Mister Speaker and Members of the House of Delegates

Your Reference Committee recommends the following consent calendar for acceptance:

SUNSET REPORT RECOMMENDED FOR ADOPTION
1. 2022 Governmental Affairs (B) Sunset Report

RECOMMENDED FOR ADOPTION
2. Resolution 100 - Adjustment of Premiums & Reimbursement Rates During the Pandemic
3. Resolution 102 - New York State Medical License Authority

RECOMMENDED FOR ADOPTION AS AMENDED OR SUBSTITUTED
4. Resolution 103 - Assisted Living Residence (ALR) NYS Regulation Database
5. Resolution 104 - Retirement of Physician License
6. Resolution 105 - Hospital Discharge Summaries
7. Resolution 108 - Removing Barriers to Starting a Medical Practice in New York
9. Resolution 110 - Tele-Visits & Telephone Consults
10. Resolution 111 - Case Management & Social Workers

RECOMMENDED NOT FOR ADOPTION
11. Resolution 101 - Creation of a New York State Independent Medical Practice Taskforce
12. Resolution 106 - Direct Contracting Entities (DCEs) or Similar Programs for Medicare Plans
13. Resolution 107 - Safety Problems in the New York City Subway System
1. POLICY SUNSET REPORT
THE REFERENCE COMMITTEE RECOMMENDS THAT THE SUNSET REPORT FOR
GOVERNMENTAL AFFAIRS AND LEGAL MATTERS (B) BE ADOPTED.

2. RESOLUTION 100: - ADJUSTMENT OF PREMIUMS & REIMBURSEMENT RATES
DURING THE PANDEMIC

Original Resolution 100 Reads as Follows:
RESOLVED, that the Medical Society of the State of New York advocates to the NYS
Department of Health (DOH) Commissioner and the Commissioner of Insurance to review the
business practices of all the major insurance companies; and be it further
RESOLVED, that the Medical Society of the State of New York partners with the relevant New
York State regulatory authorities and stakeholders to advocate that insurance companies adjust
the premiums paid by the customers to a fair level or provide them with appropriate
reimbursements based on the reduction of services provided during the COVID-19 pandemic;
and be it further
RESOLVED, that the Medical Society of the State of New York partners with the relevant New
York State regulatory authorities and stakeholders to advocate that the insurance companies
adjust their reimbursement rates to physicians, other providers and hospitals to fair and
sustainable levels, adjusted by the increased costs spent by these individuals and entities
during the COVID-19 pandemic, to ensure continuity of care for our entire community and
particularly the most underprivileged population.

RECOMMENDATION:
THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 100 BE ADOPTED.

The COVID pandemic has profoundly affected the health of all Americans, causing delays in
care and impeding access to care due to the overwhelming impact on hospitals and their staff.
All major insurance companies experienced unprecedented profits because most elective
surgeries were canceled for at least six months and the majority of screening procedures were
put on hold. Yet, customers continued to pay the same high premiums, and physicians
continued to receive heavily discounted payments, even though they had to add the cost of
PPEs and cleaning supplies, as well as the expense necessary for physical upgrades in their
offices, in order to be in compliance with DOH and CDC regulations and guidelines.

Standalone and rural hospitals and independent health care providers have seen their revenues
decline to unsustainable levels, leading to bankruptcy, closure, and forcing physicians in large
numbers to retire early or join the mega health systems.

The combination of all these factors has negatively impacted health care access and quality for
those most in need of medical services.
3. **RESOLUTION 102 - NEW YORK STATE MEDICAL LICENSE AUTHORITY**

Original Resolution 102 Reads as Follows:

RESVLOVED, that the Medical Society of the State of New York formally review the issue of whether it would be advantageous for the licensing authority of physicians to remain in the New York State Department of Education.

**RECOMMENDATION:**

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 102 BE ADOPTED.

Reference Committee B members trusted that the MSSNY legislative affairs team would be able to research this issue, assemble a list of pros/cons, and determine which agency is best suited to handle physician licensure.

