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 Sunset Report for Public Health and Education

**RECOMMENDED FOR REAFFIRMATION**
2. Resolution 161 - Updating the New York State Childhood Vaccination Schedule

**RECOMMENDED FOR ADOPTION**
3. Resolution 152 - Medical School Compliance with the American with Disabilities Act

**RECOMMENDED FOR ADOPTION AS AMENDED**
4. Resolution 150 - Osteoporosis Awareness Education and Treatment
5. Resolution 151 - Increased Credit for CME Preparation
6. Resolution 153 - Improved Payment for and Prioritization of Mental Health Services
7. Resolution 154 - Patient Empowerment Initiative
8. Resolution 155 - Let the Medical Community Lead the Response
9. Resolution 156 - Insuring Rapid Turn Around Time for Nucleic Acid Amplification Tests (NAAT's)
10. Resolution 157 - Allocation of COVID-10 Therapeutics in Times of Shortages
11. Resolution 160 - Requirements for COVID-19 Vaccinations in NYS Public Schools
12. Resolution 162 - Updating the New York State Vaccination Requirements for College and University Students
13. Resolution 163 - Minors Consent to Treatment

**RECOMMENDED FOR REFERRAL TO COUNCIL**

**RECOMMENDED NOT FOR ADOPTION**
15. Resolution 158 - Prescribing Therapeutics in Times of Limited Supplies
16. Resolution 159 - Lower Premiums Higher Premiums
1. **POLICY SUNSET REPORT**

THE REFERENCE COMMITTEE RECOMMENDS THAT THE 2022 SUNSET REVIEW REPORT FOR PUBLIC HEALTH AND EDUCATION BE ADOPTED.

The 2022 Sunset Report contains policies that are ten years old and these policies were reviewed by MSSNY’s Public Health and Education Committees. Your Reference Committee recommends that the reported be adopted.

2. **RESOLUTION 161 - Updating the New York State Childhood Vaccination Schedule**

Original Resolution 161 reads as follows:

RESOLVED, That the Medical Society of the State of New York support the addition of vaccination against COVID-19 to section 2164 of New York State Public Health Law, if a vaccine is fully authorized by the U.S. Food and Drug Administration for use in school age children.

RECOMMENDATION A:
THE REFERENCE COMMITTEE RECOMMENDS THE FOLLOWING REAFFIRMATION OF MSSNY POLICY INSTEAD OF RESOLUTION 161.

260.884 Mandatory COVID Vaccination and Masking
The Medical Society of the State of New York strongly advocates for mandatory COVID-19 vaccination among all healthcare workers and support staff who regularly interface with the public. MSSNY strongly advocates for mandatory COVID-19 vaccination among all school-aged children once the Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA) confirm the safety and efficacy of the COVID-19 vaccines in the pediatric population. For the duration of the COVID-19 pandemic and based upon the recommendations of the CDC and/or the New York State Department of Health, the Medical Society of the State of New York strongly advocates for mandatory facial masking among all healthcare workers and support staff who regularly interface with the public, as well as all students, teachers, and administrative and support personnel in all primary, secondary, and postsecondary educational facilities in New York State. (Adopted by Council 9/23/21)

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS REAFFIRMATION OF MSSNY POLICY 260.884.

In September 2021, the Medical Society of State of New York’s Infectious Disease Committee and its Emergency Preparedness and Terrorism Response Committee put forth a resolution to the MSSNY Council regarding vaccination requirements for school age children and mask wearing. The MSSNY Council voted to approve this policy which reads as follows:

3. **RESOLUTION 152 - Medical School Compliance with the Americans with Disabilities Act**

Original Resolution 152 reads as follows:

RESOLVED, that our MSSNY will advocate for medical schools to have and make available on their websites information regarding reasonable accommodations for students with disabilities; and, be it further
RESOLVED, that MSSNY urge medical schools to develop specific plans to recruit, enroll, support, and retain qualified students with disabilities.

RECOMMENDATION:
THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 152 BE ADOPTED.

Your Reference Committee heard from student and physician delegates in support of this resolution. Your Reference Committee agrees that it is important to provide information regarding reasonable accommodations and believes that medical schools should actively recruit individuals with disabilities and believes that doing so will only enhance and increase the pool of physicians that represent all aspects of society.

