HOUSE COMMITTEE ON BYLAWS

RESOLUTION 2012-1  LINKING DELEGATION SIZE TO MEMBERSHIP
Introduced by: New York County Medical Society

RESOLVED, That the Bylaws of the Medical Society of the State of New York, Article III, House of Delegates. Section 1. Composition, be amended as followed (insertions underlined, deletions crossed out);

ARTICLE III. HOUSE OF DELEGATES, SECTION 1. COMPOSITION

The number of delegates to which each component county medical society is entitled shall be determined by one of the two following optional methods:

(a) Each component county medical society shall be entitled to as many delegates as there shall be State assembly districts in such county at the time of election, but each county medical society shall be entitled to elect at least 1 delegate;

(b) Any component county medical society which, according to the rolls of the Medical Society of the State of New York two months prior to the annual meeting, shall have had up to 99 members shall be entitled to 1 delegate.

When the one (1) delegate from a component county medical society having a total membership of up to 99 is unable to attend the House of Delegates and be credentialed as a delegate from a specific county medical society, then and in that event, that county medical society shall be entitled to designate one member from another county medical society within its specific district branch to be credentialed as a delegate to the House.

Any component county medical society having 100 to 199 members shall be entitled to 2 delegates. Any component county medical society having 200 to 349 members shall be entitled to 3 delegates. Any component county medical society having 350 to 499 members shall be entitled to 4 delegates. Any component county medical society having 500 to 749 members shall be entitled to 5 delegates. Any component county medical society having 750 to 999 members shall be entitled to 6 delegates. Any component county medical society having 1,000 or more members shall be entitled to at least 7 delegates and 1 additional delegate for each additional 300 members. Each component county medical society shall be entitled to designate at least 1 delegate, but no component county medical society shall be entitled to designate more than 30 delegates; and be it further

RESOLVED, That this change shall be phased in for affected counties, such that if a reduction will occur, it will be phased in over 3 years. (First year 1/3 fewer delegates; second year 2/3 fewer delegates, third year final number.)

The House Committee on Bylaws met by teleconference on Monday, January 7, 2013. The members of the committee were divided.

The House Committee on Bylaws by a vote of 6-5 recommends that Resolution 2012-1 NOT BE ADOPTED.
The 2013 House of Delegates will consider the Report of the House Committee on Bylaws as one of its first items of business.

GOVERNMENTAL AFFAIRS AND LEGAL MATTERS -A

50 Excess Liability Coverage  
*Introduced by Third and Fourth District Branches*  
**NOT ADOPTED**

**RESOLVED,** That the Medical Society of the State of New York seek to have the Excess Medical Liability Program discontinued.

51 Appoint Task Force on Medical Liability Insurance  
*Introduced by Fifth and Sixth District Branch*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED,** That in addition to current advocacy efforts to achieve meaningful liability reform, MSSNY work with the Cuomo administration to develop a Task Force on Medical Liability Reform with significant physician/MSSNY representation.

MSSNY has communicated with multiple members of the Cuomo Administration to request that they again make a strong push for medical liability reform, and have suggested creation of another Task Force as another way to advance the issue.

52 Expert Witness Program For New York State  
*Introduced by Medical Society of the County of Westchester*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED,** That MSSNY work with the NYS Bar Association and the NYS Court System to develop a system to better assure appropriately qualified witnesses to testify in medical liability actions.

MSSNY staff has had multiple communications with staff to the New York State Bar Association about developing a set of criteria to better assure the use of qualified witness in medical liability actions. MSSNY has also had multiple discussions with MLMIC representatives regarding what such criteria could be. These conversations are ongoing.

53 New York State Managed Care Reform Law Violations  
*Introduced by the New York County Medical Society*  
**SUBSTITUTE RESOLUTION ADOPTED**

**RESOLVED,** That the Medical Society of the State of New York work with the Department of Financial Services to promote the availability of its current Consumer Services Bureau and Prompt Payment Hotline (1-800-358-9260) so that physicians have a greater awareness of its existence as well as its key staff who are charged with investigating health plan violations of existing provider protections currently in law; and be it further

**RESOLVED,** That the Medical Society of the State of New York work to assure the imposition of meaningful penalties on health insurance companies that violate provider protections currently in law.
An article on this issue was contained within the February 22, 2013 MSSNY e-news and will be included in the April News of New York

54

Transparency in Out-of-Network Coverage
*Introduced by the The Suffolk County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED**

RESOLVED, That the Medical Society of the State of New York seek legislation, regulation or other appropriate means to require greater transparency for all health insurance policies which provide out-of-network coverage so that consumers and physicians have a thorough knowledge and understanding of:

- Available benefits by the treating physicians and any restrictions on access to these benefits, either in-network or out-of-network;
- Physicians’ ability to review and discuss all available treatment options, out-of-network referrals, non-formulary medications, etc.;
- Methodology of payment and anticipated out-of-pocket expenses, etc.; and be it further

RESOLVED, That such legislation, regulation or other appropriate means assure that health insurance companies selling out-of-network policies not be permitted to change or modify benefits or coverage provisions during the time the policy is in force.

Transparency regarding the coverage details for in-network and out of network benefits has been an important component of MSSNY physician leader and staff advocacy to the staff of New York State’s Health Insurance Exchange.

55

Health Insurance Policies For Small Groups
*Introduced by the Suffolk County Medical Society*

**REFERRED TO COUNCIL**

RESOLVED, In view of health insurance companies moving to eliminate many or all of the health insurance plans being offered to small groups (2-50 employees), while also dramatically reducing the financial incentives for brokers to market their plans, and continuing to raise premiums on small businesses at rates that are making such insurance unaffordable, that the Medical Society of the State of New York urge the Department of Financial Services to require all health insurance companies operating in the State of New York to offer a sufficient number of affordable products to small groups.

A substantially similar resolution was adopted by the MSSNY Council at its November 29, 2012 meeting. MSSNY physician leaders and staff have had several conference calls with staff to the New York Health Insurance Exchange to urge that the Exchange have a sufficient number of health insurance options in every region of New York State, including options that are more affordable for small businesses.

56

Payment For Pre-Authorized Services
*Introduced by the Suffolk County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED**
RESOLVED, That the Medical Society of the State of New York seek legislation, regulation, or other appropriate means to require health insurance companies to certify a patient’s eligibility prior to authorizing the performance of medically necessary services, and be it further

RESOLVED, That once an insurance company has provided such prior authorization and certification, that the authorization is irrevocable for 30 days from the date of the authorization, and the insurer may not seek a refund from the physician after performance of the services due to patient’s lack of coverage at the time of service.

The goals of this resolution have been incorporated into MSSNY’s 2013 Legislative Program as part of MSSNY’s advocacy to address abusive health insurer auditing practices. Moreover, MSSNY has met with Department of Financial Services and Department of Health staff to urge that health insurers offering coverage through the Exchange are required to update their eligibility data on a more frequent basis. Moreover, MSSNY physician leaders met with the New York Health Plan Association to work to address plans failing to more timely update, and employers failing to more timely report, their eligibility data.

What is Concierge Medicine

*Introduced by the New York County Medical Society*

NOT ADOPTED

RESOLVED, That the Medical Society of the State of New York define concierge medicine.

Support For “Concierge” Practices

*Introduced by Saratoga County Medical Society and Queens County Medical Society*

SUBSTITUTE RESOLUTION ADOPTED

RESOLVED, That the Medical Society of the State of New York support the concept that a physician should be free to define a business model to practice medicine in New York that is most appropriate to that physician and his/her patients.

This policy has been incorporated into numerous MSSNY statements about changes to the health care delivery stem, including on the first page of MSSNY’s 2013 Legislative Program.

Support the New York Health Care Freedom Amendment S2362-2011

*Introduced by Queens County Medical Society*

REFERRED TO COUNCIL

RESOLVED, That in order to preserve the rights of both patients and doctors to privately contract for lawful Healthcare services, MSSNY strongly support the Seward Amendment S2362-2011 which would amend article 17 of the NY State Constitution, in relation to preserving the freedom of New Yorkers to provide for their health care; and be it further

RESOLVED, that in order to safeguard these rights for New Yorkers, MSSNY support the New York Health Care Freedom Act (S 7374.)
The MSSNY Council voted to not adopt this resolution its November 29, 2012 meeting.

