians are informed of their rights when terminated by a plan or when patients are inappropriately notified of a physician’s termination from the plan. (HOD 1999-53; Reaffirmed HOD 2007-254)

RECOMMENDATION: REAFFIRM; still relevant
ERISA Plans and the United States Department of Labor:
MSSNY will seek the support of the American Medical Association in proposing an amendment to federal legislation that would modify ERISA law to incorporate a clause that addresses timely payment of medical claims of health care practitioners who provide treatment in good faith to the members of self-funded group employer-sponsored health plans; and

When the federal law is amended, the Medical Society of the State of New York will work with the United States Department of Labor to devise and implement a formalized appeal process at the United States Department of Labor, with a specific dedicated service center and contact persons. (HOD 2007-251)

RECOMMENDATION: REAFFIRM; still relevant

AMEND

Medicare Opt Out Physicians and Secondary Insurers:
In conjunction with the New York State Insurance Department of Financial Services, MSSNY will:
(1) draft legislation to develop and implement a mechanism to: a) require secondary insurers to identify Medicare opt out situations; b) allow physicians and patients who have executed a Medicare Opt Out agreement (yet still participate with the secondary private or managed care insurer) to have their claims processed correctly by making the secondary insurer primary as Medicare is no longer the primary insurer and no Medicare explanation of benefits exists; and
(2) draft legislation to: a) identify Medicare Opt Out situations; and b) include the requirement that the secondary insurer access the Medicare fee schedules posted on the carrier websites in order for the secondary insurer to calculate their payment responsibility in the event that present insurance law cannot be changed and the secondary insurer can reduce the benefit paid based on what Medicare would have covered. (HOD 2007-250)

RECOMMENDATION: AMEND. The New York State Insurance Department is now called the New York State Department of Financial Services.

Publicizing the Hassle Factor Form:
MSSNY will take whatever steps it can to maximize use of the Hassle Factor form and disseminate its findings to all concerned. (HOD 2007-264)

RECOMMENDATION: AMEND by deletion with addition to MSSNY Policy 265.915, see the following -

Insurance Companies and Publicizing the Hassle Factor Form:
That MSSNY monitor unfair business practices of health plans though the use of the new MSSNY Hassle Factor Form (HFF), creating or joining with a coalition of stakeholders (to include physician groups and leaders of industry and business who bear the burden of health care costs) and dependent upon the anticipated reports culminating from the use of the HFF and the work of the coalition seek passage of state regulation and/or legislation to rectify these unfair business practices. (HOD 2006-269; Reaffirmed Council 12/13/07) In addition, MSSNY will take whatever steps it can to maximize use of the Hassle Factor Form and disseminate its findings to all concerned. (HOD 2007-264)

RECOMMENDATION: AMEND by addition of MSSNY Policy 265.910
SUNSET
85.971 Health Promotion Visits:
MSSNY should seek to assist in the education of members on the appropriate coding for clinical prevention services. (HOD 2007-152)

RECOMMENDATION: SUNSET; already part of annual visit paid currently by CMS and others

120.973 Health Promotion Visits:
MSSNY should seek legislation and/or regulation exempting the cost of an annual physician clinical preventive services visit, as defined in current MSSNY policy 120.983, from inclusion as deductible expenses. (HOD 2007-156)

RECOMMENDATION: SUNSET; already part of annual visit paid currently by CMS and others

120.983 Payment for Clinical Preventive Services:
MSSNY will seek the introduction of state legislation, as well as federal legislation through the AMA, requiring all insurance companies (Indemnity and ERISA Health Plans) to pay for at least one visit a year for clinical prevention services, and that no other diagnosis be required for payment to the physician. (HOD 1999-264; Reaffirmed HOD 2007-156)

RECOMMENDATION: SUNSET; already part of annual visit paid currently by CMS and others

195.967 Postponement of National Provider Identifier (NPI) Implementation Date:
In view of the Centers for Medicare & Medicaid Services (CMS) failure to appropriately address data dissemination concerns relating to the security and protection of physician issued National Provider Identifier (NPI) numbers, MSSNY to request that the May 23, 2007 NPI implementation date be postponed, at least until CMS has appropriately developed and published their Data Dissemination Policy in the Federal Register. (HOD 2007-257)

RECOMMENDATION: SUNSET, it is done.