4. RESOLUTION 150 - Osteoporosis Awareness Education and Treatment

Original Resolution 150 reads as follows
RESOLVED; That MSSNY acknowledges that Osteoporosis is a common major health care problem that is under evaluated and undertreated in NY state, and be it further
RESOLVED: That MSSNY shall advocate for increased funding including potential grants to raise awareness of patients and healthcare professionals of the importance of screening and treating of Osteoporosis, and be it further
RESOLVED: That MSSNY shall advocate through its delegation to the AMA that the AMA advocate for additional attention and funding at the Federal level to make increased educational resources regarding Osteoporosis screening and treatment available to patients and healthcare professionals.

RECOMMENDATION A:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENTS BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 150:
RESOLVED, That the Medical Society of the State of New York reaffirm MSSNY Policy 260.957; and be it further
RESOLVED, That MSSNY support increased New York State funding to raise awareness for patients and healthcare professionals of the importance of screening for and treating Osteoporosis.

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 150 BE ADOPTED.

Your Reference Committee heard comments in support of this resolution. Your Reference Committee also learned that MSSNY has existing policy (MSSNY Policy 260.957) that discusses early detection and prevention and encourages that physicians and NYS residents be educated about osteoporosis. Your Reference Committee also notes that a review of AMA policy indicates that there are various position statements in support of funding for educational resources and that there is existing policy that covers this at the AMA level. In addition, there are already numerous educational programs on the AMA Education Hub that negate the need to send this resolution to the AMA. Your Reference Committee therefore offers up this substitute amendment to reflect MSSNY existing policy and to clarify that it is New York State funding that should be increased.
(MSSNY Policy 260.957  **Bone Density Tests and Osteoporosis**: The Medical Society of the State of New York believes early detection and prevention; diagnosis and treatment can effectively combat osteoporosis. The Medical Society is committed to educating physicians and New York State residents about this disease. The Medical Society will support legislation or regulation that will ensure that women and men are able to receive insurance coverage for bone density tests and for the hormone and other therapies that are recommended by physicians. (White Paper on Women’s Health Initiatives, Council 11/2/00; Reaffirmed HOD 2002-162; Modified and Reaffirmed HOD 2013).

5. **RESOLUTION 151 - Increased Credit for CME Preparation**

Original Resolution 151 reads as follows:

RESOLVED, That the Medical Society of the State of New York urge the American Medical Association to collaborate with the Accreditation Council on Continuing Medical Education (CME), to allow physicians to claim an amount of Category 1 CME credits that more accurately reflects the hours they spend on preparing and presenting CME programs for their physician colleagues.

**RECOMMENDATION A:**
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF RESOLUTION 151

RESOLVED, That the Medical Society of the State of New York urge the American Medical Association to collaborate with the Accreditation Council on Continuing Medical Education (CME), to allow physicians to claim an amount of Category 1 CME credits that more accurately reflects the hours they spend on preparing and presenting CME programs for their physician colleagues to a maximum of four (4) Category 1 CME hours.

**RECOMMENDATION B:**
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 151 BE ADOPTED.

Your Reference Committee heard comments in support of this measure and agrees with the sponsor that the AMA should be advocating for additional credit hours for faculty that spend time preparing and presenting CME programs. However, there were members of the MSSNY Committee on Education who indicated concerns with an unlimited version of this, especially when it came to accountability for the physician and for MSSNY. They put forth this amendment, and your Reference Committee agreed that this was a good compromise and could serve as a starting point for a conversation with the AMA and ACCME.

6. **RESOLUTION 153 - Improved Payment for and Prioritization of Mental Health Services**

Original Resolution 153 reads as follows:

RESOLVED, that the Medical Society of the State of New York (MSSNY) seek legislation or regulation to improve the access to mental health and addiction services in New York State by increasing payments to providers by private insurers and Medicaid, including primary care clinicians such as internal medicine, family medicine, pediatrics, obstetrics and gynecology, and be it further
RESOLVED, that MSSNY immediately work with the New York Legislature, the Governor’s Office, and New York State Department of Health to make access to mental health services a major public health priority.