60 Physicians Should Not Be Penalized For Non-Participation In Government Medicine
*Introduced by the Medical Society of the County of Westchester*

**SUBSTITUTE RESOLUTION ADOPTED**

RESOLVED, That the Medical Society of the State of New York adopt as policy that medical licensure in New York State shall not require participation in Medicare, Medicaid, or any other governmentaly sponsored health insurance program.

MSSNY has been advocating to assure that physicians not be required to participate in government-sponsored health insurance programs, either directly or indirectly. For example, MSSNY has strongly opposed changes to the Excess Medical Liability Insurance Program that would mandate participation in the Medicaid program as a condition of obtaining this coverage. MSSNY has also worked with New York State and the AMA to assure that PPACA requirements for physicians to register with Medicare and Medicaid in order to order or refer services for patients covered by these programs (if they do not want to participate with these programs) are minimally obtrusive.

61 Prevention of Access to Care Crisis—SGR Fix
*Introduced by the Suffolk County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED IN LIEU OF 61, 62, AND 63**

RESOLVED, That the Medical Society of the State of New York re-affirm MSSNY Policy 195.970; and be it further

RESOLVED, That MSSNY continue its efforts to work with the federation of medicine including the American Medical Association to advocate to Congress to assure continued access to quality care for seniors through support for legislation that would repeal the Independent Payment Advisory Board (IPAB).

MSSNY has in numerous communications (in conjunction with the federation of medicine) to Congress, as well as in several meetings with members of the New York Congressional delegation, urged Congress to repeal the Medicare SGR formula, as well as repealing the IPAB.

62 Temporary SGR Fix is an IPAB Opportunity
*Introduced by the Suffolk County Medical Society*

**SEE RESOLUTION 61**

63 SGR Fix is Not Health System Reform
*Introduced by the Suffolk County Medical Society*

**SEE RESOLUTION 61**

64 Prevention of Unintended Consequences of the Physician Payments Sunshine Act (PPSA)
*Introduced by Sandhya Malhotra MD, as an Individual*

**SUBSTITUTE RESOLUTION ADOPTED**
RESOLVED, That the Medical Society of the State of New York reaffirm its support for the current ACCME Standards for CME and Commercial Support; and be it further

RESOLVED, That the Medical Society of the State of New York support the position of the AMA and Alliance for CME, that regulations implementing the Physician Payment Sunshine Act assure that manufacturers not be required to report payments made for a program where the topic, the speakers, and educational materials are independently chosen and have no relationship with a manufacturer which might be supporting the CME activity.

The Physician Payment Sunshine regulations were recently promulgated by CMS. The rule provides that CME that complies with certified or accredited CME standards governing independence from industry is excluded from reporting requirements. The proposed rule had initially required that manufacturer financial grants for any educational activity, even certified and accredited CME, would be reportable.

PCORI Should Focus on Clinical Outcomes Not Cost
*Introduced by Queens County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED**

RESOLVED, That the Medical Society of the State of New York support the American Medical Association to have the Patient Centered Outcomes Research Institute (PCORI) focus its priorities on achieving better clinical health outcomes.

MSSNY staff conveyed the resolution to the key AMA staff charged with monitoring the activities of, and coordinating AMA advocacy to, the PCORI.

GOVERNMENTAL AFFAIRS AND LEGAL MATTERS - B

Neutral Arbitration Process for Physician/Hospital Disputes
*Introduced by Nassau County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED**

RESOLVED, That MSSNY work to develop and identify resources that may assist physicians and their hospital medical staff to review, and where appropriate, to seek revisions or modifications to the medical staff bylaws in order to enhance the ability of the medical staff to organize and carry out its responsibility for the quality of care in the hospital and to enhance due process protections to members of the medical staff.

Joint Commission accreditation standards require the development of a conflict management process to settle disputes between the organized medical staff and the governing body. With that, the AMA offers a model conflict management process that provides guidance for the development of such a process, as well as a process for resolving disputes between the medical executive committee and other members of the medical staff.

Also, On Feb. 4, CMS published a proposed rule [CMS-3267-P] that included a number of proposals regarding hospital medical staffs. Pursuant to AMA advocacy, including a letter from 81 state medical societies and national specialty societies, CMS is proposing to codify a requirement that each individual hospital must have an organized and individual medical staff. This proposal comes on the heels of significant AMA engagement with
senior CMS staff and in the formal regulatory process, and in spite of other stakeholders’ urging that CMS allow a multi-hospital system to have a single medical staff. CMS also made a number of other proposals, including one that would require hospital governing bodies to directly consult with the individual responsible for the medical staff, which was made in lieu of a prior requirement that a medical staff member sit on the governing body. The rule also contains a number of proposed physician supervision or presence modifications in various settings. The AMA will submit comments and continue its advocacy on the issues addressed in CMS’ proposal.

Staff notes that in all matters concerning a physician’s relationship with hospitals, Kern Augustine offers sound, experienced advice, including representation before hospital committees in disciplinary actions, staff privileges disputes, exclusive service agreements and issues involving competition with hospitals.

101 Barring Restrictive Covenants
*Introduced by New York County Medical Society*
**REFERRED TO COUNCIL**

102 E-Prescribing of Class III-Narcotics and Other Controlled Substances
*Introduced by Nassau County Medical Society*
**ADOPTED AS AMENDED**

RESOLVED, That MSSNY urge the New York State Department of Health proactively work with all appropriate authorities on the state and federal level to make it possible for physicians to e-prescribe all medications including Class-III narcotics and other controlled substances.

This was part of MSSNY advocacy on I-STOP. While not supportive of a mandate, I-STOP does require the electronic submission of all prescription by December 31, 2014. The Commissioner of Health is required to adopt regulations by the end of 2012 setting forth standards for e-prescriptions, with requirement on prescribers two years after the regulations are promulgated. The bill requires that the prescription drug registry be compatible with the electronic transmission of prescriptions for controlled substances. It specifically states that to the extent practicable, implementation of the electronic transmission of prescription for controlled substances shall serve to streamline consultation of the registry by practitioner. E-prescribing regulation promulgated in December 2012.

103 Fair and Free Access to Data from Multiple RHIOs
*Introduced by The Wyoming County Medical Society*
**ADOPTED AS AMENDED**

RESOLVED, That the Medical Society of the State of New York (MSSNY) work with the New York eHealth Collaborative (NYeC) and the New York State Department of Health (DOH) to ensure that any physician who subscribes to one RHIO be given the option of participating in any other RHIO’s for no additional fees, whether from the RHIO’s themselves or from EMR portals; and be it further

RESOLVED, That MSSNY request that the NYeC and the DOH negotiate for cross-subscription agreements with the RHIOs of neighboring states and advocate for similar agreements within the Nationwide Health Information Network so that patients near the borders of New York also have fair access to the advantages of RHIOs.

RESOLVED, That MSSNY request the Health Commissioner to implement regulations that
would fund RHIO connections through EMRs without fees to providers for participation.

Staff has met periodically with NYeC and NYC REACH as well as with staff at the Department of Health to continue to advance the concepts included in this resolution. NYeC has worked to consolidate the administrative services of six of the eleven RHIOs in an effort to reduce costs for health care participants. NYeC is also examining efforts to require vendors to standardize technical specifications for interoperability to reduce interface costs.

Also, discussions ensue as to whether the state through HCRA should pay for the operation of the SHIN-NY because it is a public good like graduate medical education.

104 Privacy of Physician Personal Information
Introduced by Third and Fourth District
ADOPTED

RESOLVED, That MSSNY work with the Healthcare Association of New York State (HANYS), the Greater New York Hospital Association (GNYHA) and the New York Health Plan Association to seek solutions which would enable hospitals and health plans to fulfill their health code requirement while preserving the privacy of a physician’s private medical records and maintain compliance with ADA.

Staff has contacted GNYHA and HANYS for their input on how the organizations can work together on this issue.