Physicians and other health care providers have long obtained licenses through the office of the Professions at the New York State Education Department (SED). The SED regulates continuing education for physicians such as infection control training and other state agencies also have authority over physician practices, such as the Office of Professional Medical Conduct (OPMC), which is housed within the Department of Health (DOH).

New York Fiscal year 2023 budget as proposed by Governor Hochul would have transferred all existing oversight mechanisms from SED to DOH. However, this proposal was removed from the final budget for FY2022-23 and further consideration is needed to determine if transferring the authority to license physicians is a net positive or a net negative for physicians, which could include new fees or regulations.

4. **RESOLUTION 103 - ASSISTED LIVING RESIDENCE (ALR) NYS REGULATION DATABASE**

Original Resolution 103 Reads as Follows:

RESVLOVED, that MSSNY with the support of the NY Medical Directors Association (NYMDA), collaborate with the New York State Department of Health to create an easily accessible database which would make all Assisted Living Residence (ALR) rules, regulations and links to Dear Admin Letters (DALs) available to staff at assisted living facilities, primary care provider teams, hospitals, and/or health systems and which would be updated when appropriate.

**RECOMMENDATION A:**

THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 103:

RESOLVED, that MSSNY with the support of the NY Medical Directors Association (NYMDA), collaborate with the New York State Department of Health to create an easily accessible database which would make all Assisted Living Residence rules, regulations (ALR) and links to Dear Admin Letters (DALs) available to staff at assisted living facilities, primary care provider teams, hospitals, and/or health systems and which would be updated when appropriate at least annually.

**RECOMMENDATION B:**

THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 103 BE ADOPTED.
The Reference Committee adopted this resolution with amended language. They want the proposed database to be updated “at least annually,” as opposed to “when appropriate” as “when appropriate” was seen as too vague.

5. **RESOLUTION 104: - RETIREMENT OF PHYSICIAN LICENSE**

Original Resolution 104 Reads as Follows:

**RESOLVED, that the Medical Society of the State of New York with renewed urgency seek legislation, regulation and/or procedures permitting the non-disciplinary retirement or emeritus status of a physician license without declaration of permanent incapacity as long as the physician is not under investigation.**

**RECOMMENDATION A:**

**THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 104:**

*The Medical Society of the State of New York (MSSNY) will seek legislation which provides non-disciplinary retirement of a physician license or emeritus status of a physician license without declaration of permanent incapacity provided that the physician has no pending disciplinary matters.*

**RECOMMENDATION B:**

**THE REFERENCE COMMITTEE RECOMMENDS THAT EXISTING MSSNY POLICY 160.968 BE ADOPTED AS AMENDED.**

The Reference Committee agreed to not adopt Resolution 104 and instead amend existing MSSNY policy 160.968, which addresses the same issue as Resolution 104.

6. **RESOLUTION 105 - HOSPITAL DISCHARGE SUMMARIES**

Original Resolution 105 Reads as Follows:

**RESOLVED, that the Medical Society of The State of New York (MSSNY), in partnership with the American Medical Association (AMA) work with the appropriate agencies or institutions to ensure that all emergency departments and inpatient facilities, seek permission of the patient or the patient’s Health Care Provider (HCP), to share with the patient’s primary care provider (PCP) and/or their primary specialist, hospital discharge summaries; and be it further**

**RESOLVED, that MSSNY, in partnership with the AMA work with the appropriate agencies or institutions to ensure that hospitals, with the proper permission, share these summaries either via Regional Health Information Organization (RHIO) or any other convenient method to the primary care provider (PCP) and/or their primary specialist at the time of discharge.**

**RECOMMENDATION A:**

**THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 105:**

**RESOLVED, That the Medical Society of the State of New York support and seek legislation or regulation of an opt-out policy where patients must explicitly request in**
writing for records not to be shared, encouraging seamless sharing of personal health information among all New York State clinicians.

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE TITLE OF RESOLUTION 105 BE AMENDED AS FOLLOWS: Health Record Sharing

RECOMMENDATION C:
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 105 BE ADOPTED.

The Reference Committee adopted the proposed resolve. They also changed the title of the resolution from "Hospital Discharge Summaries" to "Transition of Care Summaries" as they believed that the opt-out policy should apply to all care providers, not just hospitals.