RECOMMENDATION A:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF THE FIRST RESOLVED CLAUSE OF RESOLUTION 153

RESOLVED, that the Medical Society of the State of New York (MSSNY) seek support legislation or regulation to improve the access to mental health and addiction services in New York State by increasing payments to providers by private insurers and Medicaid, including primary care clinicians such as internal medicine, family medicine, pediatrics, obstetrics, and gynecology, and be it further

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF THE SECOND RESOLVED CLAUSE OF RESOLUTION 153:

RESOLVED, that MSSNY immediately work continue its advocacy efforts with the New York Legislature, the Governor’s Office, and New York State Department of Health Office of Mental Health to make access to mental health services a major public health priority.

RECOMMENDATION C:
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 153 BE ADOPTED.

Your Reference Committee heard significant support for this resolution and agrees with the intent of the resolution. Your Reference Committee made some minor changes to the resolution to recognize several of the bills already in the New York State Legislature. Your Reference Committee also corrected the second resolve to the appropriate state agency and to also recognize the current work that MSSNY Governmental Affairs Division has already done and continues to do on helping to create access to mental health services throughout New York State. Your Reference Committee also heard from several physicians that there have been programs that have allowed for enhanced services under the state’s Delivery System Reform Incentive Payment (DSRIP) program. DSRIP was the main mechanism by which New York State implemented the Medicaid Redesign Team (MRT) Waiver Amendment. DSRIP’s purpose was to fundamentally restructure the health care delivery system by reinvesting in the Medicaid program, with the primary goal of reducing avoidable hospital use by 25% over 5 years. Up to $6.42 billion dollars was allocated to this program with payouts based upon achieving predefined results in system transformation, clinical management, and population health. The DSRIP Program has ended as of March 31, 2020. Physicians testified that programs such as these were important and that MSSNY should continue to advocate for similar programs.

7. RESOLUTION 154 - Patient Empowerment Initiative

Original Resolution 154 reads as follows:

RESOLVED, that the Medical Society of the State of New York seek immediate legislation or regulation to develop a Patient Empowerment Initiative to help eliminate disparities in health outcomes including higher morbidity and mortality from many diseases such as COVID-19, heart disease, cancers, and lung disease with a pilot project in Bronx County.
RECOMMENDATION A:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 154:

RESOLVED, that the Medical Society of the State of New York support pilot projects in Bronx County, or other counties with historically poor health outcomes, for Patient Empowerment Initiatives with the objective to help eliminate disparities in health outcomes including higher morbidity and mortality from many diseases such as COVID-19, heart disease, cancers, lung disease, and maternal/infant mortality; and be it further resolved, that the Patient Empowerment Initiative include the creation of patient education and consent materials directed towards people with limited health literacy, including but not limited to individuals with low English or non-English proficiency, as well as people who may have vision, hearing, or other disabilities.

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 154 BE ADOPTED.

Your Reference Committee heard passionate testimony about the need to empower patients, most particularly in Bronx County. The sponsor of this resolution did offer alternative language to make such a project a pilot project. Your Reference Committee, however, also learned that the NYS Prevention Agenda 2019-2024 is New York State's health improvement plan, the blueprint for state and local action to improve the health and well-being of all New Yorkers. This plan promotes health equity in all populations who experience disparities and was developed in partnership with over 100 organizations throughout the state. MSSNY and its physicians assisted the State in the development of the plan, and it is updated by the NY State Public Health and Planning Council at the request of the Department of Health. Funding through the state budget has been allocated for the plan at the state and local level. Each county picks its priority measures and works within the community to resolve them. Your Reference Committee also heard and noted that the original resolution was broad in scope and did not explain fully what was meant by “Patient Empowerment Initiative.” The alternative language, submitted by the sponsors, has been considered by the Reference Committee. However, the Reference Committee decided to further change the amendment to better clarify what a Patient Empowerment Initiative is and articulated that these programs should occur in Bronx County and other counties with historically poor health outcomes. Your Reference Committee notes that Bronx County is listed 62 in relation to outcomes and does believe that it could possibly benefit from such a program. However, this initiative must first win support from local officials, and the New York City Department of Health and Mental Hygiene before it can move forward in the New York State Legislature. Your Reference Committee agrees that involvement of the Bronx County Medical Society and the physicians is critical to this venture. Also determining whether some of these items are being captured within the NYS Prevention Agenda 2019-2024 is an important concept that will need research and involvement of the New York City Health Department. Another key is the groups/organizations that are already committed to improving health outcome in the Bronx is essential. Hospital organizations are also essential to this effort and already programs addressing health inequities. Therefore, your Reference Committee believes the substitute amendment should be accepted.
8. **RESOLUTION 155 - Let The Medical Community Lead The Response**