105 Standardization of Identification of Medical Professionals.
Introduced by Bronx County Medical Society and the Young Physician Section
SUBSTITUTE RESOLUTION ADOPTED

RESOLVED, that MSSNY work with appropriate health care entities to assure that licensed physicians and other health care practitioners wear a picture identification badge which shall be conspicuously displayed and legible and which clearly details to the patient the physician’s and other health care practitioner’s name and professional title authorized pursuant to the Education Law (PHYSICIAN, PHYSICIAN ASSISTANT, NURSE PRACTITIONER, etc); and be it further

RESOLVED, that any physician’s and other health care practitioner’s picture identification badge be provided to such physician and other health care practitioner at no cost to the health care provider.

Staff has been working with the NYS Society of Anesthesiology on legislation to require a standardized identification badge applicable in all settings. Currently, regulations requires an identification badge to be worn in all settings except the private physician practice. This bill would require a standard identification badge to be worn in all health care delivery settings including the private physician practice.

106 Cost Containment is the Antithesis to Performance Improvement
Introduced by The Suffolk County Medical Society
ADOPTED

RESOLVED, That the Medical Society of the State of New York (MSSNY) policy reflect the notion that health policy capping payments is antithetic to innovation and true health care system reform and thus such policies should be opposed, and be it further
RESOLVED, That MSSMY urge the AMA to adopt policy to reflect the notion that health policy capping payments is antithetic to innovation and true health care system reform, thus such policies should be opposed.

This sentiment is part and parcel of MSSNY advocacy on a range of issues including management of the movement of patients from fee for services into Medicaid managed care; our out of network advocacy campaign and our efforts to influence the implementation of the health insurance exchange.

107  Mandated Medicaid Managed Care Programs
Introduced by The Queens County Medical Society
ADOPTED

RESOLVED, That the Medical Society of the State of New York encourage the State Assembly, Senate and Governor to:

(a) maintain current funding levels for providers, and assure that the cost of high quality nursing home care is adequately reflected in managed care rates and
(b) assure that Managed Long Term Care plan rates are established to meet wage parity or living wage requirements, and the increased risk that managed care plans are being asked to assume;
(c) assure that Long Term Home Health Care Programs are allowed to contract with a Managed Long Term Care Plan, to continue providing cost effective services that help chronically ill older adults and the disabled; and
(d) assure that the legislative bodies and executive herein mentioned vote for and sign into law the Independent Senior Housing Freedom of Choice Act (A.7309/S.4319), assuring that seniors living in congregate housing have the right to receive health care services that they would be able to obtain living in their own homes.

Independent Senior Housing Freedom of Choice Act (A.590) has been reintroduced by Assemblyman Dinowitz this year. This issue is also under discussion as part of the budget for FY 2013-14. MSSNY, through its Committee on Quality Improvement and Subcommittee on Long Term Care, is working closely with the Home Care Association to achieve the objectives of this resolution.

108  Mandate Single Formulary for All Medicaid Managed Care Programs and Participating Carriers
Introduced by Fifth and Sixth District Branch
ADOPTED

RESOLVED, That the Medical Society of the State of New York seek passage of state legislation and/or state regulation that a single formulary be mandated for all Medicaid managed care programs and participating insurance carriers.

MSSNY has advocated for a single statewide formulary for all Medicaid managed care programs as part of its budget testimony delivered in January as well as in multiple press conferences held this year by patient advocates. We conducted a survey of physicians and shared the results with the Legislature. We noted that the physicians who responded to our survey by a ratio of 3:1 felt that the PA process for medications is now more difficult. 76% found it difficult to access information regarding the Medicaid managed care plan formularies or step therapy rules. We believe that these responses are interrelated. To the extent that physicians cannot access important information regarding whether a drug is on formulary, the more time is devoted to the process and the impression that it is more difficult is made. Moreover, respondents almost uniformly (94%) believe that the lack
of a single state-wide formulary for all Medicaid patients increases the burden on them and their office staff. We continue to work with patient advocates on this issue.

109 Changes to Medicaid Patients Formulary
*Introduced by Bronx County Medical Society*

ADOPTED

RESOLVED, That the Medical Society of the State of New York seek legislation urging that the New York State Department of Health regulate HMO’s affiliated with Medicaid to “grandfather” drugs for Medicaid recipients who are already on medications and not require physicians to recertify these patients and change the longstanding prescriptions of these patients to conform to the HMO’s formulary.

The Medical Society has long advocated for protection of the physician’s clinical decision making authority and the patient’s unfettered right to access the medication or treatment prescribed by their physician. We reiterated that statement in budget testimony delivered at a joint hearing of the respective fiscal committees of each House. Moreover, we support legislation to require managed care plans to provide physicians with access to a clear and convenient process to override plan step therapy restrictions where (a) the physician believes in his/her professional judgment that the preferred treatment is expected to be ineffective based on the known relevant physical or mental characteristics of the covered person and known characteristics of the drug regimen, and is likely to be ineffective or adversely affect the drug’s effectiveness or patient compliance; or (b) the physician believes in his/her professional judgment the preferred treatment has caused or is likely to cause an adverse reaction or other harm to the covered person. This language is contained in legislation (S.2086 Young) currently pending before the Senate Insurance Committees. We have written in support of this legislation.

110 Transparency in Costs of Courses of Treatment with Drugs Advertised to the Public;
Subtitle: If It Is Advertised, Assume It Is Very, Very Costly
*Introduced by Fifth and Sixth District Branch*

REFERRED TO COUNCIL

111 Credentials for Doctors Reviewing Appeals to Insurers
*Introduced by Fifth and Sixth District Branch*

ADOPTED AS AMENDED

RESOLVED, That MSSNY advocate for a change in law or regulation which requires physicians who hear appeals regarding payment for imaging studies to be licensed and actively practicing clinical medicine in New York State; and be it further

RESOLVED, That such company physician be of a specialty satisfactory to the appealing physician for a particular case.

MSSNY has secured the introduction of legislation (A. 2693, Gottfried) which would require that a clinical peer reviewer in adverse determinations to be a physician in the same or similar specialty as the physician who ordered treatment or services. This measure has passed the Assembly.

112 A More Ethical Legislature and Advancing Medicine’s Agenda
*Introduced by The Suffolk County Medical Society*

ADOPTED
RESOLVED, The Medical Society of the State of New York (MSSNY) advocate for legislation and regulation to promote improved ethics and transparency in the state legislature including but not limited to:
• Measures that would sensibly limit all campaign contributions.
• Measures that would restrict the campaign contributions made by those law firms of which a legislator is a member, to that legislator only,
• Measures to promote greater transparency and accountability with regard to the lawmakers professional activities outside the legislature, and be it further

RESOLVED, That MSSNY pursue collaboration with health care stakeholders as well as key affinity groups to promote legislative accountability by means of
• Limiting campaign financing,
• Improved transparency and accountability, and
• Limiting the outsize impact of the relationship between lawmakers and the legal profession, in order to promote unity and more effective advocacy particularly as it relates to medical liability reform.

Two years ago, the legislature enacted and the Governor signed into law the Public Integrity Reform Act of 2011 which comprehensively reformed the oversight and regulation of ethics and lobbying in New York State- a key component of which was the establishment of the new independent agency, the Joint Commission on Public Ethics which has oversight over both the Executive and Legislative branches. MSSNY comports with the requirements and regulations established by the Commission. The Governor has called for the enactment of Campaign Finance Reform this year. Each of the Houses has their own version of such a law. MSSNY is monitoring these bills.

113 Stop Closure of Kingsboro Psychiatric Center as Recommended by the Berger Commission
Introduced by Medical Society of the County of Kings
ADOPTED

RESOLVED, That Kingsboro Psychiatric Center in Brooklyn stay open and not move to South Beach Psychiatric Center in Richmond County for the best interests of the patients and their families.

MSSNY, working with advocates from the mental health community, successfully defeated the proposed closure of Kingsboro Psychiatric Center which had been proposed in the budget for FY 2012-13. MSSNY President Elect, Sam Unterricht, MD, testified at a hearing held by the Assembly Health Committee on the health care crisis in Brooklyn making the point that Kingsboro Psychiatric has a large long-term psychiatric population. Closing it or reducing its capacity by releasing patients or moving them elsewhere would result in dire consequences for patient care, social services and crime. Nevertheless, we must remain vigilant as the Governor has proposed a further downsizing of New York’s state psychiatric hospital system. This is estimated to yield $20 million in savings this year and $40 million during the next. The budget proposal would allow for the creation of regional centers of excellence for the diagnosis and treatment of complex behavioral health illnesses. No one knows which psychiatric centers will receive this designation. This effort will ensure there will be ample capacity for treating individuals with mental illness who require inpatient services, and the savings related to the State Psychiatric Center regionalization initiative will be reinvested to support the same or greater level of community-based services. It is hoped that this reinvestment will help facilitate earlier and better access to care.

