

**2021 HOUSE OF DELEGATES – FINAL ACTIONS**  
**REFERENCE COMMITTEE GOVERNMENTAL AFFAIRS AND LEGAL MATTERS (A)**

- 50 Physician-driven Medical Assistant Specialty Training in the Office Setting  
*Introduced by the Orange, Putnam, Rockland & Westchester County Medical Societies*  
**MSSNY POLICY RE-AFFIRMED**

**115.984 Expanded Clinical Roles for Medical Assistants in New York State**

MSSNY will work with New York State approved medical assistant teaching programs to develop suitable rules defining clinical work guidelines that can be incorporated into current New York State regulations.

**115.994 Certified Medical Assistants/Medical Assistants**

Preservation of Physician Autonomy in Employment and Assignment of Duties: MSSNY will develop and promote regulation and/or legislation that allows Certified Medical Assistants and Medical Assistants to continue to perform the usual duties of their position under the direct supervision of their physician employers if the physician has evaluated and approved their ability to do so, making this a part of the Annual Legislative Agenda until this goal has been attained.

- 51 Uniform Standard of Care in Liability Cases  
*Introduced by the New York and Westchester County Medical Societies*  
**REFERRED TO COUNCIL**

**RESOLVED, That the Medical Society of the State of New York seeks legislation declaring that in the case of an allegation of medical malpractice committed by an allied health professional practicing without direct supervision of a licensed physician, the standard of care is to be based on the nature of the negligent care, with a uniform minimally acceptable standard of care for the treatment of a specific diagnosis, not the licensee's profession.**

- 52 Hospital Closures in Vulnerable Neighborhoods in NYS  
*Introduced by the Kings and Queens County Medical Societies and Frank Dowling, MD*

**RESOLVED, that the Medical Society of the State of New York work together with county medical society leaders and patient advocacy groups to advocate to key federal, state and local policymakers to ensure that there is meaningful local physician and local patient input into proposals to close, downsize or re-purpose hospitals that could adversely impact health care options to communities served by these hospitals; and be it further**

**RESOLVED, that the Medical Society of the State of New York advocate to ensure that the approval for the closure, downsizing or re-purposing of hospitals across the State includes public hearings in communities affected by the closure and public votes on such closures, downsizing or re-purposing**

- 53 Patient Protection from Insurance Company Contract Disputes  
*Introduced by the New York County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, That the Medical Society of the State of New York support legislation that permits employers the right during a policy year to seek an alternative health insurance plan for their employees when the initial contracted health insurance plan ends a participation agreement with a hospital system or physician group that materially impacts timely access to quality care by their subscribers**

- 54 Site of Service Availability  
*Introduced by the 9<sup>th</sup> District Branch*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, that the Medical Society of the State of New York continue to advocate to reduce health insurer pre-authorization burdens, including eliminating pre-authorization requirements and restrictions based on site of service**

- 55 Enforcement of Administrative Simplification Requirements – CMS  
*Introduced by the Kings County Medical Society*  
**ADOPTED**

**RESOLVED, that Medical Society of the State of New York (MSSNY) takes the position that the American Medical Association (AMA) must advocate (1) that there is parity in the enforcement of the HIPAA Privacy Rule and HIPAA Administrative Simplification requirements; (2) that the CMS imposes penalties on health plan violations of HIPAA with the same rigor it imposes penalties on healthcare providers for violations of MIPS and other requirements; and be it further**

**RESOLVED, that MSSNY takes the position that the AMA must advocate that the CMS investigates all valid allegations of HIPAA Administrative simplification requirements thoroughly and offers transparently in its processes and decisions as required by the Administrative Procedure Act (APA); and be it further**

**RESOLVED, that MSSNY takes the position that the AMA must advocate that the CMS resolves all complaints related to the non-compliant payment methods including opt-out virtual credit cards and illegal EFT fees and, be it further**

**RESOLVED, that MSSNY strongly disapprove of the failure by the CMS Office of Burden Reduction to effectively enforce the HIPAA administrative simplification requirements as required by the law and its failure to impose financial penalties for non-compliance by health plans**