Multiple inpatient admissions have been identified as having a negative impact on patient morbidity and healthcare costs, and hospital readmissions within 30 days of discharge occur frequently enough to further impact patient morbidity and add to healthcare costs.

Hospital readmission and frequent emergency room visits have been identified as quality improvement measures, and transition of care appointments (TOC) have been identified as a means to reduce hospital readmissions.

The interaction between the care team and the patient is valued during a TOC visit including discussion to changes in medication and adherence, with review of side effects and reasons for non-adherence.

There is a push for TOC appointments to occur within seven days of hospital discharge to minimize hospital readmissions, and TOC care teams as part of PCMH have been put in place to call patients within three days of hospital discharge to review medication changes and adherence.

A lack of discharge summaries at the time of a TOC appointment or call drastically decreases the effectiveness of the TOC appointment and call and often negates efforts to reduce hospital readmissions. Additionally lack of patient consent for release of medical records creates a roadblock to timely access to inpatient discharge summaries.

7. RESOLUTION 108 – REMOVING BARRIERS TO STARTING A MEDICAL PRACTICE IN NEW YORK

Original Resolution 108 Reads as Follows:
RESOLVED, That MSSNY support legislation to eliminate the discriminatory, redundant, outdated, unnecessary Professional Limited Liability Company (PLLC) legal notice publication requirements, which are financial barriers and administrative burdens to physicians opening medical practices.
RECOMMENDATION A:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 108:
RESOLVED, that MSSNY support legislation to eliminate the requirements for printed public legal notice for the formation of limited liability companies in New York State.

RECOMMENDATION B:
THAT THE TITLE OF RESOLUTION 108 BE AMENDED AS FOLLOWS:
Removal of Print Publication Requirements in the Formation of Corporate Entities

RECOMMENDATION C:
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 108 BE ADOPTED.
The Reference Committee adopted this resolution, with amended language, because they believe that paying for legal notices in print publications is a waste of money.
The title of the resolution has been changed from "Removing Barriers to Starting a Medical Practice in New York" to Removal of Print Publication Requirements in the Formation of Corporate Entities to provide greater clarity on what the resolution does.

8. RESOLUTION 109 – COLLECTIVE BARGAINING BY PHYSICIANS
Original Resolution 109 Reads as Follows:
RESOLVED That all prior resolutions relevant to the subject matter be resurrected and summarized as pertains to the matter and having successfully achieved these ends, let it be further,
RESOLVED That we seek to incorporate both the constructs and principles with which to forge bylaws and the pathway in order to form and finally launch, a Physicians Collective Body (UNION); solely for our benefit as physicians.

RECOMMENDATION A:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 109:
RESOLVED That MSSNY advocate for legislation that will end prohibitions which limit independent physicians from forming collective bargaining entities (unions).

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 109 BE ADOPTED.
The Reference Committee adopted this resolution with amended language. The two resolves were condensed into one for the sake of clarity and simplicity.
This resolution has been discussed almost ad nauseam in the HOD in the past, and despite this
has yet to lead to any meaningful change. Insurers continue to reap huge profits at physicians’
expense, continually lower payments or place onerous obstacles in our paths.

The few Independent Physician Associations (IPA) formed unions have had various levels of
success, yet still further subdivide the physician communities with the brunt of benefits often
hoarded at the top level by executives and heads of these very same entities.

9. **RESOLUTION 110 – TELE-VISITS & TELEPHONE CONSULTS**

Original Resolution 110 Reads as Follows:

RESOLVED, that MSSNY will help to seek equal payments for tele-visits and telephone
consults.

RESOLVED, that the Medical Society of the State of New York seek legislation and/or
regulation to permanently establish equal payments for all telemedicine visits including both
video visits as well as telephone visits on par with payments for in person visits in the context of
an established continuous relationship with a clinician.

**RECOMMENDATION A:**

THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE
AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 110:

RESOLVED, that the Medical Society of the State of NY (MSSNY) seek legislation and/or
regulation to permanently establish equal payments for all patient encounters and
communications, including but not limited to audio and visual visits, on par with
payments for in person visits in the context of an established continuous relationship
with a physician.