114 Payment for Office Based Surgeries
Introduced by Nassau County Medical Society

SUBSTITUTE RESOLUTION 114 BE ADOPTED IN LIEU OF 114 AND 115

RESOLVED, that MSSNY support legislation or regulation which assures payment of a facility fee which reflects the additional costs of accreditation and maintenance of an office-based surgical practice.

MSSNY has issued a memo and actively works collaboratively with lobbying firm hired by the OBS physicians. Bill (S. 2944) has been re-introduced again this year by Senator Hannon.

115 Office-Based Surgery
Introduced by Office-Based Surgery
SEE RESOLUTION 114

116 Eliminate Costly Monopoly for State Medical Licensure Credentialing by For-Profit Entity in New York and Enable Use of Alternative Credentialing Service
Introduced by Young Physicians Section
ADOPTED

RESOLVED, The MSSNY work with the New York state licensing board so that the costly for-profit FCVS service no longer has an exclusive monopoly on credentialing physicians and charging physicians hundreds of dollars to be licensed in New York; and be it further

RESOLVED, That the complimentary AMA Physician Credentialing service which is recognized and used for state licensure credentialing verification in over 40 other states is also offered as an alternative to state licensure credentialing verification ion New York; and be it further

RESOLVED, That complimentary primary verification directly from medical schools and post-graduate residency training programs which is used throughout the country and which has previously been used in New York to credential physicians for licensure is another alternative accepted to credential physicians for state licensure in New York.

Staff has brought this resolution to the attention of the Board for Medicine in the Office of the Professions within the State Department of Education. MSSNY has been invited to make a presentation with regard to this issue to the Board for Medicine on March 22nd.

PUBLIC HEALTH AND EDUCATION

150 Operating Room Quiet Zones
Introduced by Nassau County Medical Society
ADOPTED

RESOLVED, That the Medical Society of the State of New York work with the Healthcare Association of New York State and the Greater New York Hospital Association to develop policies regarding the use of electronic devices in operating rooms and procedure rooms to ensure patient safety.

MSSNY ACTION: A letter was sent to HANYS and GNYHA, asking them to work with MSSNY to develop policies regarding the use of electronic devices in operating rooms and procedure rooms to ensure patient safety.
151 *Boxing/Mixed Martial Arts Safety*
*Introduced by New York County Medical Society*

**REFERRED TO COUNCIL**

152 *Outlaw Hits in Hockey*
*Introduced by New York County Medical Society*

**ADOPTED AS AMENDED WITH TITLE CHANGE**

RESOLVED, That the Medical Society of the State of New York urge the American Medical Association seek federal legislation that would encourage that all levels of hockey effectively prevent head hits and dangerous checking; and be it further

RESOLVED, That a copy of this resolution be transmitted to the AMA House of Delegates for its consideration

*Title Change – HEAD INJURY PREVENTION IN HOCKEY*

The amended resolution was sent to the AMA 2012 Annual Meeting and was further amended by the AMA to read:

RESOLVED, That our American Medical Association encourage that all levels of hockey effectively prevent head hits and dangerous checking.

153 *Exclusion by Health Plans of Specific Treatment, Drug, Test or Modality*
*Introduced by Nassau County Medical Society*

**NOT ADOPTED**

RESOLVED, That MSSNY work with the AMA to ensure the standards set by government agencies, including Health and Human Services, not allow any health benefits plan to exclude any specific treatment, drug, test or modality.

154 *To Reaffirm AMA CSAPH Resolution on Sustainable Food*
*Introduced by Phillip Gioia, MD, Cayuga County*

**NOT ADOPTED**

RESOLVED, That the Medical Society of the State of New York ask our NY State Representatives to Congress to support modifications of The Farm Bill consistent with The AMA Report on Sustainable Food; and be it further

RESOLVED, That the American Medical Association ask The U. S. House of Representatives to support modifications of The Farm Bill consistent with The AMA Report on Sustainable Food.

155 *To Support HR 2487 Repealing Subsidies for High Saturated Fat Foods*
*Introduced by Phillip Gioia, MD, Cayuga County*

**NOT ADOPTED**

RESOLVED, That the Medical Society of the State of New York ask our NY State Representatives to Congress to co-sponsor and support HR 2487; and be it further

RESOLVED, That the American Medical Association ask The U. S. House of Representatives to pass HR 2487.

156 *To Ask for Support for HR 3798 for the Humane Care of Egg Chickens*
Resolutions

157
Eliminate Requirement for Annual Tuberculosis Testing

RESOLVED, That MSSNY consult with the New York State Health Department to change current regulations to eliminate the requirement for annual tuberculosis testing in order to reduce the financial and administrative burden on health care facilities.

158
Remove Mandate that Physicians Must Offer HIV Testing to Patients

RESOLVED, That MSSNY reaffirm support of routine HIV testing according to the 2006 CDC *Recommendations for HIV Testing of Adults, Adolescents and Pregnant Women in Healthcare Settings – 2006*; and be it further

RESOLVED, That MSSNY advocate for removal of all special consent requirements relating to HIV testing and that physicians be allowed to collect specimens for HIV testing using the same procedures and protocols used for all other specimens.

*Title Change – HIV TESTING GUIDELINES*

MSSNY continues to advocate for HIV testing without written informed consent and this policy remains a long-standing legislative issue.

159
Removing the Cost of Direct to Consumer Pharmaceutical Advertisements from the Category of Tax Deductible Business Expenses

Resolved, That the Medical Society of the State of New York consult with the American Medical Association to seek passage of federal legislation to amend the internal revenue code to prohibit deductibility of the cost of advertisements to non-prescribing consumers.

160
To Market Health Information from MSSNY and the AMA

RESOLVED, That the Medical Society of the State of New York with an endorsement or licensing from the State of New York, market secure and affordable health information from our meetings, policies, recommendations, and consensus of our
members to be used as a recognized, authoritative information source for common and significant health problems and decisions in our State; and be it further

RESOLVED, That the American Medical Association with an endorsement or licensing from the United States of America, market secure and affordable health information based on the meetings, policies, recommendations, and consensus of the AMA members to be used as a recognized, authoritative information source for common and significant health problems and decisions in our Nation.

Use of Opioids Must Follow Guidelines of the American Academy of Addiction Psychiatry for Chronic Pain

Introduced by Fifth and Sixth District Medical Society of the State of New York

SUBSTITUTE RESOLUTION ADOPTED IN LIEU OF RESOLUTION 161 AND 162 WITH TITLE CHANGE

RESOLVED, That the Medical Society of the State of New York adopt the consensus statement entitled, “Recommendations to Address the Prescription Drug Abuse and Diversion Issue”

RESOLVED, That the Medical Society of the State of New York would oppose any legislation requiring physicians to do patient background checking prior to prescribing controlled substances

RESOLVED, That the Medical Society of the State of New York submit a resolution to the AMA House of Delegates opposing federal legislation requiring physicians to do background checking prior to prescribing controlled substances.

Title Change - Recommendations to Address the Prescription Drug Abuse and Diversion Issue

(There have been several New York State legislative proposals from state legislators and officials to combat the abuse of prescription drugs. The Medical Society of the State of New York and the above referenced specialty societies believe that any solution to the abuse of prescription drug problem must be multipronged. This approach includes increased law enforcement efforts to prevent and punish inappropriate diversion of prescription medications. It includes the need for increased accessibility of treatment for patients suffering addictions so as to reduce the likelihood of inappropriate diversion of prescribed medications. It includes improvement in and better use of the existing database that is currently maintained by the New York State Health Department on all controlled substance prescriptions. And it includes the need for additional resources for associations representing prescribers so that they can educate their members about the existence of the database and the circumstances of patients presenting themselves in health care settings that should trigger a prescriber to check the database.