Original Resolution 155 reads as follows:

RESOLVED, that MSSNY advocate for a nonpartisan medical and healthcare consensus committee appointed by the State Health Commissioner and not elected officials, that could be recruited and appointed to evaluate and provide medical recommendations in order to provide the highest level of intellect and integrity to address medical and health care catastrophic events; and be it further

RESOLVED, that this resolution be transmitted to the AMA.

**RECOMMENDATION A:**

**THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 155:**

RESOLVED, That the Medical Society of the State of New York support the position that, in times of a public health crisis, the State Health Commissioner should seek input from community-based physicians to implement a scientific and medical response to the crisis.

**RECOMMENDATION B:**

**THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 155 BE ADOPTED.**

Your Reference Committee heard from the sponsor of this resolution and agrees with the intent. Throughout the pandemic, MSSNY and the AMA have both strongly advocated that elected officials should call upon physicians and the medical community to assist in addressing the needs and concerns of the community. Your Reference Committee only heard from the sponsor of this resolution during the public hearing. However, after hearing their oral testimony your Reference Committee thought the substitute amendment better reflected the intent of the sponsor.

9. **RESOLUTION 156 - Ensuring Rapid Turnaround Time For Nucleic Acid Amplification Tests (NAAT’s)**

Original Resolution 156 reads as follows:

RESOLVED, That the Medical Society of the State of New York (MSSNY) create a policy pertaining to the necessity of a turnaround time of no more than 24 hours for Nucleic Acid Amplification Tests (NAAT’s) originating from nursing homes; and be it further

RESOLVED, That MSSNY adopt as its policy position that nursing homes receive prioritization in the allocation of Nucleic Acid Amplification Tests (NAAT’s) testing materials; and be it further

RESOLVED, That MSSNY will work with the NYS and NYC Departments of Health to assure that Nucleic Acid Amplification Tests (NAAT’s) originating from nursing homes are resulted within 24 hours of their receipt by the certified laboratory; and be it further

RESOLVED, That MSSNY will develop a resolution based on this policy to propose to the AMA House of Delegates.

**RECOMMENDATION A:**

**THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE**
AMENDMENT BE ACCEPTED INSTEAD OF THE FIRST RESOLVED CLAUSE OF RESOLUTION 156:

RESOLVED, That the Medical Society of the State of New York (MSSNY) create a policy pertaining to support the necessity of a turnaround time of no more than 24 hours for Nucleic Acid Amplification Tests (NAAT’s) originating from nursing homes; and be it further

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF THE SECOND RESOLVED CLAUSE OF RESOLUTION 156:

RESOLVED, That MSSNY adopt as its policy position that advocate that nursing homes receive high prioritization in the allocation of Nucleic Acid Amplification Tests (NAAT’s) testing materials; and be it further

RECOMMENDATION C:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF THE THIRD RESOLVED CLAUSE OF RESOLUTION 156:

RESOLVED, That MSSNY will work with advocate to the NYS and NYC Departments of Health to assure that Nucleic Acid Amplification Tests (NAAT’s) originating from nursing homes should be resulted within 24 hours of their receipt by the certified laboratory; and be it further

RECOMMENDATION D:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOURTH RESOLVE CLAUSE OF RESOLUTION 156 BE DELETED:

RESOLVED, That MSSNY will develop a resolution based on this policy to propose to the AMA House of Delegates.

RECOMMENDATION E:
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 156 BE ADOPTED.