We're Mad as Hell and We Aren't Going to Take it Anymore  
*Introduced by the Bronx, Richmond and Kings County Medical Societies*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED, That the Medical Society of the State of New York re-affirm MSSNY policies 165.861, 265.864 and 265.962; and be it further**

**RESOLVED, that MSSNY aggressively work with county and special medical societies across the State to collect examples of health insurers inappropriately denying payment for care, inappropriately delaying patient access to needed treatment and abusive audit practices for redress by the New York State Department of Financial Services and New York State Department of Health; and be it further**

**RESOLVED, that MSSNY educate physicians regarding strategies to assist in collecting examples for review by state oversight agencies, such as use of relevant ICD-10 codes that identify in the electronic medical record when patients have difficulty accessing care due to inappropriate denials.**

**265.864      Prompt Payment**

The Medical Society of the State of New York will work with the New York State Department of Financial Services to ensure prompt payment complaints from physicians against health insurers are resolved expeditiously, preferably within 30 days of the complaint; and MSSNY will advocate for legislation that would increase the current prompt payment interest penalty above the current 12% per year threshold.

**265.962      Enhancements to the Prompt Payment Law**

MSSNY will seek enhancements to the current Prompt Payment Law stipulating that when additional information has been requested and received from a physician and/or patient, that the health care plan requesting the information be required to process and pay that claim within a specified (reasonable) period of time, or be subject to severe monetary penalties.

Once an HMO places a claim in a "pending" category (awaiting additional information), the HMO should be required to continue written communications with the physician and/or patient, on a periodic basis (i.e., every 30, 60 or 90 days) until the requested documentation has been received.

**165.861      Violations of State Insurance Laws by Managed Care Organizations and Private Insurers:**

MSSNY will take the following action:

1. Seek legislation or other appropriate means to a) prohibit health insurance companies from demanding refunds from physicians without providing physicians a detailed audit report which clearly identifies the claims in question and the methodology utilized to arrive at the alleged overpayment amount; b) eliminate or establish a more objective definition of the "abusive billing" exception to the two year current statutory limitation on health plan overpayment recoveries c) permit physicians a meaningful opportunity to appeal a requested refund demand including review by an independent body and d) prohibit automatic offset provisions in physician contracts;

2. Work to assure that the New York State Insurance Department and Attorney General's office appropriately investigate and resolve complaints made by physicians regarding violations of the New York State Insurance Law by health plans, including violations of: the Prompt Payment law; laws that limit refund demands and recoveries; and laws which specify a minimum period of time to submit claims;
3. Educate and encourage physicians to submit suspected violations of these laws to the New York State Insurance Department and Attorney General.

**57** Prioritizing People First: Upholding our Oath & Code of Conduct by Endorsing the Improved & Enhanced Medicare for All Act [H.R. 1976]

*Introduced by Lawrence Melniker, MD*

**REFERRED TO COUNCIL**

**RESOLVED**, the MSSNY undertake to relieve the private insurance companies of their unethical and unprincipled fiduciary duty to prioritize Profits over People by endorsing the Medicare for All Act of 2021, Putting People First, and calling on the United States Congress to immediately pass the Act and the President to promptly sign it into law; and be it further

**RESOLVED**, the MSSNY forward to the AMA a resolution to undertake to relieve the private insurance companies of their unethical and unprincipled fiduciary duty to prioritize Profits over People by endorsing the Medicare for All Act of 2021, Putting People First, and calling on the United States Congress to immediately pass the Act and the President to promptly sign it into law.

**58** Prioritizing People First: Upholding our Oath & Code of Conduct by Endorsing the New York Health Act [A.6058/S.5474]

*Introduced by Lawrence Melniker, MD*

**REFERRED TO COUNCIL**

**RESOLVED**, the MSSNY undertake to relieve the private insurance companies of their unethical and unprincipled fiduciary duty to prioritize *Profits over People* by endorsing the New York Health Act, *Putting People First*, and calling on the New York State Legislature to immediately pass the Act and the Governor to promptly sign it into law; and be it further

**RESOLVED**, the MSSNY forward to the AMA a resolution to undertake to relieve the private insurance companies of their unethical and immoral fiduciary duty to prioritize *Profits over People* by endorsing the New York Health Act, *Putting People First*, as a model for healthcare reform in the United States.