New York State has for many, many years collected information on prescription drugs and has a Prescription Monitoring Program (PMP)—an electronic monitoring system that is operated by New York State’s Department of Health Bureau of Narcotics Enforcement (BNE). The issue is not the need to create a new database. The issue is how the information that already exists within the database can be best used and improved upon so to inform physicians and other non-physician prescribers, as well as pharmacists dispensing these medications, so as to prevent or reduce “doctor-shopping,” diversion and abuse. Physicians have indicated that the present system which is operated on the Health Commerce System (HCS) is very difficult to use, has a significant lag in the reporting of such data, and requires a password that expires if the physician does not go onto the HCS in a certain period of time. In addition, no information at all is given about an individual patient unless their prescription usage hits a too high threshold of obtaining multiple prescriptions from multiple doctors and filling them at multiple pharmacies in a short timeframe. Specifically, no information at all is available unless a patient has two or more prescriptions written by two or more physicians that are filled at two or more pharmacies over the last couple of months or so. Finally, since pharmacy data may be entered on a monthly basis, often the prescription information for the most recent few weeks is incomplete.)
The Medical Society of the State of New York and the above referenced specialty societies note that as the state looks to identify ways to prevent misuse and inappropriate diversion, it will need to be careful that it does not “over correct” this problem. In fact, there is a body of recognized expertise that has concluded that physicians are not actually prescribing pain medications enough. As such, the medical community has serious concerns with proposals that would mandate reporting and checking a database each and every time a controlled substance prescription is written. The Medical Society and the above referenced specialty societies are greatly concerned that such proposals would add to the already tremendous administrative burden facing physician practices and worse, would potentially discourage physicians from writing prescriptions for controlled substances in situations where they are necessary. In addition, strict mandatory reporting may result in the unintended consequences of preventing patients with substance use disorders or chronic pain from seeking or staying in treatment or prevent them from reporting such behaviors to their treating physicians. Therefore, the Medical Society of the State of New York and the above referenced specialty societies recommend that the following changes be made via regulation and/or statute:

**E-Prescribing of Narcotics**
- The Medical Society and the above referenced specialty societies support the implementation of E-prescribing for all controlled substances.
- The Medical Society and the above referenced specialty societies support the implementation of connecting the PMP Database with Health Information Exchanges.

**Improving the PMP Database**
- The Medical Society of the State of New York and the above referenced specialty societies support physicians having access to the PMP for ANY controlled medication prescriptions as far back as database will allow.
- The Medical Society and the above referenced specialty societies are supportive of allowing a physician’s designee to have access to the PMP. The Medical Society and the above referenced specialty societies support authorizing pharmacists to have access to the existing PMP database which would better enable pharmacists to provide relevant information to the prescribing physician.
- The Medical Society and the above referenced specialty societies support the use of improved technology to allow easier usage of the PMP.

**Physician Access to PMP and Physician Education**
- MSSNY and the above referenced specialty societies support the principle that if a physician believes a patient is attempting to access a prescription for any reason other than treatment of an existing medical condition such physician has the obligation to decline to write the prescription or check the current data base before a script is written or submitted electronically.
- The Medical Society and the above referenced specialty societies support developing regulatory guidance with the input of appropriate physician organizations to treat acute pain and for chronic pain management care provided that this guidance is developed in consultation with physicians and appropriate physician organizations and that such guidance is mindful of the need for individualized medical evaluation and decision making. Such guidance may include information relative to the clinical conditions which would indicate physician recourse to the PMP database.
- The Medical Society and the above referenced specialty societies support voluntary education programs for providers on pain management, substance abuse and dependence, diversion and on the use of the PMP as a tool for prescribing, with the caveat that the prescribing authority remains independent of any educational requirement.

**Patient Education**
- The Medical Society and the above referenced specialty societies believe it is imperative that NYS educate the public regarding the dangers of prescription misuse and diversion and the requirement to inform all prescribers of any controlled drugs they are taking.

**Prescription Drugs**
- The Medical Society and the above referenced specialty societies support elevating Hydrocodone to Schedule II and Tramadol to Schedule III. Importantly, this will limit the duration of Hydrocodone prescriptions to 30 days.

**Prevention Methods**
• The Medical Society and the above referenced specialty societies support data sharing of information through the PMP with other states.
• The Medical Society of the State and the above referenced specialty societies support drug take-back programs for all prescriptions.)

162  Physician Reimbursement for Prescribing Mandates
*Introduced by Joseph Sellers, MD, Schoharie County*

SEE RESOLUTION 161

I-STOP law passed the NYS Legislature unanimously in June 2012 and was signed into law on August 27, 2012. MSSNY is monitoring the implementation process of the law and a MSSNY physician has been appointed to the DOH Workgroup on I-STOP implementation. MSSNY is also working with various medical specialties and consumer advocacy groups to develop a consensus statement on the implementation, prescriber education and public education.

163  Less Costly Alternatives to “Maintenance of Specialty Board Certification”
*Introduced by Saratoga County Medical Society*

ADOPTED

RESOLVED, That the Medical Society of the State of New York encourage the American Medical Association to actively work to enforce existing policies with regards for the activity and the efforts to reduce exorbitant costs and effort required for the maintenance of certification; and be it further

RESOLVED, That a copy of this resolution be transmitted to the AMA 2012 House of Delegates.

The amended resolution was sent to the AMA 2012 Annual Meeting where it was amended and adopted. The AMA’s resolution reads:

RESOLVED, That our American Medical Association actively work to enforce existing policies to reduce current costs and effort required for the maintenance of certification and to work to control future charges and expenses

164  Medical Student Mistreatment
*Introduced by Suffolk County Medical Society*

REFERRED TO COUNCIL

165  Web-based Tele-Health Initiatives and Possible Interference with the Traditional Physician-Patient Relationship
*Introduced by The Suffolk County Medical Society 8th District*

ADOPTED

RESOLVED, That the Medical Society of the State of New York (MSSNY) urge the NYS Department of Financial Services and Department of Health, to review tele-health initiatives being implemented by major health insurance carriers (i.e., United Healthcare, Blue Cross Blue Shield) and others to assure that proper standards of care are maintained, that such initiatives and the physicians who work with them are adherent to professional practice standards and NY State health laws and regulations; and to take appropriate actions to eliminate such initiatives that do not meet acceptable standards and regulations; and be it further
RESOLVED, That the Medical Society of the State of New York (MSSNY) seek regulatory guidance from the NY State Department of Financial Services regarding the essential requirements of web-based tele-health technology and health care initiatives and the requirements of physicians and healthcare providers who engage in the delivery of such services; and be it further

RESOLVED, That concerns about tele-health initiatives and this resolution are to be brought by the MSSNY AMA delegation to the AMA for appropriate action at the Federal level.

The resolution was sent to the AMA 2012 Annual Meeting where it was referred to the Board of Trustees for further study.

166  Accurate Labeling of Genetically Engineered Foods  
*Introduced by Young Physicians Section*

**REFERRED TO COUNCIL**

167  Warning New York State Citizens of Products known to Cause Cancer, Birth Defects or Other Reproductive Harm  
*Introduced by Young Physicians Section*

**ADOPTED AS AMENDED**

RESOLVED, That MSSNY request that our AMA study California Proposition 65 which requires warning labels on products to inform citizens about products know to contain chemicals which are carcinogenic or teratogenic and report back to the AMA HOD 2013 regarding the appropriateness of encouraging similar legislation in the USA.

The resolution was sent to the AMA 2012 Annual Meeting and the AMA did not adopt the resolution.

168  *Immunization Contracts, Reimbursement and Coverage*

*Introduced by Richard C. Ancona, MD, as an Individual Delegate, NYS Society of Pediatrics*

**ADOPTED AMENDED RESOLUTION**

RESOLVED, That MSSNY support legislation mandating that health insurance companies in New York State pay for vaccines recommended by the Advisory Committee on Immunization Practices (ACIP) for every individual. Also, those insurance companies not reimbursing for ACIP-recommended vaccines should clearly state so in a notice to patients and businesses; and health insurance companies should reimburse providers for the vaccines at fees sufficient to cover the procurement, shipping, handling, supplies, data entry, vaccine counseling, inventory management, routine nursing activities and storage cost of the vaccine. A resolution is to be transmitted to the American Medical Association to seek similar appropriate reimbursement for all ACIP-recommended vaccines for all persons through federally funded programs.