Your Reference Committee heard testimony from delegates who supported this resolution and from delegates who felt that its language was too prescriptive. Your Reference Committee also notes that the comments rendered talked about the incidence and rapid spread of COVID-19 within nursing homes. Your Reference Committee amended the resolution slightly to ensure that nursing homes receive a high prioritization in getting the NAAT test results. Your Reference Committee believes that each state and its laboratories determine, through state regulation and/or law, how test results are provided back to the entity, and agreed that this resolution should not be sent to the AMA due to this. There was also a written comment that this type of turnaround for results could be expensive and the costs of the turnaround would probably be borne by the nursing home.

10. RESOLUTION 157 - Allocation of COVID-19 Therapeutics in Times Of Shortages

Original Resolution 157 reads as follows:
RESOLVED, That the Medical Society of the State of New York (MSSNY) create a policy pertaining to the allocation of COVID-19 therapeutics in times of limited supply; and be it further
RESOLVED, That MSSNY adopt as its policy position that nursing homes receive prioritization in the allocation of COVID-19 therapeutics; and be it further

RESOLVED, That MSSNY will work with the NYS and NYC Departments of Health to assure that nursing homes are prioritized in the allocation of COVID-19 therapeutics; and be it further

RESOLVED, That MSSNY will develop a resolution based on this policy to propose to the AMA House of Delegates

RECOMMENDATION A:
The Reference Committee recommends that the first resolved clause of Resolution 157 be deleted:

RESOLVED, That the Medical Society of the State of New York (MSSNY) create a policy pertaining to the allocation of COVID-19 therapeutics in times of limited supply; and be it further

RECOMMENDATION B:
The Reference Committee recommends that the following substitute amendment be accepted instead of the second resolved clause of Resolution 157:

RESOLVED, That MSSNY adopt as its policy position support high prioritization of nursing homes in the allocation of COVID-19 therapeutics; and be it further

RECOMMENDATION C:
The Reference Committee recommends that third resolved clause of Resolution 157 be deleted:

RESOLVED, That MSSNY will work with the NYS and NYC Departments of Health to assure that nursing homes are prioritized in the allocation of COVID-19 therapeutics; and be it further

RECOMMENDATION D:
The Reference Committee recommends that the fourth resolved clause of Resolution 157 be deleted:

RESOLVED, That MSSNY will develop a resolution based on this policy to propose to the AMA House of Delegates

RECOMMENDATION E:
The Reference Committee recommends that substitute Resolution 157 be adopted.

Your Reference Committee did hear from the sponsor of this resolution, but there was also testimony that at various times throughout the pandemic there were different needs for nursing homes, hospitals, and urgent care centers. Your Reference Committee agreed that there is a need for nursing homes to be a high priority to receive therapeutics and therefore amended the second resolve to articulate this. Your Reference Committee did not agree that it was incumbent upon MSSNY to create a policy for allocation for therapeutics, as the state and federal government sets those policies especially during pandemic times. Your Reference Committee also finds a resolution to the AMA is unnecessary at this time.
11. RESOLUTION 160 - Requirements for COVID-19 Vaccination at NYS Public Schools

Original Resolution 160 reads as follows:

RESOLVED that the Medical Society of the State of New York (MSSNY) supports legislative action for a COVID-19 vaccine requirement for public school attendance for children age 5 years and older in NY State, once the FDA grants “full approval” (not just emergency or emergency use authorization (EUA) for COVID-19 vaccination for this age group, and be it further

RESOLVED, the MSSNY delegates to the American Medical Association (AMA) introduce a resolution seeking legislation to develop a policy supporting a nationwide COVID-19 vaccine requirement for school attendance for children, once the FDA grants “full approval” (not just emergency or emergency use authorization (EUA) for COVID-19 vaccination.

RECOMMENDATION A:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 160:

RESOLVED, That New York State Delegation to the American Medical Association introduce a resolution at the AMA encouraging states to make COVID-19 vaccination a requirement for school attendance for children and college/university students once the FDA grants full approval for COVID-19 vaccination for all relevant age groups.

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 160 BE ADOPTED.

Your Reference Committee heard strong testimony in support of the resolution and a small number of testifiers expressing concerns. Your Reference Committee also learned that MSSNY already has existing policy (260.884 Mandatory COVID Vaccination and Masking) that addresses the first resolve. Your Reference Committee offers the substitute amendment to ensure that such a request cover not only school age children but also college age students.