**RECOMMENDATION B:**

THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 110 BE
ADOPTED.

COVID brought certain changes to the landscape of practicing medicine, with tele-visits and
telephone calls now a crucial part of ongoing patient care and management.

Physician practices have suffered significant financial loss with the increase in work burden and
the lack of adequate reimbursements for all services regardless of modality.

Payment to physicians for care that is provided via telehealth that is on par with in-office visits is
fair and will enable physicians to provide the most comprehensive care to their patients.

10. **RESOLUTION 111 – CASE MANAGEMENT & SOCIAL WORKERS**

Original Resolution 111 Reads as Follows:

RESOLVED, That the New York State Insurance Commission requires that the Advance Care
Plans have both Care Management and Social Worker services for every patient enrolled under
their insurance.
RECOMMENDATION A:
The Reference Committee recommends that the following substitute amendment be accepted instead of original Resolution 111:

Resolved, that the New York State Insurance Commission require that the Advance Care Plans directly provide and reimburse physicians for the administration of care management and social work services.

RECOMMENDATION B:
The Reference Committee recommends that substitute Resolution 111 be adopted.

Health insurers use Diagnosis-Related Groups (DRG) formulas to increase the severity of the patient illness, capitalizing on reimbursements.

The severity of disease has increased while the life expectancy, in many instances due to COVID, has decreased.

As the medical consequences of having contracted COVID start to reveal themselves, patients will significantly need greater coordination of care and physicians will see increases in non-clinical work.

11. RESOLUTION 101 – CREATION OF A NEW YORK STATE INDEPENDENT MEDICAL PRACTICE TASKFORCE

Original Resolution 101 Reads as follows:

Resolved, that MSSNY will advocate with the New York State government to create a task force to help maintain the sustainability of independent medical practices in the State of New York.

RECOMMENDATION:
The Reference Committee recommends that Resolution 101 not be adopted.

The Reference Committee chose not to adopt this resolution as they feared that creating a task force would lead to more red tape and greater overreach. They also expressed concern that a state task force might decide that independent medical practices are not sustainable and move to shut them down.

12. RESOLUTION 106 – DIRECT CONTRACTING ENTITIES (DCES) OR SIMILAR PROGRAMS FOR MEDICARE PLANS

Original Resolution 106 Reads As follows:

Resolved, MSSNY oppose any further action by Centers for Medicare and Medicaid Services (CMS) allowing Direct Contracting Entities (DCEs) or similar programs to take over traditional Medicare; and be it further

Resolved, MSSNY encourage the AMA to lobby the US Congress to stop Direct Contracting Entities (DCEs) or similar programs.
RECOMMENDATION:
THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 106 NOT BE ADOPTED.

The Reference Committee did not adopt this resolution because its language did not match its intent and felt it was outside of MSSNY’s scope of expertise.

13. RESOLUTION 107 – SAFETY PROBLEMS IN THE NEW YORK CITY SUBWAY SYSTEM

Original Resolution 107 Reads as Follows:
RESOLVED, That the Medical Society of the State of New York urge Governor Kathy Hochul and the New York State legislature to work closely with New York City Mayor Eric Adams to combat thefts, violence and other safety problems in the New York City subway system, and to decrease the number of homeless people in the system.

RECOMMENDATION:
THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 107 NOT BE ADOPTED.

The Reference Committee did not adopt this resolution because Governor Hochul and Mayor Adams already have a plan that addresses safety problems in the New York City subway system. (Subway Safety Plan, released by NYC Mayor Eric Adams on February 18, 2022.) Furthermore, the inclusion of “homelessness” in the resolution was a source of controversy, and it generated many comments in opposition to the resolution.
Your Chairperson is grateful to the committee members, namely Joseph Arguelles, MD, James Docherty, DO, Lisa Eng, MD, Nabil Kiridly, MD, and Mark Milstein, MD.

Your Reference Committee Chair also wishes to express his appreciation to Zina Cary and Michael Bartlett for their help in preparation of this report.

Respectfully submitted,

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