The 2009 MSSNY HOD Policy was amended by the 2012 House and included amendments seeking reimbursements of, shipping, handling, supplies, data entry, vaccine counseling, inventory management, routine nursing activities. The 2013-14 NYS Legislative Session has begun and MSSNY will work with the American Academy of Pediatrics on possible legislation.
REPORTS OF OFFICERS AND ADMINISTRATIVE MATTERS

200  Balanced Budget Requirement
*Introduced by Nassau County Medical Society*
*NOT ADOPTED*

RESOLVED, That the MSSNY Board of Trustees be required to submit a balanced budget annually; and be it further

RESOLVED, That emergency expenditures beyond the budget must be authorized by a super majority of five of the seven members of the Board of Trustees.

201  Election Choices for MSSNY
*Introduced by New York County Medical Society*
*WITHDRAWN*

RESOLVED, That the Medical Society of the State of New York nominations committee routinely nominate at least two candidates for each office. Each nominated candidate would then provide two statements, each totaling no more than 250 words: a) who one is and what one has done for MSSNY and otherwise, and b) goals and objectives for MSSNY and the candidate’s role in achieving same.

202  Following Up MSSNY House of Delegates Actions
*Introduced by New York County Medical Society*
*ADOPTED AS AMENDED*

RESOLVED, That the Medical Society of the State of New York routinely and at least annually, prior to the HOD meeting, provide progress reports on all resolutions passed at the House of Delegates in the past year, including those referred to Council, showing what has been done and is planned for implementation of each resolution.

MSSNY ACTION – Reports on actions taken in response to resolutions adopted or referred at the 2012 annual meeting are posted on the MSSNY website.

203  AMA Interim Meeting: Shorten by One Day
*Introduced by Resident and Fellow Section, Medical Society of the State of New York*
*NOT ADOPTED*

RESOLVED, That the Medical Society of the State of New York request our AMA to shorten the AMA Interim Meeting by one day, initiating live Reference Committee sessions on Saturday and concluding business on Monday as a means to conserve the resources of both our AMA and individual state and specialty societies.

204  COOP Implementation has Failed NYS
*Introduced by The Suffolk County Medical Society*
*ADOPTED WITH A CHANGE IN TITLE*

Expression of Concerns Through AMA Regarding Implementation of COOP Program

RESOLVED, That MSSNY advise AMA that in implementing the COOP provisions of PPACA, the COOP advisory board crafted regulation that enabled an established issuer of
insurance to benefit from start-up loans, thus defeating the intended purpose of those loans and depriving New Yorkers of a new issuer; and be it further

RESOLVED, That the Medical Society of the State of New York (MSSNY) seek AMA advice or assistance in crafting a response to the action of the COOP advisory board that enabled an established issuer of insurance to benefit from start-up loans, thus depriving New Yorkers of a new issuer.

AMA HOUSE ACTION: ADOPTED AS FOLLOWS

RESOLVED, That our American Medical Association offer advice or assistance to states in advocating that the Consumer Operated and Oriented Plan (COOP) advisory board and HHS ensure that new insurance issuers, including those with physician involvement, benefit from start-up loans.

205 Hospital Medical Staff Membership Delegate
Introduced by The Suffolk County Medical Society
NOT ADOPTED

RESOLVED, That each hospital medical staff so joined with the Medical Society of the State of New York (MSSNY) shall accrue a delegate to the annual MSSNY House of Delegates appointed by the medical staff of the involved hospital; and be it further

RESOLVED, That the assignment of a delegate from each represented medical staff be based upon the size of the medical staff with a specific formula to be determined; and be it further

RESOLVED, That these medical staff delegates shall be given the opportunity to caucus with the local county medical society delegates and be counted among them until such time that there are a sufficient number to caucus amongst themselves if they so desire.

206 Consideration of MSSNY’s Mission Statement
Introduced by The New York County Medical Society
REFERRED TO COUNCIL

RESOLVED, That the Medical Society of the State of New York’s (MSSNY’s) Committee on Bylaws be charged to review and revise MSSNY’s mission statement, with input from the component medical societies and affiliated sections, and report back to the 2013 House of Delegates.

207 AMA – My Medications APP
Introduced by The Suffolk County Medical Society
ADOPTED

RESOLVED, As a means of promoting the core values, vision and mission of the American Medical Association, while also helping to “brand” the AMA in a more positive light among physicians and patients, the New York Delegation urge the AMA to allow a free download (rather than the 99 cent charge) of their “My Medications” App, (which provides patients to store, carry and share their critical medical information on their iPhone, iPad, and iPod Touch), to all interested patients who utilize the services of an AMA member physician.

AMA HOUSE ACTION: NOT ADOPTED

208 AMA Priorities and Private Group Practice
Resolved, The Medical Society of the State of New York (MSSNY), through its Delegation to the AMA, bring a resolution to the AMA Annual Meeting in June 2012, urging that the AMA utilize its resources to protect and support the continued existence of solo and small group medical practice, and to protect and support the ability of these practices to provide quality care.

**AMA HOUSE ACTION: POLICY D 405.988, The Preservation of the Private Practice of Medicine REAFFIRMED IN LIEU OF THE RESOLUTION**

POLICY D 405.988 reads: Our AMA: (1) supports preserving the value of the private practice of medicine and its benefit to patients; (2) will advocate in Congress to ensure adequate payment for services rendered by private practicing physicians; (3) will work through the appropriate channels to preserve choices and opportunities, including the private practice of medicine, for new physicians whose choices and opportunities may be limited due to their significant medical education debt; and (4) will work through the appropriate channels to ensure that medical students and residents during their training are educated in all of medicine’s career choices, including the private practice of medicine. (Res. 224, I-10)

**209 Streamlining the MSSNY House of Delegates**

*Introduced by New York County Medical Society*

**NOT ADOPTED**

RESOLVED, That the Medical Society of the State of New York investigate a number of options for a serious revamping of its House of Delegates, and report back to the 2013 House for action on matters including, but not limited to:

- limiting the number of resolutions debated at the House by means of web or phone – based reference committee meeting prior to the House;
- investigating other states’ houses including those that limit the number of resolutions or do not allow any resolutions be presented by individuals, but only by delegations, specialty society, or institutions,
- change the meeting of the House to every two years; and
- investigating means to reduce time spent voting for AMA delegates;
- changing social events at the House to end the practice of an evening reception/dinner and substituting an installation breakfast at the House for delegates, with the Council on a separate occasion honoring the president and his/her family at a dinner event separate from the House meeting.

**210 MSSNY “Truth Squad”**

*Introduced by The Queens County Medical Society and The Suffolk County Medical Society*

**ADOPTED**

RESOLVED, That MSSNY, working in conjunction and coordination with its communications department, form a "Truth Squad" whose purpose is to act expeditiously in setting the record straight, publicly, forthrightly, and professionally, as it relates to any
negative publicity, comments or statements which may be viewed as derogatory and/or, anti-physician; and be it further

RESOLVED, That a similar resolution be forwarded to the AMA for implementation on a national level.

MSSNY ACTION – Art Fougner, MD, Commissioner of Communications, created a blog that any physician can join, to discuss controversial and topical issues relating to medicine, government and insurance regulations, politics and local and national politicians. If an issue, especially one that is derogatory about physicians, comes up through any media stream, and the leadership/Communications Division decides an immediate response is required, a physician in leadership or a physician/member expert is chosen to respond quickly and appropriately. Response can occur through a letter to the editor, op-ed piece or a media interview that sets forth MSSNY’s view on the topic in question.

AMA HOUSE ACTION: Policy H-445.995 REAFFIRMED IN LIEU OF THE RESOLUTION

Policy H-445.995, Responses to News Reports and Articles, reads as follows: Our AMA encourages the public relations committees of all county, state and national medical societies to initiate positive programs with the media and to make timely responses to misleading and inaccurate media releases giving the general public a more accurate and balanced perspective of the medical profession and medical issues.