(MSSNY Policy 260.884 Mandatory COVID Vaccination and Masking) The Medical Society of the State of New York strongly advocates for mandatory COVID-19 vaccination among all healthcare workers and support staff who regularly interface with the public. MSSNY strongly advocates for mandatory COVID-19 vaccination among all school-aged children once the Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA) confirm the safety and efficacy of the COVID-19 vaccines in the pediatric population. For the duration of the COVID-19 pandemic and based upon the recommendations of the CDC and/or the New York State Department of Health, the Medical Society of the State of New York strongly advocates for mandatory facial masking among all healthcare workers and support staff who regularly interface with the public, as well as all students, teachers, and administrative and support personnel in all primary, secondary, and postsecondary educational facilities in New York State. (Adopted by Council 9/23/21)

12. RESOLUTION 162 - Updating the New York State Vaccination Requirements for College and University Students

Original Resolution 162 reads as follows:

RESOLVED, That the Medical Society of the State of New York support the addition of vaccination against COVID-19 to section 2165 of New York State Public Health Law.

RECOMMENDATION A:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE FOLLOWING SUBSTITUTE AMENDMENT BE ACCEPTED INSTEAD OF ORIGINAL RESOLUTION 162:

RESOLVED, That the Medical Society of the State of New York support a COVID-19 vaccine requirement for students attending colleges and universities in New York State.

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS THAT SUBSTITUTE RESOLUTION 162 BE ADOPTED.

Your Reference Committee heard support for this resolution. Your Reference Committee learned that MSSNY does not have policy regarding college age students and vaccination for COVID-19. Your Reference Committee in combing the resolutions also deleted the specific reference to the New York State Public Health Law as it is always possible that this section of law could be rewritten and revised to not reflect the intent of the policy. To maintain the section of law, one would always have to look it up to see what the policy means. Therefore, your Reference Committee is offering the substitute amendment to clarify the intent of the resolution.

13. RESOLUTION 163 - Minors Consent to Treatment

Original Resolution 163 reads as follows:
RESOLVED, that the Medical Society of the State of New York seek legislation to allow all adolescents aged 12 or older to independently consent to any FDA approved vaccination without parental or guardian consent.

RECOMMENDATION A:
THE REFERENCE COMMITTEE RECOMMENDS THAT THE TITLE OF RESOLUTION 162 BE CHANGED TO READ AS FOLLOWS:

Minors Consent to Vaccination

RECOMMENDATION B:
THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 162 BE ADOPTED WITH THE TITLE CHANGE.

This resolution was sponsored by MSSNY Committee on Infectious Disease and there was strong support for this during the hearing. Your Reference Committee also received one written comment opposing this resolution. There was a suggestion made to change the title of the resolution for greater clarity, with which the Reference Committee agreed.

14. RESOLUTION 164 - Breast Cancer Screening/Clinical Breast Exam Coverage

Original resolution 164 reads as follows:
RESOLVED, that the Medical Society of the State of New York (MSSNY) adopt a policy and position that supports clinical breast exams for female and at-risk male Medicare patients at their Annual Wellness Visit (AWV) and Subsequent Annual Wellness Visit (SAWV) appointments and this exam be a covered procedure that is payable to the clinician by Centers for Medicare and Medicaid Services

RECOMMENDATION:
THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 164 BE REFERRED TO COUNCIL.

There was testimony in support and opposition to this resolution. Your Reference Committee also learned through testimony that a clinical breast exam is given a C rating by the US Preventive Service Task Force. Due to the information received at the hearing, your Reference Committee believes that this resolution should be referred to the MSSNY Council so that additional information can be obtained by the MSSNY Heart, Lung Cancer Committee. This committee reviews many prevention examinations and could review this matter for the house and the MSSNY Council.