211 Patient Rights in Skilled Nursing Facilities
Introduced by Fifth and Sixth District Branch
ADOPTED

RESOLVED, That the Medical Society of the State of New York advocate to the Department of Health and the Legislature for patient rights in nursing facilities; and be it further

RESOLVED, That the Medical Society of the State of New York encourage physicians to have informed consent discussions with patients with regard to their dietary restrictions and medication protocols for patients in skilled facilities and when such patients express a judgment not to follow those protocols that they not be ordered for such patients; and be it further

RESOLVED, That the Medical Society of the State of New York advocate for an inspection system of the inspectors to be sure there is consistency in the inspection process; and be it further

RESOLVED, That the Medical Society of the State of New York solicit from its members, skilled nursing facilities and Article 28 facilities, examples of arbitrary and capricious enforcement of Health Department Code.

MSSNY ACTION – RESOLUTION 211 was brought to the attention of the Department of Health for action and/or suggestions on further steps MSSNY can take to work toward meeting the goals of the resolution.

212 Reconstitute the Professional Medical Liability Insurance and Defense Board
NOT ADOPTED

RESOLVED, That the Professional Medical Liability Insurance and Defense Board (PMLIDB) be reconstituted with a mandate to review practices by all insurers in NYS and to hear complaints from NYS physicians regardless of their membership, and be if further

RESOLVED, That the PMLIDB have open meetings to discuss all concerns about current practices by malpractice insurance companies except where there is specific reference to an individual.

RESOLVED, That the PMLIDB have open meetings to discuss all concerns about current practices by malpractice insurance companies except where there is specific reference to an individual.

MSSNY ACTION – pending, awaiting identification of the appropriate committee to study the issue.

SOCIO-MEDICAL ECONOMICS

ADOPTED

RESOLVED, that the Medical Society of the State of New York study the issue of physician responses to work excuse requirements by employers and submit appropriate policy recommendations to the MSSNY Council or to the next House of Delegates.

MSSNY ACTION – pending, awaiting identification of the appropriate committee to study the issue.

RESOLVED, once a clear understanding of what is considered “abusive billing,” has been established, MSSNY seek to have all health insurance

RESOLVED, that the Medical Society of the State of New York (MSSNY) 1) seek legislation and/or regulation to require health insurers to adequately reimburse physicians and other health care providers for the cost of providing sign language interpreters for hearing impaired patients in their care; and be it further

RESOLVED, That the MSSNY Delegation to the American Medical Association (AMA) bring forward a resolution to the AMA House of Delegates asking the AMA to adopt similar policy.

MSSNY ACTION – Sent to DGA for legislative consideration.

RESOLVED, That our American Medical Association seek legislation and/or regulation to require health insurers to fully reimburse physicians and other health care providers for the cost of providing sign language interpreters for hearing impaired patients in their care.
carriers in the State of New York comply with the following provisions as agreed upon by MSSNY and United Healthcare:

- The physician will receive a letter notifying him/her that he/she has been selected for audit. The letter will explain the methodology used to make the determination. Importantly, only those physicians who, when compared against other physicians practicing in the same specialty in the same region are deemed to be the greatest statistical outliers, will be selected for audit. MSSNY has asked that this letter state very clearly how the physician was selected for audit;

- Carrier will initially request only two years of records selected by a random sample;

- Carrier will have the option to request agreement to toll the six years request option to reserve its right to do so at some time in the future;

- The physician will have the opportunity to challenge the findings in the claims randomly selected for the audit as to why they are “outliers;”

- The proposal outlines three possible courses of action depending upon the percentage of records reviewed that do not substantiate the services billed. Of particular note, if less than 40% of the medical records selected in the random sample do not substantiate the services billed, the only step that United will take will be conducting provider education.

**ACTION – NYS Insurance Law §3224-b defines abusive billing as,** For purposes of this paragraph, “abusive billing” shall be defined as a billing practice which results in the submission of claims that are not consistent with sound fiscal, business, or medical practices and at such frequency and for such a period of time as to reflect a consistent course of conduct.

Therefore, abusive billing is, in short, either too frequent, to intense a service, or unbundling.

Wrote to the health plans. Sent a follow-up request on 2/19/13.

252 Fair Compensation Mechanism for Changing Medications at Insurance Plan Request
*Introduced by Schoharie County Medical Society*
*ADOPTED*

**RESOLVED,** that the Medical Society of the State of New York to work towards developing a set of solutions or solution that equitably and safely allows medication changes to be made without penalizing the patient while fairly compensating the physician for their work involved in decision-making.

**ACTION – Wrote to DOH for input and assistance.**

253 Regulation and Transparency of Imaging Benefit Managers’ Contracts
*Introduced by Joseph Lauterstein, MD, as an individual &Delegate, NYS Chapter American College of Cardiology*
*SUBSTITUTE RESOLUTION 253 BE ADOPTED IN LIEU OF 253 AND 254*
RESOLVED, that the Medical Society of State of New York seek legislation that any health plan, or its business partner, conducting prior authorization for non-urgent and non-emergent services or procedures 1) respond to these requests within two business days; 2) utilize recognized standards of care and comply with any published specialty society-approved practice guidelines; 3) ensure that their authorization criteria conform with their health plan’s published policy available to the public for any and all service needing prior authorization; and 4) in the event of denied authorization, an expedited peer-to-peer appeal be conducted within the day (24-hour period) so that no potentially harmful delays befall the patient and that compliance with these rules be monitored by the NYS Department of Health.

ACTION – Sent to DGA for legislative consideration.

254
Regulation and Transparency of Imaging Benefit Managers’ Contracts
Introduced by Ninth District Branch Medical Societies (Dutchess, Orange Putnam, Rockland and Westchester)
SEE RESOLUTION 253

255
Clear Statement of Coverage on Health Insurance ID Cards
Introduced by Nassau County Medical Society
ADOPTED

RESOLVED, that the Medical Society of the State of New York (MSSNY) work with insurers to develop standardized information to be required on all health insurance ID cards which clearly states services, co-pays, and other vital coverage data purchased by the insured.

ACTION – Wrote to the health plans. Sent a follow-up request on 2/19/13.

256
Directing Hospital Billing Payments to Physician of Record
Introduced by Nassau County Medical Society
SUBSTITUTE RESOLUTION ADOPTED

RESOLVED, That the Medical Society of the State of New York educate the membership, through an article in the News of New York, concerning the proper billing of non-physician practitioners (NPP) in the hospital setting dependent upon who is paying the salary of the NPP.

ACTION – Article published in the October 2012 News of New York

257
Internet Ranking/Rating of Physicians
Introduced by Nassau County Medical Society
SUBSTITUTE RESOLUTION ADOPTED

RESOLVED, That the Medical Society of the State of New York (1) work with appropriate entities to encourage the adoption of guidelines and standards consistent with AMA policy governing the public release and accurate use of physician data; (2) continue pursuing initiatives to identify and offer tools to physicians that allow them to manage their online profile and presence; (3) seek legislation that supports the creation of laws to better protect physicians from cyber-libel, cyber-slander, cyber-bullying and the dissemination of Internet misinformation and provides for civil remedies and criminal sanctions for the violation of such laws; and (4) work to secure legislation that would require that the
Web sites purporting to offer evaluations of physicians state prominently on their Web sites whether or not they are officially endorsed, approved or sanctioned by any medical regulatory agency or authority or organized medical association including a state medical licensing agency, state Department of Health or Medical Board, and whether or not they are a for-profit independent business and have or have not substantiated the authenticity of individuals completing their surveys.

**ACTION – Wrote to the health plans. Sent a follow-up request on 2/19/13.**

258 Protecting New York State Physicians with Multiple Tax ID Numbers
*Introduced by Medical Society of the County of Westchester*

**RESOLUTION 258 BE ADOPTED AS AMENDED**

RESOLVED, That the Medical Society of the State of New York seek legislation and/or regulation to prevent managed care organizations from requiring physicians to participate under all of their Tax ID Numbers if they participate under one Tax ID Number; and be it further

RESOLVED, that the MSSNY Delegation to the American Medical Association (AMA) bring this resolution forward to the AMA House of Delegates.

**MSSNY ACTION – Sent to DGA for legislative consideration.**

**AMA HOUSE ACTION: ADOPTED** See Policy H-383.989
RESOLVED, That our American Medical Association support legislation and/or regulation to prevent managed care organizations from requiring physicians to participate under all of their Tax ID Numbers if they participate under one Tax ID Number.

259 Insurance Companies Dis-enrollment of Participating Physicians
*Introduced by The Suffolk County Medical Society*

**ADOPTED AS AMENDED**

RESOLVED, That the Medical Society of the State of New York seek legislation that would expand physician protections similar to those enunciated in Public Health Law § 4406-d for non-renewal of a network contract for both managed care plans and HMOs to enable physicians to have the right to appeal a plan’s non-renewal decision and have a hearing, if needed; and be it further

RESOLVED, That the Medical Society urge the Department of Financial Services to require that all health insurance companies doing business in the State of New York, provide clear and concise justification, as well as appropriate documentation to substantiate a decision to terminate or non-renew a physician's participation status; and be it further

RESOLVED, That when a physician receives a notification that his/her participation agreement is being terminated or not renewed, that an appropriate appeals mechanism be provided which allows adequate time for the physician to seek appropriate counsel (if necessary) and to assemble any necessary and supporting documentation which may be needed to assist in the appeal.

**ACTION – Sent to DGA for legislative consideration.**

260 Non-discrimination by Insurance Companies Against Independent Physicians
*Introduced by The Medical Society of the County of Sullivan*
RESOLVED, That we, the members of the Medical Society of the County of Sullivan, unanimously urge our State Medical Society lobby the appropriate agencies to end this discrimination within the same Medicare-defined geographic regions.

**ACTION – Will be reported on by the Speaker at the HOD**

261

Time Limits for Recovery Audit Contractor (RAC) Reviews

*Introduced by Nassau County Medical Society*

**ADOPTED**

RESOLVED, That the Medical Society of the State of New York petition CMS to limit RAC reviews to less than one year from payment of claims, and be it further

RESOLVED, That the Medical Society of the State of New York bring this resolution to the American Medical Association (AMA) at the next AMA House of Delegates.

**MSSNY ACTION – Wrote to CMS. CMS replied as follows –**

*At this time CMS believes it would go against Congressional intent to limit the RAC reviews to less than one year from the payment of claims. This is not consistent with recent laws that have extended the timeframe for review to 5 years (though CMS has not enacted at this time) and is not consistent with CMS reopening rules. As time passes CMS does believe the RACs will begin to review more current claims. Currently the RACs can go back for 3 years.*

**AMA HOUSE ACTION: ADOPTED**  
See Policy D-70.953

RESOLVED, That our American Medical Association petition the Centers for Medicare & Medicaid Services to limit Recovery Audit Contractor reviews to less than one year from payment of claims.

262

Medicare Denial of Diagnosis Pre-Op for Testing

*Introduced by Fifth and Sixth District, Medical Society of the State of New York*

**SUBSTITUTE RESOLUTION ADOPTED**

RESOLVED, that the Medical Society of the State of New York work with National Government Services (NGS) Medicare to clarify the local coverage determination regarding Medicare coverage of diagnostic services required in advance of any operative procedure.

**ACTION — Wrote to NGS Medicare for input and assistance.**

263

Medicare Re - Determination On –Line

*Introduced by New York County Medical Society*

**ADOPTED**

RESOLVED, That the Medical Society of the State of New York (MSSNY) request that the Centers for Medicare and Medicaid Services (CMS) and National Government Services (NGS), study the feasibility of, and the practical steps needed to implement, a secure technology that would allow physicians to file formal Re– Determination Requests (or Appeals) on line; and be it further

RESOLVED, That the Medical Society of the State of New York (MSSNY) urge the Centers for Medicare and Medicaid Services (CMS) to provide all physicians with
access to technology allowing them to file formal Re– Determination Request, via a secure log – on function on the National Government Services (NGS) website.

**ACTION** — Wrote to NGS Medicare for input and assistance. NGS Medicare advised that appeals can be filed on-line through their Connex system. This can be accessed at the following website: https://connex.ngsmedicare.com/

### Abuse of Medicare as Secondary Payer
*Introduced by The Suffolk County Medical Society*

**SUBSTITUTE RESOLUTION ADOPTED**

RESOLVED that the Medical Society of the State of New York educate its membership regarding proper billing protocols for other liability matters in Medicare Secondary Payer situations.

**ACTION** — Wrote to NGS Medicare for input and assistance.

### Primary/Secondary Insurance Billing Training Manual
*Introduced by New York County Medical Society*

**ADOPTED**

RESOLVED, that the Medical Society of the State of New York expand its “Medicare as Secondary Payer” member training manual to reflect the many new complexities of the third-party insurance billing environment, including:

- new governmental and/or contractually determined billing rules,
- new physician participation options,
- broader overview of primary/secondary payment and billing policy (both governmental and contractually determined), and
- a specific focus on the rights that physicians enjoy, and the limits with which they must comply, with regard to (1) the submission of claims to governmental and private insurers and (2) the balance billing of private or managed care patients.

**ACTION** — Wrote to NGS Medicare for input and assistance.

### Physician of Choice in Workers’ Compensation Cases
*Introduced by The Suffolk County Medical Society & The Eighth District Branch*

**REFERRED TO COUNCIL**

RESOLVED, That the Medical Society of the State of New York (MSSNY) seek a change to Section 13-b of the New York State Workers’ Compensation Law to allow an employee with a Workers’ Compensation related illness or injury, the right to obtain an independent evaluation and/or medically necessary services from a physician who does not participate or accept Workers’ Compensation, provided that the patient understands and acknowledges that he/she will not seek reimbursement from the Workers’ Compensation program, or other health insurance plans they may have, and that such understanding between patient and physician is documented appropriately, and be it further

RESOLVED, That the Medical Society of the State of New York (MSSNY) seek an additional change to the Workers’ Compensation Law to allow a Workers’ Compensation claimant to sign an approved document, such as an Advanced Beneficiary Notification (ABN), which clearly explains that the physician providing
the necessary medical services is not a Workers’ Compensation accepting physician, and that the patient has agreed to pay the physician directly, without the expectation of reimbursement or the filing of a Workers’ Compensation claim related to the care provided, and that a physician who evaluates and/or treats a patient under such an arrangement may not be reported to OPMC for alleged violation of state law.

**ACTION — Will be reported on by the Speaker at the HOD**

United Healthcare Mosaic Medicare Advantage Plan
*Introduced by New York State Ophthalmological Society*

**ADOPTED**

**RESOLVED, That the Medical Society of the State of New York work with the American Medical Association to petition the Centers for Medicare and Medicaid Services to take all appropriate action with reference to the blatant disregard of Medicare Program regulations where United Healthcare, through its Mosaic Medicare Advantage Plan, is requiring their panel physicians speak a particular language as a condition of present and continued participation; and be it further**

**RESOLVED, That the Medical Society of the State of New York stress to CMS that there is no mandate that a physician in a Medicare Advantage Plan speak a particular language and only that they abide by the Medicare Managed Care Manual Chapter 4 Section 110.1, which states that they “ensure that all services, both clinical and non-clinical, are provided in a culturally competent manner and are accessible to all members, including those with limited English proficiency, limited reading skills, hearing incapacity, or those with diverse cultural and ethnic backgrounds;” and be it further**

**RESOLVED, That the Medical Society of the State of New York also advise the Centers for Medicare and Medicaid Services that their Regional and Central Office staff were contacted in regard to this issue and have stated in writing that the regulations cited in Chapter 4 Section 110.1 do, indeed, apply to United Healthcare and the Mosaic Plan but it is their “belief” that they are in compliance with this section’ a subjective statement to say the least; and be it further**

**RESOLVED, That the Medical Society of the State of New York must insist that this issue be addressed by the Office of the Secretary of the Department of Health and Human Services as contact with the component offices of CMS has identified a pattern whereby these entities have effectively abdicated their responsibility to enforce the directives in the Medicare Managed Care Manual; and be it further**

**RESOLVED, That the Medical Society of the State of New York urge the CMS to require United Healthcare to withdraw its amendment mandating panel physicians speak a particular language and, in the event that these efforts are not successful, file a complaint with the federal Office of Civil Rights as this language requirement is perceived as racist and discriminatory in its intent.**

**ACTION – Wrote to the AMA. Sent a follow-up request on 2/19/13.**