15. RESOLUTION 158 - Prescribing Therapeutics in Times of Limited Supplies

Original Resolution 158 reads as follows:
RESOLVED, That the Medical Society of the State of New York (MSSNY) create a policy pertaining to the prioritization of therapeutics in times of limited supply; and be it further
RESOLVED, That MSSNY adopt as its policy position that clinicians should prescribe therapeutics in times of scarce supply based solely on established clinical risk factors.; and be it further
RESOLVED, That MSSNY adopt as its policy position that prescribers should, if forced to ration therapeutics in times of scarce supply, utilize a methodology such as a lottery or other chance-based process when patients have otherwise equal clinical risk factors for disease progression.

RECOMMENDATION:
THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 158 NOT BE ADOPTED.

Your Reference Committee heard support from the sponsor of this resolution, but most of the testimony was opposed. Many thought that this resolution was unnecessary and too prescriptive. Your Reference Committee also learned MSSNY supported two Amicus Briefs in relation to the NYS DOH guidance upon a recommendation of its Infectious Disease Committee. These complaints were filed by individuals against the NYS DOH and the NYC Department of Health and Mental Health. On March 15th, the Eastern District of New York dismissed the plaintiffs’ complaint, holding that they do not have standing to bring their claims against New York and New York City. The court held that the plaintiffs failed to allege any concrete and particularized injury. According to the court, “Plaintiffs have not explained how nonbinding guidance that directs medical practitioners to consider race and ethnicity as one factor in prescribing the Treatments impacts them in some concrete and particularized manner.” The court also held that the plaintiffs failed to allege an injury that was actual or imminent, failed to show their alleged injury was traceable to the defendants, and failed to show that enjoining the guidance would redress their alleged injury. Although the court didn’t need to reach the merits, as it dismissed the complaint on jurisdictional grounds, the opinion recognizes that medical providers “could be expected to follow” CDC guidance that providers consider a patient's race or ethnicity "and other available scientific and medical research about the nature of race and ethnicity as risk factors." Studies have shown that the black and brown community has been impacted much more severely than other groups. Your Reference Committee did hear testimony that the black and brown community had been adversely impacted by COVID 19. Additionally, your Reference Committee is aware that MSSNY, county medical societies, various medical specialties, New York State Association of County Health Officers, and various county health commissioners along with the state Department of Health and NYC Department of
Health/Mental Hygiene, have been participating in monthly calls about the pandemic and the various supply of COVID vaccine and therapeutics. During these calls, the distribution of therapeutics has been discussed, and the guidance was to be used along with “clinical judgement”. Your Reference Committee also heard that the supply of therapeutics is increasing, and not only to hospitals and nursing homes utilizing them, but community-based physicians are prescribing them. Additionally, the Biden Administration has put into place a “Test and Treat” program whereby pharmacies can provide to patients the therapeutics if they test positive for COVID. As the supply increases, the need for this resolution is mitigated.

16. RESOLUTION 159 - Lower Premiums Higher Premiums

Original Resolution 159 reads as follows:

RESOLVED, The Medical Society of The State of New York (MSSNY) support policy and seek legislation and regulation to enable health and life insurance plans to offer lower premiums/cost of coverage for vaccine eligible individuals who do receive COVID-19 vaccination, as opposed to those who are eligible and decline this vaccine.

RECOMMENDATION:

THE REFERENCE COMMITTEE RECOMMENDS THAT RESOLUTION 159 NOT BE ADOPTED.

Your Reference Committee did hear from the sponsor of this resolution who indicated support, but also heard a suggestion that the Reference Committee seek a legal opinion as this may not be legal in New York State. Your Reference Committee learned that for over 30 years, New York State has employed a community rating system prohibiting health insurers from charging people within a geographic area a higher premium based on their age, gender, health status, or claims history. Therefore, the community-rating system does not permit variations in the premiums based on health status, including prevention methods. To change this law to create a provision for COVID-19 vaccination would set a precedent that could be used in unforeseeable ways to seriously impact health insurance and health care for all patients. Therefore, your Reference Committee is recommending non-adoption.
Your Chairperson is grateful to the committee members, namely Susan Emerson, MD; Charles Lopresto, DO; Michael Osei, Student; Amit Saxena, MD and Stephanie Zeszutek, DO.

Your Reference Committee Chair also wishes to express his appreciation to Pat Clancy, and Maureen Ramirez for their help in preparation of this report.

Respectfully submitted,

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